

CERTIFIED MAIL

October 31, 1984

Mr. Charles Faught
76-730 Hualalai Road
Kailua-Kona, HI 96740

Dear Mr. Faught:

Special Permit Application (84-10)
TMK: 7-5-25:38

The Planning Commission at its duly held public hearing on October 24, 1984, voted to approve your application, Special Permit No. 84-10, to allow the establishment of a cabinet shop/warehouse operation on 21,948 square feet of land at Puapuaanui, North Kona, Hawaii.

The Planning Commission finds that a temporary cabinet shop/warehouse operation is an unusual and reasonable use of land situated within the State Land Use Rural district. This finding is based on the following information received during the course of the public hearing:

An industrial use was established on the subject property prior to April, 1962, and has continued to exist up to the present time. Although the cabinet shop/warehouse operation cannot be considered a non-conforming use because it differs from the originally established banana crating/shipping operation, nevertheless, some form of industrial-type activity has existed on the property for over thirty years.

The cabinet shop/warehouse operation has existed on the subject property for over twenty years. This use was established prior to the creation of the Kona Orchard Subdivision which introduced rural-residential lots into the area. As such, the cabinet shop/warehouse operation was an established part of the neighborhood long before any of the rural-residential lots were developed.

In addition, the petitioner is not requesting that the Special Permit run with the land in perpetuity. The petitioner, who is 67 years old at the present time, has requested that the permit be granted only for the duration of his working life.

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Therefore, it is anticipated that the cabinet shop/warehouse operation will be discontinued within a relatively short period of time.

The Planning Commission also finds that approval of a temporary cabinet shop/warehouse operation would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. This finding is based on the following:

Chapter 205, Hawaii Revised Statutes, known as the Land Use Law, called for the classification of all lands in the State and required the adoption of rules of practice, procedures and regulations for land use within various land use districts. 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. The regulations adopted to implement the State Land Use Law also included a provision to deal with non-conforming uses. The statement of intent, contained in the regulations on non-conforming uses states, "The regulations contained in this Part IV are intended to reasonably expedite the eventual elimination of existing uses or structures that are not in conformity with the provisions of this part because their continued existence violates basic concepts of health, safety and welfare as well as principles of good land use. However, in applying the aforesaid regulations, no elimination of non-conforming uses or structures shall be effected so as to cause unreasonable interference with established property rights." While the subject request may not meet the latter of the non-conforming provision of the regulation, it certainly is in conformance with the spirit of those provisions.

Further, a temporary cabinet shop/warehouse operation should not adversely affect surrounding properties. Potential noise and visual impacts can be mitigated with conditions of approval involving operational constraints.

The cabinet shop/warehouse operation will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, school improvements, and police and fire protection. The subject property is already served by all necessary infrastructure and services.

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.

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b. All structures considered temporary at the date of the Planning Department's November 29, 1983 field inspection shall be removed from the subject property within thirty days from the effective date of the Special Permit.

c. The subject property shall not be used for the storage of materials other than those required for the cabinet making operation.

d. The use of power tools shall be allowed only during the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.

e. The temporary cabinet shop/warehouse operation shall be permitted for a maximum of three years or for the duration of Mr. Charles Faught's working life, whichever occurs sooner.

f. All other applicable rules, regulations, and requirements shall be complied with.

g. Should the Planning Director 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: Gilbert Ashikawa
Alan M. Okamoto
Department of Public Works
Department of Water Supply
County Real Property Tax Division
County of Hawaii, Kona Office
State Land Use Commission

bcc: Plan Approval Section