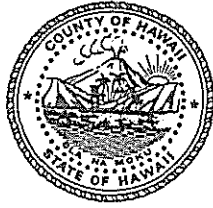


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

June 28, 2004

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

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 04-003)
Request: Establish Automobile Service & Repair Shop
Applicant: Jackson Auto Group
Tax Map Key: 2-2-32:62 and 63

The Planning Commission at its duly held public hearing on June 4, 2004, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 447 is hereby issued for the establishment of an auto service and repair, retail parts outlet facility, parking and related improvements. The properties are located on the southeast corner of Kamehameha Avenue and Kalanikoa Street and in close proximity to Ken's House of Pancakes, Waiakea, South Hilo, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves by dedication or other means.

The proposed establishment of an automobile service and repair shop, sales of automobile parts and related uses will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse

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effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and elimination of planning options. The project site is situated in an area planned for commercial uses.

The applicant is proposing to convert a former auto rental operation and a service station into an automobile service and repair shop, including the sales of automobile parts. Proposed are two single-story structures and related improvements, parking spaces and related improvements. Tentatively, the existing gas station is proposed to be retained. The applicant proposes the following:

- an approximately 1,960-square foot single-story structure for offices and auto parts sales
- an approximately 2,280-square foot single-story structure for auto service and maintenance operation, consisting of 1,560 square feet of enclosed area with an operations canopy area of approximately 720 square feet
- parking area and landscaping, possible security gate
- related improvements

The proposed structures will be approximately 25 feet in height, which is below the maximum height limit of 40 feet in the CN district. The 1,960-square foot structure will be used solely for offices and auto parts sales, while the 2,280-square foot parcel will be used for auto service and maintenance operation. The two parcels will be consolidated. The service and parts center will be oriented towards Volvo and possibly other imported auto lines. Tentatively, the existing gas station is proposed to be retained. The proposed structures will have a minimum setback of 15 feet along Kamehameha Avenue and over 80 feet from the rear property line. The required setbacks in the CN district are 15 feet front and rear, and none on the sides, except where the adjoining building site is in a RS, RD, RM, RCX or V district. Although the site plan indicates only four stalls, according to the applicant, there is ample space to the rear of the site to accommodate the required parking. The applicant will provide the required additional parking stalls. Tentatively, it is estimated that a total of 15 full and part-time positions will be created by this project, as well as short-term construction jobs. The cost of the improvements is estimated at \$650,000.00. Construction will commence upon issuance of all required permits and the project will be completed within six months thereafter. By public auction, the Department of Land and Natural Resources awarded a 30-year lease to the applicant, subject to the applicant obtaining the SMA Major Use Permit.

The proposed project will not create significant adverse impacts upon immediately adjacent properties, as the area is already developed with various commercial uses. The properties are located at the southeastern intersection of Kamehameha Avenue and Kalanikoa Street. The project site consists of two rectangular parcels with a combined area of 35,291 square feet. Parcel 62 is 20,538 square feet and parcel 63 is 14,753 square feet in size. There is a gas station on Parcel 62 and an office, semi-covered parking stalls and fencing on Parcel 63. The properties are zoned CN-10. Parcels in the immediate vicinity are zoned CN-10, ML-20 and Open (The Naniloa Country Club/Golf Course). Adjacent to the west across Kalanikoa Street is the County's Waiakea Recreation Center. Further west is the State Department of Health and Firehouse Restaurant. Ken's House of Pancakes, Wiki Wiki Mart and Leinaala's Kitchen (Hawaiian and local food) are located east of the project site.

The proposed development will not substantially affect scenic vistas or viewplanes of nearby establishments nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The properties are located approximately 1,500 feet from the shoreline; therefore, the proposed project will not restrict access to coastal recreational resources along the shoreline nor will it restrict existing visual viewplanes. The viewplane from the shoreline towards the properties will not be impacted as surrounding properties are developed with various commercial uses.

Air quality in the area is most affected by emissions from natural and vehicular sources. The principal source of both short-term air and noise quality impacts associated with the construction of the proposed improvements is expected during construction, especially during grubbing and grading activities. These impacts can be mitigated through the utilization of best management practices. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated.

