



County of Hawai'i

WINDWARD PLANNING COMMISSION

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

"AUG 15 2012"

George and Shaleen Curlee
P.O. Box 1586
Kea'au, HI 96749

Dear Mr. and Mrs. Curlee:

Special Permit No. 1139 (PD Docket No. 01-000031)

Applicant: George and Shaleen Curlee

Request: Amend Condition No. 2 By Requesting a 10-Year Time Extension

To the Life of the Permit Or to Delete the Life of Permit Limitation

Tax Map Key: 1-5-041:190

The Windward Planning Commission, at its duly held public hearing on August 2, 2012, voted to approve the above-referenced request for an amendment to Condition No. 2 (life of permit) of Special Permit No. 1139, which allowed the establishment of an auto repair shop and towing service operation on 4,421 square feet of land situated in the State Land Use Agricultural District. The applicant is requesting a 10-year time extension to the life of the permit or to delete Condition No. 2. The property is located on the makai side of 19th Avenue just south of the intersection with Paradise Drive, Hawaiian Paradise Park Subdivision, Kea'au, Puna, Hawai'i.

Approval of the request is based on the following:

The applicants have submitted an amendment request for a 10-year time extension to or the deletion of Condition No. 2 of Special Permit No. 1139, which allowed the establishment of an auto repair shop and towing service operation on 4,421 square feet of a one acre parcel situated in the Hawaiian Paradise Park Subdivision on the southeast corner of Paradise Drive and 19th Avenue. There is an existing agricultural storage building where the auto repairs are being conducted. Special Permit No. 1139 was approved with a 5-year permit life (Condition No. 2). On May 18, 2007 the Planning Commission granted a 5-year time extension to Condition 2 of the permit. Five years

have passed and the applicants would like to continue operating their business for an additional 10 years or to have Condition No. 2 deleted so that they can operate indefinitely. There have been no suitable industrial zoned lands that have become available within the Hawaiian Paradise Park Subdivision since this application was approved.

The Planning Department continues to encourage landowners or applicants with light industrial uses to locate in an Industrial zoned district or to file for a change of zone request for such development. In this case, however, upon reviewing the circumstances of the request where the primary service area is within the immediate vicinity and where no suitable industrial zoned lands have become available in the area, the Planning Department supports the approval of the 10-year time extension request with the continued condition that the applicants will be required to relocate the business if suitable industrial zoned lands become available for use within the subdivision within the 10-year time period. The Planning Department does not support the request to delete Condition No.2, as this would create a permanent light industrial use in this rural area.

Granting of the time extension request would not be contrary to the original reasons for the granting of the permit. The use would continue to be 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 land upon which the existing use is sought is unsuited for the uses permitted within the district. It is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. The use will not adversely affect surrounding properties. The applicants have planted a thick landscaping buffer to help minimize impacts to surrounding properties and the roadways. With the installation of the appropriate landscaping along the property boundaries and limited business hours, noise and visual impacts upon the adjoining properties can continue to be adequately mitigated. Since the approval of the Special Permit, the Planning Department has not received any complaints regarding the operation. Lastly, the continued operation will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection.

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to Condition No. 2 would not be contrary to the General Plan or the Zoning Code. The request would be consistent with the Land Use Element of the General Plan, which states "Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." The granting of this request at this particular location will provide a convenient service to the growing community.

The Puna Community Development Plan (PCDP) was adopted in 2008, after the previous time extension was granted by the Planning Commission. The PCDP recommends that repair shops and other light industrial land uses should be located in the Regional Town Centers, such as the one identified in the PCDP that is located along Kaloli Drive between 24th and 26th Avenues. This Regional Town Center consists of two 20-acre parcels, one of which is owned by the original subdivider and the other is owned by Paradise Hui Hanalike. Neither landowner has plans to develop these parcels in the near future. Thus, it would be reasonable to grant a 10-year time extension to the life of the permit. This would allow the applicants to continue to operate their business on the subject property, while preserving the Planning Commission's ability to implement the intent of the PCDP should the Regional Town Center become developed within the next ten years.

