

CERTIFIED MAIL

June 13, 1989

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application (89-12)
Applicant: Amfac Tropical Products
TMK: 1-6-03:18 and 23

The Planning Commission at its duly held public hearing on June 6, 1989, voted to approve the above application, Special Permit No. 707, to allow the establishment of a fruit packing and processing plant and related improvements on 10.3 acres of land situated within the State Land Use Agricultural District at the former Puna Sugar Co.'s mill warehouse and shop maintenance site, Keaau, Puna, Hawaii. The Planning Commission also voted to revoke Special Permit No. 572 which affects the area under consideration.

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 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 lands of high agricultural potential for agricultural use. The Land Study Bureau classifies this area as "Urban," and the parcel is classified as "Existing Urban Development" according to the ALISH map. This request is to allow the establishment of a fruit packing and processing plant using the existing buildings as well as the proposed new construction at Puna Sugar Co.'s former equipment repair complex. This complex has recently been used as a guava

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receiving and storage warehouse and for equipment storage. The land has been in agriculturally related industrial use for many years. Within the State Land Use and County Agricultural zoned districts, processing of agricultural products is a permitted use provided the products are grown on the premises. In this case, the fruit will be grown elsewhere, primarily within the Puna district. The requested use will complement the Agricultural district classification. The establishment of this facility will further the objectives of the State Land Use Law by providing essential support facilities for papaya and fruit growing activity.

The desired use will not adversely affect the surrounding properties. This property has been in use for many years as an equipment repair complex for the now defunct sugar operation. The surrounding properties were utilized either for the sugar mill operation or sugar cane production. No new impacts will be introduced, and any negative impacts of noise or traffic are expected to be considerably less than those generated by the sugar mill activities previously occupying the site. The nearest residential use is approximately .3 mile to the southwest. Landscaping should be utilized to mitigate any visual impacts from the private roadway.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police, and fire protection. Water and power are available at the site. The property is accessed by private roads controlled by the owner of the property. The roads have been in use for some time serving the Puna Sugar mill and, more recently, the HELCO power plant and the applicant's existing fruit packing and processing plant. The proposed use will not require any additional public services.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Since the enactment of the State Land Use Law in 1961, the papaya and guava industries have grown tremendously while the sugar industry has declined. The Puna Sugar mill closed in 1984. As a result, the need for processing facilities for other products has replaced the need for the sugar processing plant. The applicant is currently operating on lease land and would like to move the operation to land under its control which became available with the closing of the sugar mill. This move to its

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own land would increase the effectiveness of the applicant's operation in support of diversified agricultural activity in the region.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. In addition to existing structures on the property, portions of the property have been paved as part of the sugar processing related activities. The Urban Designations by the Land Study Bureau and the State Department of Agriculture support this claim. No land will be taken out of agricultural use for the proposed facility.

The use will not substantially alter or change the essential character of the land and the present use. The character of the area is a mix of industrial-type uses with vacant sugar lands. The HELCO power plant and agricultural processing activities such as papaya packing and processing, slaughterhouse, and kim chee factory have been established in this area of Keeaau. The subject properties were occupied by industrial-type uses for some time as a maintenance yard for the sugar mill. The use of the existing structures and additional construction will not be obtrusive given the previous use and existing neighboring uses.

The request is not contrary to the General Plan which designates the property for Industrial uses. The granting of the proposed use will further the General Plan goal to "protect and encourage the intensive utilization of the County's limited prime agricultural lands" by concentrating agricultural processing facilities on accessible land not suited for agriculture.

Since this request for Special Permit has been made for a 10.3 acres of land, it is recommended that the properties be incorporated into a single lot. This consolidation will minimize property line setback non-conformity since a 100-foot setback is required for structures used for processing, storage, packing, or shipping of agricultural products.

Based on the above considerations, it is determined that a fruit packing and processing plant is an unusual and reasonable use of land which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Within ninety days from the effective date of this permit, the applicant shall either submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" or notify the Planning Director in writing that a private water system will be utilized.
3. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. 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 structure(s), access(es), and parking/loading areas. The access(es) and parking/loading areas shall be of sufficient width and size and of a surface treatment which meets with the approval of the Planning Department in consultation with the Department of Public Works. Plans shall include the provision of landscaping along the roadway frontage on the north and west property lines. Any new construction shall comply with the minimum 100-foot setback requirements from all property lines.
4. Construction of the proposed renovations and improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
5. The applicant shall secure revocation of Special Permit No. 418 prior to December 31, 1994.
6. Comply with all other applicable laws, rules, regulations, and requirements of the Department of Health, Department of Public Works, and other relevant State and County agencies.
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.

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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.

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,



Gary Mizuno
Chairman, Planning Commission

xc: Mr. Dennis Maeda
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
LUC 418 & 572

bcc: Plan Approval Section