Harry Kim
Mayor

County of Hawaii

PLANNING COMMISSION
25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL
7000 0600 0024 2904 9458

Mr. Keith Unger
Alii Gardens Marketplace
P.O. Box 181
Honaunau, HI 96726

Dear Mr. Unger:

Special Management Area Use Permit Application (SMA 358)
Use Permit Application (USE 142)
Request: Amend Condition No. 12E (Allow the Use of Up to 40 Green or Earth-Tone Colored Umbrellas or White "EZ Up" Tents)
Applicant: Alii Gardens Marketplace
Tax Map Key: 7-5-20:70

The Planning Commission at its duly held public hearing on April 5, 2002, voted to approve the above-referenced request to amend Condition No. 12E of Special Management Area Use Permit No. 358 and Use Permit No. 142 to allow up to 40 umbrellas or tents for a period of up to five (5) years. Presently, Condition No. 12E allows up to 20 umbrellas in place of kiosks during the first twelve months of operation. The permits allow construction of kiosks to accommodate up to 80 vendors. The property is located across the entrance to Alii Point Subdivision and bordered by Ali'i Drive and the proposed Keauhou Parkway right-of-way, approximately 120 feet northwest of Kahakai Elementary School, Puapuaa 2nd, North Kona, Hawaii.

The Planning Director had recommended denial of the request. The Commission, however, approved the request because it meets the criteria for approval under the guidelines for an amendment to a Special Management Area Use Permit and a Use Permit. It should be pointed out that the conditions of approval for both permits are identical. The approval is based on the following reasons:

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Special Management Area Use Permit Application

Use Permit No. 142 and Special Management Area Use Permit No. 358 allowed the development of up to 80 kiosks for a maximum of 80 vendors at the Alii Gardens Marketplace. The construction of the marketplace was to be completed within 5 years of approval or January 3, 2001.

Condition No. 5 of Special Management Area Use Permit No. 358, which requires the construction of the project to be completed within 5 years, is being extended administratively per Condition No. 13 of the Special Management Area Use Permit.

Condition No. 12E of Special Management Area Use Permit No. 358 allowed 20 temporary structures to be used in lieu of permanent kiosks for the first 12 months of operation. The Planning Commission has approved the increase of up to 40 temporary structures to be allowed for an additional 5 years from the date of approval of the amendment. However, the total number of structures (permanent and temporary) and/or vendors may not exceed 80.

The Planning Commission has determined that the applicant desires to provide more affordable vendor spaces at their marketplace coupled with the demand for this type of use during the present downturn in the economy was sufficient reason to grant an extension of time for the use of temporary structures over a five year period from the date of approval of this amendment.

The development will not have any substantial adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest. At its December 14, 1995 meeting, the Planning Commission determined that the marketplace proposed by the applicant would not have any substantial adverse environmental or ecological impact or that any such impact could be mitigated. The approved amendment to Condition No. 12E by the Planning Commission will not expand or increase the intensity of the permitted marketplace. The applicant is still limited to 80 structures (permanent and temporary) and/or vendors. As such, the amendment does not represent any appreciable increased impact on the environment.

The development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein. The Planning Commission had found that the marketplace was consistent with the objectives and policies of Chapter 205A, HRS, at its December 14, 1995 meeting. The approved amendment will not alter or increase the use of the property as currently permitted by Special Management Area Use Permit No. 358. The amendment still limits the development to 80 structures and 80 vendors allowed on the property. As such, the amendment is determined to be consistent with the objectives and policies of Chapter 205A, HRS.

The development is consistent with the General Plan, Zoning Code and other applicable ordinances. Before granting a Special Management Area Use Permit, the Planning Commission must find that the proposed use is consistent with the General Plan, Zoning Code and other applicable ordinances. The Planning Commission determined that the marketplace was consistent with the General Plan, Zoning Code, and applicable ordinances and approved the issuance of Use Permit No. 142 on December 14, 1995. A similar amendment to Use Permit No. 142 was approved by the Planning Commission at its April 5, 2002 hearing.

