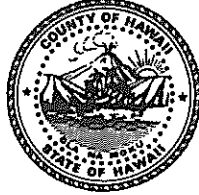


Stephen K. Yamaishiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 323 300

March 8, 1996

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application No. 96-3  
Applicant: Greenhouse Specialists, Inc.  
Request: Establishment of a Greenhouse and Nursery Supply Outlet  
Within State Land Use Agricultural District  
Tax Map Key: 1-6-3:20

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The Planning Commission at its duly held public hearing on February 23, 1996, voted to approve the above-referenced application. Special Permit No. 931 is hereby issued to allow the establishment of a greenhouse and nursery supply outlet on approximately 2.567 acres of land situated within the State Land Use Agricultural District. The property is located approximately one mile east of the Keaau Town Center at the end of Milo Street in the vicinity of the former Puna Sugar Company Mill site at Keaau, Puna, 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 for those uses to which they are best suited in the interest of the public 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 subject property, although classified as Agricultural by the State Land Use Commission, has a soil rating of "C" or "Poor." It is also located in an area with soils classified as the Ohia series, which are soils that are generally used for sugarcane, woodland and pasture. The subject property, owned by the Puna Sugar Company, is in the vicinity of the old mill operation. The mill ceased operations in 1984, and since then, the properties have been vacant and not actively used for agricultural purposes. Therefore, the proposed development would not remove significant lands from agricultural use and 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 mainly include industrial/agricultural activities and single family residential uses.

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Mr. Sidney Fuke  
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HELCO was granted Special Permit No. 686 for industrial use on TMK: 1-6-03:93, previously TMK: 1-6-3: portion of 5 (north of subject), in November 1988, to continue operation of an electric power plant that was previously operated by Puna Sugar Company. In August 1988, a Special Permit was granted to the Hawaii Anthurium Growers Cooperative, now Pacific Floral Exchange, to establish a processing and a packing facility for anthuriums and other flowers on TMK: 1-6-03:21 (adjacent to the east). In June 1989, a Special Permit was granted to Amfac Tropical Products to establish a fruit packing and processing plant on TMK: 1-6-03:18 & 23 (to the east). These two uses, which at the time were not permitted uses, involve the processing of agricultural products grown off site (which are now permitted by the zoning code). The subject parcel is approximately 2.567 acres in size and has frontage on two private roadway easements. Landscaping requirements along the property borders would be reviewed during Final Plan Approval. Overall, it is not anticipated that the immediate surrounding parcels would be impacted by the proposed development.

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 the Old Volcano Road onto Milo Street, a County roadway for approximately 1,800 feet. The County-owned section of Milo Street has a pavement width of 18 feet with 4-foot wide rolled A/C curb sidewalks along the southern side (Volcano). The private section of Milo Street is partially improved with asphalt to a width of approximately 28 feet for a short distance up to TMK: 1-6-3:27. The existing side roadway that borders the subject property is paved. The private section of Milo Street and the road bordering the subject property are owned by W.H. Shipman, Ltd. The applicant has received permission to use the frontage roadway easement as access through a deed. There is a small portion of the roadway easement, identified as lot 1149, from the end of the County-owned portion of Milo Street to the beginning of the subject property that has not been included in the deed for the applicant's use. In order to get to the subject property, the applicant would have to traverse this section of the road. However, due to the alignment of the future Keaau By-Pass Road, it is anticipated that this portion of the road would be within the rights-of-way to be acquired by the State. At that time, the roads would be within a public right-of-way. Therefore, prior to the start of construction or any land altering activities on the subject property, the applicant shall be required to resolve this access issue. In addition, in order to minimize impacts from the increase in traffic and to ensure public safety, a condition is included to require that all roads providing a driveway access to the subject parcel be paved to a width of 20 feet with a 5-foot wide walkway with an asphalt-concrete rolled berm fronting the subject property. The Department of Transportation, although originally had recommended denial of the request due to the possible alignment of the proposed Keaau Bypass Road through the subject property, have revised their position. In a revised letter of support, dated February 21, 1996, they state that it is unlikely that the alignment will be shifted several hundred feet. As requested and included as a condition of approval, the applicant shall be required to submit construction plans for review and approval by the State Department of Transportation. A letter of objection was submitted by W.H. Shipman, Ltd., stating that existing Industrial-zoned lands at Shipman Industrial Park are available for the proposed use. However, the proposed use is agricultural-related in nature and would be geared toward farmers. As such, the use could be appropriately established in the existing area through a Special Permit. Other agencies reviewing the request had no objections to the proposed development.