The proposed project is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. County water is available to the site. Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices. Air emissions generated during the construction phase for the proposed project can be mitigated by existing construction regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment. Conditions of approval will be included relating to wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

In memos dated March 8, 2004 and April 6, 2004, the Department of Land and Natural Resources State Historic Preservation Division (SHPD) has indicated that residential development/urbanization and previous grubbing/grading has altered the land, and no historic properties will be affected by this request. As the site has been previously cleared and improved, and given the properties' urban and improved setting, no known rare, threatened, or endangered species are known to inhabit the parcel or are expected to be discovered on the site. The properties are not listed in the General Plan Historic element or the State and Federal Register of Historic Places.

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. The properties are not used for access to the mountains or shoreline and no access to these areas will be impacted by the proposed action. The properties are located approximately 1,500 feet from the shoreline and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. Thus, no scenic or open space resources to the shoreline coastal view plane or coastal ecosystem will be negatively impacted by the proposed action.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed improvements are consistent with the existing land use designations as well as the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for this area is Medium Density Urban, which includes "Village and neighborhood commercial and residential and related functions (3-story commercial, residential - up to 35 units per acre)." The County zoning is Neighborhood Commercial (CN-10). The proposed development will complement the goals, policies and standards of the Land Use and Economic Elements of the General Plan.

While the proposed development will not have a direct impact upon coastal recreational resources, review of developments within the Special Management Area must also consider the cumulative impacts of such developments upon these resources. The proposed access is from Kamehameha Avenue, a State-owned with a right-of-way of approximately 80 feet. There are four lanes fronting the site, with curb, gutter and sidewalk fronting the site. There is a full movement vehicular access serving the site. If required, the applicant will improve the existing access. Conditions of approval will be included to require the applicant to comply with any Department of Transportation's requirements for roadway improvements.

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kamaaina accounts of the area, historical survey of documentary records, botanical and/or fauna study was submitted.

The valuable cultural, historical, and natural resources found in the area: As the site was formerly used as a auto rental operation and service station, an archaeological inventory survey of the site was not conducted. In memos dated March 8, 2004 and April 6, 2004, the Department of Land and Natural Resources State Historic Preservation Division (SHPD) has indicated that residential development/urbanization and previous grubbing/grading has altered the land, and no historic properties will be affected by this request.

Possible adverse effect or impairment of valued resources: The site was previously improved, and the HPD has indicated that this request would have no effect on historic sites. The properties do not abut the shoreline, therefore Hawaiian gathering and fishing rights is not an issue.

Feasible actions to protect native Hawaiian rights: Conditions of approval will be included to require the applicant to notify the Department of Land and Natural Resources - Historic Preservation Division (DLNR-HPD) should any unidentified sites or remains be encountered, and proceed only upon an archaeological clearance from the DLNR-HPD. The applicant has stated that there is no evidence of any traditional and customary Native Hawaiians rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. Thus, it is believed that the project would have no adverse impact relative to the cultural and historical resources of the area. To the extent to which traditional and customary Native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and no action is necessary to protect these rights.

Based on the above findings, it is determined that the proposed development and related improvements will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

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

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, paved driveway access and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
3. Parcels 62 and 63 shall be consolidated, prior to the issuance of a Certificate of Occupancy.
4. Access to the property from Kamehameha Avenue, including the provision of adequate sight distances, shall meet with the approval of the Department of Transportation.
5. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works, prior to the issuance of a Certificate of Occupancy.
6. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects in the State of Hawaii.
7. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.

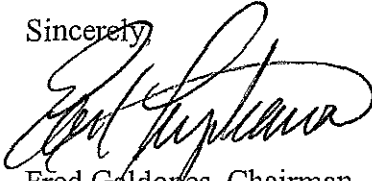
8. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.
9. Comply with all applicable agency requirements, including the Department of Water Supply and Department of Transportation.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval have been satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
11. An initial 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 original reasons for granting the permit.
 - C. 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).
 - 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.

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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
~~Planning Department--Kona~~ *sgp*
Department of Land and Natural Resources/HPD-Kona
Rodney Haraga, Director/DOT-Highways, Honolulu
Mr. Elton Teshima/DOT-Highways, Honolulu
Ms. Alice Kawaha
Mr. Robert Usagawa
Plan Approval Section
Jackson Auto Group