

May 16, 1979

CERTIFIED MAIL

Mr. Alexander Moore
dba Kau Trading Company
P. O. Box 4129
Hilo, HI 96720

Dear Mr. Moore:

Special Permit Application
Tax Map Key 9-2-183:6

The Planning Commission at a duly advertised public hearing on May 10, 1979, discussed your request for a special permit in accordance with Chapter 205-6, Hawaii Revised Statutes, as amended, to allow the establishment of a restaurant, coffee shop, cocktail lounge, laundromat, auto repair shop, and service station on three (3) acres of land situated within the State Land Use Agricultural District. The property involved is located along the southeast or makai side of Mamalahoa Highway within the Kona Garden Estates Subdivision, Kahuku, Ka'u, Hawaii.

The Commission voted to deny the special permit based on the following findings:

That one (1) of the guidelines for reviewing a request for a Special Permit is that the proposed use(s) would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. These regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which those lands are best suited in the interest of public health and welfare. However, upon reviewing the types of uses proposed for this particular location, it is felt that the granting of this particular request would in fact be incongruous with the objectives sought to be accomplished by the Land Use Law and Regulations, as well as the County General Plan.

The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Extensive Agricultural uses. Although it could be argued that the soil or character of the land may not be immediately conducive for agricultural usage, we are basically reviewing the proposed uses from a land use pattern standpoint. It is felt that the introduction of the proposed commercial-type uses through the Special Permit process for this particular location may create an undesirable situation.

The petitioner is proposing to establish a mini-commercial center which would include a restaurant/coffee shop/cocktail lounge complex, a laundromat, auto repair shop, and a service station on the subject property. However, within this section of the Ka'u District, the State Land Use Commission, through the recommendation of the County Planning Commission, has previously approved three (3) other Special Permits. Two (2) of these permits did allow the establishments of restaurants and cocktail lounges, of which one (1) is already in operation. Another permit allowed, among other commercial-type uses, the establishment of a service station, including fuel pumps. The distances of these facilities range from approximately one (1) to two (2) miles. It is felt that to allow yet another commercial-type complex strung out even farther away from the rest would definitely create an undesirable land use pattern. By allowing this particular request, we would be creating four (4) "pockets" of commercial establishments through the Special Permit process over a distance of approximately two and one-half (2 1/2) miles. Preferably, from a land use perspective, it would be a definite benefit to concentrate these types of commercial and commercially-related activities in given locations. Recognizing this, the General Plan LUPAG does provide for an Alternate Urban Expansion designation within this section of Ka'u in a centralized location.

It is also undeniable that approval of this particular request at its requested location could create a situation wherein other lands through this section of the Ka'u District would be in a vulnerable position for similar actions. It would definitely create an undesirable situation of a scattering of urban/commercial activities in the area through the Special Permit process. The further proliferation or scattering of such activities may tend to debilitate the potential for a centralized urban area for the future in this general area of Ka'u. As such, it is felt that, in this particular case, the area's needs would not necessarily be better served with the proposed uses being situated at the requested location.

Further, inasmuch as the proposed uses are commercial in nature, it should be pointed out that the granting of this particular request would also be in conflict with the Commercial Element of the General Plan. One (1) of the stated policies in the General Plan is to discourage "strip" commercial developments and to promote the cluster concept utilized in designing commercial areas. As presented earlier, the granting of this particular Special Permit request for commercial purposes would create a "strip" or "strung out" development in this area of Ka'u over a distance of approximately two and one-half (2 1/2) miles. As is, the three (3) Special Permits previously granted do "string" out along the Mamalahoa Highway for a distance. Therefore, approval of this request at its particular location will further extend the desired limits of a concentrated or centralized commercial core.

It is further determined that there is no strong basis or need to provide the proposed uses in this area at this particular time. Two (2) of the previously granted Special Permits allowed the establishments of a restaurant and cocktail lounge. One (1) of these has already been established and is in operation. Since the other restaurant facility has not been established as yet, as an alternative, the petitioner could possibly negotiate with the holder (Harry McKee) of the Special Permit to establish this activity on the property already approved. As far as the service station and fuel pumps are concerned, these will be provided in the very immediate future. This will be within the area granted a Special Permit to Ocean View Investment Company, Inc. In fact, plans, as well as a building permit, for this facility is presently on file with the Planning Department.

Further, the petitioner could also negotiate with Ocean View Investment Company, Inc. to establish the proposed laundromat and auto parts center on their property since the Special Permit previously granted to them did allow other limited commercial activities. The auto repair shop, however would not qualify under the category of "limited" commercial activities.

Although the petitioner did submit a petition signed by a number of individuals as well as letters supporting the proposed uses, it is felt that the existing and proposed uses already allowed through previously approved Special Permits would be able to satisfy the present demands for the area.

Based on the above, it is determined that the establishment of the proposed uses at the requested location does not meet the guidelines for granting of a Special Permit, and would also be in conflict with some of the stated goals and policies of the General Plan.

A denial by the Commission of the desired use shall be appealable to the Circuit Court in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.

Should there be further questions on this matter, please contact the Planning Department at 961-8288.

Sincerely, •



William F. Mielcke
Chairman, Planning Commission

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cc: State Land Use Commission
Land Use Division, DPED

MAY 21 1979