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Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The Puna District has been one of the largest growth areas on the island. The County of Hawaii Data Book 1994, shows a population of 11,751 in 1980 and a population of 20,781 in 1990. This is an approximate 76 percent increase in ten years. Allowing for the proposed development would help to promote small agricultural/industrial related enterprises on a small scale basis. The Special Permit in the Agricultural districts and Use Permit in the Urban Districts would be the appropriate vehicle for establishing these uses in needed areas.

The use will not substantially alter or change the essential character of the land and the present use. The subject property is vacant; thus, the character of the land would be changed and developed. According to the site plan, the structure is proposed to be built approximately in the center of the parcel, with anticipation that the Keaau By-Pass Road will cross the western section of the property. The applicant proposes to construct a single-story metal-framed warehouse that would conform to the surrounding area.

The lands upon which the proposed use is sought is not unsuitable for the uses permitted in the district; however, the proposed uses will not interfere with permitted uses. The property was previously used for sugar cane cultivation and is presently vacant. Therefore, no agricultural activity will be diminished. Although the zoning for the property is Agricultural-20 acres (A-20a); the General Plan designation for the area is Industrial, which would allow for agricultural/industrial-type and other uses to be established through the Special Permit process. Other parcels in the area are zoned RS-10 with single-family residential uses. These parcels are located along the beginning portion of Milo Street and to the south of the subject property where 8-1/2 mile camp is located.

The proposed use is consistent with the following goals, policies and standards of the General Plan. The subject parcel falls within an area designated as Industrial on the General Plan LUPAG Map, and the zoning for the property is Agricultural-20 acres (A-20a), which would allow for agricultural/industrial uses and other uses through the Special Permit process. The proposed request would complement and be consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- \* Designate and allocate land uses in appropriate proportions 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.

Economic Element

- \* 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 diversification of its economy by strengthening existing industries and attracting new endeavors.

Mr. Sidney Fuke  
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Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the proposed greenhouse and nursery supply operation and related improvements.

Based on the above considerations, the request to establish a greenhouse and nursery supply operation and related improvements would be an unusual and reasonable use of land within the State Land Use Agricultural District, which 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 comply with all of the 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 and 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 this permit.
3. Prior to the start of construction or any land-altering activities, the applicant shall secure access over lot 1149. Documentation shall be submitted to the Planning Director in the form of deed covenants or by letter from W.H. Shipman, Ltd.
4. Construction of the proposed greenhouse and nursery supply operation and related improvements shall be completed within three (3) years from the effective date of the permit. Prior to the start of construction, Final Plan Approval shall be secured from the Planning Director. Plans shall identify existing and proposed structures, fire protection measures, paved driveway and paved parking stalls (chipseal, asphalt or asphalt-concrete) and landscaping associated with the proposed uses. Detailed landscaping plans shall include landscaping buffers along property boundaries of the project.
5. Prior to establishing an open storage area on the property, the applicant shall install a fence surrounding the storage area.
6. All driveway accesses shall meet with the approval of the Department of Public Works.
7. The applicant shall grade the entire right-of way fronting the subject property. Prior to grading, the applicant shall conduct a centerline survey to determine the exact location of the roadway. The roadway shall be paved to a width of 20 feet with a 5-foot wide walkway with rolled asphalt-concrete berms fronting the subject property prior to the opening of the operations. The applicant may also contribute their fair share for road improvements to the Hawaii Christian Camping Association, Inc. Should the private side road be used for a second access, it shall also be paved to a width of 20 feet with a 5-foot wide walkway along the entire frontage of the property. All improvements shall be to non-dedicable standards meeting with the approval of the Department of Public Works.

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8. The applicant shall comply with all requirements of the Department of Transportation, including the submittal of construction plans.
9. The applicant shall also contribute to the maintenance of the private roads fronting the subject parcel and the walkway fronting the subject property, as agreed upon with W.H. Shipman. Such agreement, in the form of restrictive covenants in the deed, shall be submitted for review and approval by the Planning Director during Final Plan Approval. A copy, likewise, as executed and recorded at the Bureau of Conveyances, shall be submitted to the Planning Director prior to the opening of development.
10. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease, and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
11. Upon compliance with applicable conditions of approval, in conjunction with the application for a certificate of occupancy and prior to the opening of the development, the applicant shall submit a final status report, in writing, to the Planning Director.
12. An extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
  - A) 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 the Zoning Code.
  - C) Granting of the extension would not be contrary to the original reasons for the granting of the permit.
  - 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).

