July 28, 1994

Mr. Thomas H. Yamamoto
Chief Operating Officer
Nansay Hawaii, Inc.
Kamuela Business Center
P. O. Box 111222, Suite 727
Kamuela, HI 96743-0020

8707

Dear Mr. Yamamoto:

Use Permit (USE 82)
Applicant: Nansay Hawaii, Inc.
Approved Use: 18-Hole Golf Course & Related Improvements
Request: Time Extension to Condition No. 2
Tax Map Key: 6-2-01: 18, 74 and 75

We are in receipt of your letter dated July 1, 1994, requesting an extension of time in which to secure Final Plan Approval of the proposed golf course as required by Condition No. 2 of the above-described permit. Please accept our apologies for our delay in responding to your request.

RELEVANT BACKGROUND INFORMATION

Effective March 14, 1991, the Planning Commission approves Use Permit No. 82 to allow the establishment of an 18-hole golf course and related improvements on the subject properties. Condition No. 2 required the applicant to secure Final Plan Approval of the golf course development on or before March 14, 1992. As administrative extension of time until March 14, 1993, was subsequently granted by this office. The Planning Commission, at its March 18, 1993, hearing on a request by the applicant for an extension of time in which to comply with Condition No. 2, approved the request subject to, in part, the following amended conditions:

"2. Final Plan Approval for the proposed golf course and related improvements shall be secured from the Planning Department within three (3) years from the effective date of approval of this request. To assure adequate time for the approval

AUG 0 1 1994

of this request and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. The Planning Department shall determine the related improvements and accessory uses to the golf course not inconsistent with the applicable provisions of the Zoning Code at the time of plan approval review.

"16. 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) the 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). 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."

Pursuant to Condition No. 2, Final Plan Approval of the proposed golf course shall be secured on or before **March 18, 1996.** While we understand that domestic and international economies have depressed the local market for developments like that proposed on the subject properties, the compliance deadline is still two years away. We feel that it is much to early to consider an additional extension of time of up to 3 additional years in which to comply with Condition No. 2. A more appropriate time would be during the later half of 1995, where we, as well as the applicant, could better assess the amount of additional time necessary to secure Final Plan Approval, should an extension be deemed necessary.

We appreciate your candidness in keeping our office informed of the status of the proposed Ouli development. Please contact Daryn Arai or Rodney Nakano of this office should you have any questions.

Sincerely,

Virginia Goldstein

VIRGINIA GOLDSTEIN
Planning Director

DSA:mjh
LNansa02.DSA

xc/ltr: Planning Commission
West Hawaii Office
SLU 862
REZ 759