

CERTIFIED MAIL

February 25, 1983

Mr. Michael Amaral  
S. R. Box 6178  
Captain Cook, HI 96704

Dear Mr. Amaral:

Special Permit Application (82-17)  
TMK: 9-2-06:5

The Planning Commission at its duly held public hearing on February 17, 1983, considered your request for a Special Permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to allow the sale of construction-related supplies, including a building for office, display and retail sales, a concrete mixing plant and a lumber storage area at Kahuku, Ka'u, Hawaii.

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

That the proposed use will not promote the effectiveness and objectives of Chapter 205, HRS, as amended. Through the passage of Chapter 205, HRS, known as the Land Use Law, the State Land Use Commission was established. It called for the classification of all lands in the State and authorized the adoption of rules of practice and procedures and regulations for land use within the various land use districts. The four land use districts created by the State Land Use Commission, Agricultural, Rural, Urban, and Conservation, provide the basic legal framework of land uses in the State of Hawaii and help implement the long-range land use objectives of the State and Counties. The intent of these statutory provisions is to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people in Hawaii.

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At the County level, these broader statewide objectives are articulated through the County General Plan. In that respect, consistency with the goals, objectives and policies of the General Plan will also promote the effectiveness and objectives of Chapter 205, HRS.

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.

Within this section of the Ka'u District, the State Land Use Commission and the Planning Commission have previously approved several Special Permits relating to commercial activities. Two of these permits did allow the establishment of restaurant and cocktail lounges, of which one is already in operation. All these permits also allow the establishment of real estate offices of which two have been established. One of the Permits also allowed, among others, commercial-type uses including the sale of building supplies, hardware, gardening, automotive supplies and parts, and the establishment of a convenience store and a service station, including fuel pumps. It is felt that to allow yet another commercial-type complex would definitely create an undesirable land use pattern. By allowing this particular request, we would be creating four "pockets" of commercial establishments through the Special Permit process over a distance of approximately 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 Map does provide for an Alternate Urban Expansion (AUE) designation within this section of Ka'u in a centralized location which includes the Ocean View Store area. The subject property is slightly over a mile from this AUE designated area.

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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 scatteration of urban/commercial activities in the area through the Special Permit process. The further proliferation or scatteration 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 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 miles. As is, the other 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.

We do concur that this section of Ka'u has grown in terms of population, and that unusual conditions, trends and needs have arisen since the district boundaries and regulations were established that may justify some of the proposed uses. As pointed out earlier, however, a more centralized location has been provided on the General Plan LUPAG Map to establish such uses. To grant such a request at the subject location, at this particular time, would definitely alter and change the essential character of the land. The granting of this request would also adversely affect the surrounding properties and their improvements.

Based on the above, it is determined that the approval of the subject request will not promote the effectiveness and objectives of Chapter 205, HRS, and should therefore be denied.

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.

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Should there be further questions in this matter, please feel free to contact the Planning Department at 961-8288.

Sincerely,

/s/ ROY KAGAWA

for CLYDE IMADA  
CHAIRMAN, PLANNING COMMISSION

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cc: Kona Services Office