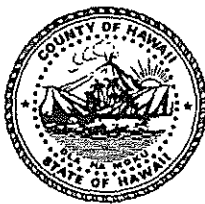


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

MAY 06 2002

Mr. Egon A. Kemp  
P.O. Box 1164  
Kailua-Kona, HI 96745

Dear Mr. Kemp:

Nullification of Special Permit No. 1000  
Applicant: Steve Kuhnert  
Successor: Egon A. Kemp  
Tax Map Key: 9-2-197:51

The Planning Commission at its duly held public hearing on April 5, 2002, voted to revoke Special Permit No. 1000, granted to Steve Kuhnert, per your request as the new landowner. The original permit allowed the establishment of a light industrial/commercial complex on 3.00 acres of land situated in the State Land Use Agricultural District. The property is located in the Hawaiian Ocean View Ranchos Subdivision on the south side (makai) of Mamalahoa Highway, approximately 800 feet west of its intersection with Kohala Boulevard, Kahuku, Kau, Hawaii.

Special Permit No. 1000 is hereby revoked.

Should you have questions regarding the above, please contact Alice Kawaha of the Planning Department at 961-8288 or Daryn Arai of the Kona office at 327-3510.

Sincerely,

Geraldine M. Giffin, Chairman  
Planning Commission

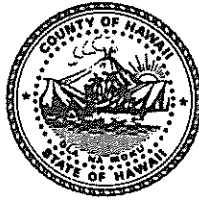
Lkuhnertwd01pc

cc: Planning Department – Kona

MAY 06 2002

018346

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 179 517 423

MAY 2 8 1998

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

Dear Mr. Fuke:

Special Permit Application (SPP 98-5)  
Applicant: Steve Kuhnert  
Request: Establishment of a Light Industrial/Commercial Complex  
Tax Map Key: 9-2-197:51

The Planning Commission at its duly held public hearing on May 15, 1998, voted to approve the above-referenced application. Special Permit No. 1000 is hereby issued to establish a light industrial/commercial complex on 3.00 acres of land situated in the State Land Use Agricultural District. The property is located in the Hawaiian Ocean View Ranchos Subdivision on the south (makai) side of Mamalahoa Highway, approximately 800 feet west of its intersection with Kohala Boulevard and 1 mile west of the Ocean View commercial complex, Kahuku, Ka'u, Hawaii.

Approval of this request is based on the following:

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. In addition, 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.

MAY 2 8 1998

05081

The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the ALISH Map. The subject property is a vacant three acre parcel and not in agricultural use. The applicant proposes to establish a light industrial/commercial complex to include light industrial activities and related retail uses. Therefore, the nature of the proposed use will not have an adverse effect on the County's agricultural land inventory. It is, therefore, determined that the proposed use is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

The proposed request is not contrary to the General Plan. Although the General Plan for the area is designated Extensive Agricultural and the zoning is Agricultural (A-3a), the subject property is not used for agricultural activity. There is an area approximately one mile to the Kona side of the subject property that is designated Urban Expansion by the General Plan. This is in the vicinity of the Ocean View General Store where Special Permits have been issued along both sides of the Mamalahoa Highway. This area is identified as the "commercial center" for this area. While there are no commercial-zoned lands available in the Hawaiian Ocean View Estates area, a centralized area where commercial activity now exists has been identified along the Mamalahoa Highway through the establishment of Special Permits. Although the establishment of a light industrial/commercial complex would not take significant lands out of existing or potential agricultural use, it would be allowing "industrial-commercial activity" to take place within the subdivision.

The request is not contrary to the goals, policies and standards of the General Plan. The approval of the subject request would support the following goals of the General Plan:

**Economic Element:**

- \* Provide residents with opportunities to improve their quality of life.
- \* 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.

**Land Use Element:**

- \* Designate and allocate land uses in appropriate proportions and mix in keeping with the social, cultural, and physical environments of the County.

**Commercial Sub-element:**

- \* Provide for commercial developments that maximize convenience to users.
- \* Distribution of commercial areas shall be such as to best meet the demands of neighborhood, community and regional needs.

Industrial Sub-element:

- \* Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environments of the County.
- \* It shall be the policy of the County to achieve a broader diversification of local industries by providing opportunities for new industries and strengthening existing industries.
- \* Industrial development shall be located in areas adequately served by transportation, utilities, and other amenities. Redeveloping or newly developing areas shall be developed in concert with programmed public and privately funded infrastructure to meet the expected needs.

The desired use will not adversely affect surrounding properties. Surrounding lands are predominantly vacant with some scattered single-family residential uses. The proposed light industrial/commercial complex will be confined to the subject property, and the structures will not generate much visible impact from the Mamalahoa Highway. Therefore, the character of the property or its surrounding area will not be significantly altered. Possible noise generated by the activity is expected to be negligible, as the hours of operation will be limited to daytime hours. Proposed plans also indicate a planting buffer on the portion of the property fronting the easement. Therefore, the proposed use will not alter or change the essential character of the land and present use nor will it impact the surrounding area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The subject property is located off the Mamalahoa Highway on a 40-foot wide frontage road easement that connects this site to Kohala Boulevard. It is not anticipated that the proposed use will impact or burden public agencies given that the requested uses are intended to service the existing population. While County water supply is not available to support the proposed activity, the applicant states that potable water for the respective tenants would be provided through bottled water. All other essential utilities and facilities are available to support the proposed use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Due to the present economic situation, the County is experiencing an increase in requests to establish small businesses. According to the applicant, the trend appears to suggest that the Hawaiian Ocean View area will continue to grow, albeit slowly, as will the demand for services. Therefore, the requested uses would provide some of the needed light industrial and quasi-commercial services of the existing and future population.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The soil within the subject property is classified as "E" or Very Poor for agricultural productivity and unclassified by the ALISH Map. Furthermore, the Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

Based on these considerations, the approval of the Special Permit request to establish a light industrial/commercial complex would be supportive of 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, however, not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. The construction of the light industrial/commercial complex shall be established within five (5) years from the effective date of this permit. This time period shall include securing Final Plan Approval from the Planning Director for the construction of the complex. Plans shall identify structures, fire protection measures, parking stalls and driveway and other improvements associated with the proposed uses. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.
3. Any exterior signs shall meet with the approval of the Department of Public Works.
4. Access shall be from the road easement fronting the subject property. Access from the Mamalahoa Highway shall be prohibited.
5. The hours of operation shall be limited from 6 a.m. to 7 p.m.
6. The applicant shall comply with applicable laws, rules and regulations of State and County agencies for this proposed use.
7. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide, in writing, a final status report to the Planning Director.
8. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
9. 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, 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 Zoning Code.
- C. Granting of the time 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).

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 Phyllis Fujimoto of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman  
Planning Commission

LKuhne01.PC

cc: Mr. Steve Kuhnert  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Police Department  
Fire Department