The Planning Director recommends the deletion or amendment of conditions related to Plan Approval, a Solid Waste Management Plan and Annual Reporting since the applicants have already fulfilled these conditions.

Based on the above, the life of Special Permit No. 1139 is extended for ten years. Approval of this amendment request is subject to the following conditions (new material is underscored and deleted material is bracketed and struck through):

1. The applicants shall be responsible for complying with all of the stated conditions of approval.
2. The life of the permit for the auto repair shop and towing service operation shall be for [~~five (5)~~] ten (10) years from the effective date of this [~~permit~~] amendment, or [~~5~~] after suitably industrial zoned lands become available for use within the subdivision, within a reasonable time to relocate, whichever occurs first.
3. The auto repair and towing service operation shall be conducted in substantial conformance with representations made in the application.
4. All repairs and services provided on vehicles shall be conducted entirely within the existing storage building.
5. The maximum number of vehicles parked on the subject property shall be limited to eight (8) at any given time.
6. [~~Final Plan Approval for the operation shall be secured from the Planning Director within six (6) months from the effective date of this permit in accordance with the Zoning Code. Plans shall identify the existing structures, lighting, signage, fire protection measures, parking stalls, driveway and other improvements associated~~]

~~with the use.]~~ 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. Landscaping shall be established and maintained at a minimum height of ten (10) feet and minimum depth of four (4) feet within and along the property boundaries. Native species from the area shall be used when possible.

7. Any exterior signs shall meet with the approval of the Department of Public Works.
8. The hours of operation shall be limited to the hours between 9:00 a.m. to 5:00 p.m., Monday through Friday.
9. The applicants shall collect and dispose of waste oil, batteries, tires, etc., in accordance with all applicable government regulations.

~~[10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval within six (6) months from the effective date of this amendment.]~~

~~[11.]~~10. The applicants shall comply with all applicable laws, rules and regulations of the State and County agencies for the existing use.

~~[12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the special permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.]~~

~~[13.]~~11. If the applicants fail 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 applicants have 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.

~~[14.]~~12. If the applicants should require an additional extension of time, the applicants shall submit their request to the Planning Commission for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

George and Shaleen Curlee
Page 5

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 Daryn Arai of the Planning Department at 961-8288.

Sincerely,

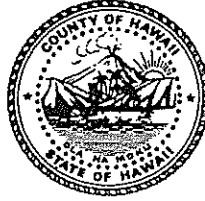


Zendo Kern, Chairman
Windward Planning Commission

Lcurleespp1139wpc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Mr. Gilbert Bailado

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 2904 9632

MAR 15 2002

George and Shaleen Curlee
P.O. Box 1586
Keaau, HI 96749-1586

Dear Mr. and Mrs. Curlee:

Special Permit Application (SPP 01-031)

Applicant: George and Shaleen Curlee

Request: Establishment of an Auto Repair Shop and Towing Service

Tax Map Key: 1-5-41:190

The Planning Commission at its duly held public hearing on February 15, 2002, voted to approve the above-referenced application. Special Permit No. 1139 is hereby issued to establish an auto repair shop and towing service operation on 4,421 square feet of land situated in the State Land Use Agricultural District. The property is located in Hawaiian Paradise Park Subdivision, at the east corner of Paradise Drive and 19th Street, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The Planning Commission would ordinarily encourage landowners or applicants with light industrial uses to locate in an Industrial zoned district or to file for a change of zone request for such development. In this case, however, upon reviewing the circumstances of the request to legitimize an existing auto repair shop and towing service operation and where its primary service area is within the immediate vicinity, the Planning Commission supports an approval of this Special Permit with a limited life.

The applicants are applying for a special permit to legitimize a family-run auto repair shop and towing service operation on 4,421 square feet of a 1.00 acre parcel. There is an existing storage building that was constructed in 1999 where the auto repairs

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MAR 15 2002

are being conducted. The Planning Director issued a letter dated July 23, 2001 citing the applicants with an alleged zoning violation regarding the operation of an Auto Repair, Towing and Welding Business in an Agricultural District on the subject property. Subsequently, the applicants submitted the special permit application to the Planning Department.

