

CERTIFIED MAIL

December 19, 1984

Mr. Carl Okuyama, Vice President
Sure Save Super Market, Ltd.
dba Wiki-Wiki Mart
55 Holomua Street
Hilo, HI 96720

Dear Mr. Okuyama:

Special Permit Application

TMK: 1-6-09:387

The Planning Commission at its duly held public hearing on December 12, 1984, voted to approve your application, Special Permit No. 84-17, to allow the establishment of a neighborhood convenience store including gas pumps and related uses on 1.029 acres of land situated within the State Land Use Agricultural District at Keaau, Puna, Hawaii.

The Commission has determined that the proposed use will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, also known as the State Land Use Law. This determination is based on the following findings:

The purpose of the Land Use Law and Regulations is to protect, preserve, and encourage the development of lands in the State for the public health and welfare of the people of the State of Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also lands which are 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 subject property's dominant soil type is pahoehoe lava. The Land Study Bureau's rating of these lands for overall agricultural productivity is the lowest on their scale which is Class "E" or "very poor". Although it is possible that some agricultural activities may be conducted on the subject property, it is determined 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

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Mr. Carl Okuyama, Vice President
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Approval of this Special Permit request is subject to the following conditions:

- a. The petitioner, its successors or assigns, shall be responsible for complying with all conditions of approval.
- b. Plans for plan approval, including landscaping plans, shall be submitted within one year from the effective date of the Special Permit.
- c. Construction of the proposed development shall commence within one year from the date of receipt of Final Plan Approval and be completed within one year thereafter.
- d. A right turn lane from the Kaaau-Pahoa Road to Orchid Land Drive shall be constructed meeting with the approval of the Department of Transportation, Highways Division, prior to the issuance of final occupancy permit for the proposed project. The petitioner shall notify the State Department of Transportation, Highways Division, before proceeding with any additional development to the subject property.
- e. Access improvements, to and along Orchid Land Drive, shall be provided meeting with the approval of the Department of Public Works prior to the issuance of final occupancy permit for the proposed project.
- f. All other applicable rules, regulations, and requirements shall be complied with.
- g. Should the Planning Department determine that any of the foregoing conditions have not been met or substantially complied with in a timely fashion, the Special Permit shall be void.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Roy Kagawa
Chairman, Planning Commission

cc: State Land Use Commission
Department of Public Works
Department of Water Supply
County Real Property Tax Division

bcc: Plan Approval Section

Mr. Carl Okuyama, Vice President
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December 19, 1984

subject property for agricultural productivity and the above-cited criterion for determining the Agricultural District.

Furthermore, the subject area has not been included in the Department of Agriculture's classification of "Agricultural Lands of Importance to the State of Hawaii." As such, the State Department of Agriculture stated that "approval of the request will not significantly affect the agricultural resources of the area."

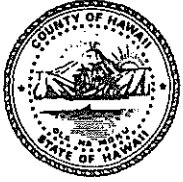
Although the proposed use will alter the essential character of the land, it is determined that such a change will make the highest and best use of the land involved for the public welfare at the present time. The subject property is not being used for agriculture at the present time and is vacant of any structure. The proposal to establish a convenience store with gas pumps on the subject property will be beneficial and well-suited to accommodate the needs of the public, in this particular case, the residents within the surrounding subdivisions. There is no similar facility serving the needs of the community at this time.

The Commission has also determined that the proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural district based on the following findings:

The proposed use will not adversely affect the surrounding properties and their improvements. Surrounding land uses include scattered single family dwellings, vacant land and a church. This area can be classified as rural-residential in character due to the sizes of the lots. Most of the land within this general area range from less than 10,000 square feet to 2 acres in size. Due to the overall character of the area and the physical attributes of the land, it is acknowledged that the lots are and will be basically used as home sites. The establishment of the proposed use is determined to be compatible with the area and would not be in conflict with the surrounding uses.

The proposed use will not unreasonably burden public agencies to provide roads and streets and other infrastructures and services. All essential services and facilities are or will be made available to the subject property. Concerns regarding access to the subject property can be handled through conditions of approval.

Based on the foregoing, it has been determined that the proposed neighborhood convenience store including gas pumps and related uses, are unusual and reasonable uses of land situated within the Agricultural district and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.



