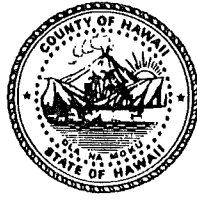


Harry Kim
Mayor



LAND USE COMMISSION
STATE OF HAWAII

Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

2006 NOV 20 A County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

November 15, 2006

Mr. Anthony J. H. Ching
Executive Officer
State Land Use Commission
P.O. Box 2359
Honolulu, HI 96804-2359

Dear Mr. Ching:

2006 Annual Report
LUC Docket No. A99-729
The Newton Family Limited Partnership

We have reviewed the annual report filed by Mr. James R. Bell of Belt Collins Hawaii Ltd. on behalf of The Newton Family Limited Partnership. As stated by Mr. Bell, the property was rezoned by the County Council to an Agricultural 80-acre (A-80a) district effective February 24, 2006. Enclosed for your information is a copy of the Change of Zone Ordinance No. 06-27.

Should you need further information, please feel free to contact Norman Hayashi of this office at (808) 961-8288 x205.

Sincerely,

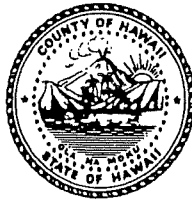
CHRISTOPHER J. YUEN
Planning Director

cc: Mr. James Bell

Enclosure

p:\wpwin60\norm\letters\2006\ching A99-729 annreport 11-14-06

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 06 27 BILL NO. 198

AN ORDINANCE AMENDING SECTION 25-8-32 (SOUTH HILO DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM UNZONED TO AGRICULTURAL (A-80a) AT KUKUAU 1ST, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-8:33.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-32, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kukuau 1st, South Hilo, Hawai'i, shall be Agricultural (A-80a):

Beginning at the East corner of this parcel of land, being also the East corner of Lot 11-A as shown on Map 53 of Land Court Application 1205, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 20,307.09 feet South and 16,901.63 feet West, thence running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|-----------|---|
| 1. | 65° 35' | 10,500.93 | feet along the Government Land of Waiakea; |
| 2. | 156° 18' | 3,871.03 | feet along the remainder of Lot 11-A as shown on Map 53 of Land Court Application 1205; |
| 3. | 247° 55' | 10,601.44 | feet along Royal Patent 5706, Land Commission Award 8521-B, Apana 2 to G.D. Hueue; |
| 4. | 337° 55' | 3,441.96 | feet along Lots 10-A-6-A and 10-A-6-B as shown on Map 70 of |

Land Court Application 1205 to the point of beginning and containing an area of 885.400 acres, more or less.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
-
- A. The applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. The applicants, successors or assigns shall be responsible for complying with all conditions of approval under Docket No. A99-729.
 - C. The applicants, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
 - D. The required water commitment payment for seven (7) water commitments shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of

this ordinance. The applicant shall construct improvements and additions, including storage, transmission waterlines, booster pumps, and distribution facilities as required by the Department of Water Supply for any additional water commitments.

- E. Final Subdivision Approval of the proposed agricultural subdivision shall be secured from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code, within five (5) years from the effective date of this ordinance.
- F. Access to the property shall be provided, meeting with the approval of the Department of Public Works.
- G. Install street lights and traffic control devices as required by the Traffic Division, Department of Public Works. The applicant shall be responsible for the design, purchase, and installation of such devices.
- H. Restrictive covenants in the deeds of all the proposed lots within the project area shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawai'i Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- I. A drainage study of the project area, if required, shall be prepared for review and approval by the Department of Public Works. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- J. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties.
- K. To protect the kipuka in the project area, the applicant shall leave intact large stands of native forest trees and clusters of native vegetation.
- L. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- M. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

O. Comply with all applicable County, State and Federal laws, rules, requirements and regulations.

P. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

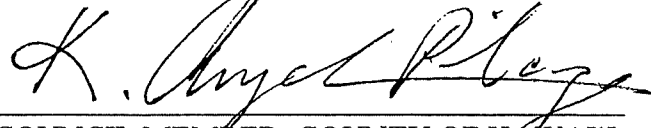
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, its successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant(s) should require an additional extension of time, the Planning Department shall submit the applicants' request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