The existing 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 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 existing use is located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The property consists of Lava flows, pahoehoe. Although the agricultural storage building was constructed in 1999, there is no agricultural activity occurring within the building. The auto repair operation will be conducted entirely within the existing storage building. Parking or storage of vehicles will be along the sides and rear of this building. Since the existing operation will involve only 4,421 square feet of land area, it will not significantly deplete the County of Hawaii's agricultural resources. Therefore, the existing 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 granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. Given the fact that the property has been previously cleared and developed, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. There is no designated public access to the mountain areas nor to the shoreline over the property. The project site is located about 2 miles from the nearest shoreline and is in close proximity to an existing mix of agricultural, residential-based and vacant lands. The existing operation will not impact any recreational resources, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Therefore, the approval of

the subject request shall not be contrary to the objectives and policies of the Coastal Zone Management Program.

The 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 Orchards. The use is consistent with the following goals and policies 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.
- The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Land Use - Industrial Element:

- Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environments of the County.
- Industrial activities may be located close to raw materials or key resources.

The desired use will not adversely affect surrounding properties. Immediate surrounding lands are predominantly vacant with some scattered single-family residential uses. There is a dwelling, water tank and storage building on the subject property. Auto repairs, consisting of motor tune-ups, R/R of motor from vehicles, brake repairs, R/R clutch from vehicles and minor welding and fabrication, will be conducted entirely within the existing storage building. Parking or storage of vehicles will be located along the sides and rear of this building. Hours of operation will be from Monday through Friday, 9:00 a.m to 5:00 p.m. To minimize the visual impact, the applicants have stated that a total of no more than eight (8) vehicles will be parked or stored on the property at any

given time. This restriction will be included as a condition of approval. In addition, the applicants have recently planted palm trees along the property boundaries to minimize the visual impacts of the operation. The applicants, however, shall submit a landscaping plan, which may require additional planting, in conjunction with plans submitted for Plan Approval. As a condition of approval, the applicants have agreed to the Hawaiian Paradise Park Owners Association Board of Directors' requirement that landscaping be established and maintained at a minimum height of 10 feet and a minimum depth of 4 feet within their property along the property lines. With the installation of appropriate landscaping along the property boundaries and limited business hours, noise and visual impacts upon the adjoining properties can be adequately mitigated and the character of the surrounding area will not be significantly altered. Furthermore, concerns of adjoining and nearby owners regarding signage and disposition of waste material will be incorporated as conditions of approval. Finally, the Hawaiian Paradise Park Owners Association's Board of Directors and numerous other Puna residents have submitted letters of support for the existing use.

The existing operation will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Primary access to the subject property is from the Keaau-Pahoa Road, a two-lane state highway with a 100-foot right-of-way. This parcel is located on the corner of Paradise Drive, a paved 20-foot wide road, and 19th Street, a 19-foot wide red cinder/gravel road. Since County water is not available, the applicants have been utilizing a water tank. Wastewater is disposed into an existing cesspool. Fire services are available at the Hawaiian Paradise Park Subdivision's volunteer fire station less than a mile away. Police services are located approximately 8 miles away in Pahoa. All other essential utilities and facilities are available to support the existing use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The project site and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services and uses that benefit its residents. The subject property is located in Hawaiian Paradise Park Subdivision, with frontage along Paradise Drive and 19th Street. While there are no commercial and industrial-zoned lands available in the immediate area, approvals for uses other than agricultural have been approved through the Special Permit process. Ideally, relocation to an area of industrial-zoned lands would be more appropriate for auto repair and towing and related activities. However, this is a small family-run business and the nearest industrially zoned land is approximately 8.5 miles away at the Shipman Industrial Park in Keaau. Further, the Hawaiian Paradise Park Community Master Plan has been adopted by the County Council by Resolution 184-97, which included a land use concept map identifying a light industrial area of approximately 20 acres on Kaloli Drive and 14th Avenue. The subject property is about a mile from this proposed industrial area. The

Planning Commission and Planning Director have endorsed this area by proposing that the General Plan for this site be redesignated from Orchards to Light Industrial. Although these lands are another source for industrial activity, approval of land use changes must still be approved by the County Council. In light of this pending action, a period of five (5) years should be adequate time to plan and relocate to appropriate industrial based lands. Therefore, a condition shall be included to limit the life of the permit to 5 years or upon new industrial zoned lands becoming available within the Hawaiian Paradise Park Subdivision, with a reasonable period to effect the relocation, whichever occurs first.

