



Planning Commission

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

Lorraine R. Inouye
Mayor

CERTIFIED MAIL

December 9, 1992

Mr. Don Pascual
PO Box 1244
Keaau, HI 96749

Dear Mr. Pascual:

Special Permit No. 830
Applicant: Donald Pascual
Request: Shopping Center
Tax Map Key: 1-5-17: 141, 142, 143

The Planning Commission at a duly advertised public hearing on November 18, 1992, 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 a shopping center on 2.8 acres of land situated within the State Land Use Agricultural District. The project site is located in the Hawaiian Paradise Park Subdivision at the makai Pahoia side of the intersection of Paradise Drive and the Keaau-Pahoia Highway (Highway 130), Keaau, Puna, Hawaii.

The Commission voted to deny the Special Permit No. 830 based on the following findings:

The proposed use does not meet the criteria for which the Planning Commission may approve a Special Permit. Rule 6 of the Planning Commission relative to Special Permits state:

"The Planning Commission shall not approve a Special Permit unless it is found that the proposed use:

- "a. Is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and
- "b. Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

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"The Planning Commission shall also consider the criteria listed under Section 6.3(b)(5)(A) through (G) (of Rule 6, Planning Commission Rules)."

While a proposed use must meet all of these criteria for approval by the Planning Commission, a denial may be made upon a finding of conflict with any of those criteria.

The proposed use will not promote the effectiveness and objectives of Chapter 205, H.R.S., as amended. Through the passage of Chapter 205, H.R.S., otherwise known as the State Land Use Law, the State Land Use Commission was established. It called for classification of all lands in the State and authorized the adoption of rules of practice and procedure 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, provided 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.

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, H.R.S..

It is felt that the granting of this particular request at this particular location would, in fact, be inconsistent with the objectives to be sought to be accomplished by the Land Use Law and Regulations as well as the County General Plan. A goal of the General Plan states that the County shall "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments" while maintaining a policy to ". . . . encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

Within this particular section of the Puna District, the Planning Commission had approved a Special Permit in 1984 to

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allow the establishment of a Wiki Wiki Mart convenience store on a site located off of the Keaau-Pahoa Highway along Orchidland Drive, a distance of approximately 1,400 feet northwest of the project site. The approval of an amendment to the Special Permit in 1990 to allow the expansion of services at the site to include a general store, laundromat, post office, and other similar activities, have solidified this area (Orchidland Estates convenience center) as the commercial core for this section of Puna.

The applicant has stated that "Puna Village Square will encourage neighborhood development verses strip development, because residents can get needed goods and services near home. This will assist in the growth of a functional community." On the contrary, many of the services to be provided by the applicant are or will be provided at the Orchidland Estate convenience center. Many of the uses approved at the Orchidland Estates convenience center and those proposed by the applicant are similar. Uses which would be available at both locations include a convenience/general store, postal service, laundromat, and offices for other neighborhood convenience activities. To approve the proposed use would allow for a duplication of these services which are separated by only 1,400 feet. Therefore, approval of the proposed use in this particular location would not necessarily satisfy the immediate needs of the surrounding community since those needs have already been satisfied through services provided at the Orchidland Estates convenience center.

Another reason for this denial recommendation, however, is based upon the principals of establishing effective land use patterns. Approval of the proposed use at this particular location would not foster a sense of "community" as anticipated by the applicant. Effective land use planning requires a regional perspective towards establishing a proper land use pattern within a given area. While one may consider Paradise Park Subdivision and Orchidland Estates Subdivision as separate communities, their proximity to one another and its common link with surrounding districts (Keaau-Pahoa Highway) demands that both subdivisions be viewed as one large "community". As previously mentioned, the Orchidland Estates convenience center has established itself as the commercial core for this particular section of Puna. As a commercial core, services provided would benefit residents within the surrounding Paradise Park Subdivision as well as the Orchidland Estate Subdivision. The sheer size of these subdivisions, with a combined total of

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approximately 11,300 lots, would not support the concept of separate, but similar, "neighborhood commercial centers" when both are separated by only 1,400 feet. One would find it very difficult to justify the need for a separate commercial center in this area when the applicant's proposal is intended to service a subdivision (Paradise Park) in which some lots are located in excess of 5 miles from the project site, over 18 times the 1,400 feet distance between the project site and the Orchidland Estates convenience center. To approve this request in this particular location would tend to debilitate the potential for a centralized commercial urban area like that established within the Orchidland Estates convenience center. As such, it is felt that the area's needs and welfare would not necessarily be better served with the proposed use at its present location.

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.

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

Sincerely,



Mike Luce, Chairman
Planning Commission

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jdk

xc: Virginia B. MacDonald, AIA
State Land Use Commission
Corporation Counsel
Mayor
Planning Director
Plan Approval Section