

CERTIFIED MAIL

February 29, 1988

Mr. Kerry Watson
RR1, Box 410
Captain Cook, HI 96704

Dear Mr. Watson:

Special Permit Application(87-16)
TMK: 8-3-10:portion of 15

The Planning Commission at its duly held public hearing on February 23, 1988, voted to approve your application, Special Permit No. 655, to allow the development of a country fair and open air market place on approximately 4 acres of land situated within the State Land Use Agricultural District at Keel 2nd, South Kona, Hawaii.

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 purpose of this Special Permit is to allow the establishment of a visitor center, country fair with vendor and concession booths, an open-air market place, a botanical/agricultural park, a crafts gallery, an entertainment stage, garden party area and commercial tours. These activities are proposed on less than four acres of land, which have not been in orchard production for some time but used as ancillary support for buildings and storage. Thus, the project does not take away valuable agricultural lands from production. A previous Special Permit approved in 1969 allowed the establishment of a

retail health foods store on the subject property. The visitor center is merely an expansion of this permit and would enhance the tourist and agricultural industries of this island. Although the granting of this request would also allow the establishment of certain non-agricultural uses on the subject area, it is determined that the welfare of the people of the County and State of Hawaii would be best served by the project's approval. To attain this goal, a condition of approval would limit the sale of products to those locally produced or crafted and all activities to those of local interest.

2. The granting of this request should not adversely affect surrounding properties. The project site is in a rural setting where coffee farms and vacant land provides a buffer between existing residences. It is felt that centralized siting of buildings and uses coupled with the use of heavy landscaping should adequately mitigate potential noise and visual impacts. Further, this approval contains a condition which limits the daily hours of operation from 8:00 a.m. to 9:00 p.m.
3. The proposed establishment of a country fair and market place will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Although the project will generate an increase in traffic volume, the applicant will be required to conduct a traffic impact analysis report for review by the State Department of Transportation and the Department of Public Works. This report must be approved by the Planning Director prior to Final Plan Approval with any recommendations to be implemented prior to issuance of the certificate of occupancy. It is felt that traffic considerations including those raised by the Police Department would be addressed before the project commences its operations. With regards to water, the applicant is entitled to an additional two units (600 gallons per day per unit) which can be committed toward the project. The submittal of an estimated water demand requirement report to the Department of Water Supply will also provide a mechanism to ensure water availability for the entire proposal. Through plan approval, access roadways for fire apparatus, sewage treatment and an on-site drainage system would be reviewed by the appropriate agencies. The petitioner shall be responsible for resolving difficulties and concerns with respect to the provision of safe access to the subject area.

4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. There is a need to locate a site for a country fair and marketplace following the termination of the Kona Gardens flea market. This type of attraction has become extremely popular to residents and tourists alike. Its existence has served as an "incubational environment" for cottage industries. Some of these small business ventures have grown and relocated in urban centers like Kailua. The closest Urban District area is located about three miles to the north in Kealahou. While the long-range General Plan and the medium-range Kona Regional Plan recommend agricultural use in this area and an urban center to the south in Keolu, these planning concepts have not been actualized. The zoning in the Keolu area has remained in agriculture. Thus, the project would provide an impetus to local individuals in an area that would not produce a scatteration of commercial development.
5. The land upon which the proposed country fair is sought is unsuited for the agricultural uses permitted within the district. As noted previously, the project site had been used as a support area for the avocado and cherimoya orchard operation. This support area will be accommodated to a large extent within the project site. Five FHA farm dwellings are under construction in the northern corner of the property. Storage sheds will be relocated adjacent to existing structures. The soils of this particular location are classified "E" or poor by the Land Study Bureau. Therefore, the site will not affect the productive soils of the property. Since the orchard is established on "C" soils, minimal natural resources will be removed. The land is characterized by geological formations such as a tree mold and lava tubes. These will be appropriately integrated into the botanical park as a focal point for its visitors. In this manner, the applicant is using the on-site natural resources available to benefit the general public.
6. The proposed use will not substantially alter or change the essential character of the land and the present use. The land is presently being used in an ancillary function to the farm. Commercial tours and the establishment of a visitor center would complement the present orchard activity. The planting of rare fruit trees and the formation of natural lakes and an amphitheatre would also retain the natural beauty of the region. Because portions of the proposal are merely renovations to existing structures, the applicant will be upgrading the character of the land.

7. The request will not be contrary to the General Plan and the Kona Regional Plan. Much of the proposal would enhance the agricultural activity which is already being conducted on the property. While specific land use pattern and concept maps denote the Keel mauka area for urbanization and the project site for Orchards, it is felt that its realization must be analyzed in context with the policies and goals set forth in the planning documents. The establishment of a country fair, market place, and visitor center fully support the following goals and policies of the Economic element:

*The economic system of the County should provide its residents with opportunities to improve their quality of life.

*The County of Hawaii should strive for stability in its economic system.

*The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

*The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents of the County.

Approval of this request is subject to the following conditions:

1. The petitioners, 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 landscaping, paved parking and on-site vehicular circulation patterns. Parking shall comply with the requirements of Chapter 25 (Zoning Code). No parking variance from the Code shall be applied for or granted. For purposes of determining parking, detailed plans shall also indicate the location and size of vendor and concession booths and open-air produce areas in the country fair. Further, future expansion of any existing structure(s) shall conform to applicable setbacks and shall not receive a variance from the Zoning Code. All structures shall be constructed in accordance with appropriate Codes, Rules and Regulations. Finally, the proposed use(s) shall be in strict accordance with Condition 4 of this permit.
3. Construction shall commence within one year from the date of final plan approval and be completed within two years thereafter.

Mr. Kerry Watson
Page 5
February 29, 1988

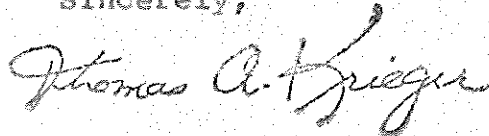
4. Retail sales shall emphasize locally grown produce, crafts and products. In addition, all activities conducted on the property such as parties and concerts shall not disturb the neighboring property owners.
5. Commercial tours shall be restricted to the lower (makai) orchard. No commercial tours shall be established on the upper (mauka) orchard.
6. The treehouse shall be restricted to use as a guard/watch tower.
7. Submit three copies of a traffic impact analysis to the Planning Director, who shall request review and comment from the State Department of Transportation and the Department of Public Works. Provided the report is determined acceptable by the Director, the report shall be approved prior to Final Plan Approval. Approved recommendations shall be implemented prior to the issuance of the occupancy permit.
8. The daily hours of operation for this facility shall be between 8:00 a.m. and 9:00 p.m.
9. Access shall be approved by the State Department of Transportation and the Department of Public Works.
10. 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 uses established in conjunction with the country fair, their local origin or interest, the status of the development and to what 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.
11. 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

Mr. Kerry Watson
Page 6
February 29, 1988

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
DOT-Highways
State Land Use Commission
bcc: Plan Approval Section