

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 13, 2005

Verne and Lynn Wood
2405 Kalaniana'ole Avenue, # 207
Hilo, HI 96720

Dear Mr. and Mrs. Wood:

Special Permit Application (SPP 05-018)

Applicant: Verne and Lynn Wood

Request: Establish Contractor's Warehouse and Baseyard to Facilitate
Construction and Servicing of Water Catchment Systems

Tax Map Key: 1-5-16:167

The Planning Commission at its duly held public hearing on December 2, 2005, voted to approve the above-referenced application to allow a contractor's warehouse and baseyard to facilitate the construction and servicing of water catchment systems on 40,075 square feet of land situated within the State Land Use Agricultural District. The property is located between 33rd Street and Highway 130 (Keaau-Paho Road), approximately 800 feet northwest of the 33rd Street-Makuu Drive intersection, Hawaiian Paradise Park Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The Planning Director previously recommended that this request be denied by the Planning Commission. The primary negative factor was that the particular request, or use, was previously permitted within the Medium Density Urban node located on Orchidland Drive within the Orchidland Trade Center, which was approved by Special Permit No. 870. After further discussion with the applicant (Verne Wood), it was learned that although the similar use was permitted by Special Permit No. 870 at the Orchidland Trade Center, the Orchidland Estates Community Association recommended that no uncovered storage be allowed on site, which was agreed upon by the applicant. A condition of approval was added stating that the applicants comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association's February 24, 1994 letter to the Planning

DEC 13 2005

Director, which stated that there will be no uncovered storage. The proposed use will involve uncovered storage.

A water catchment business is still permitted at the Orchidland Trade Center, but will be limited to more commercial-retail sales of the products rather than the baseyard operations of the business. The baseyard operation will need to be located in an area other than the Orchidland Trade Center.

It was also learned that the applicant owns several water catchment businesses and that these businesses are competitors. The applicant owns Puna Water Services and Island Catchment Company. Each business has a commercial-retail (sales) operation as well as a light industrial (baseyard) operation associated with it. The applicant intends to operate the commercial-retail sales part of the Puna Water Services at Orchidland Trade Center, which was approved by Special Permit No. 870, and will operate the baseyard operation from Shipman Industrial Park. The applicant also owns Island Catchment Company, which is similar in use to Puna Water Services, but sells and installs different brand name water catchment products than Puna Water Services.

The proposed request is to allow the baseyard operations for Island Catchment Company at 33rd Avenue in HPP, which is presently located on Makaala Street in Hilo. At this time, the baseyard operation and the commercial sales are both located on Makaala Street. There are four employees that live in the HPP area that are presently traveling from HPP to Hilo in the morning to pick up the trucks and supplies, then travel back and forth from Puna to Hilo throughout the day for supplies. At the end of the day they return back to Hilo to return the trucks and drive home to HPP when work is complete. By allowing the baseyard operation, it will minimize the amount of trips for the employees because the trucks and supplies will be located closer to the actual service area, which is mainly the lower Puna area.

Based on information provided above, the Planning Director is recommending that this request be approved by the Planning Commission with the 5-year time permit life and with heavy landscaping along the perimeters of the property. Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This approval recommendation is based on the following findings:

The applicants are requesting a special permit to establish a contractor's baseyard for the construction, storage and servicing of water catchment systems. They are also requesting to construct a 3,200-square foot metal building to store components and materials used in the process of installing, repairing and servicing the water catchment systems. The items that will be stored on-site would include the water tanks, pump

systems, water purification systems, various plumbing components, work vehicles, work tools, and stockpiles of gravel and sand.

