

November 22, 1978

Mr. Kenneth Fujiyama
1059 Kilauea Avenue
Hilo, Hawaii 96720

Dear Mr. Fujiyama:

Special Permit Application
Tax Map Key 1-Z-08:18

The Planning Commission at its regular meeting of November 16, 1978, considered your application for a special permit to allow the establishment of a commercial botanical garden, including a restaurant and shops, on approximately 9.891 acres of land situated within the State Land Use Agricultural District at Ola'a Reservation Lots, Puna, Hawaii.

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The Commission voted to forward a favorable recommendation to the Land Use Commission subject to the following conditions:

1. That the proposed development shall substantially conform to the plans submitted and representations made by the petitioner except as conditioned therein.
2. That the petitioner or his authorized representative(s) shall submit plans for "Plan Approval" within one year from the effective date of the Special Permit. The petitioner or his authorized representative(s) shall also be responsible for receipt of "Final Plan Approval".
3. That development of the botanical garden and related improvements shall commence within one year of receipt of Final Plan Approval. This botanical garden shall be developed substantially as represented in the "Primary

Mr. Kenneth Fujiyama
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Site Plan" as described in the overall landscaping and design plan submitted by the petitioner identified as petitioner Exhibit A, and furthermore, shall be in operation within three years after commencement of development.

4. That none of the proposed commercial and/or restaurant uses shall be in operation prior to the opening of the botanical garden. Furthermore, the restaurant use shall be limited to one facility situated within the main structure.
5. That the proposed commercial and restaurant uses shall be open only during the established visiting hours to the main garden area. Furthermore, the office, restaurant, and commercial uses within the facility shall be ancillary to the operation of the proposed botanical garden.
6. That commercial sales and display areas in the proposed court and/or mall area shall be limited only to agricultural products.
7. That access to the area under consideration shall conform to the requirements and standards of the State Department of Transportation, Land Transportation Facilities Division, and/or the County Department of Public Works. Furthermore, that all required improvements to the roadway(s) shall be completed prior to the granting of the occupancy permit.
8. That prior to the commencement of construction, the petitioner or his authorized representative(s) shall obtain a Grading Permit from the Department of Public Works.
9. That all other applicable rules, regulations and requirements shall be complied with.

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

In the meantime, should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,


WILLIAM F. MILLOCK, Chairman
Planning Commission

lgv
cc State Land Use Commission
Land Use Division, DPED

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit)
of KENNETH FUJIYAMA)
_____)

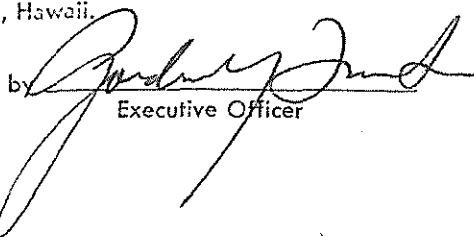
SP78-328

KENNETH FUJIYAMA

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

APR 20 1979

Date

by 
Executive Officer

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the) SP78-328
Petition for Special Permit)
of KENNETH FUJIYAMA) FINDINGS OF FACT,
) 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
KENNETH FUJIYAMA to allow the establishment of a commercial
botanical garden on approximately 9.9 acres of land situated
within the State Land Use Agricultural District at Olaa
Reservation Lots, Puna, Hawaii, Tax Map Key 1-7-08: 18.
2. The subject property is located on the south-
easterly side of the New Volcano Road at Olaa Reservation Lots.
3. The proposed botanical garden is to include 15
individually designed flora and/or foliage display areas;
waterways and lagoons totalling approximately 15,000 square
feet in area; various paths and shelters; a mall and court
area where concessions, shops, displays, and information will
be available; a maintenance area including an 8,000 square
foot building; a 25,000 square foot plant holding area; and a
4,200 square foot main structure.
4. The main structure is to include shops, a snack
bar/coffee shop, administration offices, activity areas, and
other miscellaneous uses. Plans for the botanical garden also

include the provision of 48 auto parking stalls and 6 bus stalls.

5. Present County Zoning for the subject property is Agricultural-1 acre (A-1a).

6. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "D" or "Poor" for the subject property. The site is not included in the Agricultural Lands of Importance to the State of Hawaii classification system of the Department of Agriculture.

7. The subject property is presently vacant of any use. Surrounding lands are primarily agricultural in nature, including an anthurium farm immediately east of the subject site and sugar cane. Single family dwellings are also scattered throughout the area along the main highway.

