

CERTIFIED MAIL

August 15, 1988

Mr. Rozak Bisel
P. O. Box 289
Mt. View, HI 96771

Dear Mr. Bisel:

Special Permit Application (88-11)
Petitioner: Sunshine Farms
Tax Map Key 1-7-08:Portion of 1

The Planning Commission at its duly held public hearing on August 8, 1988, voted to approve the above application, Special Permit No. 672, to allow the establishment of a retail gift shop and garden center for the sale of visitor-related items and hot and pre-made food products on approximately 2 acres of land at Olaa Reservation Lots, Puna, Hawaii.

Approval of this request is based on the following:

1. The granting of the 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 agricultural use. The subject property is being developed as an orchard, floral and botanical garden. Besides selling the agricultural products grown on the premise, the applicant also intends to sell certain goods which would be oriented for the convenience of its visitors. While these unrelated products and food items will also be sold, the primary intent would still be to promote the agricultural plants and flowers produced on the premise. It is felt that the requested use would still be an integral part of the applicant's agricultural endeavors. Further, the sale of the other unrelated products will not be such a large

scale intrusion that would make it inappropriate for placement and operation within the State Land Use Agricultural District through the Special Permit process. 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 main horticultural activities on the remaining 21 acres.

2. The desired use will not adversely affect the surrounding properties. Adjacent properties are planted with sugar cane, flowers and foliage. The introduction of a gift shop and garden center that is supplementary to the area is not anticipated to have negative impacts to surrounding agricultural endeavors. While there may be an increase in traffic along Ala Loop, the amount generated is not expected to be any greater than the amount generated with tours or the sale of products grown on the premise. In order to mitigate visual affects of the warehouse/shop structure and parking facilities from Highway 11 and Ala Loop, landscaping will be required as a condition of this approval.
3. The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. County water is available from two 5/8-inch meters. Police and HELCO had no adverse comments to make on the request. According to the Department of Public Works, Ala Loop has a 10-foot wide pavement fronting the subject property, which is restrictive for two-way traffic and buses. Shoulder improvements (rolled & oil-treated) to Ala Loop was required in a 1981 in conjunction with the Yada subdivision approval. These improvements run from the subdivision to the eastern intersection (Hilo direction) on both sides of Ala Loop. A 1984 change of zone approval for a different parcel owned by Sunshine Farms required roadway improvements (pavement widening) from Yada subdivision to the western intersection (Ka'u direction) on both sides of Ala Loop. Included in this permit is a condition requiring paving the shoulders along the property frontage in an easterly direction from the project's driveway entrance to the New Volcano Road-Ala Loop intersection meeting with the approval of the Department of Public Works. Granting of this request would create an improved roadway situation for this area.

Mr. Rozak Bisel
August 15, 1988

Page 3

4. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The affected land area is not classified by the ALISH system. The soil capability classification is poor and its Land Study Bureau Overall Productivity Rating is fair to poor. The applicant has demonstrated the agricultural potential of these lands and should be encouraged to continue such endeavors. Additionally, the State Department of Agriculture did not foresee any adverse impacts on the agricultural resources of the area.
5. The proposed use will not substantially alter or change the essential character of the land and the present use. The rural character of this area should not be affected by the proposed gift shop and garden center. These will be located within the confines of a structure that will also be used for packing and storing plants and foliage products. Restrictive conditions placed in the special permit should limit the operation as an accessory use and not one that competes with other existing retail operations.
6. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Since the enactment of the State Land Use Law in 1961, the tropical flowers and foliage industry has steadily grown within the South Hilo and Puna Districts. Sugar production, on the other hand, has declined as evidenced by the closing of Puna Sugar Company. Tourism has declined in East Hawaii with the major focus being in West Hawaii. Visitors to East Hawaii are finding diversified agricultural tours to be interesting and educational. This is demonstrated by the increased number of similar special permit requests in this region--Nani Mau Gardens, Akatsuka Farm, Richard Bond and Mauna Loa Macadamia Nut Corporation. This trend has not had a negative influence on agriculture, but rather has played a supportive role in its gain.
7. The request is not contrary to the General Plan. One of the goals of the Land Use Element reads "Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural, and physical environments of the County". Approval of this request would be consistent with this goal since the shop and garden center would be ancillary to the intensive agricultural activity occurring on the property. In

Mr. Rozak Bisel
August 15, 1988
Page 4

addition, the small scale of this request within an existing warehouse building would be in keeping with the rural environment of this area.

