

## 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

April 21, 2008

Bruce McClure, Director  
County of Hawaii  
Department of Public Works  
101 Pauahi Street, Suite 7  
Hilo, HI 96720

Dear Mr. McClure:

Special Permit Application (SPP 08-000048)

Applicant: County of Hawaii Department of Public Works

Request: To Allow the Development of a Highway Maintenance Baseyard and  
Related Uses Within the State Land Use Agricultural District

Tax Map Key: 4-2-5:portion 1

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The Planning Commission at its duly held public hearing on April 4, 2008, voted to approve the above-referenced application to allow the development of a highway maintenance baseyard and related uses on 14.9 acres of land situated within the State Land Use Agricultural District. The property is located approximately one mile east of Paauilo Village along the south (mauka) side of the Hawaii Belt Road (Highway 19) at Koholalele, Hamakua, Hawaii.

Approval of this request is based on the following:

The County of Hawaii Department of Public Works is requesting a Special Permit to allow the development of a highway maintenance baseyard and related uses on a 14.9-acre portion of a 1,040-acre property. The facility is being designed to accommodate approximately 43 employees, various vehicles, equipment, materials and supplies to be utilized by the road maintenance workers. The facility will consist a maintenance building, warehouse building, fueling station, parking for at least 30 vehicles and equipment, a paved access road and fencing. Construction is expected to commence in the first quarter of 2008 and be completed by the end of the year. The estimated construction cost for the proposed project is \$2.4 million.

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The proposed project will replace the existing baseyard facility located in Honokaa, which is leased and considered inadequate because of its size and the need for repairs. The benefits of the proposed project site is that it is owned by the County, provides ample space for expansion and is more centrally located within the service area of the facility. Additionally, the new facilities will be designed for operation during severe weather conditions to provide supportive services to the community during times of emergency. The proposed improvements will allow the County to provide safer and more efficient highway maintenance services to the community.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended

The proposed use is an unusual and reasonable use of land situated within the Agricultural District. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. The proposed request will allow the development of a new highway maintenance baseyard and related uses, which will benefit the community in the Hamakua area. It will be constructed on 14.9-acre portion of a 1,040-acre property. Based on the benefits it will provide to the community and the minimal use of land for the proposed request, the subject request is considered an unusual and reasonable use of agricultural land.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public 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 project site is classified as "C" or "Fair" soil by the Land Study Bureau's Overall Master Productivity Rating and "Other Important Agricultural Land" and "Prime Agricultural Land" by the Department of Agriculture's ALISH Map. The use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property. As mentioned above, the portion of land for the proposed project site is minimal in size in comparison to the size of the overall property. Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not

contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. This criterion has been met based on the previous discussion listed above, mainly because the subject request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands that is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties. The majority of the surrounding properties are zoned A-40a and consist of larger agricultural parcels that are vacant or in agricultural uses, mainly eucalyptus trees. There are some residential properties zoned RS-15, RS-10 and RS-7.5, which includes the Kaohe Subdivision located approximately 1,500 to the west and Kainehe Village located approximately 1,200 to the east. The 14.9-acre project area is located along the Hawaii Belt Road within the 1,040-acre parcel with vacant land buffers on the east and the west sides of the site. The property across the highway is planted in eucalyptus trees. The proposed use will not adversely affect surrounding properties as they are mainly in agricultural uses. Based on the above information, the applicant has met this criterion.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the project site will be from Hawaii Belt Road (Highway 19), which is under the jurisdiction of the State Department of Transportation. Hawaii Belt Road is a two-lane state highway with a pavement width of 24 feet within an 80-foot wide right-of way. A condition of approval will be added requiring that the access to the subject property and any improvements within the Hawaii Belt Road be constructed in a manner meeting with the requirements and approval of the State Department of Transportation. County water is available to the property. Wastewater will be disposed of into an approved septic system. Telephone and electrical services are available to the site. Based on the above, the requested use will not burden public agencies to provide additional services and the applicant has met this criterion.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district

boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. The property and a majority of the surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various "non-agricultural" services may be allowed.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The project site is classified as "C" or "Fair" soil by the Land Study Bureau's Overall Master Productivity Rating and "Other Important Agricultural Land" and "Prime Agricultural Land" by the Department of Agriculture's ALISH Map. Although the land is suited for agricultural uses, the area requested is a minimal portion of a much larger property that can be utilized for agricultural purposes in the future. Based on the small size of the property being utilized for this request, the applicant has partially met this criterion.

