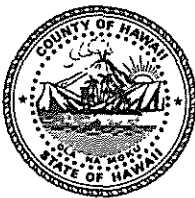


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
P 008 113 382

May 8, 1995

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application 94-19
Applicant: Zane Development Group, Inc.
Request: Proposed Visitor Center Complex
Tax Map Key: 1-6-3:Portion of 10

The Planning Commission at its duly held public hearing on April 26, 1995, voted to approve the above-referenced application. Special Permit No. 900 is hereby issued to allow the establishment of a visitor center complex (consisting of a cocoa display area, demonstration processing area, retail shop, restaurant, dining hall/meeting hall and a plantation museum) on approximately 3 acres of land situated within the State Land Use Agricultural District located on the Keaau-Paho Highway (Mile Post 1) adjacent and to the south of the Banyan House Restaurant (former Puna Sugar Company manager's residence), 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 the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The potential for orchard use has been demonstrated by the existing cacao trees established on 12 acres of the property. Soils within the project site are classified "D" or poor and are not classified

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on the portion of property affected by the Special Permit. The proposed visitor center and its related improvements will occupy approximately 3 acres of a total 44+ acres of land. The remaining 41 acres of land will be used as an agricultural subdivision. A visitor center which promotes the cacao and chocolate industry could enhance agricultural activity on the subject property and other areas of Puna. The promotional benefits to be gained for a new diversified industry will outweigh the loss of 3 acres of land. An adjoining property contains an inn and restaurant, which was permitted through the granting of a Special Permit. The proposed visitor center provides an even greater connection and support to agriculture. To ensure that this occurs, a condition of this permit requires that construction of the project commence no later than tentative subdivision approval of the A-1a lots and that a certificate of occupancy for the visitor center be issued no later than final subdivision approval of the A-1a lots. The accompanying change of zone bill also includes a condition that would not allow final subdivision approval until a certificate of occupancy is issued for the visitor center. Therefore, the proposed use would not displace any agricultural activity nor diminish the agricultural potential of the area and would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

The desired use will not adversely affect the surrounding properties. Surrounding uses include a banana farm, a nursery and the inn and restaurant. The visitor center is not anticipated to create any visual or noise impacts that cannot be mitigated. The visitor center and its parking are located towards the central part of the property. With appropriate landscaping and the application of agricultural zoned setbacks, the neighboring property to the south should be buffered.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and police and fire protection. Electricity, water, wastewater disposal facilities and other essential services are or will be made available to the project site. Access to the project is provided by Keaau-Pahoa Road, a State Highway having an 80-foot wide right-of-way with a 24-foot wide pavement. While the Department of Transportation-Highways Division has requested several improvements, it is difficult to form a legal basis and rational connection to requirements such as signalization and channelization at the project's intersection and an addition of a Hilo-bound lane approximately one mile away in Keaau Village. A condition of this permit requires only the installation of street lights and appropriate safety rails or features prior to issuance of a certificate of occupancy for the visitor center or final subdivision approval, whichever occurs first. The permit also requires the applicant to pay its pro rata share cost of

intersection improvements at the project's connection with Keaau-Pahoa Road as and if required by the State Department of Transportation. Wastewater generated by the proposed visitor center will be disposed of utilizing an individual wastewater disposal system meeting with the requirements of the Department of Health. All requirements of the Department of Health, Department of Public Works and Fire Department shall be complied with prior to establishment of the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Agricultural pursuits have changed since the district boundaries were established. Sugar continues to be on a decline although farmers have turned towards diversified agriculture in an effort to seek a viable alternative. Puna Sugar Company shut down in the 1980's, and the nearby Keaau Agricultural Lots Subdivision (A-1a) was a consequence of this major event. It is not inconceivable that small-scale farming and agriculture can occur on one-acre parcels. This approval is also in support of the expansion of agrotourism and its non-intrusive character into the community.

The use will not substantially alter or change the essential character of the land and the present use. As previously discussed, the proposed visitor center will become a part of on-going orchard activities occurring on the subject property. It will maintain a plantation manager's theme and will be low-profile. Therefore, the character of the subject property will remain agricultural, similar to the agricultural character of surrounding lands.

The lands upon which the proposed use is fairly suitable for the uses permitted within the district. As previously mentioned, soils within the project site are fairly suited for orchard uses and has proven adequate for sugar. However, the limited land area required to accommodate the proposed visitor center and the potential benefits to agriculture and the community by the proposed meeting hall outweighs the loss of land which could be committed to agriculture.

With the cacao and plantation theme of the visitor center, the proposed use is consistent with the following goals, policies and standards of the General Plan:

Economic Element

- 0 Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.

- 0 The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- 0 The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.
- 0 The County shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.

Land Use Element

- 0 Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.

Based on the above considerations, the establishment of a visitor center for the promotion of cacao and the plantation lifestyle, the community dining hall/meeting hall and restaurant would be 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.

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. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.
3. Final Plan Approval for the visitor center shall be secured from the Planning Department. Plans shall identify all existing and proposed structures, landscaping, paved parking stalls and paved access driveway(s) associated with the proposed use. The proposed visitor center building and related structures shall maintain minimum setbacks set forth for the Agricultural zoned district.
4. Construction of the project shall commence no later than tentative subdivision approval of the A-1a lots. Certificate of occupancy for the visitor center shall be issued no later than final subdivision approval of the A-1a lots.

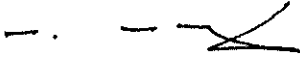
5. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease, and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
6. Street lights and appropriate safety rails or features shall be installed at the project's intersection with Keaau-Pahoa Road meeting with the approval of the Department of Transportation-Highways Division prior to Final Subdivision Approval or issuance of certificate of occupancy for the visitor center, whichever occurs first.
7. The applicant shall pay its pro rata share contribution of any intersection improvements, including traffic signals and channelization at the project's intersection with Keaau-Pahoa Road, due to increased traffic caused by the visitor center as and when required by the State Department of Transportation.
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. 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).
9. 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.

Mr. Sidney Fuke
Page 6

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

Sincerely,

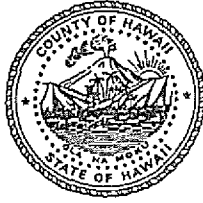


Wilton K. Wong, Chairman
Planning Commission

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xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Plan Approval Section
Zane Development Group, Inc.
Subdivision Section
Department of Transportation - Highways Division
Ms. Connie Kiriu

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

June 25, 2004

Mr. Sheldon Zane
Keaau Plantation Estates
Suite 1520, Pauahi Tower
1001 Bishop Street
Honolulu, HI 96813-3429

Dear Mr. Zane:

Special Permit No. 900
Proposed Visitor Center Complex
TMK: 1-6-3: portion of 10

As requested in your letter of April 21, 2004, pertaining to Subdivision No. 95-119,
Special Permit No. 900 is hereby revoked.

Should you have any questions, please feel free to contact Norman Hayashi of this office
at 961-8288.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

cc/ltr: Planning Commission
Patricia O'Toole, Esq.

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JUN 20 2004