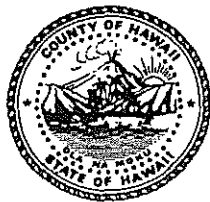


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
7000 0600 0024 2903 8414

AUG 14 2001

Robert D. Triantos, Esq.
Carlsmith Ball LLP
P. O. Box 1720
Kailua-Kona, HI 96745

Dear Mr. Triantos:

Special Permit Application (SPP 01-007)

Applicant: Michael B. Bell

Request: Establish a Gas Station, Mini Mart, Restroom, Self-Storage Facility
And Related Improvements

Tax Map Key: 9-2-093:047

The Planning Commission at its duly held public hearing on August 3, 2001, voted to approve the above-referenced application. Special Permit No. 1115 is hereby issued to allow the establishment of a gas station, mini mart, restroom, self-storage facility, and related improvements on approximately 1.880 acres of land in the State Land Use Agricultural District. The property is located in Hawaiian Ocean View Estates Subdivision, at the corner of the Hawaii Belt Road and Lotus Blossom Lane, Kahuku, Kau, 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 the 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

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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 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, whose soil consists of A'a lava, is a vacant 1.88-acre parcel that is not in agricultural use. Therefore, development of the subject property to accommodate a gas station/mini mart and self-storage complex will not have a significant adverse effect on the County's agricultural land inventory. It is determined that the proposed use is an unusual and reasonable use of lands situated 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's Land Use Pattern Allocation Guide (LUPAG) Map that defines the subject property and its immediately surrounding area for Urban Expansion uses. This Urban Expansion area is anchored by the Ocean View General Store that is located almost directly makai of the subject property. Special Permits for other types of urban uses have been issued along both sides of the Mamalahoa Highway. These uses include a post office, hardware store, and other types of commercial and industrial uses. This particular area of Hawaiian Ocean View Estates and Ranchos subdivisions 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 both the mauka and makai sides of the Mamalahoa Highway through the issuance of Special Permits. The applicant is proposing the development of this parcel into a gas station/mini-mart and self-storage complex that will serve the residents of Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos Subdivisions and compliment the various urban-type of uses already established within this small "commercial center".

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.

The desired use will not adversely affect surrounding properties. Surrounding lands are predominantly vacant with some scattered single-family residential uses. Furthermore, the subject property is bordered on three sides by existing roadways; Mamalahoa Highway to the southwest, Lotus Blossom Lane to the northwest and Keaka Parkway to the northeast. These roadways physically separate the subject property from other properties within this portion of Hawaiian Ocean View Estates subdivision, with the exception of the adjoining parcel to the southeast, which is currently vacant. According to plans submitted with the application, the proposed gas station/mini-mart facility will be situated about 185 feet from the adjoining property. At a distance of 185 feet, we anticipate that any noise generated at the gas station/mini-mart complex will be sufficiently mitigated and will not create a significant adverse impact upon the adjoining property. The proposed self-storage facility and its access way will be situated at least 30 feet from the adjoining property. With the installation of appropriate landscaping along the property boundaries and limiting all operations to the hours between 6:00 a.m. and 10:00 p.m., we feel that noise and visual impacts upon the adjoining property can be adequately mitigated and the character of the surrounding area will not be significantly altered.

The proposed development 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 from the Mamalahoa Highway will be provided by Lotus Blossom Lane, a privately maintained roadway having a pavement width of 20 feet within a 40-foot wide right of way. Lotus Blossom is of adequate width to accommodate traffic generated by the proposed uses. The State Department of Transportation (DOT) recommended that a left- and right-turn deceleration lanes and a street light be installed at the Mamalahoa Highway-Lotus Blossom Lane intersection. The applicant responded that the proposed project will not require the improvements

recommended by the State DOT. The applicant would prefer that a comprehensive traffic improvement plan be developed by the State DOT instead of placing the burden of providing roadway improvement solely upon the applicant. We agree with the applicant that the proposed project will not generate the type of traffic that would warrant the installation of deceleration lanes or a street light at the Mamalahoa Highway-Lotus Blossom Lane intersection. The imposition of these types of roadway improvements would place an undue financial burden upon the applicant. The proposed development does not directly access the Mamalahoa Highway and therefore, does not place a significant direct impact upon traffic flow at the Mamalahoa Highway-Lotus Blossom Lane intersection. While traffic at this intersection may probably increase due to the proposed project, one could also argue that traffic at this intersection may be reduced by providing service to the residents of Hawaiian Ocean View Estates and reducing the need for these residents to access the highway for these same services elsewhere. The Planning Department would like to note that only one left-turn storage lane within this particular stretch of the Mamalahoa Highway is located at the intersection of Prince Kuhio Boulevard, located approximately 450 feet to the northwest (Kona-side) of the subject property. This left turn storage lane was installed by the State DOT. We also agree with the applicant that a comprehensive traffic study for the area be conducted by the State DOT to determine the location and extent of roadway improvements that may be warranted instead of burdening a single applicant with improvements meant to resolve a more regional problem.

