

JOHN A. BURNS
GOVERNOR



GEORGE S. MORIGUCHI
EXECUTIVE OFFICER

STATE OF HAWAII
LAND USE COMMISSION
426 QUEEN STREET
HONOLULU, HAWAII 96813

September 2, 1965

RECEIVED:
COUNTY PLANNING COMMISSION
Date: SEP 7 1965
File No.: # 65 LUC - spec
plan

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Planning Commission
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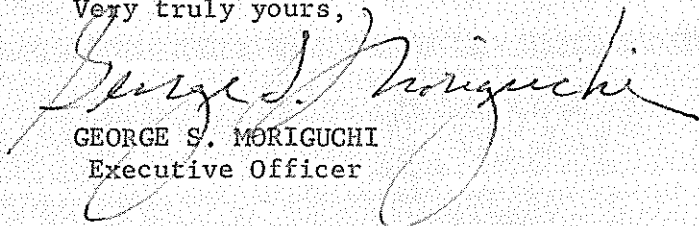
Attention: Mr. Raymond Suefuji, Director

Gentlemen:

At its meeting on August 20, 1965, the Land Use Commission voted to approve the grant of a special permit to Madeline and Robert Leslie, Jr. to construct a new store on a portion of 7.30 acres described by TMK 8-5-02: 5 at Kealia 1st, South Kona, Hawaii.

Enclosed for your information is the staff report.

Very truly yours,


GEORGE S. MORIGUCHI
Executive Officer

Encl. - 1
cc: Chairman Thompson
Mr. & Mrs. Leslie, Jr.
Department of Taxation

STATE OF HAWAII
LAND USE COMMISSION

Hale Halawai Cultural Center
Kailua, Kona, Hawaii

3:00 P.M.
August 20, 1965

STAFF REPORT

Hawaii SP65-16 - ROBERT LESLIE, JR., & District Classification: AGRICULTURAL
MADELINE LESLIE

Background

An application for a special permit has been made by Robert Leslie, Jr., and Madeline Leslie involving their lands situated in Kealia 1st, South Kona, Hawaii. The Planning Commission of the County of Hawaii has processed the application and has submitted its recommendation to the Land Use Commission for final action.

The applicants own 7.30 acres (TMK 8-5-02: 5) at Kealia 1st, South Kona, Hawaii fronting on and being on the mauka (east) side of the Mamalahoa Highway. An Agricultural classification applies to the subject parcel with a Rural classification immediately adjacent and to the north. It is approximately 3.5 miles south of the Honaunau post office. The applicants request a special permit to construct and operate a general store on a portion of this property which presently is occupied by a single residence.

Fujiwara Store, presently owned and operated by the applicants on lands owned by others, is situated approximately 150 feet south and on the opposite side of the Mamalahoa Highway from the subject parcel. The Director of the Hawaii County Planning Commission reports that the building has been condemned by the Board of Health and therefore the applicants are seeking a special permit to construct a new store on their lands in order to continue the operation of a general store. He also reports that the applicants had considered "going out of business" had

the residents in the area not pleaded that the applicants continue in operation in order to meet the needs of residents who are without transportation since the next store is a long distance away. Staff inspection determined that another store is located at Keokea approximately 1.5 miles north of the Fujiwara Store along the Mamalahoa Highway.

Approximately 30 families are located in the area with residences strung along both sides of the highway. It is estimated that about 50% of the structures in the area are dilapidated with no apparent indication of any substantial improvements having occurred during recent years. Population in the area has been decreasing over the years as follows:

<u>Year</u>	<u>Population</u>
1940	195
1950	184
1960	178

Immediately to the north of the subject parcel is the Kealia House Lots subdivision consisting of 44 lots ranging in size from about 0.5 acres to 0.7 acres and classified in the Rural district. Most of these lots are unoccupied. General land uses involve residential, coffee and overgrown vacant lots. The lands surrounding the highways beyond the house lots are grazing lands which are fairly densely overgrown with little evidence of any extensive use. Annual precipitation in the area is about 50 inches with soils generally classified as poor for Kona crops. There is no established water system at Kealia, the nearest developed water system being at Honaunau approximately three miles north.

Analysis

A recommendation for approval has been made by the Hawaii County Planning Commission on the basis of the following findings:

- a. The proposed use is not contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.
- b. The desired use would not adversely affect surrounding property.
- c. The proposed use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.
- d. Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

This recommendation was made subject to the condition that the development will conform to all rules and regulations of the State and County after approval.