(F) The use will not substantially alter or change the essential character of the land and the present use. The construction of the proposed highway maintenance baseyard on 14.9 acres of land will change the present use of the small portion of land, which is presently vacant of structures and uses, but the change will not be substantial. The proposed request will not substantially change the essential character of the land in this area, which is agricultural with a majority of the land planted in eucalyptus trees. There are two small residential subdivisions located near the proposed facility. These include the Kaohe Subdivision located approximately 1,500 to the west and Kainehe Village located approximately 1,200 to the east. This facility will be located in between these two subdivisions on the same side of the highway. Therefore, based on the above the discussion, the proposed use will not substantially alter or change the essential character of the land and its present use.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. 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 project site is located in area identified as Important Agricultural Land in the General Plan.

The request is consistent with the Land Use element of the General Plan which is to "Designate and allocate lands in appropriate proportions and mix and in keeping with

the social, cultural, and physical environments of the County" and to "...encourage the development and maintenance of the communities meeting the needs of its residents in balance with the physical and social environment." It is also consistent with the Public Facilities element of the General Plan, which states:

#### GOALS

- Encourage the provision of public facilities that effectively service community needs and seek ways of improving public service through better and more functional facilities which are in keeping with the environmental and aesthetic concerns of the community.

#### POLICIES

- Continue to seek ways of improving public service through the coordination of service and maximizing the use of personnel and facilities.
- Coordinate with appropriate State agencies for the provision of public facilities to serve the needs of the community.

The request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The project site is not proximate to the shoreline and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. Although there were no professional surveys conducted of the site, it is not anticipated that endangered or threatened candidate species of flora or fauna are located within the property. The area has not been identified as a significant botanical or biological habitat. Presently, there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of known valued cultural, historical or native resources in the area. Thus, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

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: No formal archaeological reconnaissance survey, oral history of kamaaina accounts of the area, historical survey of documentary records, botanical and/or fauna study was submitted.

The valuable cultural, historical, and natural resources found in the permit area: As the entire project area has been cleared, graded and utilized for sugar cane cultivation in the past, an archaeological survey of the site was not conducted. In a letter dated August 29, 2007, the applicant requested a "no effect" letter from the State Department of Land and Natural Resources Historic Preservation Division. There has been no response as of the date of this writing.

Possible adverse effect or impairment of valued resources: The property does not abut the shoreline, therefore Hawaiian gathering and fishing rights is not an issue. Additionally, given the extent of land disturbing activities during sugar cultivation, it is highly unlikely that significant historic sites would be found on the subject property.

Feasible actions to protect native Hawaiian rights. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and no action is necessary to protect these rights. A condition of approval will be included to require the applicant to notify the DLNR-SHPD should any unidentified sites or remains be encountered, and proceed only upon an archaeological clearance form the DLNR-SHPD.

Based on the above considerations, the approval of the 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 applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall submit to the Department of Water Supply the anticipated maximum daily water usage calculations as recommended by a registered engineer within one hundred and eighty (180) days from the effective date of this permit.
3. Construction of the highway maintenance baseyard and related improvements 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 for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all proposed structures, fire protection measures, paved driveway

access and paved parking stalls, and other improvements associated with the proposed use in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) standards for the Village Commercial (CV) zone adjoining a Single-Family Residential (RS) zone.

4. Access to the subject property and any improvements within the Hawaii Belt Road shall be constructed in a manner meeting with the requirements and approval of the State Department of Transportation.
5. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the issuance of a construction permit. The recommended drainage improvements, if any, shall be constructed, meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
6. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
7. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
8. 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 - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigative measures have been taken.
9. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
10. An initial extension of time for the performance of conditions 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.

Mr. Bruce McClure, Director  
Department of Public Works  
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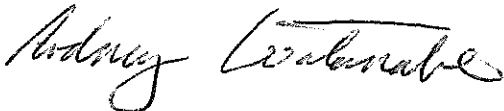
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
- E. If the applicant should require an additional extension of time, the Planning Department 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 manner, 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, x205.

Sincerely,



Rodney Watanabe, Chairman  
Planning Commission

Lcountydpwspp08-000048PC

cc: Mr. Brian Nishimura  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources-HPD  
DOT-Highways, Honolulu