8. The subject property is bounded by both the Old and New Volcano Roads. Access to the site is presently from the new road. The New Volcano Road has an 80-foot right-of-way and a 24-foot pavement width, while the Old Volcano Road has a 50-foot right-of-way and a 10-foot pavement width.

9. A one-inch water meter presently serves the subject area. All other utilities are or will be made available at the subject site.

10. The Petitioner has stated that the proposed use would not adversely affect the surrounding area, nor unreasonably burden public agencies to provide services and facilities.

11. The Petitioner has also submitted a conceptual development study for the proposed botanical garden.

12. The County Department of Water Supply had no objection to the Special Permit request but did note that

water service to the subject property would be restricted to a 1-inch meter until such time that the booster pump capacity can be increased.

13. The State Department of Health has cited applicable health regulations to which the Petitioner must comply.

14. The U.S.D.A. Soil Conservation Service has noted that drainage and runoff at the subject site should be adequately controlled.

15. The Hawaii County Police Department has cited a potential traffic problem at the entrance to the proposed botanical garden caused by vehicles entering and exiting the subject site. The Department has recommended the creation of acceleration and deceleration lanes to alleviate this problem.

16. The State Department of Transportation has stated that acceleration and deceleration lanes would be required at the Volcano Highway entrance to the subject site to alleviate potential traffic hazards.

17. The Hawaii County Department of Public Works has cited applicable roadway improvements to be completed by the Petitioner in the event that the old County Road is used for access to the site.

18. The Hawaii County Fire Department, Department of Parks and Recreation, Hawaii Electric Light Co., Inc., and State Department of Agriculture had no objections to the permit request.

19. The Hawaii County Planning Department has recommended approval of the Special Permit request.

20. A public hearing on the application for Special Permit was conducted by the Hawaii County Planning Commission

on October 26, 1978. The Petitioner, KENNETH FUJIYAMA, testified in support of the request. Mr. Charles Schuster of the State Department of Transportation testified that should the request be granted, the Petitioner would be required to put in deceleration and acceleration lanes for safe access onto the main highway. No other persons testified concerning the request.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in an Agricultural District may be permitted by Special Permit pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the subject request would be consistent with the State Land Use Law and Regulations. 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. The purpose of this Special Permit is to allow the establishment of a commercial botanical garden as well as related uses within the State Land Use Agricultural District. The proposed botanical garden will include 15 individually designed flora display areas, waterways and lagoon, various paths and shelters, mall and court area, maintenance area, plant holding area, as well as the main structure housing administrative offices, snack bar, and activity areas.

The garden areas will include both formal displays and "jungle" areas where the vegetation will be left in its natural state. These gardens as well as the proposed court

and mall will provide areas where plants and flowers can be displayed and sold to the visitors to the botanical garden. Botanical gardens, as well as the display and sale of products raised on the premises are permitted uses under both the State Land Use Law and Regulations and the County's Agricultural Zoned District Regulations. However, this Special Permit is required to allow certain ancillary activities including the sale of agricultural products not raised or produced on the subject area as well as commercial shops and restaurant activities. Although the granting of this request will allow the establishment of certain non-agricultural uses on the subject area, it is determined that these uses will be subsidiary to the operation of the proposed botanical garden.

The Petitioner's intent in establishing the proposed use is to provide the area where visitors as well as residents can view local agricultural products, native plants, and flowers; thereby providing a visitor destination area while at the same time promoting these agricultural products. These visitor facilities in turn will add to the cumulative attraction of the Volcano/Hilo destination area by providing additional opportunities and experience for the visitors. Although the visitor industry has emerged as a major economic force for the County in the past decade and a half, there is still the question of stability of the visitor industry. This industry, which caters to the recreational desires of people, is highly sensitive to not only exogenous factors such as the national economy, but also the amenities available within the area. As such, sufficient activities and interests should be made available to the visitors in order to achieve the County's goals and policies of maintaining economic stability. As an emerging economic force of the

County, the visitor industry will have a tremendous effect on the lives of the residents. The greatest impact of the visitor industry has been the creation of additional employment and economic opportunities for the residents. This industry greatly contributes to the economy of the island as well as the State. As such, it is determined that the establishment of the proposed use will be in the best public interest.

3. The proposed use will not have any significant adverse effects on the surrounding properties. Surrounding land uses include an anthurium farm immediately east of the subject area, other diversified agricultural activities and the raising of sugar cane. In addition, there are scattered single family dwellings in this area. While the proposed botanical garden will undoubtedly intensify the use of the subject area, it is determined that this area will still remain primarily agricultural in nature. Consequently, the granting of this request will not alter or change the essential character of this area.

