



Planning Commission

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

Lorraine R. Inouye
Mayor

CERTIFIED MAIL

November 12, 1992

Mr. Robert Kelshaw Greenwell
Ms. Lou Ellen Lambert
PO Box 1779
Kailua-Kona, HI 96745-1779

Dear Mr. Greenwell and Ms. Lambert:

Special Permit Application (SP 92-14)
Applicants: Robert Kelshaw Greenwell and Lou Ellen Lambert
Request: Garden Supply Store
Tax Map Key: 7-4-06:Portion of 12

The Planning Commission at its duly held public hearing on October 29, 1992, voted to approve your application, Special Permit No. 825, to allow the establishment of a gardening supply store on 3.3± acres of land situated within the State Land Use Agricultural District. Specifically, the amendment request would allow the sale of garden supplies and related items (i.e. fertilizers, irrigation equipment, gardening tools, pots, leis, cut flowers) in conjunction with the existing nursery business, which is a permitted use within the Agricultural District. The project site is located immediately south of the Hawaii Belt Road-Palani Road junction and is bordered by the Old Mamalahoa Highway and Palani Road, Honokohau 1st, North Kona, 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 and Regulations are intended to preserve, protect, and encourage the development

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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 agricultural use. The proposed project will be located within an area whose soils are of the Kaimu Series, which are soils not suitable for cultivation. The soil is classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and classified as "Other Important Agricultural Land" by the Department of Agriculture's ALISH map. While soils within the project site are considered very poor for agricultural productivity, the applicants have been able to establish a nursery business which compliments the project site's Agricultural designations. The proposed garden supply store, which would consist of approximately 1,376 square feet, will be situated within a two-story structure which would also contain offices related to the applicants' nursery business. Other structures, including 14 shade houses and 3 nursery services buildings, will also be constructed. These proposed uses and structures, with the exception of the garden supply store, are permitted on the subject property. Therefore, the proposed garden supply store will represent a fraction of the overall agricultural-related development on the subject property and will not significantly affect the agricultural potential of the remainder of the project site. Therefore, it can be determined that the proposed use would not be contrary to the objectives of the State Land Use Law for the agricultural district.

The desired use will not adversely affect the surrounding properties. The proposed garden supply store will be located on a parcel bordered by Palani Road to the east and the Old Mamalahoa Highway to the west. The right-of-way of these roadways would serve as an effective noise buffer for properties located in the immediate vicinity of the project site. The remainder of the 29.338-acre property south of the project site will buffer the proposed use from adjacent properties to the south. As previously mentioned, the proposed supply store is part of a larger nursery development which is a permitted use on the subject property. Therefore, the impact to be generated by the proposed garden store would be minimal when compared to the overall development plan for the project site.

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The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Access to the project site will be via the Old Mamalahoa Highway. The Department of Public Works will not be requiring the channelization of the project's Old Mamalahoa Highway access point, but will require its approval of the project's driveway access. Water is available to support the proposed use. The applicants will be required to comply with applicable governmental regulations and requirements for wastewater disposal and fire protection.

The use will not substantially alter or change the essential character of the land and the present use. A nursery operation is currently located on the project site. The proposed garden supply store will be located within a complex which will house much of the applicants' nursery operations. Approval of this request will provide for a "well-rounded" nursery operation which would satisfy the general needs of its nursery clientele by selling tools, fertilizers and other garden and nursery-related products. Plans submitted with the application reflect a garden supply store having a gross floor area of approximately 1,376 square feet. A general list of items to be sold at the store were identified in a letter from the applicants' representative to the Planning Director dated August 22, 1992. To ensure that the existing nursery operations remain the primary use on the project site, it is recommended that the garden supply store not exceed 1,400 square feet in gross floor area and that the sale and storage of all items be conducted within the proposed supply store.

The applicants have requested that they be allowed to utilize an existing single family dwelling located within the project site as an interim garden supply store until such time the proposed store has been constructed. They anticipate completion of the new store in two to three years. Approval of this permit would allow the establishment of the proposed use on the project site. Such an approval does not sanction the specific structure as represented on plans submitted by the applicants. Therefore, the interim use of the existing single family dwelling for its garden supply store operations may be permitted, provided that the interim use and the structure it is located within are subject to all of the conditions of approval

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of this permit. This is necessary to ensure that the interim use of the existing dwelling would not be contrary to the objectives of the State Land Use Law.

Approval of this request is subject to the following conditions:

1. The applicants, their successors, or assigns, shall be responsible for complying with all stated conditions of approval.
2. The garden supply store shall be established (certificate of occupancy) within three (3) years from the date of approval of this permit.
3. Access to the project site from the Old Mamalahoa Highway shall meet with the approval of the Department of Public Works.
4. The applicant shall contribute a pro rata share of the cost of improvements as determined by the Department of Transportation-Highways Division to the Palani Road-Old Mamalahoa Highway intersection at and when such improvements are required by that agency. Such pro rata share shall be determined based upon a Traffic Impact Analysis Report for the Old Mamalahoa Highway and Palani Road intersection.
5. The garden supply store shall be limited to a maximum of 1,400 square feet in gross floor area.
6. Items to be sold shall be limited to those categories which are identified in a letter from the applicants' representative to the Planning Director dated August 22, 1992, attached hereto. The retail sales and storage of these items shall occur only within the garden supply store.
7. Should any unidentified sites or remains such as 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.

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8. The applicant shall comply with all applicable laws, rules, regulations and requirements of the affected agencies, including those of the Departments of Transportation, Health and Public Works.
9. 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 with and the Planning Director acknowledges that further reports are not required.
10. 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 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.

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Please feel free to contact Connie Kiriu or Daryn Arai of the Planning Department at 961-8288 if you should have any questions on this matter.

Sincerely,

Mike Luce

Mike Luce, Chairman
Planning Commission

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jdk

Attached letter

xc: Robert D. Triantos, Esq.
Department of Public Works
Department of Water Supply
Department of Health
County Real Property Tax Division
Department of Transportation-Highways Division
West Hawaii Office
State Land Use Commission
DLNR
Mayor
Planning Director
Plan Approval Section