Planning Commission

Larry S. Tanimoto
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

August 8, 1990

Mr. Carl Okuyama
Sure Save Super Market, Ltd.
55 Holomua Street
Hilo, HI 96720

Dear Mr. Okuyama:

Amendment to Special Permit No. 569
Tax Map Key: 1-6-09:386 and 387

The Planning Commission at its duly held public hearing on July 26, 1990, voted to approve the above amendment to Special Permit No. 569 to include an adjacent 1-acre lot to the permit and to allow the addition of a general store, laundromat, postal service, fast foods operation, video rental and arcade stores, real estate office, and the neighborhood convenience center office at Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request will not be contrary to the objectives of Chapter 205, Hawaii Revised Statutes, as amended. 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 they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agriculture use. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also lands which are 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 properties' dominant soil type is pahoe-hoe lava. The Land Study Bureau's rating of these lands for overall agricultural productivity is the lowest on the scale which is Class "E" or very poor. Although it is possible that some agricultural activities may be conducted on the subject

Mr. Carl Okuyama
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properties, it is determined that approval of the amendment request would not be contrary to the objectives of the State Land Use Law and Regulations given the capability class rating for agricultural productivity and the above-cited criterion for determining the Agricultural District. Furthermore, the subject area has not been included in the Department of Agriculture's classification of "Agricultural Lands of Importance to the State of Hawaii (ALISH)."

Although the proposed uses will alter the essential character of the land, it is determined that such a change will make the highest and best use of the land involved for the public welfare at the present time. The additional one acre is not being used for agriculture and is vacant of any structures. The proposal to expand the convenience store concept to allow for a general store, laundromat, postal service, fast foods operations, video rental and arcade stores, real estate office and the neighborhood convenience center office would accommodate the needs of the public, in this particular case, the residents within the surrounding subdivisions. There is no similar complex serving the needs of the community at this time. Since the land has been previously disturbed, it is unlikely that significant archaeological features or artifacts exist on the site. It is recommended, however, that given the presence of lava tubes in the area, the permit shall be amended to contain a standard condition relating to ceasing work should lava tubes be uncovered during construction.

The proposed uses will not adversely affect the surrounding properties and their improvements. Surrounding land uses include scattered single family dwellings, vacant land and a church. This area can be classified as rural-residential in character due to the size of the lots. Most of the land within this general area range from less than 10,000 square feet to 2 acres in size. Due to the overall character of the area and the physical attributes of the land, it is acknowledged that the lots will be basically used as home sites. The establishment of the proposed uses is determined to be an expansion of the existing convenience store and should not be in conflict with surrounding uses.

The proposed uses will not unreasonably burden public agencies to provide roads and streets and other infrastructure and services. The Department of Water Supply comments that there will be adequate water to supply the demand projected by

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the proposed uses. The Department of Transportation-Highways Division raised no objections since channelization of the Keaau-Pahoa Road and Orchidland intersection has been completed. All other essential services and facilities are or will be made available to the project site.

Based on the foregoing, it has been determined that the proposed general store, laundromat, fast foods operation, video rental and arcade store, real estate office, and the neighborhood convenience center office are unusual and reasonable uses of land situated within the Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

Approval of this request is subject to the following amended conditions:

- 1 [a]. The petitioner, its successors or assigns, shall be responsible for complying with all conditions of approval.
- 2 [b]. Consolidation of the properties shall be secured within one year from the effective date of this amendment.
3. [Plans for plan approval, including landscaping plans, shall be submitted within one year from the effective date of the Special Permit.] Final Plan Approval shall be secured from the Planning Department within one year from consolidation approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, and paved driveways and parking area.
- 4[c]. Construction of the proposed development shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within one year thereafter.
- [d. A right turn lane from the Keaau-Pahoa Road to Orchid Land Drive shall be constructed meeting with the approval of the Department of Transportation, Highways

Division, prior to the issuance of final occupancy permit for the proposed project.]