While County water supply is not available to support the proposed activity, the applicant states that potable and irrigation water to support the proposed uses would be provided through the construction of three water tanks that will serve the potable water and irrigation needs of the project. The means of wastewater disposal shall be in accordance with the requirements of the State Department of Health. The Fire and Police Departments had no objections to the request. 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. The project site and surrounding area are designated for agricultural uses by both State and County land use laws. However, the massive Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos subdivisions must still provide their residents with the basic necessities of life, such as accessibility to food, personal services and other commodities typically found within an established community. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services to provide its residents with a quality of life that many of our residents in urban communities may take for granted.

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. The property primarily consists of A'a lava, which is poorly suited for cultivation. 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.

It is further recommended that the request be approved with 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 gas station/mini-mart and self storage facility 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 facilities. Plans shall identify proposed structures, signage, 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 to the subject property shall be restricted to Lotus Blossom Lane. Access from the Mamalahoa Highway shall be prohibited.
5. The hours of operation shall be limited to the hours between 6 a.m. to 10 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 contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



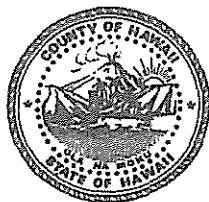
Geraldine M. Giffin, Chairman
Planning Commission

BellAppltr

Robert D. Triantos, Esq.
Page 7

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Kona Planning Office
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu

00308



County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

December 18, 2006

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

Dear Mr. Fuke:

Amendment to Special Permit No. 1115

Applicant: Burt Kamigaki

Tax Map Key: 9-2-93:47

The Planning Commission at its duly held public hearing on December 6, 2006, voted to approve the above-referenced request to amend Condition No. 6 (increase size of market from 15,600 square feet to 18,900 square feet) of Special Permit No. 1115, which allowed a full-sized market and a commercial retail and office building on 1.88 acres of land within the State Land Use Agricultural District. The property is located at the northeastern corner of State Highway 11 and Lotus Blossom Lane, Hawaiian Ocean View Estates Subdivision, Ka'u, Hawaii.

Approval of this request is based on the following:

The applicant is requesting an amendment to Special Permit No. 1115 to allow the inclusion of no more than 3,000 square feet for a mezzanine and 300 square feet for a mechanical equipment room to the 15,600 square foot market. Special Permit No. 1115 was approved by the Planning Commission on August 3, 2001, to allow the establishment of a gas station, mini mart, restroom, self-storage facility and related improvements on approximately 1.88 acres of land. Then applicant and landowner, Michael Bell, sold the property to the current landowner in September, 2004. As the proposed uses were never constructed, the current applicant/landowner requested a modification to the approved uses on the property to a) delete the proposed self-storage facility; b) convert the proposed 3,000-square foot mini mart into a 15,600-square foot market; c) construct a two-story 5,760-square foot building for commercial office and retail space to include prospective tenants such as a real estate office, financial institution, restaurant, video rental, personal services (hair stylists), tourist shop and other uses; and d) retain the

proposed gas station. This amendment to the permit was approved by the Planning Commission on June 17, 2005 subject to Condition No. 6 which limited the square footage of the proposed market to 15,600 square feet.

The applicant's intent was to include a mezzanine within the basic structure for support uses such as office space. However, plans submitted during the June 2005 amendment reflected only the footprint and elevation of the 15,600-square foot structure. The applicant was under the mistaken impression that the 15,600-square foot limit applied only to the basic market and excluded support areas such as the mezzanine and mechanical equipment room. During Plan Approval, the applicant learned that the mezzanine and mechanical equipment room are considered part of the basic floor area, and could not be included without exceeding the 15,600 square foot limit.

As such, the applicant requests the amendment to Condition No. 6 to allow the inclusion of approximately 3,000 square feet for the mezzanine and 300 square feet for the mechanical equipment room to the basic 15,600-square foot market.

Approval of this request would not be contrary to the General Plan or the Zoning Code or the original reasons for granting the Special Permit. Special Permit No. 1115 was approved by the Planning Commission on August 3, 2001 to allow the establishment of a gas station, mini mart, restroom, self-storage facility, and related improvements on approximately 1.88 acres of land. As the proposed uses were never constructed, the current applicant/landowner has requested a modification to the approved uses on the property.

