

CERTIFIED MAIL

March 25, 1986

Mr. R. Ben Tsukazaki
Carlsmith, Wichman, Case,
Mukai and Ichiki
Attorneys at Law
121 Waianuenu Avenue
Hilo, HI 96720

Dear Mr. Tsukazaki:

Special Permit Application (86-3)
Applicant: Kohala Joint Venture
TMK: 5-9-09:1

The Planning Commission at its duly held public hearing on March 19, 1986, voted to approve your application, Special Permit No. 613, to allow the establishment of a temporary real estate office within the garage of a model home situated on a 12.6-acre area within the State Land Use Agricultural District and the construction of a gazebo which will be accessory to the real estate sales operation at Waiaka, North Kohala, Hawaii.

Approval of this request is based on the following:

The proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The intent of these statutory provisions is 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 in Hawaii. The area under consideration is classified as agriculture by the State Land Use Commission. Although the subject property is within the State Land Use Agricultural district, the proposed temporary real estate office will be conducted within the garage portion of the single family dwelling on the property and the accessory gazebo structure will be constructed adjacent to the existing parking lot by the Security guard station. Since the proposed real estate office use would be confined to the existing single family dwelling and the proposed gazebo structure will only consume 168 square feet of land area, it will not displace any existing agricultural activity or diminish any agricultural

MAR 25 1986

Mr. E. Ean Tsukazaki
March 25, 1986
Page 2

potential in the area. As such, it is determined that approval of the request would not be contrary to the objectives of the State Land Use Law and Regulations.

It should be further noted that approval of the request will not have any adverse impact on the future agricultural potential of the property or the surrounding area. As such, from a policy analysis standpoint, it is determined that approval of the request would not be inconsistent with the General Plan.

The proposed use will not adversely affect the surrounding properties and their improvements. As stated previously, the proposed use will be conducted within the garage portion of the single family dwelling. The real estate office will take up approximately 640 square feet of the garage and the separate gazebo structure will be 168 square feet in size. Therefore, the size and scale of the proposed real estate office and accessory gazebo structure will not create any negative physical or visual impact on the surrounding properties. Furthermore, the proposed real estate office and gazebo structure is intended to provide the necessary on-site services for the potential purchasers in this subdivision.

The proposed use will not unreasonably burden public agencies to provide road, water and other similar infrastructure or services. Again, the limited nature of the proposed use will not require any additional demands or expansion to those services and facilities already available to the property.

The land upon which the proposed use is sought is suited for the land uses permitted within this agricultural district. However, the proposed real estate office use is being confined to the garage portion of the single family dwelling and the accessory gazebo structure. As such, there will be no major displacement or loss of any active or potential agricultural lands, nor will it preclude any agricultural activity from occurring on the property.

Based on the foregoing, it is determined that the subject request is an unusual and reasonable use which is not contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

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

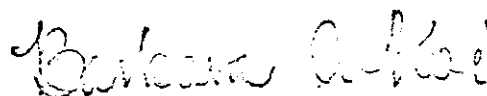
1. The petitioner, its successors or assigns, shall be responsible for complying with all conditions of approval.

Mr. I. Ben Tsukazaki
March 25, 1986
Page 3

2. Plans for the temporary real estate office and accessory gazebo structure shall be submitted to the Planning Department for "Plan Approval" within one year from the effective date of approval of the Special Permit.
3. The construction of the gazebo structure shall commence within one year from the effective date of receipt of final Plan Approval and be completed within two years thereafter.
4. The temporary real estate office shall be established within two years from the date of receipt of final Plan Approval.
5. Real Estate sales shall be restricted only to lands within the Kohala Ranch subdivision. Annual sales reports indicating the Tax Map Key of each property sold shall be submitted to the Planning Department. Each annual report shall be submitted by March 19th of each year. After the sale of all the lots in the first increment, the temporary real estate office shall be terminated.
6. All other applicable rules, regulations, and requirements shall be complied with.
7. The Planning Director may administratively grant extensions to the foregoing condition(s). Further, should the Director determine that any of the conditions have not been met or substantially complied with in a timely fashion, the Special Permit shall be void.

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

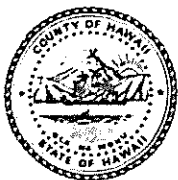
Sincerely,



Barbara A. Koi
Chairperson, Planning Commission

cc: Kohala Joint Venture
State Land Use Commission
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Hawaii County Services, Deputy Managing Director's Office

bcc: Plan Approval Section



Planning Commission

Bernard K. Akana
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

March 13, 1990

R. Ben Tsukazaki, Esq.
Menezes, Tsukazaki & Yeh
100 Pauahi Street, Suite 204
Hilo, HI 96720

Dear Mr. Tsukazaki:

Time Extension to Condition No. 5(86-3)
of Special Permit No. 613
Kohala Joint Venture
Tax Map Key: 5-9-09:1

The Planning Commission at its duly held public hearing on March 1, 1990, voted to approve the above request for a time extension to Condition No. 5 (life of permit) of Special Permit No. 613 which allowed the establishment of a temporary real estate office within the garage of a model home situated on 12.6 acres of land within the State Land Use Agricultural District at the south side of the main (mauka) entrance of the Kohala Ranch Subdivision, Waiaka, North Kohala, Hawaii.

Approval of this request is based on the following:

Continuation of the sales office use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The intent of these statutory provisions is 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. Since the real estate office is confined to the existing single family dwelling, continued use of the office will not displace any existing agricultural activity or diminish any agricultural potential in the area. The sales office is needed to provide services to purchasers of the agricultural lots that have been recently subdivided or are proposed for subdivision in the near future.

MAR 13 1990

R. Ben Tsukazaki, Esq.
March 13, 1990
Page 2

Approval of the time extension request will not have any adverse impact on the future agricultural potential of the property or the surrounding area. As such, it is determined that approval of the request would not be inconsistent with the General Plan.

Continuation of the sales office use will not adversely affect the surrounding properties and their improvements. The office is conducted within the garage of a single family dwelling; therefore, the use is not causing any negative physical or visual impact on the surrounding properties.

We concur with the Police Department in their concern that the sales office not become a "temporary long term" use. To date, the lots in the first increment have all been sold except for the property subject to this application. One hundred fifty agricultural lots have been created in the second increment, and tentative subdivision approval has been granted for an additional 102 lots in the third increment. The land identified as the fourth increment is situated within the State Land Use (SLU) Urban District. It is determined that the sale of lots within the Urban district is not consistent with the intent of the granting of this permit, which was granted as accessory to the development of the agricultural lots. Therefore, it is recommended that the continued sales office use be approved only for sale of lots within the first three increments.

Based on the foregoing, it is determined that the extension of the life of the permit would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations and is consistent with the original reasons for granting of the permit and should, therefore, be approved.

Condition No. 5 of Special Permit No. 613 is amended as follows: (New material is underscored.)

5. Real Estate sales shall be restricted only to lands within the Kohala Ranch subdivision. Annual sales reports indicating the Tax Map Key of each property sold shall be submitted to the Planning Department. Each annual report shall be submitted by March 19th of each year. After the sale of all the lots in the first, second, and third increment or five years from the effective date of this amendment, whichever is earlier, the temporary real estate office shall be terminated.

R. Ben Tsukazaki, Esq.
March 13, 1990
Page 3

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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

Sincerely,

Mike Luce

Mike Luce
Vice Chairman, Planning Commission

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

See: Plan Approval Section