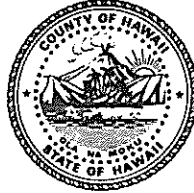


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

November 26, 1993

Mr. David Tai, Jr.
PO Box 442
Mt. View, HI 96771

Dear Mr. Tai:

Special Permit Application (SPP 93-16)
Applicant: David Tai, Jr.
Request: Establish a Certified Kitchen
Tax Map Key: 1-8-6:174

The Planning Commission at its duly held public hearing on November 18, 1993, voted to approve your application. Special Permit No. 854 is hereby issued to establish a certified kitchen (not exceeding 350 square feet in size) to prepare food for a lunch wagon operation on approximately 25 acres of land in the State Land Use Agricultural district. The project is situated on the east (towards Hilo) side of North Peck Road approximately 11000 feet from its intersection with the Volcano Highway, Olaa Reservation Lots, Olaa, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this special permit will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules 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 districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use.

The land on which the proposed use is located is suited for agricultural uses. Soils within the property are classified as

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"Prime" agricultural land according to the ALISH map system and "C" or "Fair" by the Land Study Bureau for agricultural productivity. The productivity of this soils is evidenced by the applicant's extensive agricultural use of the subject property. The proposed 320 square foot certified kitchen structure will not adversely affect the applicant's ability to continue with the extensive agricultural activity presently occurring on the property. The small size of the structure will demand that only a small portion of the subject property be taken out of potential agricultural use. This amount is negligible given the overall size of the subject property and the use of the certified kitchen facility to prepare the various agricultural products being grown on the property for retail out of the applicant's mobile lunch wagon. Therefore, it is anticipated that the proposed use will not adversely impact the agricultural land inventory within the County of Hawaii and not be contrary to the intent and purpose of the State Land Use Law.

The request is not contrary to the General Plan. The proposed use would also compliment the following goals and policies of the Economic Element 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 shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The approval of this request would also be consistent with a policy of the Land Use Element of the General Plan which states:

- * Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environments of the County.

The proposed use will not have any significant adverse effects on the surrounding properties. The proposed use will occupy a structure which has a floor area of only 320 square feet. According to plans submitted, the proposed certified kitchen facility will be centrally located within the 25-acre

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parcel. Its location from property boundaries would mitigate any adverse impacts to surrounding properties. However, to ensure that any adverse noise impacts which may be generated does not adversely affect surrounding properties, it is recommended that the proposed facility be limited to a gross floor area of 350 square feet and maintain a minimum of 100 feet from property boundaries. Odor generated by the proposed use is anticipated to be negligible, given the location of the facility and the sheer size of the subject property.

The proposed use will not substantially alter or change the essential character of the land and the present use. Surrounding lands are currently in agricultural or single family residential use. The limited nature of the proposed use will not detract from, or jeopardize, the agricultural character of the subject property. As previously mentioned, a minimum structural setback of 100 feet for the proposed certified kitchen facility will ensure that this agricultural character is maintained in a manner which would complement surrounding properties. The applicant states that only people currently living on the subject property will be employed at the proposed facility. This employment limitation will be incorporated as a condition of approval as a mean of limiting additional traffic and its associated impacts to surrounding properties.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Access to the property is provided by North Peck Road, a County-maintained paved roadway having a right-of-way of 30 feet. Traffic generated by the proposed use is anticipated to be minimal. As stated by the applicant and to be made a part of this approval recommendation, only persons residing on the subject property will be permitted to be employed at the certified kitchen facility. Traffic generated by the facility will be primarily limited to the lunch wagon as it makes its way to and from its retail sites in Hilo. Supplies transported to the subject property for use in the certified kitchen will be limited to the use of vehicles owned by the applicant.

County-supplied water is not available to support the proposed use. There is an existing water meter which currently services the various residential and agricultural uses currently located on the property. The existing meter is not able to accommodate the added demand to be generated by the proposed use. While catchment water could be used for food preparation, the Department of Health would require extensive sanitation measures, such as chlorination, to ensure a clean source of

water for cooking and cleaning. Another option is to provide holding tanks for potable water which would be transported to the property. A condition of approval would require that water used within the proposed facility meet with the approval of the Department of Health. This would allow the applicant some flexibility in exploring the various options for providing an approved potable water source to support the certified kitchen facility.

Similarly, approval from the Department of Health will be required for the disposal of wastewater generated by the proposed facility. Options, such as the use of an existing cesspool or the installation of a septic system, may be considered by the applicant. Fire protection measures, such as a portable fire extinguisher and automatic fire extinguishing system, will also be required per Fire Department requirements. All other essential utilities and services are, or will, be made available to support the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The State Land Use Law and Hawaii County Zoning Code allows the construction of structures within the State Land Use and County-zoned Agricultural Districts which are related to agricultural activities being conducted on a given parcel of land. However, such structures are limited to processing, storage, packing and retail facilities which exclusively processes products grown on the affected parcel. Farmers are continuing to explore greater opportunities to market their products by establishing operations which are not typical of the agricultural processing facilities of years past. The applicant is proposing the construction of a certified kitchen facility to prepare produce grown on the subject property as a supplement to the various other products to be prepared for retail out of a mobile lunch wagon.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant 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 approval of this permit.

3. Final Plan Approval of the certified kitchen facility shall be secured from the Planning Department. The proposed kitchen facility, which shall not exceed a gross floor area of 350 square feet, shall be located at a minimum of 100 feet from all property boundaries. Plans shall identify existing and proposed structures and driveway(s) associated with the proposed use.
4. Construction of the proposed certified kitchen facility shall be completed and a certificate of occupancy issued within three years from the effective date of this permit.
5. The provision of potable water and the disposal of wastewater relating to the operation of the certified kitchen facility shall meet with the approval of the Department of Health.
6. Fire protection measures shall be installed within the certified kitchen facility in a manner meeting with the approval of the Fire Department.
7. Operation of the certified kitchen facility shall be limited to persons residing on the subject property. The transport of products and supplies to and from the subject property shall be solely by vehicles owned by the applicant.
8. The applicant shall comply with applicable laws, rules and regulations of the affected agencies.
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 the extent to which the conditions of approval are being complied. 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.
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

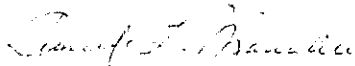
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assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting 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 this 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.

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

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

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