

January 25, 1968

Mr. Hiram Kaoo
P. O. Box 218
Hawi, Hawaii

Dear Mr. Kaoo:

At its meeting on January 24, 1968, the Land Use Commission voted to deny the grant of a special permit (SP67-50) to you to construct an additional dwelling on a lot described as TMK 5-5-14: 15, situated at Hawi, North Kohala, Hawaii, because your request did not meet the legal requirement that the special permit be for an "unusual" use. It was the general feeling of the Commission that your request should properly have been a boundary amendment to rezone your property from Agriculture to Urban.

We will consider your request as a boundary change in 1969 when the Land Use Commission will review all district boundaries as required by law. Should you decide not to wait and desire to initiate your own boundary change petition for a decision in about 5 months from your filing date, we are enclosing 3 petitions. Please return 2 to our office with a \$50 fee to cover cost of a public hearing.

We are also enclosing a copy of the staff report for your information.

Very truly yours,

RAMON DURAN
Executive Officer

✓ Encl.

cc: Hawaii Planning Commission

STATE OF HAWAII
LAND USE COMMISSION

Land Use Commission Hearing Room
Honolulu, Hawaii

January 24, 1968
7:00 P. M.

STAFF REPORT

SP67-50 - HIRAM KAOO

The Hawaii County Planning Commission has transmitted the records and proceedings of a special permit application by Mr. Hiram Kaoo to construct an additional dwelling on a lot described as TMK 5-5-14: parcel 15, situated at Hawi, North Kohala, Hawaii. The property is 14,971 square feet in area and fronts the lower Hawi Road approximately 120' from its intersection with the Hawi-Niulii Road. It abuts the Hawi Urban District to the south.

The subject property is one of 54 parcels subdivided by the Kohala Sugar Co. in the middle of 1961. Approximately 40 of these 15,000 square foot lots lie within the LUC Agricultural District as non-conforming parcels. The remaining 14 lots, all fronting on the Hawi-Niulii Road, are in the Urban District.

According to Department of Taxation records, the petitioner acquired an interest in the subject property in June, 1961 as a joint tenant. In January, 1967, he and his wife were listed as tenants by entirety.

The Hawi Post Office and theatre, stores, restaurants, the Kohala Sugar Co. office and a gymnasium are all located within 800' to the south of the subject property. To the north are the non-conforming parcels mentioned earlier. Slightly over half of these lots are occupied. To the rear of them are the canefields owned by Kohala Sugar Co.

The subject parcel presently contains one dwelling which according to the County Planning staff is 80% completed. The 3 parcels abutting the subject property and fronting on Hawi-Niulii Road contain old dilapidated buildings housing a variety of businesses. Fire protection is provided by Kohala Sugar

Company and police protection is centered at Kapaau, which is located 2 miles away. The Kohala High and Elementary School is less than a mile away.

The soil of the subject property is rated B by the Land Study Bureau, indicating good suitability for overall agricultural use. It is deep, well drained, with minimum slopes of 0-10%, located in a subhumid climate where rainfall ranges between 40 to 60" and is well suited for machine cultivation. Basic utilities such as electricity, telephone and water are available. Urban facilities such as schools, hospital, post office and shopping are within a reasonable distance. Both the County and State General Plans designate the area for urban use.

On December 15, 1967, the Hawaii County Planning Commission voted to recommend approval of this special permit based on the following findings:

1. Proposed use is in conformance with the County General Plan.
2. Granting the construction of an additional dwelling will not require additional governmental improvements such as pipeline or street extension.
3. Proposed use will not change the general character of use in adjacent areas.
4. Existing lot is contiguous to the present Hawi Village complex and is almost centrally located in the commercial area of the village proper.
5. Village area adjacent to applicant's lot is due to be zoned as Village Commercial District.

Approval by the County is subject to the following conditions:

1. The existing and proposed structure be used only as single-family dwelling.
2. Construction to start within one year from the date of approval.

Analysis

It is the staff's opinion that the use of a special permit procedure to secure permission for the construction of an additional dwelling is not proper for the following reasons:

1. Sec. 2.29 (b) (1) of the State Land Use District Regulations establishes the following guideline to aid petitioners in determining whether they should proceed under a special permit or boundary change application: "Whenever said land is contiguous to an Urban District and petitioner is seeking an urban use and his land is situated in either a Rural, or Agricultural, or Conservation District, petitioner should seek a boundary change."
2. Sub-part E of the District Regulations dealing with special permits states that the Commission may permit certain "unusual and reasonable" uses within Agricultural and Rural Districts. Residential uses are permitted in Agricultural Districts as farm dwellings and non-conforming lots may be occupied by a single-family dwelling; thus, the use of the property for a residence is not unusual. The Land Use Commission also established guidelines for determining an "unusual and reasonable" use. The instant petition is contrary to 3 of 7 of these guidelines which are as follows:
 - a. The proposed use is contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.
 - b. Unusual conditions, trends and needs have not arisen since the district boundaries and regulations were established.
 - c. That that land upon which the proposed use is sought is suited for the uses permitted within the District.
3. Moreover, Section 2.18 of the Regulations, dealing with Non-Conforming

Uses or Structures, states that "it shall not be expanded or increased in intensity of use". The addition of another dwelling will definitely increase the intensity of use.

Recommendation

Since the proposed use is not "unusual" and based on the preceding analysis, the staff recommends that this special permit be disapproved. However, it suggests that the applicant consider petitioning for a boundary change under Sec. 2.29 of the District Regulations.