

Planning Commission

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

STEPHEN K. YAMASHIRO
Mayor

CERTIFIED MAIL

February 11, 1993

Mr. Fredrick Guy Lam, President
Keauhou-Kona Resort Company
PO Box 5685
Kailua-Kona, HI 96745

Dear Mr. Lam:

Special Permit No. 836
Applicant: Keauhou-Kona Resort Company
Request: Temporary Contractor Mechanic's Yard
Tax Map Key: 7-8-10:Portion of 6

The Planning Commission at its duly held public hearing on February 4, 1993, voted to approve the above-referenced application, Special Permit No. 836, to allow the construction of a temporary mechanic's yard on approximately 5.4 acres of land situated within the State Land Use Agricultural District. The property is located immediately mauka of the abandoned railroad track located makai of Kuakini Highway, approximately three fourths of a mile south of its intersection with Kamehameha III Road, Keauhou, North Kona, Hawaii.

Approval of this request is based on the following:

The granting of this special permit will promote the effectiveness and objectives of Chapter 205; Hawaii Revised Statutes, as amended. The State Land Use Law is 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 the Agricultural districts, the intent of the State Land Use Law is to preserve or keep lands of high agricultural potential in agricultural use.

The land on which the proposed activity will be located is classified as "E" or "Poor" by the Land Study Bureau for agricultural productivity and is not classified by the ALISH Map. The temporary use of the project site as a contractor mechanic's yard will not permanently displace or diminish the agricultural potential of the affected area. The applicant has indicated that upon the termination or abandonment

FEB 11 1993

Mr. Fredrick Guy Lam, President
February 11, 1993
Page 2

of the proposed use in 5 to 10 years, the site will be restored to its original condition. It is recommended that a site restoration plan be made a part of this approval recommendation. Therefore, it can be determined that approval of the request will not be contrary to the objectives of the State Land Use Law for the Agricultural District.

The request is not contrary to the goals, policies and standards of the General Plan. The proposed contractor mechanic's yard is, in essence, an industrial activity. By virtue of the nature of the proposed use and its location, the following goals, policies and standards of the General Plan will be complimented:

- * Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environments of the County.
- * Industrial development shall be located in areas adequately served by transportation, utilities, and other amenities...
- * Industrial development shall maintain or improve the quality of the present environment.
- * Industrial activities may be located close to raw materials or key resources.
- * Buffer zones shall be established between industrial and adjacent non-compatible uses of land.

The desired use will not adversely affect surrounding properties. The proposed activity will be conducted within a vacant 5.4-acre site located approximately 600 feet from the nearest single family dwelling. Hours of operation are from 7:00 a.m. to 3:30 p.m., Monday through Friday. The applicant maintains an existing equipment storage area on 3.8 acres of land situated approximately 300 feet to the northwest of the project site, immediately mauka of Kaluna Street. To date, the Planning Department has not received any complaints regarding the use of the existing facility. This proposal will relocate these activities approximately 600 feet further mauka of Kaluna Street and the adjoining Keauhou Estates Subdivision. This more remote area should provide an adequate open space buffer to nearby residential uses. Furthermore, construction equipment is not expected to be stored at the facility and transported to the construction site on a daily basis. As with most construction activities, equipment is maintained at the construction site until it is no longer needed or maintenance is required. It is anticipated that the sporadic transport of heavy equipment along

Mr. Fredrick Guy Lam, President
February 11, 1993
Page 3

the Kamehameha III Road and Kealii Street should not adversely impact traffic along these roadways.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Access to the project site from Kamehameha III Road is via Kealii Street, a privately-maintained roadway having a pavement width of 20 feet within a 50-foot right-of-way. Access then proceeds over an existing dirt road to the project site. Typical vehicular traffic will not be attracted to the site. Construction vehicles which will be maintained and stored at the site can easily negotiate the unpaved access. Water will be made available to the project site.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The Keauhou area is designated as a major resort area by the General Plan. The applicant has been integral in the development of the Keauhou area as a major resort area over the past 20 years. Construction activities associated with present, and future developments within the area are expected to continue for some time into the future. Given the on-going nature of these developments, it is reasonable to maintain maintenance and storage facilities in close proximity to construction sites. Such a central location would preclude the need to transport heavy machinery over long distances to baseyards located in industrial areas or its storage on lands scattered through-out the Keauhou area. A by-product of this centralization of construction equipment is an expected improvement of the visual experience within Keauhou.

Archaeological inspections of project site and surrounding area conducted by International Archaeological Research Institute, Inc. in 1992 found that the proposed use will directly impact a historical wall which traverses the project site in a northeast to southwest direction. The report concluded that this feature is identified as an important component of a complex of historical cattle ranching features in the Keauhou Mauka Land area. The report also suggests that present mapping and descriptive efforts are adequate to mitigate damage that would result from construction of the mechanic's yard. According to the application, the applicant "is intending to undertake the necessary data recovery work on the wall to complete the final necessary survey in the area in order to allow construction on the mechanic's yard to proceed." It is therefore recommended that an archaeological mitigation plan be developed by the applicant meeting with the approval of this office, in

Mr. Fredrick Guy Lam, President
February 11, 1993
Page 4

consultation with the Department of Land and Natural Resources (DLNR)-Historic Preservation Division. This recommendation would not, however, preclude the need for any additional survey work or mitigative measures which may be required by the DLNR-Historic Preservation Division.