The land upon which the existing 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 Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The property primarily consists of Lava flows, pahoehoe. In addition, 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 above considerations, the approval of the Special Permit request to legitimize the auto repair shop and towing service operation with a limited life of five (5) years 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 these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicants shall be responsible for complying with all of the stated conditions of approval.
2. The life of the permit for the auto repair shop and towing service operation shall be for five (5) years from the effective date of this permit, or, after suitably industrial zoned lands become available for use within the subdivision within a reasonable time to relocate, whichever occurs first.
3. The auto repair and towing service operation shall be conducted in substantial conformance with representations made in the application.
4. All repairs and services provided on vehicles shall be conducted entirely within the existing storage building.

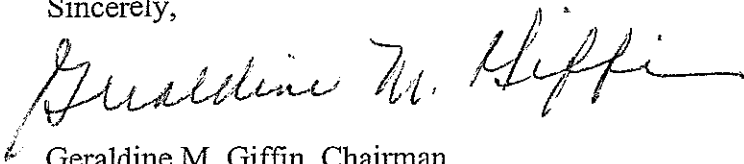
5. The maximum number of vehicles parked on the subject property shall be limited to eight (8) at any given time.
6. Final Plan Approval for the operation shall be secured from the Planning Director within six (6) months from the effective date of this permit in accordance with the Zoning Code. Plans shall identify the existing structures, lighting, signage, fire protection measures, parking stalls, driveway and other improvements associated with the use. 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. Landscaping shall be established and maintained at a minimum height of ten (10) feet and minimum depth of four (4) feet within and along the property boundaries. Native species from the area shall be used when possible.
7. Any exterior signs shall meet with the approval of the Department of Public Works.
8. The hours of operation shall be limited to the hours between 9:00 a.m. to 5:00 p.m., Monday through Friday.
9. The applicants shall collect and dispose of waste oil, batteries, tires, etc., in accordance with all applicable government regulations.
10. The applicants shall comply with all applicable laws, rules and regulations of the State and County agencies for the existing use.
11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the special permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
12. If the applicants fail 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 applicants have 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.

13. An initial extension of time for the performance of conditions, with the exception of Condition No. 2, 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 applicants, 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 of the Planning Department at 961-8288.

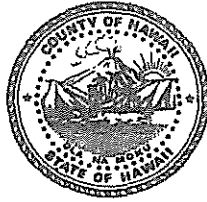
Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lcurlee01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu
Mr. Mark Mungo
Mr. Jeffrey Darrow



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

May 18, 2007

George and Shaleen Curlee
15-1505 Paradise Drive
Keaau, HI 96749-1586

Dear Mr. and Mrs. Curlee:

Amendment to Condition No. 2 of Special Permit No. 1139
Applicant: George and Shaleen Curlee
Tax Map Key: 1-5-41:190

The Planning Commission at its duly held public hearing on May 4, 2007, voted to approve the above-referenced request for an amendment to Condition No. 2 (life of permit) of Special Permit No. 1139 which allowed an automobile repair shop and towing service on approximately 4,421 square feet of land in the State Land Use Agricultural district. The property is located on the eastern corner of Paradise Drive and 19th Street in the Hawaiian Paradise Park Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicants are applying for a 5-year time extension to amend Condition No. 2 of Special Permit No. 1139, which was approved on February 15, 2002, to allow the establishment of an auto repair shop and towing service operation on 4,421 square feet of a 1-acre parcel situated within the Hawaiian Paradise Park Subdivision on the east corner of Paradise Drive and 19th Street. There is an existing storage building that was constructed in 1999 where the auto repairs are being conducted. Special Permit No. 1139 was approved with a 5-year permit life (Condition No. 2). Five years has passed and the applicants would like to continue operating their business for an additional 5 years or to have Condition No. 2 deleted. There have been no suitable industrial zoned lands that have become available within the Hawaiian Paradise Park Subdivision since this application was approved.