Your staff has considered the Hawaii County Planning Commission's recommendation and also has conducted its own evaluation which is discussed hereafter.

The proposed use, general retailing, is clearly a prohibited use in an Agricultural district and therefore the prime consideration is whether or not the proposed use is "unusual and reasonable" in accordance with the guidelines established by the Land Use Commission for evaluating special permit requests.

The staff's evaluation based on these guidelines is as follows:

- a. Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The objectives sought by the Land Use Law and Regulations are to preserve, protect and encourage development of lands in the State for those uses to which these lands are best suited in the interest of public health and welfare of the people of the State of Hawaii. In this regard, the State General Plan and the Plan for Kona which have been prepared for the State, specifically allocate lands owned by the applicants and lands owned by others in Kealia to agricultural use. Also, the district boundaries established by this Commission have reflected this same general intent towards attaining the objectives of the Land Use Law.

b. The desired use would not adversely affect surrounding property.

An urban type use, such as that proposed by the applicants, within an Agricultural district would tend to change the amenities of such a district that are often sought by persons choosing to locate themselves within such a specific environment. Under these circumstances, they should be able to enjoy and can expect that these amenities would be protected from encroachment based on their own conformance with permitted uses within the district. An urban type use which would tend to and would actively promote the concentration of people and traffic would not be protecting these amenities.

c. Such use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

While the immediate demands that might be generated by the applicants' proposed use are not substantial insofar as public agencies are concerned, its continuing operation may generate higher demands. For example, the concentrated storage of general merchandise amounting to values considerably higher than that ordinarily stored in agricultural areas can generate demands for more extensive police and fire protection. Coupled with demands for fire protection would be that of adequate water storage and transmission with which to extinguish fires. Services by public agencies to regulate a business catering to the general public will be required relating to standards of health and the public welfare.

d. Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

Dilapidation of the present structure housing the applicants' store and its subsequent condemnation by the State Board of Health has been the prime reason for the special permit request and secondarily, the pleadings of residents in the area. Staff inspection of the existing structure has found that the structure has been in existence for 50 to 60 years and its dilapidation and the need for a new structure are not conditions that have arisen since the district boundaries and regulations were established. Nor is it a condition or trend that has been brought about by the establishment of district boundaries and regulations since it would have occurred notwithstanding such establishment. Although it should be recognized that some convenience will result to residents in Kealia by the applicants' proposed use, there is not the factor of substantial public service and convenience since another existing store is located less than a mile and a half away.

e. That the land upon which the proposed use is sought is unsuited for the uses permitted within the district.

Lands owned by the applicants and other surrounding lands in Kealia are proposed for agricultural uses by both the State General Plan and the Plan for Kona. Although soils in the area of the applicants' lands

are not well suited for Kona crops, the adequate rainfall of 50 inches or more annually produces grass for the cattle industry which has been the long-standing stable element in Kona agriculture.

- f. That the proposed use will not substantially alter or change the essential character of the land and the present use.

Present land use of the parcel involved is low density residential with one residence situated approximately 55 feet from the highway and with the remainder of the parcel in unused farm and grazing lands. Lots adjacent to this parcel are in similar use. The applicants' proposed use involving a general retail store will alter the essential character of the land in its developed areas since the proposed structure will be at a distance of a mere ten feet from the existing residence. Clearly, construction of a general retail store on the applicants' lot ten feet from an existing residence on the same lot constitutes creation of mixed uses that do not now exist.

- g. That the proposed use will make the highest and best use of the land involved for the public welfare.

Land use as actually effectuated over the past years in the Kealia area has been predominantly agricultural with a strip area along both sides of the highway in rural type residential and farm use. Population trends have been such that urban type facilities are not required for the Kealia area itself. A major ranch, the McCandless Ranch, presently pursues an agricultural activity over the majority of lands in Kealia. The State General Plan and the Plan for Kona both allocate lands in Kealia to agricultural use. In light of these data, it is quite evident that the highest and best use for the subject parcel would be an agricultural use.

Recommendation

On the bases of the evaluations for each of the guidelines established, your staff recommends denial of the applicants' request for a special permit to conduct a general retailing business within the Agricultural district at Kealia.