In recognizing the lack of commercial and industrial lands in the vicinity of Hawaiian Paradise Park Subdivision and Orchidland Estates Subdivision, the Planning Commission has been supportive of the Hawaiian Paradise Park Community Master Plan adopted by the County Council by Resolution No. 184-97. Included in the plan is a concept map that identifies a light industrial area of approximately 20 acres on Kaloli Drive and 14th Avenue. Further, there are three approximately 20-acre nodes identified for commercial uses. Two sites are located along Kaloli Drive and one site is proposed along Makuu Drive. The General Plan has recently been amended, which included several revisions to the Land Use Pattern Allocation Guide (LUPAG) Map to accommodate the commercial and light industrial uses for those respective nodes identified in the Hawaiian Paradise Park Community Master Plan. The area for industrial uses is located on Kaloli Drive between 13th and 15th Avenue. In addition, there are three areas (nodes) that were changed to Medium Density Urban to accommodate commercial uses. These areas are located on Kaloli Drive between 24th and 25th Avenue, on Kaloli Drive between 3rd and 4th Avenue, and on Makuu Drive between 25th and 26th Avenue. There is also a Medium Density Urban node located on Orchiland Drive near Highway 130 where Wiki Wiki Mart is located. These areas would be the preferred locations where development can be contained.

However, until such time that these areas are rezoned and/or developed, or upon new industrial zoned lands becoming available within an approximate 4-mile radius from the subject property, the Planning Department supports an approval of this Special Permit with a limited life.

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. 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. 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 proposed 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 has a soil classification that consists of lava flows, pahoehoe. The subject property has been previously cleared and is developed with a single-family dwelling. Given that the property is poor for agriculture and has been developed with a dwelling, it is not anticipated that the proposed request will displace any agricultural activity nor 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). Robert B Rechtman, Ph.D. of Rechtman Consulting, LLC, conducted an intensive field inspection of the parcel on June 28, 2005. He concluded that there were no archaeological resources observed on the parcel. It is unlikely that threatened species of plants or animals are present on the property, as the site has been previously cleared. There is no designated public access to the mountain areas or to the shoreline from the property. The project site is located more than four (4) miles from the nearest shoreline and is in close proximity to an existing mix of agricultural, residential-based and vacant lands. The proposed 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, as the site is approximately four (4) miles from the coastline. Therefore, the approval of the subject request is not contrary to the objectives and policies of the Coastal Zone Management Program.

The desired use will not adversely affect surrounding properties. There are several single-family residential dwellings located near the subject property, mainly to the east and northeast. The nearest residences are located on the adjacent property to the east and across 33rd Avenue. There is also a contractor's warehouse, a towing and auto repair shop and a certified kitchen, which were approved by Special Permit, located northwest from the site on 33rd Avenue. The property is 40,075 square feet in size and large enough to minimize any impacts to surrounding properties. The property also abuts the Keaau-Pahoa Road (Highway 130) on the southwest boundary. As a condition of approval, the applicants will be required to provide landscaping along all property boundaries to mitigate any visual impacts to immediate surrounding neighbors and to the Keaau-Pahoa Road. The hours of operation shall be limited to 7:00 a.m. to 4:00 p.m., Monday through Friday, to help mitigate noise and traffic impacts to the surrounding property owners. 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.

The proposed request will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. Access to the

subject property is from Makuu Drive to Uluhe Street (33rd Avenue). Uluhe Street (33rd Avenue), which has an approximately 20-foot wide gravel base in a 40-foot right-of-way, is a private roadway within the Hawaiian Paradise Park Subdivision. A condition of approval will be added stating that no time extension of the permit shall be granted unless the road is paved to provide a 20-foot wide pavement within the 33rd Avenue right-of-way from Makuu Drive to the subject property, meeting the approval of the Hawaiian Paradise Park Homeowner's Association. This will require the applicants to participate with the previous applicants who received special permits on 33rd Avenue to provide a 20-foot wide pavement within the 33rd Avenue right-of-way from Makuu Drive to the subject property or limit the use of the permit to a 5-year time period.

County water is available to the site. Wastewater will be disposed of within an existing cesspool. Police and Fire services are located in Pahoa approximately four (4) miles from the site. All other essential utilities 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 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. 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 Keaau Village and the Shipman Industrial Park in Keaau, approximately seven miles from the site and in Pahoa Town, approximately four miles from the property. Ideally, relocation to industrial-zoned lands would be more appropriate for the proposed request. However, given the limited availability of industrial zoned lands in the area, the Planning Director supports an approval of this request with a limited life, to allow time to relocate these types of uses within more appropriate zoned areas as they become available in the future.

