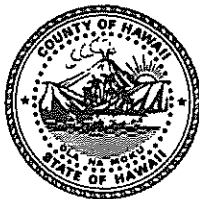


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 821

JUN 24 1997

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

Dear Mr. Fuke:

Special Permit Application (SPP 97-6)

Applicant: Virgil A. Place Arboretum and Botanical Garden, Inc.

Request: Establish a Visitor Center and Gift Shop for a Commercial
Arboretum and Botanical Garden

Tax Map Key: 5-9-5:Portions of 4 and 5

The Planning Commission at its duly held public hearing on June 12, 1997, voted to approve the above-referenced application. Special Permit No. 969 is hereby issued to allow the construction of a visitor center and gift shop for a commercial arboretum and botanical garden on approximately 5 acres of land situated within the State Land Use Agricultural District. The property is located within the Kohala Estates Subdivision on the mauka side and approximately 1/2 mile from the intersection of Akoni Pule Highway and Kohala Estates Road at Waika, 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are identified as Kawaihae (KOC). The Kawaihae series consists of excessively drained, extremely stony soils developed from volcanic ash. Kawaihae soils have a thick surface layer of very fine sandy loam over silt loam. The erosion hazard for these soils is considered high. The average grade of slope is 12 percent. The soil is classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH Map. The property has been used as the applicant's residence and the land is presently used for horticulture and agricultural activities. The proposed use would not displace any agricultural activity nor diminish the agricultural potential of the area, which has very little in the way of intensive agricultural activities in relation to many areas. Therefore, the

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proposed use would not be contrary to the objectives of the State Land Use Law for Agricultural district.

In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district.

The desired use will not adversely affect the surrounding properties. Surrounding uses are single family dwellings and vacant land. Kohala Ranch is situated mauka of the property and Kohala By The Sea is adjacent and to the south. These large agricultural lot subdivisions range in size from 1 and 3 acres to 20+ acres and were developed over the past 20 years. The proposed use will be agricultural in nature except for the visitor center, gift shop and commercial botanical garden. The visitor center and gift shop for the commercial arboretum and botanical garden will be situated on approximately 5 acres of land. As such, the impact to immediately adjoining property owners should not be overly significant. The subject property is currently used for horticultural and agricultural purposes. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social or other impacts that this visitor center and gift shop for a commercial arboretum use may have on the neighborhood.

The desired use will not unreasonably burden public agencies to provide roads, streets, sewers, water and drainage improvements and police and fire protection. Access to the project site is off Ala Kahua Road approximately .5 miles from the intersection of Akoni Pule Highway and Kohala Estates Road. All essential utilities such as electricity, water and telephone are available to the subject property. 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.

The use will not substantially alter or change the essential character of the land and the present use. The proposed visitor center and gift shop for the commercial arboretum and botanical garden would not be inconsistent with the character of the area. The existing site is presently used for horticultural and agricultural purposes. The visitor center and gift shop for the commercial arboretum and botanical garden which support the agricultural uses are incorporated into the master plan of the arboretum and botanical garden. The proposed use for this commercial use is agricultural in nature and its intended focus will be on horticultural research and education and public visitations. The project will also endeavor to show how the area's agricultural potential can be enhanced through the use of irrigation and other horticultural techniques. The entire project is agriculturally oriented and would be consistent with the on-going activities of the area.

The land upon which the proposed use is sought is not unsuitable for the uses permitted within the district. The Land Study Bureau's overall master productivity rating for agricultural use is Class "E" or Very Poor. The land is unclassified on the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. However, the limited nature of the request, the entire concept of the arboretum and botanical garden and related gift shop will not adversely affect

permitted uses located within adjoining areas. The visitors will likely be persons with a particular interest in botany. As such, tour bus traffic would be very unlikely. While the arboretum and botanical garden is principally oriented to the serious plant and horticultural enthusiast, it will also accommodate public visitations on a limited basis. Public visitations would help generate some of the needed funds to sustain the foundation's goal of furthering horticultural research and education. At the same time, it is hoped that these visitations could generate additional botanical interest by the general public. There would be both guided and self-guided tours of the facility and a gift shop where visitors may purchase plants and related items. While snacks may be provided, no food requiring an on-site commercial kitchen is planned to be served on the premises. Since excessive visitations could disturb and/or undermine the principal focus of arboretum and botanical garden - which is horticultural research and education - the facility may not be opened daily. The visitor center and gift shop for the commercial arboretum and botanical garden is accessory to the agricultural uses permitted within the Agricultural district.

The request is not contrary to the General Plan. The County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates this area as Extensive Agricultural. The property is situated within the County's Agricultural (A-20a) zoned district. The request is consistent with the Land Use element of the General Plan which is to "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to "...encourage the development and maintenance of the communities meeting the needs of its residents in balance with the physical and social environment." It is also consistent with the Agricultural element of the General Plan which states that "The County shall ensure that development of important agricultural land shall be primarily for commercial agricultural use purposes."

The property is designated Zone X, an area outside of the 500-year flood plain. The lands sit at about the 375 to 500-foot elevation. The visitor center and gift shop would be subordinate to the primary arboretum and botanical garden use; thus, no major traffic increases are anticipated to be generated. The traffic generation would be directed toward the principal arboretum use, a use that is already permissible. No additional road improvements are needed to support the request. Therefore, the proposed visitor center and gift shop for the commercial arboretum and botanical garden are consistent with the policy and standards set forth in the General Plan.

Based on the above considerations, the proposed visitor center and gift shop for the commercial arboretum and botanical garden are 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. We would note here that although three (3) additional farm dwellings are proposed, the approval of these structures would be processed through other provisions of the Zoning Code and would be based on the appropriate criteria. The granting of this request does not in any way commit the Planning Department to the approval of these farm dwelling structures.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the Special Permit.

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant, its successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Agricultural District. For any additional farm dwellings proposed for the project, farm dwelling applications and agreements must be submitted and approved by the Planning Director prior to its construction.
3. The visitor center and gift shop for the commercial arboretum and botanical garden use shall be established within five (5) years from the effective date of this permit. Prior to the establishment of this use, Final Plan Approval shall be secured from the Planning Director. The applicant, its successors or assigns shall notify the Planning Department in writing of the completion of required improvements prior to the establishment of this use.
4. The applicant shall consolidate the properties, if applicable.
5. The applicant shall comply with all other laws, rules, regulations and requirements, including those of the Department of Health, Department of Water Supply, Fire Department and the Department of Public Works.
6. Any request to amend conditions of this Special Permit shall be forwarded to the Planning Commission pursuant to Rule 6.8 of the Planning Commission's Rules of Practice and Procedure.
7. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide in writing, a final status report to the Planning Director.
8. An initial extension of time for the performance of conditions within the Special 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 applicants, 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.
 - 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).

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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

AK:syw

LPlace01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Virgil A. Place