

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. Douglas W. Knight
P.O. Box 1138
Kurtistown, HI 96760-1138

Dear Mr. Knight:

Special Permit Application (SPP 05-010)
Applicant: Douglas W. Knight
Request: Automobile Repair Establishment
Tax Map Key: 1-3-25:41

The Planning Commission at its duly held public hearing on July 1, 2005, voted to approve the above-referenced application to allow the establishment of an automobile repair establishment on 0.25 acre of land situated in the State Land Use Agricultural District. The property is located along the south side of Malama Street, approximately 408 feet east of the Malama Street-Kahukai Street intersection, Leilani Estates Subdivision, Keahialaka, Puna, Hawaii.

Approval of this request is based on the following:

The applicant, Douglas W. Knight, is requesting to legitimize an existing auto repair establishment on Malama Street in Leilani Estates Subdivision. The applicant will utilize an existing 1-bedroom/1 bath single family dwelling for office and storage use for the automobile repair business. The applicant proposes to create three (3) bay areas to perform auto repair using an existing concrete slab and a tarpaulin tent for cover. Repair services will include, but not be limited to, brake, transmission and engine repair, tune-ups, engine performance and engine component conversions and upgrades. Hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The use will generate approximately 8 to 12 trips per day on Malama Street, including both customer and employee traffic. The applicant resides on the parcel located next to the subject property.

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. The State Land Use Law and

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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. 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.

The land on which the existing use is located is classified as "D" or 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 subject property has been developed with a dwelling with sufficient landscaping planted to buffer existing neighbors. Given the fact that the subject property has been improved with a dwelling and the use will be conducted as part of the structure, it is not anticipated that the auto repair establishment will displace any agricultural activity or diminish the agricultural potential of the area. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to Coastal Zone Management Program (CZMP). Given the fact that the portion of the property for the proposed use has been 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 or to the shoreline over the property. The project site is located more than 4 miles from the nearest shoreline and is in close proximity to an existing mix of agricultural, residential-based and vacant lands. The development 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 desired use will not adversely affect surrounding properties. Immediate surrounding lands are predominantly vacant with some scattered single-family residential uses. The applicant and spouse will operate the business. Hours of daily operation will be from Monday through Friday from 8:00 a.m. to 5:00 p.m. A condition shall be included that all equipment and supplies shall be stored within the structure. Further, all cars shall be parked on site in a designated parking area, outside of the side yard setback area to minimize impacts to the adjacent property owners. Landscaping requirements will be added to buffer visual and noise impacts to surrounding neighbors. Although concerns regarding the establishment of an automobile repair were expressed by two landowners that own property near the subject property, appropriate conditions to minimize impacts to surrounding property owners should alleviate their concerns. Due to the limited nature

of the auto repair services and the scale of the services, it is not anticipated that the use will adversely impact surrounding properties. A condition will also be added limiting the life of the permit to five (5) years or to require the applicant to relocate to commercial/industrial zoned lands becoming available within a five mile radius, which includes Pahoa Town, with a reasonable period to effect the relocation, whichever occurs first. This will allow an opportunity for surrounding property owners to express concerns regarding the use in the future and to reevaluate available areas for relocation.

The establishment of an auto repair shop will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. Access to the project site is from Malama Street, which is a private road that has 20-foot cinder roadway within a 40-foot wide right-of-way. Water is available via a water catchment system. Wastewater disposal shall be provided via a cesspool. Police and Fire services are located in Pahoa a little less than 3 miles away. All other essential utilities and facilities are available to support the auto repair shop.

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 Leilani Estates Subdivision. 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. The closest commercial/industrial zoned lands are located in Pahoa Town approximately 3 miles away. Ideally, relocation to commercial or industrial-zoned lands would be more appropriate for an auto repair shop and related activities. However, the applicant has made attempts and has been unable to relocate to a commercial or industrial in the Pahoa area.

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 "D" or Poor for agricultural productivity and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The applicant has been operating the auto repair business since 1999 on the subject property. 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.

The proposed use will not substantially alter or change the essential character of the land and the present use. In this case, the request will not substantially alter or change the essential character of the land and the present use because the property has already been developed with a single-family dwelling and the applicant will utilize the structure for the automobile repair establishment. The proposed request will utilize only a .25-acre portion of a 1-acre parcel. The remainder of the property will be kept in its natural state. Under Rule 6 and H.R.S. sec. 205-6, the ultimate issue in deciding a special permit is whether the use is an "unusual and reasonable" use of the property. In making this

decision, the Commission must consider the seven listed criteria in Rule 6.3(b)(5)(A-G). The proposed use does not have to meet all of the listed criteria in order to be approved as long as the Commission finds, on balance, that the proposal is "unusual and reasonable". Given the fact that the subject portion of the property has been developed with an existing structure, and the remainder of the property will remain untouched, this request is considered an "unusual and reasonable" use of land within the agricultural district that will not substantially change the essential character of the land and its present use.

The request is not contrary to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map that defines the subject property and immediately surrounding area for Rural. 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 and policies of the General Plan:

Economic Element:

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, 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.
- 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, the approval of the Special Permit request to legitimize an existing auto repair shop 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:

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. The life of the permit for the auto repair establishment shall be for five (5) years from the effective date of this permit or upon commercial/industrial zoned lands becoming available within a five (5) mile radius, whichever occurs first. The applicant shall have a reasonable time period to effect the relocation if

commercial or industrial zoned lands become available within the five (5) year period.

3. Final Plan Approval from the Planning Director shall be secured within one year from the effective date of this permit in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, driveway access and the amount of 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 that may be caused by the proposed auto repair operation, in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Landscaping for the area covered by the special permit shall follow the standards applicable to light industrial zones that abut residential zones and be located in proximity to the proposed auto repair operation.
4. The auto repair establishment shall be conducted in substantial conformance with representations made in the application.
5. No tarpaulin tents can be used for cover. The applicant shall construct a permanent structure to be placed over the work area.
6. No further subleasing of the property shall occur for auto repair or other business-related activities.
7. All repairs and services provided on vehicles shall be conducted entirely within the designated work area.
8. All equipment and supplies shall be stored within the existing structure.
9. All vehicles shall be parked on the subject property outside of the 20-foot side yard setbacks.
10. Only one (1) additional employee will be allowed in addition to the family members. No additional employees will be permitted.
11. The hours of operation for the auto repair shop shall be limited from 8:00 a.m. to 5:00 p.m., Monday through Friday.
12. The maximum number of vehicles parked on the subject property shall be limited to eight (8) at any given time.
13. The applicant shall collect and dispose of waste oil, batteries, tires, etc., in accordance with all applicable government regulations.

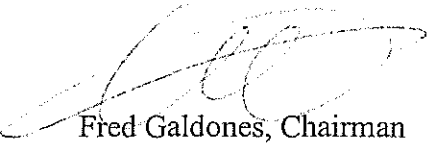
14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
15. An initial extension of time for the performance of conditions, with the exception of Condition No. 2, within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the 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 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.

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

Sincerely,



Fred Galdones, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Rodney Haraga, Director/DOT-Highways, Honolulu
Mr. Brian Nishimura