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

Mr. Sidney Fuke  
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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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



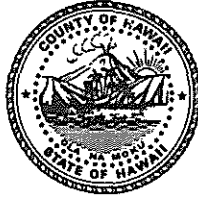
Kevin M. Balog, Chairman  
Planning Commission

AK:syw

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cc: Honorable Stephen K. Yamashiro, Mayor  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Mr. Don Seaton

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 095 323 836

JUL 23 1997

Don Seaton, President  
Greenhouse Specialists, Inc.  
HCR 2 Box 6433  
Keaau, HI 96749

Dear Mr. Seaton:

Special Permit (SPP 931)  
Applicant: Greenhouse Specialists, Inc.  
Request: Amendment to Condition No. 7 (Roadway Improvements)  
Tax Map Key: 1-6-3:20

The Planning Commission at its duly held public hearing on July 10, 1997, voted to approve the above-referenced request for an amendment to Condition No. 7 (roadway improvements) of Special Permit No. 931. Special Permit No. 931 allowed the establishment of a greenhouse and nursery supply outlet on approximately 2.567 acres of land situated within the State Land Use Agricultural District. The property is located approximately one mile east of the Keaau Town Center at the end of Milo Street in the vicinity of the former Puna Sugar Company Mill site at Keaau, Puna, 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 Rules and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. The subject request to amend Condition No. 7 to allow additional time in which to complete roadway improvements would not be contrary to Chapter 205, Hawaii Revised Statutes.

The desired use will also not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. In accordance with Condition No. 7 of Special Permit No. 931, the applicant would be required to complete roadway improvements fronting the subject property on Milo Street prior to opening of the business. The Keaau By-Pass Road is proposed to run alongside the subject's western property boundary and is not anticipated to be completed until October 1998. As the applicant proposes to open his business before the completion of the Keaau Bypass Road, any roadway improvements he constructs may be removed or

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modified by the State Department of Transportation. As such, the applicant requests that the required roadway improvements be deferred until after the Keaau Bypass Road is completed, which is a reasonable request.

The subject property frontage is presently paved to a width of 28 feet. Alternate roadway easements other than the Milo Street access are also available to the subject property. Although, the Department of Public Works expressed some concern on the condition of the private roadways, in addition to improving the frontage of Greenhouse Specialist, Inc., various owners in the immediate vicinity are also required to coordinate roadway improvements with the applicant. This includes James McCully who secured a change of zone from A-20 to ML-20 and A-3a (1-6-3:05) across from the subject property; and Hawaii Christian Camping Association who secured a special permit for a church and school (1-6-03:17) two lots east of the subject property. Both these property owners have frontages on the private section of Milo Street and were required to complete similar roadway improvements as Greenhouse Specialist, Inc. Finally, the State Department of Transportation-Highways Division and the other agencies reviewing the request had objections to the delay in completing improvements. Therefore, completion of the roadway improvements within six months of completion of the Keaau By-Pass Road is a reasonable extension. All roadway work shall also be coordinated with the State Department of Transportation-Highways Division.

Based, on the above, the request to amend Condition No. 7 of Special Permit No. 931 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Condition No. 7 is amended as follows (bracketed material to be deleted and new material is underscored):

- "7. The applicant shall grade the entire right-of way fronting the subject property. Prior to grading, the applicant shall conduct a centerline survey to determine the exact location of the roadway. The roadway shall be paved to a width of 20 feet with a 5-foot wide walkway with rolled asphalt-concrete berms fronting the subject property [prior to the opening of the operations] within six (6) months of completion of the Keaau By-Pass Road in coordination with the State Department of Transportation. The applicant may also contribute their fair share for road improvements to the Hawaii Christian Camping Association, Inc. Should the private side road to be used for a second access, it shall also be paved to a width of 20 feet with a 5-foot wide walkway along the entire frontage of the property. All improvements shall be to non-dedicable standards meeting with the approval of the Department of Public Works and State Department of Transportation."

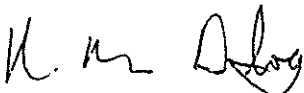
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.



Don Seaton, President  
Greenhouse Specialists, Inc.  
Page 3

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, Chairman  
Planning Commission

LGreen01.PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
State Land Use Commission  
Mr. James McCully  
Hawaii Christian Camping Association