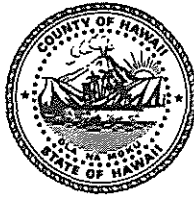


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 416 228 859

October 25, 1995

Mr. Samuel J. C. Guevara
P.O. Box 6113
Kamuela, HI 96743

Dear Mr. Guevara:

Special Permit Application No. 95-9
Applicant: Samuel J. C. Guevara
Request: Establishment of an Automotive Repair Shop
Tax Map Key: 6-4-1:Portion 4

The Planning Commission at its duly held public hearing on October 11, 1995, voted to approve the above-referenced application. Special Permit No. 913 is hereby issued to allow the establishment of an automotive repair shop on approximately 22,500 square feet of land situated within the State Land Use Agricultural District. The property, consisting of 15.24 acres, is located on the south (Kona) side of Mamalahoa Highway in Puukapu Homesteads 1st Series, Waimea, South Kohala, Hawaii.

Approval of this request is based on the following:

The granting of this request would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations (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 Land Study Bureau's productivity rating for soils in this area is "B" or "Good," and the land is within prime agricultural land. However, the applicant's proposed automotive body and glass repair shop will be confined to the area of the existing garage which was constructed in the 1940's. The applicant will occupy only 22,500 square feet of the total 15.24 acres of land for its repair shop use. The major portion of the property to the rear is subleased to another party who is currently conducting intensive agricultural uses of the land. The 22,500 square feet of land will not significantly affect the agricultural resource of the area. No additional lands will be taken out of production to provide the area necessary to establish the repair shop use. As such, the request would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

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The desired use will not adversely affect the surrounding properties. The applicant will be utilizing the existing garage without any structural modifications. The outside area will only be used for parking of vehicles while awaiting repair. Immediately surrounding properties consist of single family dwellings, pasture, diversified farming and vacant lands. However, these existing uses are located more than 200 feet from the repair shop area. The subject site is partially screened by the stand of lineal cypress/pine trees between the Mamalahoa Highway and the existing garage area. If necessary, a condition will be imposed to provide additional landscaping buffer. In addition, to assure that the site will not appear as a vehicle storage area, a condition will be imposed to limit the number of vehicles to four (4) that will be repaired at any one time. Further, no vehicles in repair shall be parked outside the existing garage after work hours.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, school improvements and police and fire protection. Access to the subject property is from Mamalahoa Highway which has a 60-foot right-of-way. Water and other essential utilities are available to the property. There would be an increase in traffic from the repair shop, but not to a significant amount which would adversely impact Mamalahoa Highway. Discarded oil will be collected and disposed of in accordance with government regulations. The applicant will be required to comply with all regulations of the Department of Health, Department of Public Works, Department of Water Supply and Fire Department.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Although the property is classified as "B" lands and prime agricultural land, the applicant will utilize an existing garage and immediate area for the establishment of the automotive body and glass repair shop. Therefore, this should not interfere with existing agricultural lands or activities to the rear of the property.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The residential growth in the Waimea area has resulted in an increase in the customer base for automotive body repair activities. However, light industrial development has not occurred at the same pace in the Waimea area. There are no existing, developed, appropriately zoned lands available on which to operate the automotive body and glass repair shop which is needed to adequately maintain those expanding facilities and serve the growing area of Waimea. To meet the demand, the applicant is seeking to establish the proposed use within an existing garage and on 22,500 square feet of land which is not suited for productive agricultural uses. Therefore, no existing or proposed areas for agricultural activities will be curtailed or diminished as a result of the establishment of this activity at the subject site.

The need for such automotive body and glass repair services is evidenced by the existence of a similar operation in the vicinity of the planned Parker 2020 industrial area. A Special Permit was approved by the Planning Commission in June 1992 to allow the establishment of an auto body repair shop, truck repair and vehicle storage area on approximately 10 acres of land.

Although the General Plan LUPAG Map depicts Industrial designated areas, there are only 2.15 acres of land zoned ML-20 that is located to the rear of the Parker Ranch Shopping Center. However, the property is presently used for storage of propane gas and scheduled to move to the planned Parker 2020 industrial area. As part of the Parker 2020 Plan, there are

25 acres in the vicinity of the Waimea Airport which were conditionally zoned industrial. However, until such time as the conditions of approval relating to water source is complied with, the area remains as Unplanned zone. The approval of this request is made with the recommendation that when the industrial zone becomes effective and available within the 25 acres, the applicant shall relocate its automotive body and glass repair operation to the industrial zoned area. Based on this, a limit to the life of the Special Permit to not exceed five (5) years will be imposed as a condition of approval. Therefore, driveway and parking improvements will not be required.

The proposed use will not substantially alter or change the essential character of the land and the present use. Although the applicant will be conducting an industrial type of use, agricultural activities will still be conducted by another lessee on the major portion of the property. Therefore, the proposed use should not alter the rural character of the area or affect the existing agricultural use of land in the area.

The request will not be contrary to the General Plan. The subject request is contrary to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map which designates the subject portion of the property along Mamalahoa Highway as Low Density Urban. However, the request will compliment and be consistent with the following goals and policies of the Land Use and Industrial Elements of the General Plan which states:

- * Designate and allocate land uses 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.
- * Industrial development shall maintain or improve the quality of the present environment.
- * Protect and encourage the intensive utilization of the County's important agricultural lands.

Approval of this request would also compliment the Economic Element of the General Plan which states, "Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii." It should be reiterated, however, that when industrial zoned lands become available in Waimea, the automotive body and glass repair operation shall be relocated to the appropriate industrial zoned area.

Based on the above considerations, the request to establish an automotive body and glass repair shop at the subject site is an unusual and reasonable use of land within the State Land Use Agricultural District and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

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

2. The applicant, 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 or agents under this permit or relating to or connected with the granting of this permit.
3. A metes and bounds description of the 22,500 square foot area for the automotive body and glass repair shop in written and map form shall be submitted to the Planning Department within one (1) year from the effective date of this permit.
4. Final Plan Approval for the establishment of the automotive body and glass repair use shall be secured from the Planning Department. Plans shall identify existing structures, landscaping and location of unpaved parking area associated with the use. If necessary, additional landscaping buffer may be required along the front property line to mitigate any impact of view from Mamalahoa Highway.
5. A Building Permit for the establishment of the automotive body and glass repair shop shall be obtained within two (2) years from the effective date of this permit.
6. The life of this permit shall not exceed five (5) years from the effective date of this permit.
7. No more than four (4) vehicles for repair shall be permitted at the site at any one time. No vehicles shall be parked on the shoulders of the Mamalahoa Highway fronting the property at any time. In addition, all vehicles in repair shall be parked within the garage after work hours.
8. An initial extension of time for the performance of conditions, with the exception of Condition No. 6, may be granted by the Planning Director upon the following conditions:
 - A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successor 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 original reasons for granting of the permit.
 - C. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - D. The time extension granted does not 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).

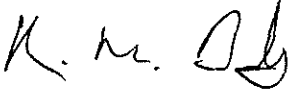
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to void the permit.

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.

Mr. Samuel J. C. Guevara
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Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Vice Chairman
Planning Commission

AK:syw
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cc: 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 Land & Natural Resources
Plan Approval Section