The applicant's existing equipment storage area was established in conjunction with the development of the Keauhou Estates Subdivision, which the Planning Commission approved through the issuance of Special Management Area Use Permit No. 189. The applicant has stated within its application that the existing equipment storage area will be restored "to its original natural condition." It is recommended the site restoration plan for the proposed site also include the restoration of the existing equipment storage site.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Final Plan Approval for the proposed construction contractor mechanic's yard 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.
3. The construction contractor mechanic's yard shall be established (certificate of occupancy) within one year from the date of receipt of Final Plan Approval.
4. As represented by the applicant for the purpose of mitigating potential noise and visual impacts, the proposed construction contractor mechanic's yard shall be constructed with an average finished grade below that of the immediately surrounding area. For similar purposes, appropriate landscaping shall be provided and indicated on plans submitted for Final Plan Approval review.
5. For the purpose of dust control, the applicant shall pave the project site and its driveway access from Kealii-Kaluna Streets, prior to the establishment of the construction contractor mechanic's yard.

Mr. Fredrick Guy Lam, President
February 11, 1993
Page 5

6. An oil-trapping system for the construction vehicle wash-down area shall be installed in a manner meeting with the approval of the Department of Health, prior to commencing operation.
7. The hours of operation for the yard shall be from 7:00 A.M. to 3:30 P.M., Monday through Friday.
8. An archaeological mitigation plan shall be submitted to and approved by the Planning Director, in consultation with the Department of Land and Natural Resources (DLNR)-Historic Preservation Division, prior to the receipt of Final Plan Approval. This condition does not preclude the applicant from performing additional archaeological survey work or mitigative measures which may be required by the Planning Department, in consultation with the DLNR-Historic Preservation Division, to ensure that any adverse impacts generated by the propose use to archaeological sites located within and in the immediate vicinity of the project site are satisfactorily mitigated.
9. A Site Restoration Plan shall be submitted to the Planning Department for review and approval prior to the issuance of Final Plan Approval. As represented by the applicant, the plan shall reflect the restoration of the project site to its original, natural condition. The plan shall also address the timing and method of restoration of the existing equipment storage area located on
TMK: 7-8-10: Portion of 50.
10. The life of this permit shall be for a period not to exceed 5 years from the date of issuance of this permit or the termination or abandonment of the construction contractor mechanic's yard, whichever comes first.
11. The applicant shall comply with applicable laws, rules and regulations of State and County agencies.
12. 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 clinic and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions off approval have been complied with and the Planning Director acknowledges that further reports are not required.

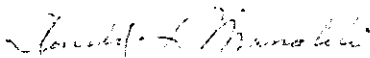
Mr. Fredrick Guy Lam, President
February 11, 1993
Page 6

13. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 10, may be granted by the Planning Director upon the following circumstances: 1) 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 shall initiate procedures to revoke 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.

Should you have any questions, please feel free to contact Rodney Nakano or Daryn Arai of the Planning Department at 961-8288.

Sincerely,

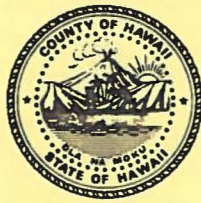


Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LKeauh01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Mr. Glen T. Koyama
Planning Director
Department of Public Works
Department of Water Supply
Department of Health
County Real Property Tax Division - Kona
West Hawaii Office
State Land Use Commission
Department of Land and Natural Resources
Plan Approval Section

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL
Z 179 517 405

APR 24 1998

Steven S. C. Lim, Esq.
Carlsmith Ball Wichman Case & Ichiki
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

Special Permit No. 836 (SPP 836)
Applicant: Kamehameha Investment Corporation
Request: Amendments to Special Permit No. 836 to Expand the Existing
Contractors Mechanic Yard and to Condition No. 10, Extend the Life of the
Permit to Permanent Status
Tax Map Key: 7-8-10:Portion 6

The Planning Commission at its duly held public hearing on April 17, 1998, voted to approve the above-referenced request to amend Special Permit No. 836 to allow for the 5-acre expansion of the existing contractor's mechanic yard and to amend Condition No. 10 by extending the life of the permit. The property is located immediately east (mauka) of the abandoned West Hawaii Railroad right-of-way, approximately 600 feet east of Kaluna Street and makai of Kuakini Highway, Kaha'u, North Kona, Hawaii.

Approval of this request is based on the following:

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to Special Permit No. 836 would not be contrary to the original reasons for granting the Special Permit. The contractor mechanic's yard is, in essence, an industrial activity. By virtue of the nature of the proposed use and its location, the request would be consistent with the Land Use Element of the General Plan. It would continue to complement the Industrial goal of the General Plan which states that "Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environments of the County." The proposed expansion to the existing mechanic yard would not displace any agricultural activity nor diminish the agricultural potential of the area.

