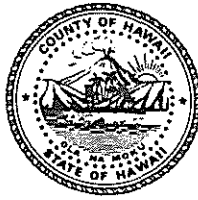


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

May 25, 1994

Mr. Donald Pascual
P. O. Box 1244
Keaau, HI 96749

Dear Mr. Pascual:

Special Permit Application No. 869 (SPP 93-18)
Applicant: Donald and Charlene Pascual
Request: Establish a Community Oriented Commercial Center
TMK: 1-5-17:141-143

The Planning Commission at a duly advertised public hearing on May 19, 1994, considered your request for a Special Permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to establish a community-oriented commercial center on approximately 2.8 acres of land in the State Land Use Agricultural district. The project is situated on the makai (Pahoa) side of the intersection of Paradise Drive and the Keaau-Pahoa Highway, Paradise Park, Keaau, Puna, Hawaii.

The Commission voted to deny the Special Permit based on the following findings:

In considering a Special Permit for any proposed use, Rule 6 of the Planning Commission relating to Special Permits require that such action conform to the following guidelines:

- a. Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- b. The desired use shall not adversely affect surrounding properties;

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- c. Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;
- d. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- e. The land upon which the proposed use is sought is unsuited for the uses permitted within the district;
- f. The proposed use will not substantially alter or change the essential character of the land and the present use;
- g. The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans;

In addition to the guidelines detailed above, the Planning Commission must also find 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.

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 assisted in the implementation of 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 approved a Special Permit in 1984 to 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. An amendment to the Special Permit was approved by the Planning Commission in 1990 to allow for the expansion of services at the Wiki Wiki Mart site to include a general store, laundromat, post office, and other similar activities (Orchidland Convenience Center). With the existing church and Wiki Wiki Mart and the proposed Orchidland Estates Convenience Center, this particular area along Orchidland Drive has matured into the central commercial district within this portion of Puna. For the purpose of this Recommendation Report, this commercial area will be hereinafter referred to as the "Orchidland Estates Convenience Center area".

The applicants propose to develop a "community-oriented" commercial center called the Puna Village Square ("PVSq"). The applicants state that there are 7 "objectives" of the proposed development which would distinguish it from other convenience-type of uses, which are detailed below:

- o *Encourage agricultural endeavors through the establishment of a farmer's market and agricultural information and skills development center.*
- o *Supplement the water needs of the rain catchment-dependent Puna residents through the establishment of a*

"water center", to contain a laundromat, catchment supplies, retail outlet for water & ice, etc.

- o Create a gathering place for residents with uses such as a cafe and general store, which fosters interaction between residents. This is in contrast to a convenience center, where customers "rush in and out".
- o Support the pioneering do-it-yourself spirit of the Puna residents through the establishment of a home improvement outlet.
- o Provide a safe, sheltered bus stop.
- o Provide for health needs by providing a space for a health clinic.
- o Encourage home businesses and education with the establishment of a business and home tutoring center.

While the applicants' efforts to provide for services which encourages the communal spirit of Puna residents are noble, the characterization of what are basically commercial uses as "community-oriented" only colorizes the proposal and fails to address the fundamental problems associated with the development of the commercial center in this particular area, which is *the inability to establish an effective land use pattern*. Effective land use planning requires a regional perspective towards establishing a proper land use pattern within a given area. The proposed Puna Village Square development will be located approximately 1,400 feet away from the approved Orchidland Estates Convenience Center area on the opposite side of Highway 130. As previously mentioned, the Orchidland Estates Convenience Center area has already established itself as the central commercial area for such services for this particular section of Puna. The Planning Department has sought to concentrate commercial and similar types of uses along Orchidland Drive in an attempt to control traffic and related infrastructural improvements within an localized area. Until such time regional infrastructure is able to accommodate widespread urban level of development, it would not be prudent to sanction the spread of such traffic-generating uses in a manner which would frustrate the government's efforts to control the amount of impacts such uses will create.

Another consideration is the potential for encouraging strip commercial development should the request be approved. Approval of the request would establish two separate commercial nodes which may attract the "in-filling" of lands

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between these nodes by other commercial developments. Such strip development would create an exponential increase in adverse impacts to traffic as multiple access points would be required. The proposed development alone would create another traffic generator at another intersection along a very congested Highway 130. By attempting to concentrate commercial and related uses along Orchidland Drive, it would ease the upgrading of roadway facilities in the area to accommodate these commercial uses. A concentrated commercial area along Orchidland Drive would eventually require the signalization of only one intersection along Highway 130. Approval of the subject request would place demands upon government to also signalize Paradise Drive due to the increased traffic generated by the proposed use. At this point, there will be two signalized intersections along a major highway that are separated by only 1,400 feet. This would further debilitate traffic along Highway 130. Therefore, the proposed use would unreasonably burden public agencies to provide roadway improvements.

In summary, the Commission must keep in mind that the proposed Puna Village Square development is essentially similar to the existing Orchidland Estates Convenience Center and its approved expansion. Both are commercial developments which the Planning Director recommends, at this point in time, should be concentrated along Orchidland Drive in Orchidland Estates Subdivision. As cited above, approval of this request in this particular location would not be consistent with the following policies of the General Plan to "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments" and to ". . . encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

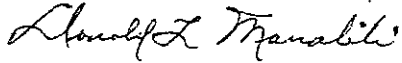
Based on the above considerations, it is determined that the establishment of a "community-oriented commercial center" at this particular location would not promote the effectiveness and objectives of the State Land Use Law. It is therefore recommended that the Special Permit application be denied.

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.

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

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:smn

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
State Land Use Commission
Corporation Counsel
Plan Approval Section