Based on these findings, the Planning Commission hereby approves the request to amend Condition 12E of Special Management Area Use Permit No. 358.

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

1. The applicant, its successor or assigns shall be responsible for complying with all 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 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 granting of the permit.

3. The applicant, its successors or assigns shall be responsible for complying with all conditions of the Special Management Area Use Permit which allowed the proposed development.

4. Final Plan Approval for the proposed improvements shall be secured from the Planning Department in accordance with Chapter 25-243 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. Landscaping along the project site's boundaries shall be provided to the extent that a continuous, unbroken, heavy planting screen, no less than 5 feet in height, is established prior to the issuance of a certificate of occupancy.

5. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.

6. Access, roadway and any drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works. In order to ensure the safety of bicyclists and pedestrians, the applicant shall extend the paved shoulders to the Alii Drive right-of-way and along the entire frontage of the property meeting with the approval of the Department of Public Works. All these improvements shall be completed prior to the issuance of a certificate of occupancy.

7. Sewer lines shall be constructed, to hook up to the Alii Drive Interceptor Sewer, in a manner meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy. In the interim, 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.

8. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval of the State Department of Land and Natural Resources-Historic Preservation Division. Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits.

9. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

10. A Solid Waste Management Plan for the development shall be prepared meeting with the approval of the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. The Plan shall include, but not be limited to, the management of solid waste generated from the construction and operating phase(s) of the proposed development. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works. A copy of the approved Plan shall be submitted to the Planning Department for its files.

11. 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 development and to what extent the conditions of approval are being complied with, and a detailed listing of public complaints or problems and their disposition. 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 or remedial effort, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission that 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. 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.

12. The applicant, its successors or assigns shall be responsible for complying with the following conditions:

    A. The marketplace will be open to the public no earlier than 8:00 a.m. and will close no later than 5:00 p.m. Vendors will be allowed to enter the property no earlier than 7:00 a.m. and all vendors will be required to leave the property no later than 6:30 p.m. Applicants agree that there will be no market operations, events, performances or activities held after sunset and before sunrise.

    B. Applicants will ensure that all solid waste materials will be removed from the property on a daily basis and enforce rules prohibiting vendors from using trash facilities located on nearby properties.

    C. Applicants will pave all areas required by the Planning Department. All other areas of vehicular parking and travel shall be surfaced with a dust-free material.

    D. Applicant will limit Alii Drive frontage signage to two signs, each no larger than the maximum allowable size per County of Hawaii regulations. One sign will be located at each corner of the property which fronts on Alii Drive. Signs will be of permanent construction, will be constructed of wood or metal, will be of a character consistent with a high quality, Polynesian market and will conform with County sign ordinances. Applicant will not use, nor allow any vendor to use, banners, sandwich signs, signboards, flags, balloons, inflatable signs or features, temporary signs or the like.

    E. Applicant will develop Polynesian-designed[, thatched] kiosks as sales areas. No umbrellas, tarps, awnings, tents, or other temporary shelters or display areas will be permitted except that up to [20]<u>40</u> green or earth-tone colored umbrellas <u>or tarps</u> may be used in place of the kiosks [during the first twelve months of operation] <u>for a period not to exceed five (5) years from the date of approval of this amendment</u>.

    F. Applicant will assign the kiosks or sales display areas nearest to Alii Drive to local artisans and crafts persons selling high quality, handmade products. Applicant will assign the kiosks or sales display areas furthest away from Alii Drive to sellers of imported merchandise and/or previously owned merchandise. Applicant shall strive to attract vendors selling a high quality product and shall insure that all vendors comply with project rules and regulations. At no time will more than one half of the vendors on site be selling primarily imported or previously owned merchandise.

    G. Applicant will not use or permit any vendor, employee or other user of the marketplace to use, play or perform amplified music, including radios, cassette or CD players or car stereo systems.

