

CERTIFIED MAIL

June 13, 1989

Thomas L. W. Yeh, Esq.
Menezes, Tsukazaki & Yeh
100 Pauahi Street, Suite 204
Hilo, HI 96720

Dear Mr. Yeh:

Special Permit Application (89-9)
Applicant: Puna Macadamia
TMK: 1-7-29:Portion of 2

The Planning Commission at its duly held public hearing on June 6, 1989, voted to approve the above application, Special Permit No. 706, to allow the construction and operation of a macadamia nut husking, drying, and cracking plant, and related improvements including offices, on 10+ acres of land situated within the State Land Use Agricultural District at Puna Macadamia Orchard Subdivision situated northwest of Happy Homes Subdivision and Iwasaki Camp Subdivision, Keaau, Puna, 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. In the case of agricultural districts, the intent is to preserve or keep lands of high agricultural potential in agricultural use. Although the subject area has a very poor (Class E) potential for productive agricultural uses and is classified "Other Important" by the ALISH Map system, the

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area has been improved by the applicant with a husking plant to service its 1,078 acre macadamia nut orchard. The purpose of this particular request is to allow other macadamia nut growers to utilize the facility for processing their nuts, if desired. While the anticipated demand for outside processing is not known at this time, such a facility would serve to bolster the industry's current support network by increasing convenience and providing a processing alternative. The orchard at maturity would generate employment for 50 to 60 persons. The processing of nuts from other farms is not anticipated to generate a significant number of additional staff or structural expansion than planned for the applicant's own orchard requirements. The utilization of a 10-acre area to construct a facility, which would also process outside growers' nuts, is not anticipated to affect the agricultural resources of the region.

The desired use will not adversely affect the surrounding properties. The subject property is surrounded on three sides by 20-acre lots being cultivated in macadamia nut trees by the applicant. Abandoned sugar cane land is located to the east. The Waiakea Forest Reserve is situated approximately 780 feet mauka of the facility. The nearest residences are located in the Happy Homes Subdivision about 1-1/2 miles away. The access road also passes by Iwasaki Camp. In view of the remoteness of the project site from other active land uses such as residential and commercial uses, it is felt that the proposed macadamia nut husking, drying, and cracking plant and related improvements will have minimal impacts on surrounding properties and uses. The processing facility will be required to maintain a 100 foot setback from all property lines as set forth in the Zoning Code. This should not be a hardship given the 10-acre area for which the permit has been applied.

The desired use will not unreasonably burden public agencies to provide roads, sewers, water, drainage, school improvements, police, and fire protection. The applicant is in the process of providing a 10,000-gallon water tank for fire fighting purposes. Any additional water needs would be serviced by the construction of water tanks. The estimated annual rainfall of 196 inches should be sufficient for this type of agricultural operation. The 20-foot wide access road has been used in the past for hauling sugar cane and is currently maintained by Amfac. The traffic along the road is localized to Iwasaki Camp, Happy Homes Subdivision, and Puna Macadamia farms. The condition of the road

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is thought to be adequate to meet the volume and type of traffic generated to the facility. Furthermore, the project area is located approximately 2-1/2 miles from Volcano Highway. All other responding agencies raised no objections to the request.

The proposed use will not substantially alter or change the essential character of the land and the present use. As mentioned previously, the area is being improved with a macadamia nut husking plant for the applicant's orchard. The ability to use the plant and future improvements for processing outside growers' products will not alter or change the applicant's anticipated plans to develop the area.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The slow decline of Puna Sugar and the market demand for macadamia nuts have both led to obvious trends in the focus of agriculture in Hilo and Puna.

The establishment of a macadamia nut husking, drying, and cracking facility and related improvements for the purpose of processing nuts grown by outside farmers is consistent with the General Plan LUPAG Map designation of Orchards. Approval would support the goal of the Land Use Element of the General Plan which reads, "Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural and physical environments of the County."

In view of the foregoing, it is determined that the proposed use is an unusual and reasonable use 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. Final Plan Approval of Phase I improvements 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

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forty-five days prior to the date by which plan approval must be secured. Plans shall identify structure(s), a 10,000-gallon water system for fire fighting purposes, access(es), and parking/loading areas. The access(es) and parking/loading areas shall be of sufficient width and size and of a surface treatment which meets with the approval of the Planning Department in consultation with the Department of Public Works. The husking, drying, and cracking structures shall comply with the minimum 100-foot setback requirements from all property lines.

3. Phase I operations in accordance with Final Plan Approval shall commence within one year from the date of receipt of Final Plan Approval. A letter notifying that the operations have commenced shall be submitted to the Planning Department.
4. Final plan approval for Phase II improvements shall be secured within two years from the commencement date of Phase I operations.
5. Phase II construction shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
6. Comply with all other applicable laws, rules, regulations, and requirements of the Department of Health, Fire Department, and other relevant State and County agencies.
7. 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 operations 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 with and the Planning Director acknowledges that further reports are not required.
8. 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

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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.

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: Mr. Dale Anderson
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission

bcc: Plan Approval Section