

CERTIFIED MAIL

October 1, 1987

Ms. Arlene Wakefield  
Wakefield Gardens, Inc.  
#1 Rodeo Road, Box 18  
Honaunau, HI 96726

Dear Ms. Wakefield:

Amendment Special Permit No. 432  
Petitioner: Wakefield Gardens, Inc.  
TMK: 8-4-09:11

The Planning Commission at its meeting on September 23, 1987, adopted the following findings in denying your request for a special permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to allow live entertainment, dancing, and a membership dancing club, as well as to delete Condition No. 4 (access requirement) at Honaunau, South Kona, Hawaii:

The proposed live entertainment, dancing, and the dancing club are not reasonable uses which relate directly to the botanical garden use. The original approval granted to the petitioner was for a commercial botanical garden and related improvements which included a coffee/shop restaurant use. The coffee/shop restaurant was determined to be an accessory use to the botanical garden. The commercial botanical garden was approved as it was to be developed for the display and sale of agricultural products produced on the premises, which are allowed under both the State Land Use and County zoning regulations. When the Special Permit was amended to include the commercial shops and restaurant activities, it was determined that these uses would be subsidiary and accessory uses to the operation of the botanical garden. The botanical garden was developed to provide visitors an opportunity to view local agricultural products, native plants and flowers. In addition,

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to mitigate any adverse impact as a result of the additional traffic into this area, conditions of approval were set in place to minimize these impacts. Finally, it should be pointed out that the approval of the initial Special Permit was based upon the principal use of the subject area being a private botanical garden to be established as a visitor attraction. The proposed live entertainment, dancing, and dancing club within the existing development do not have any direct relationship to the botanical garden. More specifically, there is no evidence to indicate that such activities are needed in this area.

Based on these circumstances, it is determined that the amendment request to allow such uses would be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The desired live entertainment, dancing, and dancing club activities will have an adverse effect and impact on the surrounding properties. The entire area surrounding the subject property is situated within the State Land Use and County's Agricultural zone districts. The rural and agricultural character of the area is significant and obvious in its setting. The proposed uses would be in conflict with the existing agricultural and residential uses as it would disrupt the rural/agricultural character, quiet environment, and existing agricultural/residential development in the area. The noise that would be generated by the proposed uses would in effect provide disruption to this established agricultural community.

There have been no unusual conditions, trends and needs brought into evidence which would indicate or warrant the inclusion of the proposed uses in the subject development.

The proposed uses would substantially alter or change the essential agricultural character of the area. The inclusion of the proposed uses at this particular location would change the quiet, agricultural character of this area.

The proposed live entertainment, dancing, and dancing club uses would be contrary to the General Plan, Community Development Plan and other planning documents. The Kona Regional Plan indicates this area for agricultural uses. Further, since the proposed live entertainment, dancing, and dancing club are specifically permitted uses within the

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County's Commercial zone districts. These uses would be more appropriate placed within these commercial zone districts rather than on the subject property.

Based on foregoing findings, it is determined that the subject request will not promote the effectiveness and objectives of Chapter 205, HRS, and should therefore be denied.

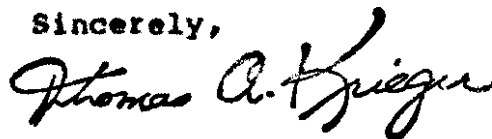
The conditions relating to access improvements are intended to maintain the free-flow of traffic along the Ke Ala Keawe Road and to insure that traffic diverted off of the road to the botanical garden complex be able to move in relative safety. These concerns are amplified by the State Department of Transportation, Highways Division comments that no access be permitted for this particular development along this stretch of the highway. These considerations are still valid and, thus, the access improvement requirements should still be retained.

Therefore, the request to delete condition no. 4 is hereby denied and that all access to the subject development shall be off of the Old City of Refuge Road.

A denial by the Commission of the desired use shall be appealable to the Circuit Court in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.

Should there be further questions on this matter, please feel free to contact the Planning Department at 961-8288.