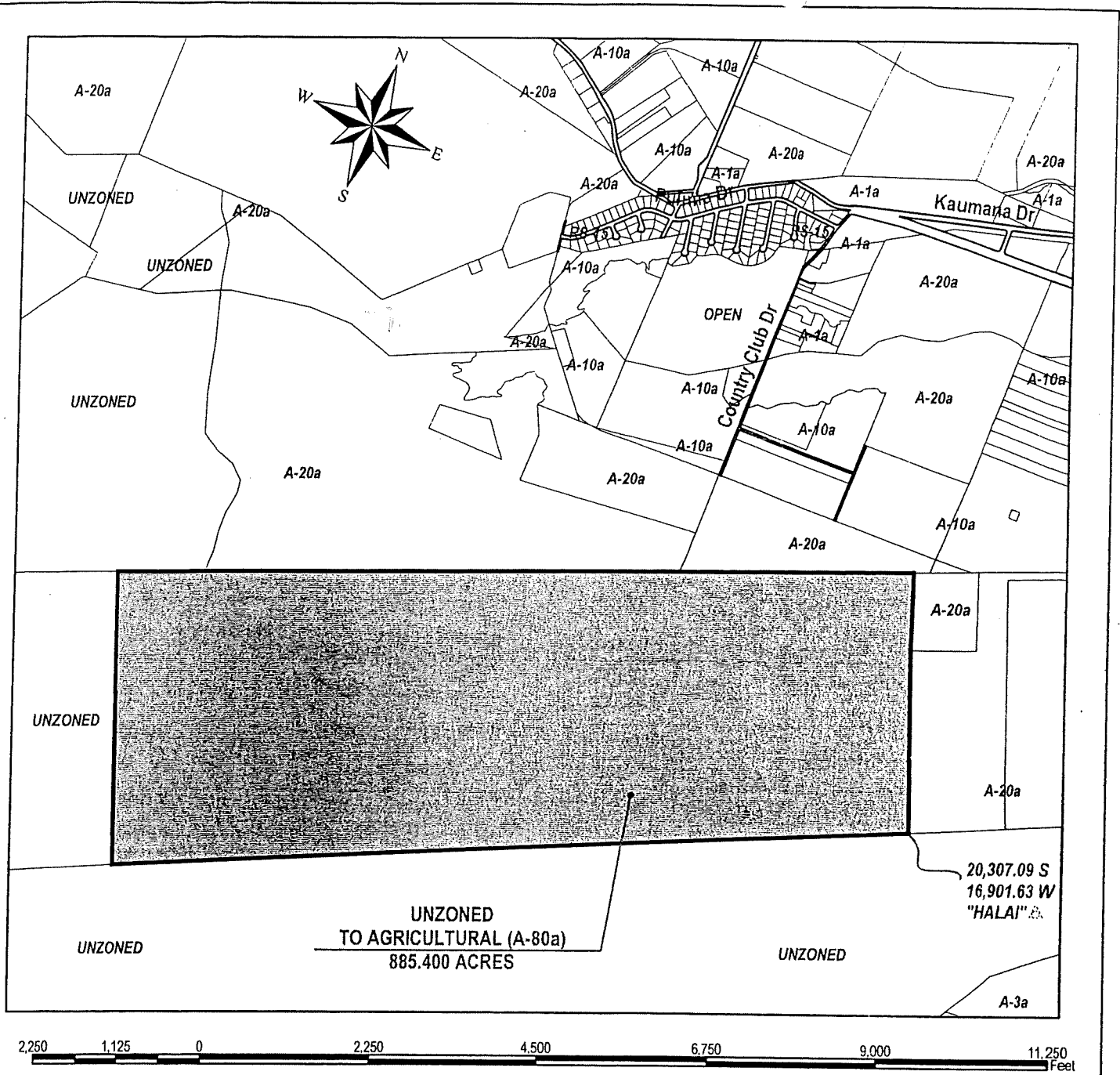


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 1, 2006
Date of 1st Reading: February 1, 2006
Date of 2nd Reading: February 15, 2006
Effective Date: February 24, 2006

REFERENCE: 61 Comm. ~~615~~



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-32 (SOUTH HILO DISTRICT ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM UNZONED
 TO AGRICULTURAL (A-80a)
 AT KUKUAU 1st, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

Introduced By: K. Angel Pilago
Date Introduced: February 1, 2006
First Reading: February 1, 2006
Published: N/A

REMARKS: _____

Second Reading: February 15, 2006
To Mayor: February 17, 2006
Returned: February 24, 2006
Effective: February 24, 2006
Published: March 4, 2006

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago			X	
Safarik	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	8	0	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

Ang D. Kelly
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date FEB 22 2006

[Signature]
COUNCIL CHAIRMAN

Christine R. Kivins
COUNTY CLERK

Bill No.: 198
Reference: C-615/PC-51
Ord No.: 06 27

Approved/Disapproved this 24th day
of February, 2006
[Signature]
MAYOR, COUNTY OF HAWAII