03885

APR 24 1998

The desired use will not adversely affect the surrounding properties. The surrounding areas are vacant lands zoned Agricultural (A-5a). The Keauhou Estates Subdivision is located approximately 700 feet from the project site. The area is remote and there is adequate open space buffer to minimizing any physical, social or other impacts to nearby residential uses. To further ensure that concerns are addressed, a condition is included to provide a process to enforce noncompliance with conditions and public complaints.

The use will not substantially alter or change the essential character of the land and the present use. The proposed expansion would not be inconsistent with the character of the area. An open equipment storage area, building pads for tools and parts shed, administrative quarters building, and work station will be constructed on the proposed expansion area. The hours of operation will be from 7:30 a.m. to 4:00 p.m. Monday through Friday. Thus, granting of this proposed expansion is not expected to produce any new impacts. The nature of the proposed expansion will not significantly change what is already existing. As an expanded 5-acre portion of the property will be used for the baseyard, the our standard archaeological stop work condition is included.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, police and fire protection. Access to the project site is from Kamehameha III Road is via Kealii street, which has a pavement width of 20 feet within a 50-foot right-of-way. All essential utilities such as electricity, water and telephone are available to the subject property. Typical vehicular traffic would not be attracted to the site. No additional road improvements are needed to support the request. All requirements of the Department of Health, Department of Public Works and Fire Department shall be complied.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Unusual trends and needs have arisen since the mechanic's yard was established in 1993. The Keauhou area is designated as a major resort by the General Plan. The applicant has been an integral part of development of the Keauhou area during the past 20 years. Construction activities associated with the present and future developments within the area are expected to continue for some time into the future. Given the on-going nature of these developments, it is reasonable to maintain that the mechanic's yard and storage facilities be located in close proximity to construction sites. Such a central location would preclude the need to transport heavy machinery over long distances to baseyards located in industrial areas. Planned construction projects in the makai and mid-elevation area of Keauhou are on-going and thus the request to change the temporary status of Special Permit No. 836 to a permanent use.

Based on the above considerations, the proposed expansion of the existing contractor's mechanic's yard and to extend the life of the permit to permanent status is considered an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Special Permit No. 836 is hereby amended as follows (material to be deleted is bracketed and material to be added is underscored):

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Proposed uses within the 5-acre expansion area of the contractor mechanic's yard shall be established within 5 years from the effective date of this amendment. Prior to establishing the proposed uses, Final Plan Approval [for the proposed construction contractor mechanic's yard] 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 and uses, fire protection measures, parking areas and driveway, landscaping and other improvements associated with the proposed use.
3. The construction contractor mechanic's yard shall be established (certificate of occupancy) within one year from the date of receipt of Final Plan Approval.
4. As represented by the applicant for the purpose of mitigating potential noise and visual impacts, the proposed construction contractor mechanic's yard shall be constructed with an average finished grade below that of the immediately surrounding area. For similar purposes, appropriate landscaping shall be provided and indicated on plans submitted for Final Plan Approval review.
5. For the purpose of dust control, the applicant shall pave the project site and its driveway access from Kealii-Kaluna Streets, prior to the establishment of the construction contractor mechanic's yard.
6. An oil-trapping system for the construction vehicle wash-down area shall be installed in a manner meeting with the approval of the Department of Health, prior to commencing operation.
7. The hours of operation for the yard shall be from [7:00 A.M. to 3:30 P.M.] 7:30 A.M. to 4:00 P.M., Monday through Friday.
8. An archaeological mitigation plan shall be submitted to and approved by the Planning Director, in consultation with the Department of Land and Natural Resources (DLNR)-Historic Preservation Division, prior to the receipt of Final Plan Approval. This condition does not preclude the applicant from performing additional archaeological survey work or mitigative measures which may be required by the Planning Department, in consultation with the DLNR-Historic Preservation Division, to ensure that any adverse impacts generated by the proposed use to archaeological sites located within and in the immediate vicinity of the project site are satisfactorily mitigated.

9. A Site Restoration Plan shall be submitted to the Planning Department for review and approval prior to the issuance of Final Plan Approval. As represented by the applicant, the plan shall reflect the restoration of the project site to its original, natural condition. The plan shall also address the timing and method of restoration of the existing equipment storage area located on TMK: 7-8-10: Portion of 50.
10. [The life of this permit shall be for a period not to exceed 5 years from the date of issuance of this permit or the termination or abandonment of the construction contractor mechanic's yard, whichever comes first.] Should any lava tube, or remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
11. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, if the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
- [11.]12. The applicant shall comply with applicable laws, rules and regulations of State and County agencies.
- [12.]13. 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 mechanic's yard 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.
- [13.]14. An extension of time for the performance of conditions within the permit, [with the exception of Condition No. 10] 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 shall initiate procedures to revoke the permit.

Steven S. C. Lim, Esq.
Page 5

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.

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

LKIC01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Department of Land & Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu
Louis A. Kau, President/KIC