The Hawaiian Paradise Park Community Master Plan adopted by the County Council by Resolution No. 184-97 includes a land use concept map identifying a light industrial area of approximately 20 acres on Kaloli Drive and 14th Avenue, and three other commercial nodes along Kaloli Drive and Makuu Drive. The subject property is less than four miles from these proposed areas. The Land Use Pattern Allocation Guide (LUPAG) Map for these sites have redesignated from Orchards to Medium Density Urban and Industrial to support commercial and industrial uses in the area. Although these lands are another source for commercial/industrial activity, the County Council and/or State Land Use Commission must still approve subsequent land use changes. In light of these actions, a period of five (5) years should be adequate time to plan and relocate to appropriate commercial/industrial zoned lands. Therefore, a condition will be included to limit the life of the permit to five (5) years or upon new commercial/industrial

zoned lands becoming available within the Hawaiian Paradise Park Subdivision or Orchidland Estates, 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. While the potential for intensive and/or extensive agricultural uses may exist, the soil conditions within the property and surrounding area would preclude such intensive agricultural activities from being conducted. 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. The applicants are proposing to establish a baseyard for the construction, storage and servicing of water catchment systems and to allow the construction of a 3,200 square foot metal warehouse building on the subject property. The proposed structure would be permitted in the agricultural district if the special permit were not needed for proposed request. The character of the surrounding lands is predominantly vacant with some scattered single-family residential dwellings. There have also been several Special Permits approved in the area, which include a contractor's warehouse, a towing/auto repair business and a certified kitchen. These businesses are also utilizing similar structures on their property. Additionally, there is an existing single-family dwelling located on the subject property. Therefore, the short-term allowance of a baseyard for a water catchment business on this property will not substantially alter the essential character of the land.

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 Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The property is designated as Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities.

The approval of the subject request would support the goals and policies of the Land Use and Economic elements of General Plan.

Land Use Element

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

The proposed request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: Robert B Rechtman, Ph.D. of Rechtman Consulting, LLC conducted an intensive field inspection of the parcel on June 28, 2005. There have been no oral history of kamaaina accounts of the area, historical survey of documentary records, or botanical and/or fauna study submitted along with the application.

The valuable cultural, historical, and natural resources found in the permit area: Dr. Rechtman concluded that there were no archaeological resources observed on the parcel.

Possible adverse effect or impairment of valued resources: There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the immediate area. Therefore, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed request will not affect traditional Hawaiian rights, and no action is necessary to protect these rights. The subject property does not abut the shoreline, therefore Hawaiian gathering and fishing rights is not an issue.

Based on the above considerations, the approval of the Special Permit request would support 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 applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The life of the permit shall be for five (5) years from the effective date of this permit, or upon new commercial or industrial zoned lands or suitable sites developed under special permit within the LUPAG "industrial" areas becoming available within a 4-mile radius from the subject property, whichever occurs first. The applicants shall have a reasonable time period to effect the relocation. No extension of this permit shall be granted unless the road is paved to provide a 20-foot wide pavement within the 33rd Avenue right-of-way from Makuu Drive to the subject property, meeting the approval of the Hawaiian Paradise Park Homeowner's Association.
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, 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 Planning Department's Rule No. 17 (Landscaping Requirements). Landscaping shall follow the standards applicable to light industrial zones that abut residential zones on all property boundaries, except landscaping shall create an opaque visual barrier from Highway 130 when trees are mature, to a height of at least 20 feet.
4. The size of the structure shall be limited to 3,200 square feet gross floor area.
5. The hours of operation shall be limited from 7 a.m. to 4 p.m., Monday through Friday.

6. The business shall be limited to four (4) employees, in addition to the applicants.
7. Access to the property shall be limited to 33rd Avenue. There shall be no direct vehicular access to and from the Keaau-Pahoa Road.
8. If required by the Department of Public Works, a drainage study shall be prepared and the recommended drainage system shall be constructed, meeting the approval of the Department of Public Works.
9. Signage shall not be visible from Highway 130.
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. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
12. Upon compliance with applicable conditions of approval, and upon completion of construction for any portion of the development, the applicants shall submit a status report, in writing, to the Planning Director.
13. An initial extension of time for the performance of conditions, with the exception of Condition No. 2, 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).

