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BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

#359

In the Matter of the	)	SP77-261(B)
Petition for Special Use	)	
Permit of Boise Cascade	)	BOISE CASCADE HOME AND
Home and Land Corporation	)	LAND CORPORATION
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DECISION AND ORDER

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the	)	SP77-261(B)
Petition for Special Use	)	
Permit of Boise Cascade	)	FINDINGS OF FACT,
Home and Land Corporation	)	CONCLUSIONS OF LAW AND
	)	DECISION AND ORDER

The Land Use Commission of the State of Hawaii having duly considered the entire record in the above-entitled matter, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by Boise Cascade Home and Land Corporation requesting an amendment to Special Permit 77-261(B) to allow the construction of a centralized parking area for hotel use on approximately 7.9 acres of land situated within the State Land Use Agricultural District at Waikoloa, South Kohala, Hawaii, Tax Map Key 6-8-1: portion of 26.

2. The subject property is located approximately 150 feet mauka of the Mamalahoa Trail at Waikoloa, Hawaii.

3. Special Permit 77-261(B) was originally granted by the State Land Use Commission on May 12, 1977, for a temporary construction and maintenance yard to be used as a support facility for the petitioner's Waikoloa Beach Resort development.

4. The proposed parking area is to be used in addition to the present use authorized by the existing permit.

5. The proposed parking facility has been designed to accommodate approximately 563 regular-sized automobiles, in addition to 46 compact cars and 11 bus stalls.

6. The parking facility as proposed is a single-level, paved area with lighting and will occupy 6.6 acres of land.

7. The proposed use also includes a jitney terminal shelter and landscaping. The jitney system, as proposed, will connect the resort facilities with the parking facility.

8. The petitioner has been granted relief from the on-site parking requirements for the hotel parcels through planned unit development permits. These permits allow the petitioner to locate up to 50 percent of the required on-site parking stalls in a central parking facility.

9. Access to the parking center will be provided by a 24-foot wide driveway within the existing (30-foot wide) access easement.

10. Eventually, the parking facility will be converted into a full fledged transportation center that would provide for tour buses, day visitors, a taxi staging area and rent-a-car facilities, in addition to employee parking.

11. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the subject area as Extensive Agriculture.

12. Present zoning is Unplanned. The area makai of the King's Trail is designated as a major resort by the General Plan.

13. The 500+ acre area will ultimately consist of six hotels, approximately 3,430 multiple residential units, a golf course, commercial uses, historic site preserves, a public beach area, and other resort amenities.

14. The subject area is covered by 'a'a and pahoehoe lava with no vegetation.

15. An archaeological reconnaissance survey of the subject property has been conducted and six sites were located which were determined to be of no significant value.

16. A condition of the original special permit required mapping and photographs of these sites prior to grading.

17. The U.S. Soil Conservation Service expressed concern over the potential problem of safe water disposal from the parking lot.

18. The Department of Health recommended that (1) measures be undertaken to control water and air pollution during grading and construction phases; (2) oil and grease traps be installed in the auto service and repair shop area; and (3) a floor drain be installed near the urinals.

19. Other public agencies including the Department of Public Works, Police Department, Fire Department, Department of Water Supply, and State Department of Agriculture had no objections to the Special Permit.

20. The Hawaii Planning Commission recommended approval of the Special Permit.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted within an agricultural district may be permitted by special permit pursuant to HRS Section 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the proposed use described in the special permit request is not contrary to the objectives sought to be accomplished by the State Land Use Law and regulations because the Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of Hawaii. The purpose of the subject request is to allow the establishment of a use which is an integral part of the petitioner's proposed resort development at 'Anaeho'omalu, South Kohala. The proposed parking area will provide a centralized facility in close proximity to but outside of the major resort functions. One of the intents of centralized parking is to allow more open space and landscaping in the resort development and to minimize vehicular traffic. The petitioner had originally planned to provide a temporary facility within the resort area and at a later date to establish a permanent facility at the subject side. The petitioner has been granted partial relief from on-site parking requirements for hotel parcels by the Planning Commission with the stipulation that the

parking stalls would be located in a centralized parking facility. The proposed use is thus an essential and integral part of the resort development.

The site proposed for the use being requested consists of unweathered lavas. Due to the geologic make-up of the proposed site and the climatic characteristics of the area, the subject lands are relatively unsuited for productive agricultural activities. The use of the subject site for the proposed facility will not substantially impair actual or potential agricultural production in the area under consideration or in the region. As such, it is found that approval of the subject requests will not be contrary to the intent and purpose of the Land Use Law and Regulations.

