

Re: 205-017

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PLANNING DEPARTMENT
COUNTY OF HAWAII



December 26, 2017
2017-33-1200 / 17E-308

Mr. Michael Yee, Director
Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, HI 96720

Dear Mr. Yee:

**Annual Report on Ordinance No. 06-27
The Newton Family Limited Partnership
Tax Map Key: 2-4-008: Portion 033
Kukuau, South Hilo, Island of Hawai'i**

On behalf of the Newton Family Limited Partnership (Newton), we are submitting this 2017 annual report as required in the above captioned ordinance.

The effective date of the Ordinance is February 24, 2006. Under Ordinance 06-27, 885.40 acres of Newton land were rezoned from Unzoned to Agricultural (A-80a). Newton is currently looking to provide information to Planning for an extension of zoning. The conditions of 06-27 are listed below with the Newton responses below in bold

- A. The applicants, its successors or assigns shall be responsible for complying with all the stated conditions of approval.

Newton acknowledges the requirement to comply with the conditions of Ordinance 06-27.

- B. The applicants, successors or assigns shall be responsible for complying with all of the conditions of approval under Docket No. A99-729.

Newton acknowledges the requirement to comply with conditions of the State Land Use Commission approval of 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.

Newton acknowledges the requirement to comply with the requirements of HRS 205 regarding permitted uses in a State Agricultural District.

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- 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.

Newton submitted the required water payment to the Department of Water Supply (DWS). Newton also submitted to DWS a sketch plan for the proposed water system to serve the proposed subdivision. Recent requests from Newton to DWS relative to extensions are being reviewed.

- 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.

Newton acknowledges that final subdivision approval of the proposed subdivision is required by February 23, 2011, which is within 5 years of February 24, 2006. An extension is under discussion with the Planning Department.

- F. Access to the property shall be provided, meeting with the approval of the Department of Public Works (DPW).

Newton acknowledges the requirement for access. Said access, meeting the requirements of the DPW, will be submitted at the time of subdivision application.

- G. Install street lights and traffic control devices as required by the Traffic Division, DPW. The applicant shall be responsible for the design, purchase, and installation of such devices.

Newton acknowledges the street light and traffic control as may be required by DPW. Said required devices, meeting DPW requirements will be submitted at the time of subdivision application.

- 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.

Newton acknowledges the requirement for restrictive covenants prohibiting second dwellings and condominium property regimes.

- 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.

Newton acknowledges the potential requirement for a drainage study and drainage Improvements. Required studies will be provided in accordance with DPW requirements and will be submitted at the time of subdivision application.

- J. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties.

Newton acknowledges the requirement to dispose of any additional runoff generated by the subdivision on-site.

- K. To protect the kīpuka in the area, the applicant shall leave intact large stands of native forest trees and clusters of native vegetation.

Newton acknowledges the requirement to protect the kīpuka on the site.

- 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.

Newton acknowledges the requirement to stop work and report any historic sites or human burials that may be encountered during construction of subdivision improvements.

- 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 toward the requirements of the Unified Impact Fees Ordinance.

Newton acknowledges that Impact Fees may, in the future, be substituted for some of the conditions in 06-27.

- 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 the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

Newton acknowledges that annual progress reports are required and this letter constitutes the report for 2017.

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

Newton acknowledges the requirement to comply with County, State, and Federal 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.

Newton acknowledges that, in some circumstances, time extensions may be granted for performance of the conditions of Ordinance 06-27.

The above constitutes the Newton's 2017 Annual Report for the property. If there are any questions regarding this report, or additional information is needed to review it, please contact us. Thank you.

Sincerely,

BELT COLLINS HAWAII LLC



Cheryl M. Palesh, P. E., LEED AP
Vice President / Director of Engineering

CMP:ajk

cc: Director, State of Hawai'i, Office of Planning
e-copy: Ms. Rachel Newton-Weaver
Mr. Hal Newton
Mr. John Michael White