The Planning Department continues to encourage landowners or applicants with light industrial uses to locate in an Industrial zoned district or to file for a change of zone

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request for such development. In this case, however, upon reviewing the circumstances of the request where the primary service area is within the immediate vicinity and where no suitable industrial zoned lands have become available in the area, the Planning Department supports the approval of the 5-year time extension request with the continued condition that the applicants will be required to relocate the business if suitable industrial zoned lands become available for use within the subdivision within the 5-year time period. The Planning Department does not support the request to delete Condition No. 2, as this would create a permanent light industrial use in this rural area.

Granting of the time extension request would not be contrary to the original reasons for the granting of the permit. The use would continue to be 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 land upon which the existing use is sought is unsuited for the uses permitted within the district. It is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The use will not adversely affect surrounding properties. The applicants have planted a thick landscaping buffer to help minimize impacts to surrounding properties and the roadways. With the installation of the appropriate landscaping along the property boundaries and limited business hours, noise and visual impacts upon the adjoining properties can continue to be adequately mitigated. Since the approval of the Special Permit, the Planning Department has not received any complaints regarding the operation. Lastly, the continued operation will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection.

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to Condition No. 2 would not be contrary to the General Plan or the Zoning Code. The request would be consistent with the Land Use Element of the General Plan, which states "Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." The granting of this request at this particular location will provide a convenient service to the growing community while maintaining the rural character of the area. Additionally, the applicants have previously received approval of a Special Permit to operate for an auto repair shop and towing service operation for a 5-year time period, in compliance with the Zoning Code.

Based on the above, the 5-year time extension request to Condition No. 2 of Special Permit No. 1139 is approved. Approval of this amendment request is subject to the following conditions (new material is underscored and deleted material is bracketed and struck through):

1. The applicants shall be responsible for complying with all of the stated conditions of approval.

2. The life of the permit for the auto repair shop and towing service operation shall be for five (5) years from the effective date of this [~~permit~~] amendment, or after suitably industrial zoned lands become available for use within the subdivision, within a reasonable time to relocate, whichever occurs first.
3. The auto repair and towing service operation shall be conducted in substantial conformance with representations made in the application.
4. All repairs and services provided on vehicles shall be conducted entirely within the existing storage building.
5. The maximum number of vehicles parked on the subject property shall be limited to eight (8) at any given time.
6. Final Plan Approval for the operation shall be secured from the Planning Director within six (6) months from the effective date of this permit in accordance with the Zoning Code. Plans shall identify the existing structures, lighting, signage, fire protection measures, parking stalls, driveway and other improvements associated with the use. 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. Landscaping shall be established and maintained at a minimum height of ten (10) feet and minimum depth of four (4) feet within and along the property boundaries. Native species from the area shall be used when possible.
7. Any exterior signs shall meet with the approval of the Department of Public Works.
8. The hours of operation shall be limited to the hours between 9:00 a.m. to 5:00 p.m., Monday through Friday.
9. The applicants shall collect and dispose of waste oil, batteries, tires, etc., in accordance with all applicable government regulations.
10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval within six (6) months from the effective date of this amendment.
- [10]11. The applicants shall comply with all applicable laws, rules and regulations of the State and County agencies for the existing use.

[11]12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the special permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

[12]13. If the applicants fail 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 applicants have 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.

[13]14. ~~[An initial extension of time for the performance of conditions, with the exception of Condition No. 2, 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 applicants, 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). If the applicants should require an additional extension of time, the applicants shall submit their request to the Planning Commission for appropriate action.~~

Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the 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.

George and Shaleen Curlee

Page 5

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288, x205.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Graham", followed by the word "for" written in a cursive style.

William Graham, Chairman
Planning Commission

Lcurlecamendment01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
DOT-Highways, Honolulu
Department of Environmental Management