    H. Applicant will institute measures to reduce noise, fugitive dust and traffic problems during construction and operation of facilities on the property.

I. Applicant will provide adequate parking on the property and will prohibit vendors and patrons from parking on Alii Drive. Applicant will recommend and support designation of both mauka and makai portions of Alii Drive as no-parking zones for 500' on both north and south sides of the entrance(s) to the marketplace. Applicant will cooperate in encouraging patrons and vendors to comply with the no-parking restriction including hiring off-duty police officers, if necessary, to control traffic and parking along Alii Drive.

J. Applicant will have a designated manager on the property and on duty during all hours of operation of the marketplace. The name and phone number of the designated manager will be provided to all property owners within 300 feet of the property.

K. Applicant will develop a landscape buffer between the parking and sales areas of the marketplace and Alii Drive, which will include a hedge, shade trees and lawn. Applicant will make reasonable efforts to screen sales areas from nearby residences.

L. Applicant will request that the State and County permit access from the property to the proposed Alii Highway. If access is permitted, applicant will encourage patrons and require vendors to use Alii Highway for access to the marketplace. Applicant will design and construct its internal traffic circulation pattern in a way that will discourage use of the access road as a connector between Alii Drive and Alii Highway.

M. Applicant will prohibit the possession, consumption, use, or sale of all alcoholic beverages and illegal drugs on the property.

N. Applicant will design and develop drainage and flood control improvements which will prevent surface runoff from the property to enter Alii Drive or any of the private properties makai of Alii Drive in the vicinity of the property.

O. Applicant will utilize environmentally appropriate best management practices in maintaining landscaping and performing pest control on the property.

P. Applicant will comply with all State and County requirements relating to preservation of historical and cultural resources including, but not limited to, appropriate treatment of burial sites on the property.

Q. Applicant will, on an ongoing basis, monitor traffic flow on Alii Drive and assess any impacts the marketplace has on traffic. In the event marketplace-related traffic results in disruption of traffic flow on Alii Drive, applicant will take appropriate measures to mitigate the traffic impact. These mitigation measures will include, but are not limited to, hiring off-duty police officers and/or security guards to direct traffic,

adjusting hours of operation or otherwise changing operations, and performance of traffic improvements.

R. Applicant will take appropriate measures to protect the safety and security of property owners near the marketplace. Applicant will prohibit overnight camping on the property and will prohibit vendors from sleeping in vehicles or camping in the surrounding area. Applicant will prohibit pets or animals on the property.

S. Applicant will design and develop a wastewater treatment system to be approved by the State of Hawaii Department of Health and the County of Hawaii. Upon commencement of market operations on the property, no portable toilets will be permitted at any time.

13. 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 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).

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.

Use Permit

Use Permit No. 142 approved the development of up to 80 kiosks for a maximum of 80 vendors at the Alii Gardens Marketplace. The construction of the marketplace was to be completed within 5 years of approval or January 3, 2001.

Condition No. 5 of Use Permit No. 142, which requires the construction of the project to be completed within 5 years, is being extended administratively per Condition No. 13 of the Use Permit.

Condition No. 12E of Use Permit No. 142 allowed 20 temporary structures to be used in lieu of permanent kiosks for the first 12 months of operation. The Planning Commission has

approved the increase of up to 40 temporary structures to be allowed for an additional 5 years from the date of approval of the amendment. However, the total number of structures (permanent and temporary) and/or vendors may not exceed 80.

The Planning Commission has determined that the applicant desires to provide more affordable vendor spaces at their marketplace coupled with the demand for this type of use during the present downturn in the economy was sufficient reason to grant an extension of time for the use of temporary structures over a five year period from the date of approval of this amendment.

