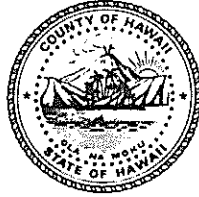


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

August 5, 1993

Mr. Peter T. Young
PO Box 2665
Kamuela, HI 96743

Dear Mr. Young:

Special Permit Application (SPP 93-8)
Applicant: Peter T. Young
Request: Wine Wholesaling/Distribution Business
Tax Map Key: 6-4-12:76

The Planning Commission at its duly held public hearing on July 29, 1993, voted to approve your above-referenced application. Special Permit No. 847 is hereby issued to establish a small scale wine wholesaling/distribution business within the State Land Use Agricultural District. The property is located approximately 1300 feet south of the Puu Pulehu Loop and a private street intersection, Wailani Ranchos Subdivision, Puukapu, Waimea, 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 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 identified as Maile (MLD) by the Soil Conservation Service and is generally utilized for pasture and woodland. The soil is classified as "C" or "Fair" 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. The parcel is one acre in size and has an existing single family dwelling on site and has not been actively used for agricultural

CA457
AUG 9 1993

Mr. Peter T. Young
August 5, 1993
Page 2

purposes. The applicant proposes to establish a wine wholesaling/distribution operation in existing structures with no additional structures to be constructed. Neither would the proposed use displace agricultural activity or diminish the agricultural potential of the area since this parcel has not been in agricultural use in years. Therefore, 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. Surrounding uses include scattered residential and agricultural uses. The subject property is lined with a perimeter fence and landscaped with ironwood and cypress trees. Abutting properties include single-family dwellings and vacant properties. The applicant states that he will do all the pick up and delivery of wines and that no customers will be coming to his house. It is recommended as a condition of approval that the applicant or inhabitants of the dwelling will be the sole operators of this operation. A condition of approval is included to ensure that no wholesaling/distribution of wine be conducted on the property and that no signage be permitted to advertise the business in order to maintain the existing single-family nature of the area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. Electricity, water and telephone are available to the subject property. County and private paved roads lead to the subject property. Although the driveway and parking area leading to the dwelling site are gravel-based and not paved, the applicant proposes to do all deliveries and pick up of wines, thereby, maintaining its principle use as a residence. As a condition of approval, it is recommended that the operation be limited to existing structures and inhabitants of the dwelling, thereby, maintaining the existing character of the land and limiting impacts to surrounding neighbors. Should the applicant wish to amend any condition of approval, thereby, expanding the wine wholesaling/distribution operation, a request to amend the Special Permit shall be submitted to the Planning Commission. The applicant has been informed that he must comply with Department of Health requirements of Chapter 1-A, Food Service and Food Establishment Sanitation Code. This requires the storage of wine to be separate from his living area. As a condition of approval, the applicant shall comply with the Department of Health requirements as well as all other agency requirements prior to establishment of the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The establishment of small businesses have grown and provide needed serves to the local community. Such operations within the State Land Use Agricultural districts are allowable uses through the special permit process.

The use will not substantially alter or change the essential character of the land and the present use. Upon approval of the request, the wholesaling/distribution operation will be limited to use within existing structures. Because the scale of the project is small and the use limited to existing structures, the rural-residential atmosphere will be maintained and there will be no significant change in the character of the land.

The land upon which the proposed use is sought is not unsuitable for the uses permitted within the district, however, the proposed use will not interfere with permitted uses. No agricultural activities will be diminished as a result of this approval.

The proposed use is not contrary to the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the area for Intensive Agricultural. The request is consistent with the goal of the Land Use Element of the General Plan:

- * "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County."
- * "The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The request is also consistent with the following goals and policies of the Economic and Land Use Elements of the General Plan:

- * "Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii."
- * "The County shall provide an economic environment which allows new, expanded, or improved economic

opportunities that are compatible with the County's natural and social environment."

- * "The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

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. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. Any request to amend conditions of this Special Permit shall be forwarded to the Planning Commission pursuant to Rule 6.8 of the Planning Commission's Rules of Practice and Procedure.
4. Final Plan Approval for the conversion of portions of the dwelling and garage into the proposed operation shall be secured from the Planning Director. Plans shall identify structures, landscaping, fire protection measures, parking area and driveway associated with the proposed use. Parking shall comply with the requirements of Chapter 25 (Zoning Code).
5. The proposed wine wholesaling/distribution operation shall be established (certificate of occupancy) within three years from the effective date of the Special Permit.
6. The wine wholesaling/distribution operation shall be limited to the inhabitants of the existing single-family dwelling located on the subject property.
7. The wine wholesaling/distribution operation shall be limited to use of the existing single-family dwelling and garage.

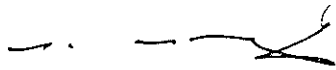
8. There shall be no sale of wine conducted on the subject property and no visible signs or displays on the premises advertising the wine wholesaling/distribution operation.
9. Driveway access shall meet with the approval of the Department of Public Works.
10. The applicant shall comply with all other laws, rules, regulations and requirements, including the Department of Health.
11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include the status of the development, the compliance with the conditions of approval, and a detailed listing of public complaints or problems and their disposition. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaints(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
12. 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.

Mr. Peter T. Young
August 5, 1993
Page 6

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.

Should you have any questions, please feel free to contact Rodney Nakano or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



for Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LYoung01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Department of Health
Plan Approval Section