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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

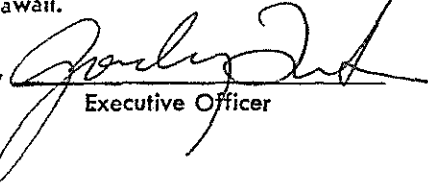
In the Matter of the)	SP78-310
Petition for Special Permit)	
of COUNTY OF HAWAII FIRE)	COUNTY OF HAWAII
DEPARTMENT)	FIRE DEPARTMENT
)	
)	

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.

NOV 21 1978

Date

by



Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the) SP78-310
Petition for Special Permit)
of COUNTY OF HAWAII FIRE) FINDINGS OF FACT,
DEPARTMENT) 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 the County of Hawaii Fire Department, to allow the construction of water storage tanks for volunteer fire fighting purposes on approximately one (1) acre of land situated within the State Land Use Agricultural District at Hawaiian Ocean View Estates Subdivision, Kahuku, Kau, Hawaii.
2. The subject property is located on the northeastern corner of the intersection of Ocean View Parkway and Orchid Circle Mauka, in the Hawaiian Ocean View Estates Subdivision, Tax Map Key 9-2-31: 19.
3. The Petitioner proposes to construct water storage tanks for use as backup storage capacity for fire trucks serving the area. The use of an existing 384-square foot garage structure for parking the fire truck is also proposed.

4. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the subject area as "Orchard". Present County Zoning is Agricultural 1-acre (A-1a).

5. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "E" or "Very Poor" for the subject site.

6. Access to the subject site is from both Ocean View Parkway and Orchid Circle Mauka, which are privately owned roads consisting of oil-treated cinder surfaces with 16 feet widths.

7. The subject property is a portion of the Hawaiian Ocean View Estates Subdivision which consists of over 10,000 individual lots. There are approximately 150 single family dwellings situated in the subdivision.

8. The Petitioner has stated that the proposed use would complement the objectives of the Land Use Law and Regulations by providing added security and protection to residents of the area.

9. The Hawaii Electric Light Company, Inc., County Department of Public Works, State Department of Agriculture, Department of Health and U.S.D.A. Soil Conservation Service had no objections to the proposed use.

10. A public hearing on the Special Permit application was held by the Hawaii County Planning Commission on June 29, 1978. Fire Chief Donald Thompson and County Councilman Jim Dahlberg testified in support of the request.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in an agricultural district may be permitted by Special Permit pursuant to HRS Chapter 205-6, and the State Land Use Commission District Regulation, Part V.

2. The approval of the subject request would not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations. The State Land Use Law and Regulations are intended to preserve, protect, and encourage the 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. The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural District includes lands surrounded by or contiguous to agricultural and ancillary activities by reason of topography, soil and other related characteristics. According to the United States Department of Agriculture, Soil Conservation Service's Soil Survey Report issued in December of 1973, the subject area is classified as 'A'a lava. The Soil Conservation Service's overall capability rating for this soil type is Class VIII. Class VIII refers to soils that have limitations that preclude their use for commercial plants and restrict their uses to recreation, wildlife, or to water supply, and to aesthetic purposes. This class is the lowest in the Soil Conservation Service's ranking system for agricultural activity.

Although it is still possible that some form of agricultural activity may be conducted on the subject property, it is concluded that approval of the subject request would not be contrary to the objectives of the State Land Use Law and Regulations given the capability class rating of the subject property for agricultural productivity.

Further, the use of the subject property for non-agricultural purpose is not expected to have any adverse effect on the overall agricultural potential of the region or the County and State as the land is not presently being used for any agricultural activity.

3. The proposed use will make the highest and best use of the land for the public welfare. The construction of the proposed storage tanks will increase the fire fighting capabilities of the area. It is determined that the use of the subject area for the proposed water tank and garage uses will be in the best interest of public health and welfare of the people, properties, and improvements of this portion of the County of Hawaii.

4. The granting of this Special Permit request will be in accordance with the Public Facilities Element of the County General Plan which states as a goal:

"To provide public facilities that effectively service communities needs and to seek ways of improving public service through better and more functional facilities which are in keeping with environmental and aesthetic concerns of the community."

5. The proposed use will not have any significant adverse impact on surrounding areas. The only adverse impact associated with the proposed water tanks and garage facilities will be the visibility of these improvements from surrounding areas. However, the proposed improvements will not be out of character with the surrounding areas. It is determined that long term benefits from the proposed improvements, namely increased fire protection, will more than offset any adverse impact which may occur.


6. The use described in the petition is an unusual and reasonable use pursuant to HRS Chapter 205-6 and State Land Use Commission District Regulation, Part V.

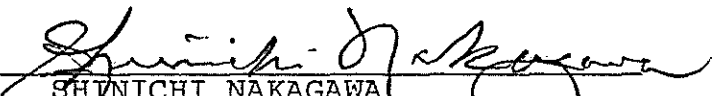
DECISION AND ORDER


IT IS HEREBY ORDERED that Special Permit Number 78-310, for the construction of water storage tanks on approximately one (1) acre of land situated within the State Land Use Agricultural District at Hawaiian Ocean View Estates Subdivision, Kahuku, Kau, Hawaii, Tax Map Key 9-2-31: 19, be approved subject to the following conditions:

1. That construction commence within two (2) years of the effective date of approval and be completed within two (2) years thereafter.
2. That all other applicable rules, regulations and requirements shall be complied with.
3. That should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

DATED: Honolulu, Hawaii, November 9, 1978.

By 
C. W. DUKE
Chairman and Commissioner


By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By 
JAMES CARRAS
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
GEORGE PASCUA
Commissioner

By 
CAROL WHITESELL
Commissioner

By 
EDWARD K. YANAI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the)
Petition for Special Permit)
of COUNTY OF HAWAII FIRE) SP78-310
DEPARTMENT) COUNTY OF HAWAII
_____) FIRE DEPARTMENT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's Decision and Order was served upon the
following by certified mail:

Sidney Fuke, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Donald Thompson, Chief
County of Hawaii Fire Department
466 Kinoole Street
Hilo, Hawaii 96720

Dated: Honolulu, Hawaii, this 21st day of November, 1978.


GORDAN Y. FORSTANI
Executive Officer
Land Use Commission

November 23, 1981

Mr. Shozo Nagao
Fire Chief
Fire Department, County of Hawaii
466 Kinoole Street
Hilo, HI 96720

Dear Mr. Nagao:

Nullification of Special Permit No. 78-310 (LUC 396)
Construction of Water Storage Tanks
Tax Map Key 9-2-31:19

The Planning Commission at its regular meeting on November 18, 1981, voted to nullify Special Permit No. 78-310 (LUC 396) as a result of non-compliance with performance time condition. The permit allowed the construction of water storage tanks for volunteer fire fighting purposes on approximately 1 acre of land situated within the State Land Use Agricultural District at Hawaiian Ocean View Estates Subdivision, Kahuku, Ka'u, Hawaii.

Should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,



BERT H. NAKANO
Chairman, Planning Commission

lgv

cc: State Land Use Commission
Department of Water Supply
Department of Public Works
Kona Services Office

NOV 25 1981