The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the County General Plan. The amendment approved by the Planning Commission does not change the scope of the development as it was presented and approved in December 14, 1995. At that time the applicant represented to the Commission that they proposed to build 80 permanent kiosks with up to 80 vendors. The current amendment approved by the Commission does not increase or expand the use as it is permitted on the property. It simply extends the duration of time that temporary structures could be used in lieu of permanent kiosks. Therefore, the use as amended will continue to be consistent with the Zoning Code and the County General Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. On December 14, 1995, the Planning Commission found that the project would not be materially detrimental to the public welfare nor cause substantial, adverse impacts to the community or surrounding properties. This amendment does not increase the allowed intensity or density of use of the property. The amendment continues the limit on the number of kiosks and vendors to 80. As such, the impact to surrounding properties should be the same as without this amendment. In addition, the applicant asserted that they would use temporary structures that would blend in with the surrounding landscape and vegetation. This should further minimize the impact to the surrounding community.

The granting of the proposed use shall not unreasonably burden public agencies to provide roads, streets, sewer, water, drainage, schools, police and fire protection and other related infrastructures. The site should continue to have adequate infrastructure available for their permitted use. The amendment to the Use Permit does not propose any expansion or intensification of the existing permitted use. As such, the proposed amendment is not expected to require any increase in utilities or services. However, the applicant will provide improvements to utilities and services, as they become necessary.

Based on the above findings, the Planning Commission hereby approves the request to amend Condition 12E of Use Permit No. 142.

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

1. The applicant, its successor or assigns shall be responsible for complying with all 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 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 granting of the permit.

3. The applicant, its successors or assigns shall be responsible for complying with all conditions of the Special Management Area Use Permit which allowed the proposed development.

4. Final Plan Approval for the proposed improvements shall be secured from the Planning Department in accordance with Chapter 25-243 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. Landscaping along the project site's boundaries shall be provided to the extent that a continuous, unbroken, heavy planting screen, no less than 5 feet in height, is established prior to the issuance of a certificate of occupancy.

5. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit.

6. Access, roadway and any drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works. In order to ensure the safety of bicyclists and pedestrians, the applicant shall extend the paved shoulders to the Alii Drive right-of-way and along the entire frontage of the property meeting with the approval of the Department of Public Works. All these improvements shall be completed prior to the issuance of a certificate of occupancy.

7. Sewer lines shall be constructed, to hook up to the Alii Drive Interceptor Sewer, in a manner meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy. In the interim, 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.

8. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval of the State Department of Land and Natural Resources-Historic Preservation Division. Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation

plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits.

9. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

10. A Solid Waste Management Plan for the development shall be prepared meeting with the approval of the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. The Plan shall include, but not be limited to, the management of solid waste generated from the construction and operating phase(s) of the proposed development. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works. A copy of the approved Plan shall be submitted to the Planning Department for its files.

11. 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 development and to what extent the conditions of approval are being complied with, and a detailed listing of public complaints or problems and their disposition. 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 or remedial effort, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission that 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. 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.

12. The applicant, its successors or assigns shall be responsible for complying with the following conditions:

    A. The marketplace will be open to the public no earlier than 8:00 a.m. and will close no later than 5:00 p.m. Vendors will be allowed to enter the property no earlier than 7:00 a.m. and all vendors will be required to leave the property no later than 6:30 p.m. Applicants agree that there will be no market operations, events, performances or activities held after sunset and before sunrise.

    B. Applicants will ensure that all solid waste materials will be removed from the property on a daily basis and enforce rules prohibiting vendors from using trash facilities located on nearby properties.

C. Applicants will pave all areas required by the Planning Department. All other areas of vehicular parking and travel shall be surfaced with a dust-free material.

D. Applicant will limit Alii Drive frontage signage to two signs, each no larger than the maximum allowable size per County of Hawaii regulations. One sign will be located at each corner of the property which fronts on Alii Drive. Signs will be of permanent construction, will be constructed of wood or metal, will be of a character consistent with a high quality, Polynesian market and will conform with County sign ordinances. Applicant will not use, nor allow any vendor to use, banners, sandwich signs, signboards, flags, balloons, inflatable signs or features, temporary signs or the like.

