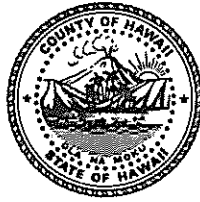


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
Z 095 323 901

JUN 05 1997

Donald and Charlene Pascual
P.O. Box 1244
Keaau, HI 96749

Dear Mr. and Mrs. Pascual:

Special Permit Application (SPP 97-2)

Applicant: Donald and Charlene Pascual

Request: Storage and Assembly of 1.3G and 1.4 Special Fireworks Prior
to Shipment to Various Display Sites Throughout the State of Hawaii

Tax Map Key: 1-7-13:94

The Planning Commission at its duly held public hearing on May 22, 1997, voted to approve the above-referenced application. Special Permit No. 967 is hereby issued to allow the storage and assembly of 1.1A, 1.3G and 1.4G Special Fireworks prior to shipment to various display sites throughout the State of Hawaii on approximately 14.5 acres of land within the State Land Use Agricultural District. The property is approximately .8 miles north of the Volcano Highway and borders North Kulani Road and Enos Road at Mt. View, 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 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 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 uses.

The land on which the use is proposed is suitable for agricultural uses. A majority of the soils within the property are "unclassified" according to the ALISH Map system with a small western portion classified "Prime Agricultural Lands." However, the proposed special permit area falls within the unclassified portion. The lands are also designated as "E" or "Very Poor" by the Land Study Bureau for agricultural productivity. Although previously used for sugar cane, the applicants presently have the property in pasture use for their cattle and farming activities. A majority of the property will continue to be used as such. The proposed special permit area for storing and assembling fireworks will be on 14.5 acres of land out of the total 149 acres. The parcel is presently

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in pasture use and will continue to be used as such. The proposed use is not expected to impact the agricultural inventory within the County nor take significant lands out of agricultural use.

The desired use will not adversely affect the surrounding properties. The subject parcel is approximately 149 acres in size. The applicants propose to establish the storage facility in approximately the middle of the property, with an approximate minimum setback of 1,000 feet from all property boundaries. According to real property records, the nearest dwelling is located on TMK: 1-7-13:95, approximately 2,000 feet from the proposed area. Two employees will be presently employed on site. In the future, there may be an office on site with additional staff. In the approximate middle of the property and adjacent to the proposed special permit area is a separate TMK: 1-7-13:98 that is owned by the State of Hawaii. According to the applicants, there is no information available in regards to the history of this parcel. The applicants have applied to the State of Hawaii for a right of entry permit for this parcel. In addition, due to the large size of the subject, the 14.5 acre-storage area would utilize only a small portion of the land. Access to the storage area will be from North Kulani Road onto a pole access driveway approximately .4 miles long. The entire perimeter of the subject property is fenced and gated. The storage magazines will be secured and locked at all times and inaccessible to unauthorized people. This would minimize anyone entering or vandalizing the property. For safety, the applicants would be required to comply with all applicable agency requirements in order to store the fireworks products on the property. It is not expected that the proposed use will impact surrounding properties.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, and police and fire protection. Agencies had no objections to the proposed use. The applicants would be required to comply with applicable agency requirements regarding storage of fireworks materials on the property.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The majority of the property is "unclassified" by the ALISH Map system with a small western portion classified as "Agricultural Lands of Importance." However, the subject area of request falls within the unclassified portion. The lands are also classified as E or "Very Poor" according to the Land Study Bureau ratings. The subject property was originally used in sugar cane cultivation and has subsequently been converted to pasture use and will continue to be used as such. The subject property is suitable for agricultural uses; however, the legitimizing the storage of fireworks materials on a portion of the property is not expected to take significant amount of lands out of agricultural uses.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Bulk storage of explosive materials are a permitted use within the General Industrial (MG) zoned district. However, due to the large size of the parcel and the applicants' ownership of the parcel, it would be more convenient and feasible for the applicants to establish the fireworks facility on a 14.5 acre portion of the property. The remainder of the 149 acre parcel will remain in use as pasture and grazing land for livestock. Uses such as that proposed by the applicants may be made possible through the special permit process.

The proposed use will not substantially alter or change the essential character of the land and the present use. The three 8x20' storage containers and the two 10x10' portable buildings for assembly purposes will be centralized in approximately the middle of the property. The surrounding land area will continue to be used as pasture and, thus, the essential character of the land will not change.

The request will not be contrary to the General Plan. The proposed request supports the following goals, policies and standards of the General Plan:

Economic Element

- * Provide residents with opportunities to improve their quality of life.
- * Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- * The County of Hawaii shall strive for diversity and stability in its economic system.
- * 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.

Land Use Element

- * Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- * Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and 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.

Based on the above considerations, allowing the applicants to store and assemble fireworks products would be an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

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

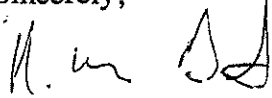
2. A metes and bounds description in written and map form, for the proposed fireworks storage and assembly area, shall be submitted to the Planning Department within one year from the effective date of this permit or prior to opening, whichever occurs first. All related activities and improvements shall be limited to this defined area.
3. The proposed fireworks storage and assembly facility shall be established within five (5) years from the effective date of this permit. A written notification of commencement of operations shall be submitted to the Planning Department.
4. The applicants shall comply with all applicable agency requirements regarding the storage and assembly of fireworks products on the subject property prior to opening, including Alcohol, Tobacco and Firearms-Regulatory, Department of Labor and Industrial Relations-Hawaii Occupational Safety and Health Division, Department of Public Works and the Fire Department.
5. Upon compliance with applicable conditions of approval, and prior to the opening of the proposed operations, the applicants shall submit a final status report, in writing, to the Planning Director.
6. An initial extension of time for the performance of conditions within 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, 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).

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.

Donald and Charlene Pascual
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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, Chairman
Planning Commission

AK:syw

LPascu01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Fire Department
DLIR - Hawaii Occupational Safety & Health Division
Alcohol, Tobacco & Firearms - Regulatory