Further, the establishment of the proposed use will complement the goals, policies and standards of the County of Hawaii General Plan. One of the goals of the Economic Element of the General Plan is to strive for stability in the County's economic system. Stated policies to help achieve this goal provide that the County shall encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents, and also that the County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors. The Land Use Element of the General Plan designates 'Anaeho'omalu as a major resort area. 'Anaeho'omalu is makai of the proposed site and the petitioner has received County approvals to allow the development of a major resort area. The proposed use is ancillary to the major resort area and is essential

for compliance with the standards of the General Plan major resort designation and development permits already granted.

In light of the integral part which the proposed use will play in the petitioner's resort development and the County General Plan policies, it is determined that the establishment of the proposed use will be in the best public interest.

3. The proposed use will not adversely affect surrounding land, which consists of lava and is vacant or which will be developed for resort uses.

4. The petitioned use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

5. Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

6. The use described in the petition is an unusual and reasonable use pursuant to HRS Section 205-6 and State Land Use Commission District Regulation, Part V.

#### DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 77-261(B) for the construction of a centralized parking area for hotel use on approximately 7.9 acres of land situated within the State Land Use Agricultural District at Waikoloa, South Kohala, Hawaii, Tax Map Key 6-8-1: portion of 26, be approved subject to the following conditions:

1. That the parking facility shall conform substantially to the representations made by the petitioner and the plans submitted with the request.

2. That the petitioner or its authorized representative shall secure a grading permit prior to construction of the parking area.

3. That the petitioner or its authorized representative shall submit plans for plan approval prior to construction of the parking area and the jitney terminal. The plans shall include landscaping. Construction of the parking area and the jitney terminal shall be completed and be in operation prior to the issuance of an occupancy permit for the first hotel at 'Anaeho'omalu. If development of the parking area is phased, each phase shall be completed prior to the issuance of occupancy permits for each hotel. Each phase shall consist of the minimum required number of parking stalls not located on the hotel lot to which it is related.

4. That the parking area, including landscaping and fencing, shall be a minimum of 100 feet from the mauka edge of the Mamalahoa or King's Trail.

5. That the Planning Department shall periodically investigate as to the workability/feasibility of the proposed off-site parking arrangement when it becomes operational. Should it be determined that such parking arrangement is not workable, the Planning Director will prepare and present a written report to the Planning Commission for its appropriate action, which may involve the termination, or revision of such off-site parking arrangement.



6. That all other applicable rules, regulations and requirements, including the conditions of approval of the original Special Permit, shall be complied with.

7. That should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

DATED: Kona,, Hawaii, September 27, 1978.

By *C. W. Duke*  
C. W. DUKE  
Chairman and Commissioner

By *Shinichi Nakagawa*  
SHINICHI NAKAGAWA  
Vice Chairman and Commissioner

By *James R. Carras*  
JAMES CARRAS  
Commissioner

By *Shinsei Miyabato*  
SHINSEI MIYABATO  
Commissioner

By *Mitsuo Oura*  
MITSUO OURA  
Commissioner

By *George L. Pascua*  
GEORGE PASCUA  
Commissioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the )  
Petition for Special Use ) SP77-261(B)  
Permit of Boise Cascade )  
Home and Land Corporation ) BOISE CASCADE HOME AND  
LAND CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by certified mail:

SIDNEY FUKE, Planning Director  
Hawaii Planning Department  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

WILLIS H. SANBURN, Vice President  
Boise Cascade Home & Land Corporation  
Suite 1801, Financial Plaza of the Pacific  
130 Merchant Street  
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, this 29<sup>th</sup> day of September, 1978.

  
GORDAN Y. FURUTANI  
Executive Officer  
Land Use Commission



# PLANNING COMMISSION

25 AUPUNI STREET • HILO, HAWAII 96720

COUNTY OF  
HAWAII

#359

CERTIFIED MAIL

May 20, 1988

Mr. Glen T. Koyama  
Belt Collins & Associates  
680 Ala Moana Boulevard, Suite 200  
Honolulu, HI 96813

Dear Mr. Koyama:

Special Permit Application and  
Request to Nullify Special Permit No. 77-261 (B) ✓  
Petitioner: Transcontinental Development Company  
Tax Map Key: 6-8-01:Portion of 32

The Planning Commission at its duly held public hearing on May 17, 1988, voted to approve your client's application, Special Permit No. 662, to allow the construction of a central parking area on approximately 7+ acres of land situated within the State Land Use Agricultural District at Anaehoomalu, South Kohala, Hawaii. The Commission also voted to nullify Special Permit No. 77-261 (B) which allowed the establishment of a temporary construction and maintenance yard and parking facility within the Waikoloa Beach Resort development.

