

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
for Special Permit of)
HIROSHI MATSUYAMA)
_____)
)

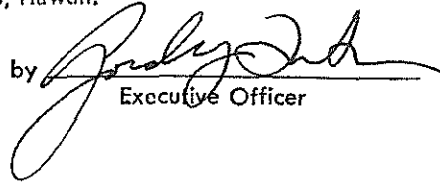
SP78-305
HIROSHI MATSUYAMA

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

OCT 20 1978

Date

by



Executive Officer

DECISION AND ORDER

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In the Matter of the Petition) SP 78-305
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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

The Land Use Commission of the State of Hawaii having duly considered the entire record in the above-entitled matter, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by Hiroshi Matsuyama requesting a special permit to allow the establishment of a country general store and a service station facility on approximately .852 acres of land situated within the State Land Use Agricultural District at Kalaoa 5th, North Kona, Hawaii, Tax Map Key 7-3-5:27.
2. The subject property is located along the mauka side of the Hawaii Belt Road, approximately 500 feet south of Kaimi Nani Drive.
3. The Petitioner proposes to construct a 5,000 square foot general store and an 800-square foot service station facility in addition to a single family dwelling which will be used as a manager's residence.

4. The proposed site is bordered by two roads, the Belt Highway to the makai end and old Mamalahoa Highway on the mauka end.

5. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the subject area as Extensive Agriculture. The County of Hawaii's zoning designation of the subject area is Agricultural-1 acre (A-1a).

6. Soils at the subject area are of the Punalu'u Series which consists of well-drained, thin organic soils over pahoehoe lava. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "D" or "Poor" for the subject property. The U. S. Soil Conservation Services soil capability rating for the subject site is Class VII. Average slope at the subject property is approximately thirteen percent (13%).

7. According to the plans submitted by the Petitioner, primary access to the planned facility will be from the Hawaii Belt Road, with an outlet to the old Mamalahoa Highway. Hawaii Belt Road has an 80-foot wide right-of-way and a 22-foot wide pavement, while the old Mamalahoa Highway has a 50-foot right-of-way and a 9-foot pavement.

8. The subject area is presently vacant of any use having been recently cleared of vegetation and graded. Surrounding land uses include the growing of coffee beans, and the grazing of cattle, and other lands are vacant.

9. The area makai of the subject property is built up with various nonconforming residential and small lot agricultural subdivisions including: Kona Highlands, Wonder View Lots, Kona Coastview, Kona Palisades, and Kona

Acres subdivisions. There are approximately 400 single family dwellings in this area.

10. The nearest commercial area to the subject property are the villages of Kailua and Holualoa, each of which are about 6.5 miles away. The nearest general store type facilities are in the Keopu Mauka area approximately four miles to the south on the old Mamalahoa Highway.

11. The North-Kona water system along the project area is supplied by the wells at Kahaluu and by the Waiaha Stream. The projected needs at the proposed facility is expected to be approximately 800 gallons a day.

12. Kealakehe Elementary School and the proposed Kealakehe High/Intermediate School are within three (3) miles of the subject property.

13. North and South Kona are served by a single police facility at Captain Cook, Kona, and a Kailua, Kona substation.

14. The Kailua Fire Station is located six (6) miles makai of the subject property and above Kailua, Kona. Fire hydrants are located on the Hawaii Belt Road.

15. Representatives of the Department of Agriculture have stated that they foresee no adverse effects upon agriculture should the special permit be approved.

16. Representatives of the county Department of Water Supply have stated that water services for the proposed commercial development will not be available until the Kahaluu Shaft Projects are completed.

17. Representatives of the Department of Transportation have recommended denial of the special permit application

unless the Petitioner alters his plans and relocates his vehicular access from the Hawaii Belt Road to the old Mamalahoa Highway. The Department of Transportation's concerns deal with the sight restriction on the Kailua side of the subject property on the Hawaii Belt Highway.

18. Representatives of the Department of Research and Development have stated that the proposed development is well situated to accommodate present and anticipated needs of the residential areas located to the north of Kailua, Kona, as past trends and future indications show that the area surrounding the subject property will become a major residential area in the Kona District.

19. Other cooperating agencies, including the U. S. Soil Conservation Service, Hawaii Electric Light Company, Inc., and the County of Hawaii Police Department had no objections to the subject request.

CONCLUSIONS OF LAW

1. "Unusual and Reasonable" uses other than those which are permitted within an agricultural district may be permitted by special permit pursuant to HRS Section 205-6, and State Land Use Commission District Regulation Part V.

