

CERTIFIED MAIL

September 5, 1989

Ms. Carol Apodaca
P.O. Box 114
Hawi, HI 96719

Dear Ms. Apodaca:

Special Permit Application (89-19)
TMK: 5-5-01:96

The Planning Commission at its duly held public hearing on August 28, 1989, voted to approve your application, Special Permit No. 712, to allow the establishment of a child care facility on 4.9 acres of land situated within the State Land Use Agricultural District along the north side of the Kohala Mt. Road, approximately 250 feet west of the Kohala Mt. Road-Maliu Ridge Subdivision Main Access Road, Kahei Homesteads, North Kohala, Hawaii.

Approval of this request is based on the following:

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. The subject property is classified as Prime Agricultural Land according to the ALISH Map. In general we concur with The Department of Agriculture's position that Prime Agricultural Land is not appropriate for non-agricultural use. However, in this case the need of the community is an overriding consideration. It is believed that the proposal is an "unusual and reasonable" use in the interest of the public health and welfare of the people of the State of Hawaii.

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The desired use will not adversely affect the surrounding properties. The site of the proposed day care facility is over 350 feet away from existing residences to the northwest and at least 110 feet from potential residential sites to the east. The property is heavily landscaped and the use is not expected to affect surrounding properties by noise or visual impacts. The property has its own access to the Kohala Mountain Road and thus will not significantly affect common road users. As a condition of this approval recommendation, the roadway access, driveway and parking area should be paved to avoid dust and to increase safety of entry and exit to the property.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The Department of Water Supply has requested additional information to determine the capability of the existing water supply to support the facility. This approval recommendation will be conditioned upon satisfying water requirements. Likewise, all requirements of the Department of Health, Department of Public Works, and Department of Human Services must be complied with prior to establishment of the proposed use. Roadway access must be approved by the State Department of Transportation. Agencies providing public services had no objections to this application provided that standard requirements are met. No additional services will be required.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The expansion of resort development in South Kohala has created number of new jobs, many of which are being filled by North Kohala residents. Employment patterns in North Kohala have shifted from local agricultural to resort-oriented employment with many commuting two-worker households. The need for private day care facilities in addition to public education is a need which has arisen with the change in employment patterns.

The use will not substantially alter or change the essential character of the land and the present use. The major portion of the land will remain in pasture use. The expansion of the existing structure with roadway and parking improvements will not significantly alter the character of the land.

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The request is not contrary to the General Plan and official Community Development Plan. The proposed use would complement the overall Land Use goal of the General Plan to "Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural and physical environments of the County." The use also conforms to the North Kohala CDP recommendation for public infrastructure which states:

"Encourage the establishment of day care facilities and cooperate with the State Department of Social Services, Public Welfare Division in the implementation of this community need."

At this time there are two licensed day facilities capable of caring for more than 12 children in the district of North Kohala. The approval of this use would further these goals.

Based on the above considerations, it is determined that a day care facility with related improvements 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 applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, and paved driveway and parking area. Based on a staff of four plus volunteer helpers, a minimum of five (5) parking stalls shall be constructed meeting with the dimensions and standards set forth in Chapter 25-71 (Zoning Code).
3. Construction of the improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.

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4. That portion of the structure proposed to accommodate the day care center shall be limited to 2,200 square feet of floor area.
5. The hours of operation shall be limited to Monday through Friday, from 7:30 a.m. to 4:30 p.m.
6. Access shall meet with the approval of the Department of Transportation-Highways Division and the Department of Public Works.
7. Applicant shall secure confirmation of adequate water supply in the form of a letter from the Department of Water Supply prior to granting of Final Plan Approval.
8. Sewage flow calculations by a Registered Professional Engineer shall be submitted and method of wastewater disposal shall be accepted by the Department of Health prior to granting of Final Plan Approval.
9. Comply with all other applicable laws, rules, regulations and requirements of the Department of Health, Department of Human Services, Department of Public Works, and other relevant State and County agencies.
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

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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.

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.

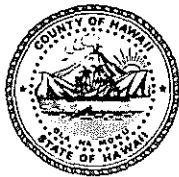
Sincerely,



Gary Mizuno
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
State Land Use Commission
Mr. Larry Mosher, Legislative Auditor's Office (9/6/89)

bcc: Plan Approval Section



Planning Commission

Lorraine R. Inouye
Mayor

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

CERTIFIED MAIL

July 16, 1992

Ms. Carol Apodaca, Director
New Beginnings Children's Center
PO Box 114
Hawi, HI 96719

Dear Ms. Apodaca:

Special Permit No. 712 (89-19)
Applicant: Carol Apodaca
Request: Amendment to Condition No. 4
Tax Map Key: 5-5-01:96

The Planning Commission at its duly held public hearing on July 7, 1992, voted to approve your request to amend Special Permit No. 712, which allowed for the establishment of a child care facility on 4.9 acres of land situated within the State Land Use Agricultural District at Kohala Mountain Road-Maliu Ridge Subdivision Main Access Road, Kahei Homesteads, North Kohala, Hawaii.

Approval of this request is based on the following:

The request to add an additional 1,000 square feet of floor area to the existing day care facility will not be contrary to the original reasons for granting the permit. The proposed site is adjacent to the existing day care and does not remove a significant amount of land from agricultural use.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The new construction will not generate additional children and, therefore, the infrastructural impacts are the same as previously assessed.

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The desired use will not adversely affect surrounding properties. Existing agricultural activities located adjacent to the project site should not be affected by the proposed improvements. The Department has not received any complaints since the school has commenced.

The request is not contrary to the goals, standards and policies of the General Plan and to the North Kohala Community Development Plan. The proposed request would still complement the overall Land Use goal of the General Plan to "Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural and physical environments of the County." The extended use also conforms to the North Kohala CDP recommendation for public infrastructure which states:

"Encourage the establishment of day care facilities and cooperate with the State Department of Social Services, Public Welfare Division in the implementation of this community need."

Approval of this request is subject to the following amended conditions (deleted information is bracketted and new information is underlined):

2. Final Plan Approval for the multi-purpose building shall be secured from the Planning Department within one year from the effective date of this [permit] amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. The multi-purpose building shall be sited and constructed in a manner which mitigates any potential noise impacts to adjacent properties, especially to those properties located within the adjacent Maliu Ridge Subdivision - Phase I. Plans shall also identify structures, landscaping, and paved driveway and parking area. [Based on a staff of four plus volunteer helpers, a minimum of five (5) parking stalls shall be constructed meeting with the dimensions and standards set forth in Chapter 25-71 (Zoning Code)].

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3. Construction of the improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
4. That portion of the structure proposed to accommodate the day care center shall be limited to [2,200] 3,300 square feet of floor area.

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, Chairman
Planning Commission

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jdk

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Mayor
Planning Director
Plan Approval Section