E. Applicant will develop Polynesian-designed[, thatched] kiosks as sales areas. No umbrellas, tarps, awnings, tents, or other temporary shelters or display areas will be permitted except that up to [20]40 green or earth-tone colored umbrellas or tarps may be used in place of the kiosks [during the first twelve months of operation] for a period not to exceed five (5) years from the date of approval of this amendment.

F. Applicant will assign the kiosks or sales display areas nearest to Alii Drive to local artisans and crafts persons selling high quality, handmade products. Applicant will assign the kiosks or sales display areas furthest away from Alii Drive to sellers of imported merchandise and/or previously owned merchandise. Applicant shall strive to attract vendors selling a high quality product and shall insure that all vendors comply with project rules and regulations. At no time will more than one half of the vendors on site be selling primarily imported or previously owned merchandise.

G. Applicant will not use or permit any vendor, employee or other user of the marketplace to use, play or perform amplified music, including radios, cassette or CD players or car stereo systems.

H. Applicant will institute measures to reduce noise, fugitive dust and traffic problems during construction and operation of facilities on the property.

I. Applicant will provide adequate parking on the property and will prohibit vendors and patrons from parking on Alii Drive. Applicant will recommend and support designation of both mauka and makai portions of Alii Drive as no-parking zones for 500' on both north and south sides of the entrance(s) to the marketplace. Applicant will cooperate in encouraging patrons and vendors to comply with the no-parking restriction including hiring off-duty police officers, if necessary, to control traffic and parking along Alii Drive.

J. Applicant will have a designated manager on the property and on duty during all hours of operation of the marketplace. The name and phone

number of the designated manager will be provided to all property owners within 300 feet of the property.

K. Applicant will develop a landscape buffer between the parking and sales areas of the marketplace and Alii Drive, which will include a hedge, shade trees and lawn. Applicant will make reasonable efforts to screen sales areas from nearby residences.

L. Applicant will request that the State and County permit access from the property to the proposed Alii Highway. If access is permitted, applicant will encourage patrons and require vendors to use Alii Highway for access to the marketplace. Applicant will design and construct its internal traffic circulation pattern in a way that will discourage use of the access road as a connector between Alii Drive and Alii Highway.

M. Applicant will prohibit the possession, consumption, use, or sale of all alcoholic beverages and illegal drugs on the property.

N. Applicant will design and develop drainage and flood control improvements which will prevent surface runoff from the property to enter Alii Drive or any of the private properties makai of Alii Drive in the vicinity of the property.

O. Applicant will utilize environmentally appropriate best management practices in maintaining landscaping and performing pest control on the property.

P. Applicant will comply with all State and County requirements relating to preservation of historical and cultural resources including, but not limited to, appropriate treatment of burial sites on the property.

Q. Applicant will, on an ongoing basis, monitor traffic flow on Alii Drive and assess any impacts the marketplace has on traffic. In the event marketplace-related traffic results in disruption of traffic flow on Alii Drive, applicant will take appropriate measures to mitigate the traffic impact. These mitigation measures will include, but are not limited to, hiring off-duty police officers and/or security guards to direct traffic, adjusting hours of operation or otherwise changing operations, and performance of traffic improvements.

R. Applicant will take appropriate measures to protect the safety and security of property owners near the marketplace. Applicant will prohibit overnight camping on the property and will prohibit vendors from sleeping in vehicles or camping in the surrounding area. Applicant will prohibit pets or animals on the property.

S. Applicant will design and develop a wastewater treatment system to be approved by the State of Hawaii Department of Health and the County of Hawaii. Upon commencement of market operations on the property, no portable toilets will be permitted at any time.

13. 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 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).

These approvals do not, however, sanction the specific plans submitted with the requests as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Alice Kawaha of the Planning Department Hilo office at 961-8288 or Daryn Arai of the Kona office at 327-3510.

Sincerely,

Geraldine M. Giffin, Chairman
Planning Commission

laliigardens01pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department – Kona
Office of Planning, CZM Program (w/Background)
Brian Minaai, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Plan Approval Section