The time frames in Condition No. 2 may only be extended by Planning Commission action.

Verne and Lynn Wood
Page 10

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.

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

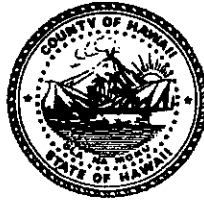
Sincerely,

for


Fred Galtones, Chairman
Planning Commission

Lwoodsp05-018PC

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



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

JUN 30 2011

Mr. Verne Wood
2405 Kalaniana'ole Avenue, #207
Hilo, HI 96720

Dear Mr. Wood:

Special Permit (SPP 05-000018)

Applicant: Kipimana, LLC (formerly Verne and Lynn Wood)

Request: 10-Year Time Extension to Condition No. 2 (Life of Permit) (Or Delete
Condition No. 2) of Special Permit No. 05-000018

Tax Map Key: 1-5-016:167

The Windward Planning Commission at its duly held public hearing on June 2, 2011, voted to approve the above-referenced request for a 10-year time extension to or deletion of Condition No. 2 (life of the permit) of Special Permit No. 05-000018, which allowed the establishment of a baseyard for the construction, storage, and servicing of water catchment systems and to allow the construction of a 3,200 square foot metal warehouse building on approximately 24,000 square feet of land situated within the State Land Use Agricultural District. The property is located along the mauka side of Uluhe Street (33rd Street), approximately 820 feet northwest of Maku'u Drive, Hawaiian Paradise Park Subdivision, Kea'au, Puna, Hawai'i.

Approval of the request is based on the following:

The applicant is requesting an amendment for a 10-year time extension for or the deletion of Condition No. 2 of Special Permit No. 05-000018, which allowed the establishment of a baseyard for the construction, storage and servicing of water catchment systems and to allow the construction of a 3,200 square foot metal warehouse building on approximately 24,000 square feet of land situated within the Hawaiian Paradise Park Subdivision on the mauka side of Uluhe Street (aka 33rd Avenue). Currently on the property there is a 2,500-square foot metal building where the auto repairs are being conducted and a dwelling. Special Permit No. 05-000018 was approved with a 5-year

Hawai'i County is an Equal Opportunity Provider and Employer

JUN 30 2011

permit life (Condition No. 2). Five years have passed, and the applicant would like to continue operating his business for an additional 10 years or have Condition No. 2 deleted so that the permit would run with the land. There have been no suitable industrial zoned lands that have become available within a 4-mile radius since this application was approved.

The Hawaiian Paradise Park Community Master Plan was revised in September of 2005, which included a statement that the 46 one-acre lots that front 33rd Avenue between Makuu and Paradise Drive should be re-designated light industrial to reflect the original 1995 Master Plan proposal with modifications.

Additionally, the Puna Community Development Plan (CDP) was adopted by the Hawai'i County Council with the approval of Ordinance 08 116 on September 10, 2008. The Puna CDP was recently amended by Ordinance 10-104 on November 4, 2010. In the amendment, the community development plan proposed that further industrial development should occur on the sites currently designated in the General Plan LUPAG map, plus an area along 33rd street in Hawaiian Paradise Park, from Maku'u going toward Kea'au, where several businesses have special permits. This area, which consists of 46 lots of 0.5 to 1.0 acre, should become a light industrial area only if the survey currently being conducted by the Planning Department shows that lot owners want this changed and are willing to fund the infrastructure improvements necessary to create a light industrial area: road improvements, water, and thick landscaping to shield the site from Highway 130 and the residential lots abutting the site.

The survey referenced above in the amendment to the Puna CDP was previously conducted by the Planning Director, who made an effort to contact the owners of these 46 lots along 33rd Avenue by sending letters and requesting their input on the matter. There were 17 of the 46 lot owners who responded to the letters. There were 9 owners in favor of changing the land use of the area for industrial uses, 6 owners who are not in favor of changing the land use and 2 owners are not sure about the change. In addition, the Planning Director sent letters to the owners on 32nd Avenue that border the makai lots on 33rd Avenue asking if they would be in favor of a land use change to a light industrial area on 33rd Avenue. There were 3 of the 27 lot owners who responded to these letters and all 3 were against the change. The survey results were pretty even with approximately half of those responding being in favor of the change and half not being in favor of the change.

