



Stephen K. Yamashiro
Mayor

County of Hawaii

PLANNING COMMISSION

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CERTIFIED LETTER
P 364 320 324

November 29, 1995

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

Dear Ms. Schutte:

Use Permit Application (USE 95-6)
Applicant: Hawaii Tropical Botanical Garden
Request: Continued Operations of the Existing Hawaii Tropical
Botanical Garden Headquarters
Tax Map Key: 2-7-31:15

The Planning Commission at its duly held public hearing on November 22, 1995, voted to approve the above application. Use Permit No. 140 is hereby issued to allow the continued operation of the existing Hawaii Tropical Botanical Garden headquarters (administrative offices, reception/reservation area and gift shop and parking area on approximately 11,118 square feet of land situated within the Single-Family Residential (RS-20) zoned district. The property is located along and on the mauka side of the Old Mamalahoa Highway (4 Mile Scenic Route), along the north side of Aleamai Stream, approximately one mile north of the Hawaii Belt Road/Old Mamalahoa Highway intersection at Aleamai, South Hilo, Hawaii.

Approval of this request is based on the following:

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits, require that such action conform to the following guidelines:

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- (A) The proposed use will still be consistent with the general purpose of the zoned district, the intent and purpose of this chapter, and the County General Plan;
- (B) The proposed use will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties;
- (C) The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region; and
- (D) The proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

Section 25-28, Hawaii County Code, as amended, authorizes the County Planning Commission to issue Use Permits for certain uses within the State Land Use Urban district and designated County-zoned districts unless specifically permitted in a zoned district. Churches, temples and other institutions of a religious, cultural, philanthropic or charitable nature are an example of such uses. The administrative offices, gift shop and related facilities of a church and other institutions could be established as an accessory to a church or charitable institution approved by a Use Permit. In this instance, the property owner, a non-profit corporation, desires to legitimize and continue its existing administrative office, gift shop and related facilities on a temporary basis. The existing facilities are an integral part of the overall Hawaii Tropical Botanical Garden's operation.

The desired use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, and the County General Plan. The building site is situated within the County's Single-Family Residential -20,000 square feet (RS-20) zoned district and the State Land Use Urban District. The General Plan designates the area for Low Density Urban which is single family residential in character and may allow for ancillary community and public uses and convenience type commercial uses. The applicant is requesting to continue temporarily at this location for the existing Hawaii Tropical Botanical Garden headquarters (administrative offices, gift shop and related activities). The applicant is currently requesting

for a Special Permit for the construction of its new visitor center on a property directly mauka of the existing botanical garden.

The use will complement the following goals and policies of the Land Use Element of the General Plan which state:

- * Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- * Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities.
- * The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The character of the immediate community is primarily residential. However, the continued headquarters operation at this location will be temporary and will not be expanded. The existing structures have been used by the applicant as its headquarters since mid-1980's. The existing headquarters facility is an integral part for the overall operation of the botanical garden. From a physical standpoint, there will be no major alteration at this location which would give this area an appearance other than what is presently there.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. As previously indicated, the applicant intends to continue the existing headquarters on a temporary basis until such time as a new visitor center can be constructed. Further, the headquarters operation will be contained within the existing structures.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure. All essential utilities such as electricity, water and telephone are available to the property.

According to the Department of Public Works, the existing driveways and parking areas do not conform with its standards. Further, the existing on-street perpendicular parking is hazardous and should be eliminated. Therefore, a condition of approval will be included to address those concerns. All requirements of the Department of Health, Department of Public Works and Fire Department will be complied with.

Approval of this request to continue the existing headquarters (administrative offices, gift shop and related facilities) on a temporary basis is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and 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 granting of this permit.
3. The life of this permit shall not exceed one (1) year from the effective date of this permit.
4. All driveway accesses and parking areas shall meet with the approval of the Department of Public Works.
5. An initial extension of time for the performance of conditions, with the exception of Condition No. 3, 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.

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- 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