

CERTIFIED MAIL

July 25, 1988

Mr. Haswin Patel  
Box 434, RR-1  
Capt. Cook, HI 96704

Dear Mr. Patel:

Special Permit Application (88-12)  
and Nullification of Special Permit NO. 640  
Tax Map Key: 8-3-10:Portion of 24

The Planning Commission at its duly held public hearing on July 20, 1988, voted to approve your application, Special Permit No. 669, to allow the establishment of a gas station/convenience store on approximately 9,800+ square feet of land at Keel 2nd, South Kona, Hawaii. The Commission also voted to nullify Special Permit No. 640 which allowed the establishment of a laundromat on the subject property.

Approval of the special permit for a gas station/convenience store is based on the following:

1. The granting of this request would promote the effectiveness and 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 agricultural districts, 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 not suited to agricultural activities by reason of topography, soils, and other related characteristics. The property's dominant

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soil type is Kona Extremely Muck and the Land Study Bureau's Rating of "E" describes the property as having very poor productivity potential. The subject area is not classified by the ALISH system map. In addition, a portion of the project site is already improved with an existing Texaco service station. Therefore, while some agricultural activities may be conducted on the 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 poor agricultural rating of the area and its present non-conforming commercial use.

2. The desired use will not adversely affect the surrounding properties. The gas station/convenience store would be located to the south of Shimizu Store, an existing non-conforming commercial use. The property to the south is vacant, but had received approval to allow construction of a service station/convenience store. This project has not moved forward since its approval in 1984. Through the plan approval process, landscaping will be provided to mitigate negative visual impacts to the north, south and east properties.
3. The proposed construction of a convenience store/gas station will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. There will be adequate water to accommodate the newly introduced use according to the Department of Water Supply provided Special Permit No. 640 is nullified. Any access from Hawaii Belt Road shall meet with the minimum standards of the State Department of Transportation. A condition has been included to address the requirements of the Fire Department. No other agencies expressed concerns or made comments on the proposal.
4. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. As stated previously, the project site has been partially improved with an existing Texaco service station. The remaining land area has not been productive and remains vacant.
5. The proposed use will not substantially alter or change the essential character of the land and the present use. The character of the area is largely commercial in nature with the Shimizu Store located on the adjacent parcel and a

service station established on the property. The nature of the proposed use in this particular location will not significantly change what is already existing.

6. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The South Kona District has had a significant increase in population since the adoption of the State Land Use district boundaries. Between 1970 and 1980 the population of the district increased by 45 percent which has resulted in greater needs for convenience commercial uses as is being proposed by the petitioner. A similar proposal on an adjacent parcel has not proceeded as planned.
7. The request is not contrary to the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the vicinity of the Middle Keel Road-Mamalahoa Highway intersection as Medium Density Urban surrounded by Low Density Urban and Orchard designations. The provision of such services should prove to be useful to the surrounding residents as well as passing motorists. Approval of this request would support the following policy in the Commercial Land Use Element of the General Plan:

"To provide for commercial developments that maximize convenience to users."

In view of the foregoing, it is determined that the proposed gas station and convenience store is an unusual and reasonable use within the State Land Use Agricultural District.

Approval of this request is subject to the following conditions:

1. The petitioner shall be responsible for complying with all stated conditions of approval.
2. Plans, including parking and landscaping, shall be submitted for plan approval review within one year from the effective date of this permit. Parking shall comply with the requirements of Chapter 25 (Zoning Code). No parking variance from the Code shall be applied for or granted. Landscaping shall be provided along the north, south and east property lines to buffer visual impacts to adjacent properties and motorists/pedestrians along Hawaii Belt Road.

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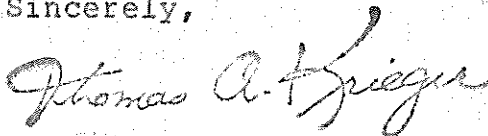
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3. Construction shall commence within one year from the date of receipt of final Plan Approval and shall be completed within two years thereafter.
4. Access shall be in accordance with the standards of the State Department of Transportation-Highways Division.
5. Comply with the requirements of the Fire Department, the Department of Public Works, State Department of Health and the Department of Water Supply.
6. All other laws, rules, regulations, and requirements shall be complied with.
7. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. 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 and the Planning Director acknowledges that further reports are not required.
8. 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 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 may initiate procedures to nullify the permit.

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

Sincerely,



Thomas A. Krieger  
Chairman, Planning Commission

cc: Chrystal Thomas Yamasaki  
Department of Public Works  
Department of Water Supply  
Fire Department  
County Real Property Tax Division  
Planning Office - Kona  
State Land Use Commission  
State Dept. of Transportation, Highways Division  
State Department of Health

bcc: Plan Approval Section