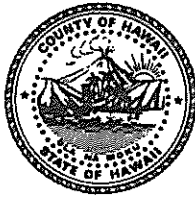


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED LETTER  
P 364 320 323

November 29, 1995

Sandra Pechter Schutte, Esq.  
101 Aupuni Street, Suite 1014A  
Hilo, HI 96720

Dear Ms. Schutte:

Special Permit Application (SPP 95-26)  
Applicant: Hawaii Tropical Botanical Garden  
Request: Establishment of a Visitor Center, Gift Shop,  
Administrative Office, Paved Parking Area and Accessory Facilities  
Tax Map Key: 2-7-10:14

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The Planning Commission at its duly held public hearing on November 22, 1995, voted to approve the above application. Special Permit No. 917 is hereby issued to allow the establishment of a visitor center, gift shop, administrative office, paved parking area and accessory facilities on approximately 25,000 square feet of land situated within the State Land Use Agricultural District. The property, consisting of 5.661 acres, is located mauka of Onomea Bay, along and on the mauka side of the Old Mamalahoa Highway (4 Mile Scenic Route), along the north side of Kahalii Stream, approximately two miles north of the Hawaii Belt Road/Old Mamalahoa Highway intersection at Onomea, South Hilo, 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

13556

Sandra Pechter Schutte, Esq.  
November 29, 1995  
Page 2

agricultural potential in agricultural use. The property has never been developed or planted for any agricultural use. The property is situated between Onomea Stream and Kahalii Stream and includes steep slopes. Soils on the property has been classified as Rough Broken with very steep slopes ranging from 35 to 70 percent. The Land Study Bureau classifies the property as "E" or "very poorly suited" for agricultural productivity. The Agricultural Lands of Importance to the State of Hawaii (ALISH) Map does not classify the area. The proposed visitor center facility will utilize approximately 10 percent or 25,000 square feet of land within a 5.66-acre parcel. The remaining area is not proposed for any further development at the present time. Construction of the visitor center facility would support, enhance and promote the existing botanical garden operations and the scenic area at the Onomea Bay area. It would also provide visitors and local students and residents an educational opportunity to explore the plant species within the botanical garden and at the same time learn the history of Onomea. Therefore, the proposed use would not 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. The proposed use will be situated on a level 25,000 square foot portion of the property. The immediate adjacent and surrounding areas are undeveloped with natural vegetation and steep slopes. The property is located mauka of the existing botanical garden. Thus, the proposed visitor center facility would not affect the present character of the area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. All essential utilities such as electricity, water and telephone are or will be made available to the project site. Access to the property is provided by the Old Mamalahoa Highway, a County two-lane roadway with approximately 20-foot wide with 2-3 foot grass shoulders. Wastewater generated by the proposed use will be disposed of utilizing an individual wastewater disposal system, such as a cesspool or septic 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. The purpose of the special permit request is to allow the establishment of a visitor center facility which will operate in

conjunction with the existing botanical garden. The botanical garden contains a world-class display of over 10,000 tropical plants, representing more than 1,800 species. Approximately 150 tourists and local school students visit the botanical garden daily. The introduction of tourists and local residents to agricultural activities is unusual and requires the installation and operation of visitor facilities. These are unusual needs which have arisen since the district boundaries were established.

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 facility will become an integral part of on-going agricultural activities occurring at the existing botanical garden situated on the makai side of the property. The visitor center facility was conceived to minimize the impacts of the project on the site and to maximize the retention of native flora on the remaining portion of the property. The property has never been developed or planned for agricultural use. Further, except for the proposed visitor center facility, the remaining portion of the property which abuts the Onomea and Kahalii Streams would remain in its present natural state.

The land upon which the proposed use is unsuitable for the uses permitted within the district. Soils within the project site is unsuitable for many types of agriculture. The property has very poorly suited productivity rating and is unclassified by the ALISH Map. As mentioned previously, it is also situated between Onomea and Kahalii Streams.

The request is not contrary to the General Plan. It should be pointed out that the existing botanical garden abuts Onomea Bay which is listed in the General Plan as one of the natural beauty in the South Hilo district. The proposed use is consistent with the following goals, policies and standards of the Land Use, Economic and Natural Beauty Elements of the General Plan:

- \* The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- \* Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.

Sandra Pechter Schutte, Esq.

November 29, 1995

Page 4

- \* 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.
- \* The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.
- \* Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.
- \* Maximize opportunities for present and future generations to appreciate and enjoy natural and scenic beauty.
- \* Increase public pedestrian access opportunities to scenic places and vistas.

Based on the above considerations, the establishment of a visitor center and related facilities within the project site 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 and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, its successor 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. A metes and bounds description of the approximately 25,000 square foot project site, in map and written form, shall be filed with the Planning Department prior to, or in conjunction with the submittal of plans for Final Plan Approval review. The entire project site shall be staked out by a registered professional land surveyor with written notification confirming completion of the staking submitted

to the Planning Director prior to commencing any land alteration activities associated with the proposed visitor center construction.

4. Final Plan Approval for the development and related improvements shall be secured from the Planning Department in accordance with Section 25-243 (Application for Plan Approval) of the Zoning Code. Plans shall identify existing and proposed structures, paved driveway access and paved parking associated with the proposed uses. Parking for all functions related to the visitor center shall be maintained within the approximately 25,000 square foot project site. Landscaping shall also be indicated on the plans and be provided for accordingly.
5. Construction of the development and related improvements shall be completed within five (5) years from the effective date of this permit.
6. Operation of the visitor center shall be limited to the hours from 8:30 a.m. to 5:30 p.m. daily, including all major holidays.
7. The visitor center's access driveway connection to the Old Mamalahoa Highway, pavement and shoulder widening, any necessary transitions and striping and drainage improvements shall be constructed along the subject property's entire Old Mamalahoa Highway frontage in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a certificate of occupancy for the proposed visitor center.
8. The applicant shall remove, at its expense, all vegetation within that portion of the Old Mamalahoa Highway right-of-way fronting the subject property for the purpose of improving sight distance, prior to the issuance of a certificate of occupancy for the visitor center.
9. Wastewater generated by the proposed development shall be disposed of in a manner meeting with the approval of the Department of Health or Department of Public Works, whichever is applicable.
10. 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

Sandra Pechter Schutte, Esq.  
November 29, 1995  
Page 6

Director when it finds that sufficient mitigative measures have been taken.

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 granting of the permit.
  - 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 Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Edward E. Crook, Chairman  
Planning Commission

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  
Mr. Daniel J. Lutkenhouse