The property is located on lands designated State Land Use Agricultural and zoned A-1a. The General Plan LUPAG Map designates the property as Urban Expansion Area. Soils on the property are unclassified by the ALISH map, and the Land Study Bureau's Soil Rating for the property is "E" or "Very Poor" for agricultural activity.

Approval of this amendment request would not be contrary to the original reasons for granting the Special Permit. The expansion of the mini-mart will not significantly affect the agricultural resources of the area, and the uses will still be confined to the existing retail market. No active agricultural lands will be taken out of production to include the proposed mezzanine and mechanical equipment room. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social, or other impacts that this proposed use may have on surrounding properties. While there are no commercial-zoned lands in the Hawaiian Ocean View Estates area, a centralized commercial area has been established along both sides of the Hawaii Belt Highway through the issuance of Special Permits. These commercial uses include a post office, hardware store, and other commercial and industrial uses. This particular area of the Hawaiian Ocean View Estates and Ranchos subdivisions is identified as the

"commercial center." The applicant will still be required to comply with all other existing conditions within Special Permit No. 1115, including Condition No. 13 requiring the submission of a Traffic Impact Analysis Report (TIAR) approved by the Department of Transportation. As such, an amendment to Condition No. 13 will be added to require the applicant to obtain approval of the TIAR prior to Final Plan Approval and construct the improvements before a Certificate of Occupancy is issued for any of the proposed development.

Based on the above, the request to amend Special Permit No. 1115 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. The Planning Director recommends that Condition Nos. 6 and 13 of Special Permit No. 1115 be amended as follows: (Material to be deleted is bracketed; material to be added is underscored):

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. The construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of the Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.
3. Any exterior signs shall meet with the approval of the Department of Public Works.
4. Access to the subject property shall be restricted to Lotus Blossom Lane. Access from the Hawaii Belt Highway shall be prohibited.
5. The hours of operation shall be limited to the hours between 6 a.m. to 10 p.m. daily.
6. The total square footage of the market facility shall not exceed [~~15,600~~] 18,900 square feet to include the mezzanine and mechanical equipment room and the two-story building proposed for commercial and retail use shall not exceed 5,760 square feet in size. Both structures shall not exceed 26 feet in height.

7. All parking shall be on-site.
8. A drainage study of the property, if required, shall be prepared by the applicant and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
9. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties.
10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
11. 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.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied.
13. A Traffic Impact Analysis Report (TIAR) shall be submitted for the review and approval by the State Department of Transportation prior to Final Plan Approval. The applicant shall construct improvements to Highway 11 at the intersection of Lotus Blossom Lane as shown to be necessary by the TIAR and required by the State Department of Transportation prior to the issuance of a Certificate of Occupancy for any of the proposed development.
14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

15. 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.
16. 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.
17. An 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.


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

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

Mr. Sidney Fuke
Page 6

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288, ext. 205.

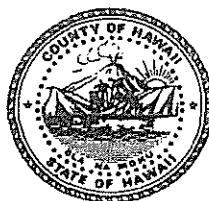
Sincerely,



C. Kimō Alameda, Chairman
Planning Commission

Lkamigakispp1115PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Department of Land & Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu



County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720

Phone (808) 961-8288 • Fax (808) 961-8742

July 5, 2005

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

Dear Mr. Fuke:

Amendment to Special Permit No. 1115 (SPP 1115)

Applicant: Burt Kamigaki (formerly Michael Bell)

Request: Increase Size of Market to 15,600 SF; Delete Self-Storage Use & Replace
w/2-Story, 5,760 SF Structure for Commercial Office & Retail Space

Tax Map Key: 9-2-93:47

The Planning Commission at its duly held public hearing on June 17, 2005, voted to approve the above-referenced request to amend Special Permit No. 1115 previously granted to Michael Bell for a gas station, 3,000-square foot mini mart, self-storage facility, and related improvements. The request is to 1) delete the self-storage facility; 2) change the mini mart to a 15,600 square foot market facility; and 3) construct a 2-story, 5,760 square foot structure for a commercial retail and office use. The gas station will be retained. The property is located on 1.88 acres of land situated within the State Land Use Agricultural District at the corner of Hawaii Belt Road (Highway 11) and Lotus Blossom Lane, Hawaiian Ocean View Estates Subdivision, Kahuku, Kau, Hawaii.