2. That the proposed use will not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations. The intent of the Land Use Law and Regulations is to preserve, protect, and encourage the development of lands in the State for whose uses to which they are best suited in the interest of the public health and

welfare of the people. The Agricultural District, within which the subject area is situated, includes those lands with a high capacity or potential for agricultural uses. It also includes land surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils and other related characteristics. The soils of the subject area are within the Soil Conservation Service's soil capability Class VII. Class VII soils have very severe limitations which make them unsuited to cultivation and restrict their use largely to pasture or range and woodland or wildlife. This class of soils is the second lowest in the Soil Conservation Service's rating system. The Land Study Bureau's Overall Capability Rating for these soils is Class "D" or "Poor". Although it is possible for some agricultural activity to be conducted on these soils, the use of this parcel for the proposed activities will not adversely affect the agricultural potential of the region, the island and the State. Effects on agricultural production are further mitigated in that the subject area is presently vacant and has previously been used for residential and related purposes. In addition, the parcel is effectively separated from surrounding agricultural lands by both the Hawaii Belt Highway and the Old Mamalahoa Highway. Consequently, the removal of this parcel from potential agricultural production will not be contrary to the objectives of the State Land Use Law and Regulations.

3. While the proposed use will alter the essential character of the area, this use will not adversely affect

surrounding properties. Surrounding land uses include single family dwellings, and agricultural activities. In the near vicinity of this area are various nonconforming residential subdivisions, portions of which are built up with urban-like concentrations of people. The proposed general store will service these areas as well as the surrounding agricultural areas. While some impacts on surrounding properties are unavoidable when a use such as that proposed is established, these impacts can be adequately mitigated through the imposition of site improvement and landscaping conditions. Furthermore, there is a need for the commercial activity of the scale proposed.

4. The subject area is situated in what is one of the fastest growing regions in Kona. The Kalaoa-Kaloko area is the site of various nonconforming residential as well as the small lot agricultural subdivisions. In the area immediately surrounding the subject area, there are approximately 400 single family dwellings. These units represent an increase of over 250 percent in dwelling units in this area since 1973.

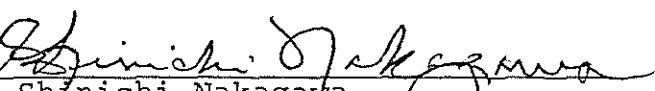
The nearest commercial areas to this part of Kona are the village of Kailua and Holualoa, each of which are situated over six (6) miles away. The nearest general stores are situated in the Keopu Mauka area, about four (4) miles south on the Old Mamalahoa Highway.

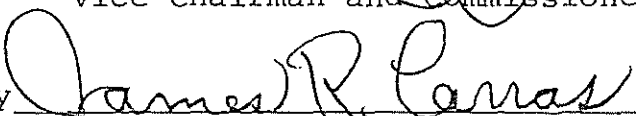
Recognizing the number of residents in this area, the recent trends of growth which are expected to continue, the present lack of services such as those proposed, and the distances that these residents must currently travel for commercial services, it is concluded that there definitely is a need for the scale of neighborhood commercial activity such as that being proposed.

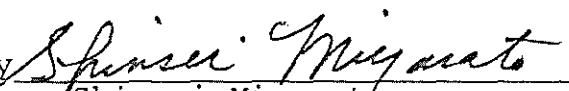
4. That construction of the proposed development shall commence within one (1) year from the date of receipt of final plan approval and be completed within two (2) years thereafter.
5. That access to the proposed development shall be determined at the time of plan approval and shall meet the approval of the District Engineer of the State Department of Transportation, Land Transportation Facilities Division, and the Chief Engineer of the County Department of Public Works.
6. That all other applicable rules, regulations and requirements, including those of the Department of Health, shall be complied with.
7. Should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

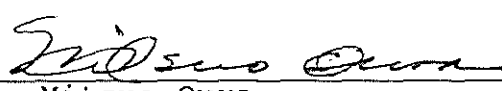
DATED: Honolulu, Hawaii, October 19, 1978.

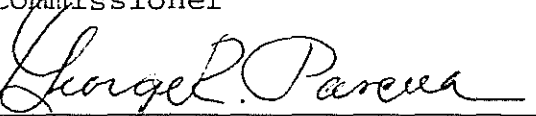
By 
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Chairman and Commissioner

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Shinichi Nakagawa
Vice Chairman and Commissioner

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James Carras
Commissioner

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Shinsei Miyasato
Commissioner

By 
Mitsuo Oura
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