4. The proposed use will not unreasonably burden public agencies to provide the necessary infrastructure for the operation of the proposed use. All essential utilities and facilities including water are or will be available to the subject area.

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

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 78-328 for the establishment of a commercial botanical garden on

approximately 9.9 acres of land situated within the State Land Use Agricultural District at Olaa Reservation Lots, Puna, Hawaii, Tax Map Key 1-7-08: 18, be approved subject to the following conditions:

1. That the proposed development shall substantially conform to the plans submitted and representations made by the Petitioner except as conditioned herein.

2. That the Petitioner or his authorized representative(s) shall submit plans for "Plan Approval" within one year from the effective date of the Special Permit. The Petitioner or his authorized representative(s) shall also be responsible for receipt of "Final Plan Approval."

3. That development of the botanical garden and related improvements shall commence within one year of receipt of Final Plan Approval. This botanical garden shall be developed substantially as represented in the "Primary Site Plan" as described in the overall landscaping and design plan submitted by the Petitioner identified as Petitioner Exhibit A; and furthermore, shall be in operation within three years after commencement of development.

4. That none of the proposed commercial and/or restaurant uses shall be in operation prior to the opening of the botanical garden. Furthermore, the restaurant use shall be limited to one facility situated within the main structure.

5. That the proposed commercial and restaurant uses shall be open only during the established visiting hours to the main garden area. Furthermore, the office, restaurant, and commercial uses within the facility shall be ancillary to the operation of the proposed botanical garden.

6. That commercial sales and display areas in the proposed court and/or mall area shall be limited only to agricultural products.

7. That access to the area under consideration shall conform to the requirements and standards of the State Department of Transportation, Land Transportation Facilities Division, and/or the County Department of Public Works. Furthermore, that all required improvements to the roadway(s) shall be completed prior to the granting of the occupancy permit.

8. That prior to the commencement of construction, the Petitioner or his authorized representative(s) shall obtain a Grading Permit from the Department of Public Works.

9. That all other applicable rules, regulations and requirements shall be complied with.

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

DATED: Honolulu, Hawaii, April 18, 1979.


LAND USE COMMISSION

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

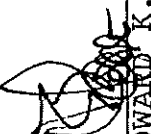
By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

BY 

GEORGE R. PASCUA
Commissioner

BY 

EDWARD K. YANAI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
for Special Permit of)
KENNETH FUJIIYAMA)
_____)
)

SP78-328
KENNETH FUJIIYAMA

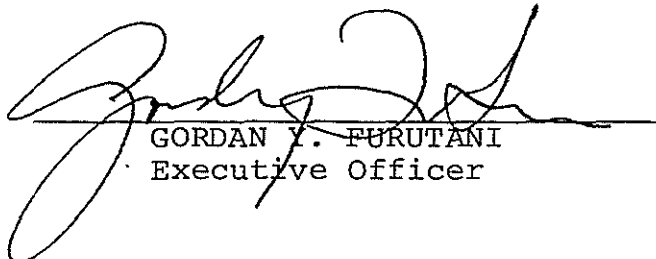
CERTIFICATE OF SERVICE

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

SIDNEY FUKU, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

KENNETH FUJIIYAMA
1059 Kilauea Avenue
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 20th day of April, 1979.


GORDAN Y. FURUTANI
Executive Officer

October 15, 1981

Mr. Kenneth Fujiyama
Kenneth Fujiyama Realty, Inc.
1059 Kilauea Avenue
Hilo, HI 96720

Dear Mr. Fujiyama:

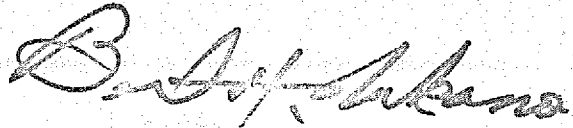
Nullification of Special Permit No. 78-328 (LUC 404)
Establishment of Commercial Botanical Garden
TMK: 1-7-08:18

78-328

The Planning Commission at its regular meeting on October 9, 1981, voted to nullify Special Permit No. 78-228 (LUC 404) as a result of non-compliance with performance ~~time~~ condition. The permit allowed the establishment of a commercial botanical garden on approximately 9.9 acres of land situated within the State Land Use Agricultural District at Olaa Reservation Lots, Puna, Hawaii.

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

Sincerely,



BERT H. NAKANO
Chairman, Planning Commission

lgv

cc: State Land Use Commission