Approval of this request is based on the following:

1. The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of agricultural districts, the intent is to preserve or keep lands of high agricultural potential in agriculture use. The agricultural district not only includes lands with a high capacity or potential for agricultural uses, but also includes wastelands having little agricultural potential. In this instance, the site proposed for the use being requested consists of unweathered lavas. Due to the geologic make-up and the

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climatic characteristics of this site, the lands are relatively unsuited for productive agricultural activities. The approval of the central parking area will not substantially impair actual or potential agricultural production in the region. As such, it is found that the granting of this request will not be contrary to the intent and purpose of the Land Use Law and Regulations.

2. The granting of this request should not adversely affect surrounding properties. The project site is surrounded by vacant lands to the north, south and east. The Waikoloa Beach Resort lies to the west. The use of landscaping will balance visual concerns occurring from the perspective of Queen Kaahumanu Highway and the Waikoloa Beach Resort. During the construction phase, fugitive dust and erosion protection must be addressed to prevent reduced air and water quality. A dust and erosion control plan in the constructions plans, which complies with the requirements of the State Department of Health, has been included as a condition of this permit. While the project is not affected by floodways or inundation, the installation of proper drainage systems will mitigate any run-off generated from the site. The provision for a drainage system is being made a condition of permit approval. In conjunction with SMA Use Permit No. 25, an archaeological data recovery plan and preservation area(s) must still be approved by the Planning Director in collaboration with the Department of Land and Natural Resources-Historic Sites Section. The recommended condition should address DLNR's concern over an adequate data recovery report and justification of the revised preservation area.
3. The proposed central parking area will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The parking center is proposed to be built off of Ala 'Ihi Drive, a private roadway within the Waikoloa Beach Resort. Water will be obtained from the private water system. It should be noted that no adverse comments were received from the Police Department. Since the project is ancillary to the Waikoloa Beach Resort which has already been reviewed from a public service and facility perspective, no additional infrastructural requirements will be required.

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4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The land upon which the parking area is proposed is unsuited for agricultural production. Its close proximity to the Waikoloa Beach Resort makes it an attractive site for the establishment of resort-support uses. This condition was also recognized in the granting of the former Special Permit 77-261(B).
5. The land upon which the proposed central parking area is sought is unsuited for the agricultural uses permitted within the district. The lava soils of this area are highly unproductive according to various classification systems. The Department of Agriculture also raised no objections over the proposed center on vacant lava land.
6. The proposed use will not substantially alter or change the essential character of the land and the present use. The construction of the 7-acre parking facility will alter the character of the land to the extent that asphalt-concrete pavement will be installed on pahoe and a'a lava. The provision of heavy landscaping will be required to counter balance any significant visual changes that would occur. The granting of this request would put currently unproductive vacant land into a supplemental resort use.
7. The request will not be contrary to the goals, policies and standards of the County of Hawaii General Plan. One of the goals of the Economic Element of the General Plan is to strive for stability in the County's economic system. To achieve this goal, the County shall also encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents. The Land Use Element of the General Plan designates 'Anaeho'omalu as a major resort area. 'Anaeho'omalu is makai of the proposed site and the petitioner has received all necessary approvals. The proposed use is ancillary to this resort and will augment the development.

In view of the foregoing, it is determined that the proposed central parking area is an unusual and reasonable use of land within the State Land Use Agricultural District. As such, it is further determined that the approval of the request would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

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Based upon the above considerations, Special Permit No. 77-261(B) is declared null and void.

Approval of the special permit request is subject to the following conditions:

1. The petitioner, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Plans shall be submitted for Plan Approval review within one year from the effective date of the Special Permit. The plans shall include detailed perimeter and interior landscaping, paved and striped parking and on-site vehicular circulation patterns. Further, construction plans shall incorporate a dust and erosion control plan meeting with the requirements of the State Department of Health and its Administrative Rules, Title 11, Chapter 60, Air Pollution Control and Chapter 58, Solid Waste Management Control.
3. Construction shall commence within one year from the date of final plan approval and be completed within two years thereafter.
4. Drainage system(s) shall be installed in accordance with the requirements of the Department of Public Works.
5. An archaeological data recovery report shall be approved by the Planning Director in collaboration with the Department of Land and Natural Resources-Historic Sites Section prior to any land alterations of the project site. A detailed mitigation plan of sites directly and indirectly impacted by the central parking area shall also be approved by the Planning Department. Should any unanticipated sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the affected area shall immediately cease and the Planning Department notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
6. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what

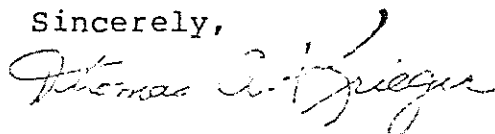
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extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

7. An extension of time for the performance of conditions within the 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 applicant, 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; 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 may initiate procedures to nullify the permit.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Thomas A. Krieger  
Chairman, Planning Commission

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
State Land Use Commission