- 5[e]. Access improvements, to and along Orchid Land Drive, shall be provided meeting with the approval of the Department of Public Works prior to the issuance of [final occupancy permit for the proposed project] a certificate of occupancy for any portion of the development.
- 6[f]. Should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
7. All other applicable laws, rules, regulations, and requirements, including those of the Department of Health and Water Supply, shall be complied with.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the amendment. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the

Mr. Carl Okuyama
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time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

[g. Should the Planning Department determine that any of the foregoing conditions have not been met or substantially complied with in a timely fashion, the Special Permit shall be void.]

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

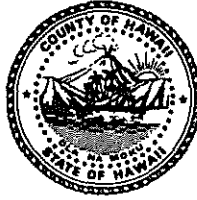


Fred Y. Fujimoto
Chairman, Planning Commission

xc: Mr. Ralph Boyea
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
DLNR

bcc: Plan Approval Section

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
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DEC 16 1997

Carl H. Okuyama President/CEO
Sure Save Supermarkets Ltd.
16-204 Melekahiwa Place
Keaau, HI 96749

Dear Mr. Okuyama:

Special Permit No. 569 (SPP 569) (84-17)
Applicant: Sure Save Supermarkets, Ltd.
Request: Amendment to Condition No. 4 (Complete Construction)
Tax Map Key: 1-6-9:386 and 387

The Planning Commission at its duly held public hearing on December 4, 1997, voted to approve the above-referenced request for an amendment to Condition No. 4 (complete construction) of Special Permit No. 569, as amended, which allowed the development of the Orchid Land Convenience Center on approximately 2 acres of land within the State Land Use Agricultural District. The property is the site of the existing Wiki Wiki Mart located on the Pahoia side of Orchid Land Drive approximately 450 feet from its intersection with the Pahoia Government Road (Highway 130), Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. The applicant's proposal to expand development on the subject property has been previously reviewed and approved by the Planning Commission. The subject request to amend Condition No. 4 to allow additional time in which to complete construction of the proposed Orchid Land Convenience Center would not be contrary to Chapter 205, Hawaii Revised Statutes.

The desired use will also not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Sure Save Supermarkets completed construction of the Wiki Wiki Mart in

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1988 and the convenience store is in full operation. The applicant has stated that economic and financial circumstances have prevented them from expanding the development and from starting construction on the new Orchid Land Estates Convenience Center in a timely manner. They are requesting an extension of five (5) years to complete the project. All required roadway improvements as conditioned by the original permit have been completed. Orchidland Drive is paved along the frontage of the subject property. The five-year time extension to complete development should not unreasonably burden public agencies nor have any adverse impact on existing public services to the area.

A Petition for Standing in Contested Case Hearing was submitted by Dr. Seeske D. W. Versluys, DVM, on September 19, 1997, landowner for TMK: 1-6-9:320, two parcels southwest of the subject property. Since Dr. Versluys was not present at the public hearing held on November 13, 1997, the hearing was continued to the next Kona Planning Commission meeting. The Petition for Standing in Contested Case Hearing was withdrawn by Dr. Seeske D.W. Versluys by letter dated November 26, 1997, as an agreement was reached between Dr. Versluys and Sure Save Supermarkets, Ltd. The letter and attachments are on file at the Planning Department.

At the November 13, 1997, public hearing, testimony was also presented by the Orchidland Community Association in support of the request. It was agreed upon by the applicant and the Orchidland Community Association that Sure Save Supermarkets, Ltd. would extend the pavement of Orchidland Drive from the unpaved portion up to 35th Street. As the improvements are beyond what was originally required at the time of approval of the request, a condition is not included. A copy of letter from Carl H. Okuyama, President of Sure Save Supermarkets. Ltd., dated November 28, 1997, addresses the road improvements and is on file at the Planning Department.

Based, on the above, the request to amend Condition No. 4 of Special Permit No. 569 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit.

