

CERTIFIED MAIL

December 30, 1987

Mr. Keola Childs
Kealakekua Ranch, Ltd.
P. O. Box 399
Captain Cook, HI 96704

Dear Mr. Childs:

Change of Zone Application and
Special Management Area (SMA) Use Permit Application
Petitioner: Kealakekua Ranch, Ltd.
Tax Map Key 8-2-02:02 and 33

The Planning Commission at its duly held public hearing on December 9, 1987 reviewed and acted on the above applications for a Change of Zone and SMA Use Permit No. 269 for the above described property.

The Commission voted to send a favorable recommendation to the County Council on the change of zone application, subject to the following conditions:

- A. The applicant, successors or its assigns shall comply with the stated conditions of approval.
- B. Subdivision plans shall be submitted to the Planning Department within one year from the effective date of the zone change. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval.
- C. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the change of zone. The progress report shall include, but not be limited to, the status of the development, the extent to which conditions have been complied, the number of lots sold, number of homes constructed, and the type of agricultural activity, if any, conducted on the properties.

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- D. A drainage system shall be installed in accordance with the requirements of the Department of Public Works.
- E. Either guardrails meeting the approval of the Department of Public Works or a minimum 60-foot structural setback along the Napoopoo Road boundary shall be provided for future road improvements. If a setback is provided, the appropriate deed restrictions shall be included for all proposed lots.
- F. Pursuant to Chapter 46-4(C)(2), HRS, ohana dwelling units may be permitted provided the the Chief Engineer determines that the existing Mamalahoa Highway-Napoopoo Government Road intersection is adequate to service additional ohana dwelling units which could be created by the proposed subdivision. Such a determination shall be based upon a traffic impact study which shall be submitted and approved by the Chief Engineer.
- G. The developer's share of any intersection improvement costs at Mamalahoa Highway and Napoopoo Road shall be determined by the Planning Department on a pro rata basis.
- H. All other applicable rules, regulations and requirements shall be complied with.
- I. An extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; and d) 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); and e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, 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.

The Commission also voted to approve your SMA Use Permit application, subject to the following conditions:

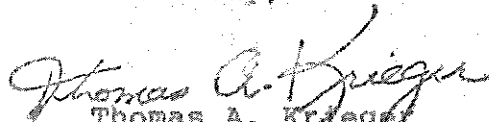
1. The permit shall become effective after the accompanying change of zone is adopted.
2. The applicant, successors or its assigns shall be responsible for complying with all of the stated conditions of approval, including those of the accompanying change of zone.
3. Archaeological work shall be as follows: a) That a scope-of-work and research design for an intensive survey shall be submitted for review and approval by the Planning Department and the Department of Land and Natural Resources prior to tentative subdivision approval; b) An intensive archaeological survey and data recovery shall be conducted on sites affected by roadway and pole portions of the subdivision and two copies of a report covering the archaeological survey shall be submitted prior to grading, grubbing or any land alteration; c) All other archaeological work as outlined in the scope-of-work and research design shall be conducted within one year of sale of individual parcels. Covenants requiring further archaeological work applicable to affected parcels shall be recorded within deeds; and d) All grading and/or grubbing shall require permits through the Department of Public Works. Further, should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, paving or walls be encountered, work in the area affected shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigating measures have been taken.
4. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the SMA Use Permit. The progress report shall include, but not be limited to, the status of the development, the extent to which conditions have been complied, the number of lots sold, the date of sale, and the amount of archaeological work completed on those lots.

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5. All other applicable rules, regulations, and requirements shall be complied with, including those of the Department of Health.
6. An extension of time for the performance of conditions within this permit may be granted by the planning director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the director shall initiate procedures to nullify the permit.

Should you have any questions regarding the above, please feel free to contact the Planning Department at 961-8288.

Sincerely,



Thomas A. Krueger
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply
Planning Office - Kona
bcc: Plan Approval Section
cc: CZM Program (w/background)