In light of the above, the Planning Department will continue to encourage landowners or applicants with light industrial uses on 33rd Avenue to relocate to an Industrial zoned district if they become available within a 4-mile radius or to continue submitting time extensions to extend the life of their permits until a permanent change to the General Plan from rural to industrial for this area has been adopted and the area can be rezoned for industrial uses.

In this case, because the primary service area is within the immediate vicinity and no suitable industrial zoned lands have become available in a 4-mile radius, the Planning Director supports the approval of the 10-year time extension request with the continued condition that the applicant will be required to relocate the business if suitable industrial zoned lands become available for use within a 4-mile radius within the 10-year time period. With the recent changes to the community plans for this area, this may be accomplished if this particular location is identified as a suitable industrial zoned area.

Additionally, the requirement of Condition No. 2 for the applicant to pave 33rd Avenue with a 20-foot wide pavement from Makuu Drive to the subject property, meeting the approval of the Hawaiian Paradise Park Homeowner's Association to allow for a time extension to the life of the permit has been complied with as 33rd Avenue from Maku'u Drive to the applicant's property has been paved with a 20-foot wide pavement.

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. With the continued requirements to install appropriate landscaping along the property boundaries and limit business hours and employees, the noise and visual impacts upon the adjoining properties can continue to be adequately mitigated. Since the approval of the Special Permit, the use has not adversely affected surrounding properties, as 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 continue to be consistent with the Land Use and Economic Elements of the General Plan. 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. Lastly, the applicant has previously received approval of a Special Permit to allow the business 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. 05-018 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The life of the permit for shall be for [~~five (5)~~] ten (10) years from the effective date of this [~~permit~~]amendment, or upon new commercial or industrial zoned lands or suitable sites developed under special permit within the LUPAG "industrial" areas becoming available within a 4-mile radius from the subject property, whichever occurs first. The applicants shall have a reasonable time period to effect the relocation. [~~No extension of this permit shall be granted unless the road is paved to provide a 20-foot wide pavement within the 33rd Avenue right of way from Makuu Drive to the subject property, meeting the approval of the Hawaiian Paradise Park Homeowner's Association.~~]
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, paved driveway access and parking stalls associated with the proposed development.~~] Landscaping shall [~~also be indicated on the plans~~] be required for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Landscaping shall follow the standards applicable to light industrial zones that abut residential zones on all property boundaries, except landscaping shall create an opaque visual barrier from Highway 130 when trees are mature, to a height of at least 20 feet.
4. The size of the structure shall be limited to 3,200 square feet gross floor area.
5. The hours of operation shall be limited from 7 a.m. to 4 p.m., Monday through Friday.
6. The business shall be limited to four (4) employees, in addition to the applicants.
7. Access to the property shall be limited to 33rd Avenue. There shall be no direct vehicular access to and from the Keaau-Pahoa Road.

~~[8. If required by the Department of Public Works, a drainage study shall be prepared and the recommended drainage system shall be constructed, meeting the approval of the Department of Public Works.~~

9.]8. Signage shall not be visible from Highway 130.

~~[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.]9. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.~~

~~[12. Upon compliance with applicable conditions of approval, and upon completion of construction for any portion of the development, the applicants shall submit a status report, in writing, to the Planning Director.]~~

~~[13. An initial extension of time for the performance of conditions, with the exception of Condition No. 2, 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).~~

~~The time frames in Condition No. 2 may only be extended by Planning Commission action.]~~

10. If the applicant should require an additional extension of time for Condition No. 2, the Planning Director shall submit the applicant's request to the Planning Commission for appropriate action.

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.

Mr. Verne Wood

Page 6

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,

A handwritten signature in black ink, appearing to read 'Zendo Kern', with a long horizontal flourish extending to the right.

Zendo Kern, Chairman
Windward Planning Commission

Lkipimana01spp05-018

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