Sincerely,



Thomas A. Krieger  
Chairman, Planning Commission

cc: State Land Use Commission  
Corporation Counsel  
Planning Office - Kona

bcc: Plan Approval Section

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR SPECIAL PERMIT)  
By )  
BARRY'S NUT FARM )  
For )  
THE ESTABLISHMENT OF A ) SPECIAL PERMIT NO. 432  
COMMERCIAL BOTANICAL GARDEN )  
AND RELATED IMPROVEMENTS )  
In )  
Honaunau, South Kona, Hawaii )  
\_\_\_\_\_ )

SPECIAL PERMIT

The County Planning Commission at a duly held public hearing on October 11, 1979, considered the application of BARRY'S NUT FARM for a Special Permit in accordance with Chapter 205, Section 205-6, Hawaii Revised Statutes, as amended, and Rule No. 6 of the Planning Commission relating to Special Permit to allow the establishment of a commercial botanical garden and related improvements, including a coffee shop/restaurant within the State Land Use Agricultural District. The area involved is located along the west side of the City of Refuge Road, approximately 450 feet mauka or east of the old Honaunau School, Honaunau, South Kona, Hawaii, Tax Map Key 8-4-09:11.

The Commission has found the following:

That the granting of this request will not be contrary to the objectives sought to be accomplished by 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 flora display areas, waterways and lagoon, various paths, maintenance area, plant holding area, as well as the main structure housing administrative offices, and a coffee shop/restaurant.

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.

Consequently, these non-agricultural uses will not significantly alter the character of the subject area. Furthermore, the granting of this Special Permit request may further the State and County policy of supporting and encouraging agricultural activities. The proposed botanical garden will provide new opportunities to market and promote locally raised and produced ornamental agricultural products. The provision of these new marketing opportunities as well as the increased visibility of the products will, to some extent, benefit the overall agricultural potential of this area and of the County and State in general.

That the establishment of the proposed uses will also complement the goals, policies and courses of action of the Economic Element of the County of Hawaii General Plan. Specifically, this element states that the County "shall encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents."

The petitioner's intent in establishing the proposed uses 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 Kona destination area by providing additional opportunities and experiences 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.

That the proposed use will not have any significant adverse effects on the surrounding properties. Surrounding land uses include diversified agriculture, single family

dwellings and vacant lands. 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.

That 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.

Furthermore, the petitioner shall be responsible for resolving all difficulties and concerns with respect to the provision of safe access to the subject area.

It should be pointed out that the approval of this Special Permit is based on the principal use of the subject area being a private botanical garden to be established as a visitor attraction. Therefore any of the permitted commercial and/or restaurant uses within this area shall be ancillary to this primary use.

Therefore, the Commission hereby grants to the petitioner a Special Permit to allow the establishment of a commercial botanical garden and related improvements, including a coffee shop/restaurant within the State Land Use Agricultural District. The area involved is located along the west side of the City of Refuge road, approximately 450 feet mauka or east of the old Honaunau School, Honaunau, South Kona, Hawaii, pursuant to the authority vested in it by Chapter 205, Section 205-6, Hawaii Revised Statutes, as amended, and Rule No. 6 of the Planning Commission.

Approval of the Special Permit is subject to the following conditions:

1. That the petitioner or his authorized representative shall submit plans for and secure final plan approval within one (1) year from the effective date of the Special Permit.
2. That all requirements of the final plan approval shall be complied with prior to the commercial operation of the botanical garden and related uses.
3. That the petitioner shall provide on-site 10 automobile parking stalls and 3 bus parking stalls. The bus parking stalls may be improved with a gravel surface or better, however, all automobile parking stalls shall be paved as shall all bus loading and unloading areas.
4. That all access to the subject property shall be off the Old City of Refuge Road. The existing driveway connection to Ke Ala Keawe shall be terminated.

*approved  
2/11/81  
S. J. [unclear]*

- 5. That the Old City of Refuge Road shall be improved to County dedicable standards from Ke Ala Keawe to the western-most access point on the subject property.
- 6. That the uses related to the botanical garden, including the coffee shop/restaurant shall be in operation only during the normal operating hours of the botanical gardens.
- 7. That any sales on the subject property shall be limited to agricultural products.
- 8. That the requirements of the State Department of Health shall be complied with.
- 9. That all other applicable rules, regulations and requirements shall be complied with.

*approved  
2/11/81*

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

The effective date of the Special Permit shall be October 11, 1979.

Dated at Hilo, Hawaii, this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

*William F. Mielcke*  
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 WILLIAM F. MIELCKE CHAIRMAN  
 PLANNING COMMISSION

APPROVED AS TO FORM AND LEGALITY:

*L. Ben Tshazali*  
 \_\_\_\_\_  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date: 12/10/79