Based on the above considerations, it is determined that the establishment of a retail gift shop and garden supply center, is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this 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 for the proposed retail gift shop and garden center, including parking and landscaping, shall be submitted for plan approval review within one year from the effective date of this permit. Parking shall comply with the requirements of Chapter 25 (Zoning Code). No parking variance from the Code shall be applied for or granted. Landscaping shall buffer visual impacts of the structure and parking area from Highway 11 and Ala Loop.
3. Construction shall commence within one year from the date of receipt of final Plan Approval and shall be completed within two years thereafter.
4. There shall be no signage on the premise advertising the proposed retail gift shop and garden center.
5. A list of items (general categories) to be sold shall be submitted to and approved by the Planning Department prior to the issuance of the occupancy permit. The items shall supplement the agricultural theme of the botanical gardens or provide for immediate visitor needs (i.e. camera film or postcards). The items offered for sale shall not compete with existing commercial and retail uses.
6. The daily hours of operation of the retail shop and garden center shall be from 8:00 a.m. to 5:00 p.m.
7. The petitioner may not operate a kitchen or restaurant on the property, but may operate a snack facility during the hours of operation of the retail shop and garden center,

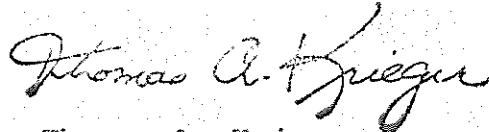
which shall be subordinate to the botanical garden and foliage operations. The snack facility shall comply with all county and state sewage, health, drainage, water and building requirements.

8. The shoulders of Ala Loop shall be paved and widened along the property frontage from the project's driveway entrance to the Ala Loop-New Volcano Road intersection in an easterly direction meeting with the approval of the Department of Public Works. These improvements shall be provided prior to issuance of an occupancy permit for the retail gift shop and garden center.
9. All other laws, rules, regulations, and requirements shall be complied with.
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 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; c) 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.

Mr. Rozak Bisel
August 15, 1988
Page 6

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

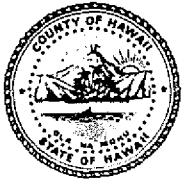
Sincerely,



Thomas A. Krieger
Chairman, Planning Commission

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

bcc: Plan Approval Section



Planning Commission

Larry S. Tanimoto
Mayor

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

CERTIFIED MAIL

June 25, 1990

Mr. Rozak Bisel
P. O. Box 289
Mt. View, Hawaii 96771

Dear Mr. Bisel:

Request to Defer Paving of Parking Area Required Under (88-11)
Condition No. 2 of Special Permit No. 672
Applicant: Sunshine Farms
Tax Map Key: 1-7-08:Portion of 1

The Planning Commission at its duly held public hearing on June 14, 1990, voted to approve the above request to defer paving of the parking area required under Condition No. 2 of Special Permit No. 672.

Approval of this request is based on the following:

Special Permit No. 672 was granted by the Planning Commission upon a finding that the proposed use was an unusual and reasonable use of land within the Agricultural District which would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes. The applicant states that because of losses associated with the anthurium bacterial blight, completion of improvements in one phase is financially unfeasible. It is determined that postponement of paving of the parking area will not be inconsistent with the original reasons for granting of the permit. The deferral of paving will allow the applicant to divert resources to replanting of areas affected by the blight and to establish supportive accessory commercial uses at an earlier date. Alternative treatment of temporary parking areas has been permitted in the past and in this particular case is deemed to be acceptable until the paving is completed. The bacterial blight affecting anthuriums in the region has been an unforeseeable, uncontrollable condition that has affected the applicant's ability to complete improvements in a timely manner. Approval of this deferral request will contribute to the ability of the applicant to continue his agricultural endeavors supported by the additional commercial enterprise.

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Mr. Rozak Bisel
June 25, 1990
Page 2

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The applicant intends to pave the portion of Ala Loop required by conditions of the special permit. The deferral of paving of the parking lot will allow the applicant to complete roadway improvements to Ala Loop in a timely manner.

Based on the above considerations, it is determined that an amendment to defer the requirement for paving in accordance with the Zoning Code would not be contrary to the objectives sought to be accomplished by the Land Use Law.

Approval of this request is subject to the following amended conditions originally granted under Special Permit No. 672:

2. Plans for the proposed retail gift shop and garden center, including parking and landscaping, shall be submitted for plan approval review within one year from the effective date of this permit. Parking shall comply with the requirements of Chapter 25 (Zoning Code), except as provided in Condition No. 4 below. No parking variance from the Code shall be applied for or granted. Landscaping shall buffer visual impacts of the structure and parking area from Highway 11 and Ala Loop.
3. Construction shall commence within one year from the date of receipt of final Plan Approval and shall be completed within two years thereafter, except as provided in Condition No. 4.
4. Construction of the paved parking area shall be completed within one year of receipt of a certificate of occupancy. Temporary treatment of the parking area shall be approved by the Planning Director prior to issuance of certificate of occupancy. The applicant shall inform the Director in writing of completion of paved parking improvements.

All of the remaining conditions shall be renumbered consecutively.

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.

Mr. Rozak Bisel
June 25, 1990
Page 3

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

Sincerely,



Fred Y. Fujimoto
Chairman, Planning Commission

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

bcc: Plan Approval Section