Condition No. 4 is amended as follows:

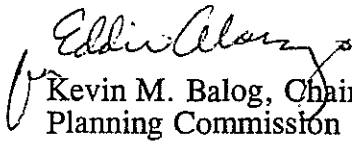
4. Construction of the proposed development shall [commence within one year from the date of receipt of Final Plan Approval and shall] be completed within [one year thereafter] five (5) years from the effective date of this amendment.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Carl H. Okayama President/CEO
Sure Save Supermarkets Ltd.
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Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

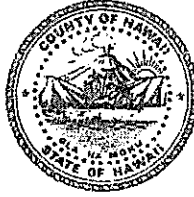
Sincerely,


Kevin M. Balog, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu

Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

J. D. Watumull, Manager
Orchidland Gulsons, LLC
307 Lewers Street, 6th Floor
Honolulu, HI 96817

Dear Mr. Watumull:

Special Permit No. 569
Applicant: Sure Save Super Market, Ltd.
Owner: Orchidland Gulsons, LLC
Request: Amend Condition No. 4 (Complete Construction)
Tax Map Key: 1-6-9:386 (Consolidation of Parcels 386 & 387)

The Planning Commission at its duly held public hearing on February 21, 2003, voted to approve the above-referenced amendment to Condition No. 4 (complete construction) of Special Permit No. 569 (formerly Sure Save Supermarkets, Ltd.), which allowed the development of the Orchid Land Convenience Center on approximately 2 acres of land within the State Land Use Agricultural District. The property is located in Orchidland Estates Subdivision, the site of the existing Wiki Wiki Mart, located on the Pāhoa side of Orchid Land Drive approximately 450 feet from its intersection with the Pāhoa Government Road (Highway 130), Kea'au, Puna, Hawai'i.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawai'i. The original applicant, Sure Save Supermarkets, Ltd., received two administrative extensions of time from the Planning Director and subsequently, a five (5) year time extension from the Planning Commission to complete construction. This first amendment to Condition No. 4 allowed Sure Save Supermarkets, Ltd. until December 16, 2002, in which to complete construction. Currently, improvements to the property include the Wiki Wiki Mart, gas station, two water tanks and a paved parking area. Buildings "A", "B" and the Fast Food

03304 *[Signature]*

MAR 20 2003

establishment of the proposed development have not been constructed. As the new owner, the applicant has stated that these elements of the proposed development are still being planned and could not have been completed in a timely manner. The subject request for additional time in which to complete construction of the proposed development would not be contrary to Chapter 205, Hawai'i Revised Statutes.

The desired use will also not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Sure Save Supermarkets, Ltd. completed construction of the Wiki Wiki Mart and the convenience store is in full operation. Additional improvements include the gas station, two water tanks and a paved parking area. All required roadway improvements as conditioned by the original permit have been completed. Orchid Land Drive is paved along the frontage of the subject property. Although the previous owner has installed two water tanks, the applicant will be required to comply with the Department of Water Supply's requirement to install approximately 500 feet of 12-inch waterline from the existing 12-inch waterline along the Kea'au-Pāhoa Road to the subject property. In addition, due to other commercial developments proposed for this immediate area, a condition is included to have all these applicants pay their reasonable fair share for infrastructure improvements. The additional five-year time extension to complete development should not unreasonably burden public agencies nor have any adverse impact on existing public services to the area.

Based, on the above, the request to amend Condition No. 4 of Special Permit No. 569 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. In addition, two new conditions are also included to address future concerns regarding water and roadway improvements. (Material to be deleted is bracketed and material to be amended or added is underscored.)

1. The petitioner, its successors or assigns, shall be responsible for complying with all conditions of approval.
2. Consolidation of the properties shall be secured within one year from the effective date of this amendment.
3. Final Plan Approval shall be secured from the Planning Department within one year from consolidation approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, and paved driveways and parking area.

4. Construction of the proposed development shall be completed within five (5) years from the effective date of this amendment.
5. Access improvements, to and along Orchid Land Drive, shall be provided meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy for any portion of the development.
6. Applicant shall pay their reasonable share for infrastructure improvements that may be required of other commercial development in the immediate area.
7. Applicant shall extend the existing 12-inch waterline from the Kea'au-Pāhoa Road approximately 500 feet to the subject property.
- 8.[6] Should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- 9.[7] All other applicable laws, rules, regulations, and requirements, including those of the Department of Health and Water Supply, shall be complied with.
- 10.[8] An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the amendment. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- 11.[9] An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to

J. D. Watumull, Manager
Orchidland Gulsons, LLC
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the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and, d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lorchidlandgulsons01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu
Mr. Carl Okuyama