Approval of this request is based on the following:

The applicant is requesting an amendment to Special Permit No. 1115 to:

- delete the proposed self-storage facility.
- convert the proposed 3,000-square foot mini mart into a 15,600-square foot market.

- construct a two-story 5,760-square foot building for commercial office and retail space. Prospective tenants include a real estate office, financial institution, restaurant, video rental, personal services (hair stylists), tourist shop, and other uses.
- retain the proposed gas station.

The project cost is estimated at approximately \$3.5 million.

Approval of this request would not be contrary to the General Plan or the Zoning Code nor the original reasons for granting the Special Permit. Special Permit No. 1115 was approved by the Planning Commission on August 3, 2001 to allow the establishment of a gas station, mini mart, restroom, self-storage facility, and related improvements on approximately 1.88 acres of land. Former applicant and landowner Michael Bell sold the property to the current landowner in September, 2004. As the proposed uses were never constructed, the current applicant/landowner has requested a modification to the approved uses on the property.

The property is located on lands designated State Land Use Agricultural and zoned A-1a. The General Plan LUPAG Map designates the property as Urban Expansion Area. Soils on the property are unclassified by the ALISH map, and the Land Study Bureau's Soil Rating for the property is "E" or "Very Poor" for agricultural activity.

Approval of this amendment request would not be contrary to the original reasons for granting the Special Permit. The proposed facility with its various commercial establishments will serve the growing population of the Ocean View area of Ka'u as well as the South Kona district. The expansion of the mini-mart and the construction of a 5,760-square foot building will not significantly affect the agricultural resources of the area, and the uses will still be confined to the proposed structures. No active agricultural lands will be taken out of production to establish the uses. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social, or other impacts that this proposed use may have on surrounding properties. While there are no commercial-zoned lands in the Hawaiian Ocean View Estates area, a centralized commercial area has been established along both sides of the Hawaii Belt Highway through the issuance of Special Permits. These commercial uses include a post office, hardware store, and other commercial and industrial uses. This particular area of the Hawaiian Ocean View Estates and Ranchos subdivisions is identified as the "commercial center." County water is not available to the site, but the applicant will provide potable and irrigation water to support the proposed uses through the construction of three water tanks. The applicant also proposes to install a septic system for the project. All other essential utilities are available to the site. Access will be from Lotus Blossom Lane; no

access shall be allowed from the Hawaii Belt Highway. The applicant will still be required to comply with all other existing conditions within Special Permit No. 1115.

Based on the above, the request to amend Special Permit No. 1115 would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. The current conditions in Special Permit No. 1115 are amended as follows: (Material to be deleted is bracketed; material to be added is underscored):

1. The applicant, successors or assigns shall [~~be responsible for complying~~] comply with all of the stated conditions of approval.
2. The construction of the [~~gas station/mini-mart and self storage facility~~] proposed development shall be [~~established~~] completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure [~~This time period shall include securing~~] Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code [~~for the construction of the facilities~~]. Plans shall identify all existing and proposed structures, paved driveway access and parking stalls associated with the proposed development [~~signage, 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 in accordance with the requirements of the Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.
3. Any exterior signs shall meet with the approval of the Department of Public Works.
4. Access to the subject property shall be restricted to Lotus Blossom Lane. Access from the [~~Mamalahoa~~] Hawaii Belt Highway shall be prohibited.
5. The hours of operation shall be limited to the hours between 6 a.m. to 10 p.m. daily.
6. The total square footage of the market facility shall not exceed 15,600 square feet and the two-story building proposed for commercial and retail use shall not exceed 5,760 square feet in size. Both structures shall not exceed 26 feet in height.
7. All parking shall be on-site.

8. A drainage study of the property, if required, shall be prepared by the applicant and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
9. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties.
10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
11. 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.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied.
13. A Traffic Impact Analysis Report (TIAR) shall be submitted for the review and approval by the State Department of Transportation. The applicant shall construct improvements to Highway 11 at the intersection of Lotus Blossom Lane as shown to be necessary by the TIAR and required by the State Department of Transportation.
- [6.]14. The applicant shall comply with all applicable County, State and Federal laws, rules, [and] regulations [of State and County agencies for this proposed use] and requirements.
- [7.]15. 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.]16. 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.]17. 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.

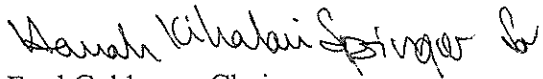
Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

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. Sidney Fuke
Page 6

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lkamigakispp1115pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department-Kona
State Land Use Commission
Department of Land & Natural Resources-HPD/Kona
Rodney Haraga, Director/DOT-Highways, Honolulu