

## 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

DEC 08 2010

Michael & Joy Mentnech  
P.O. Box 539  
Keaau, HI 96749

Dear Mr. and Mrs. Mentnech:

Special Permit Application (SPP 10-000106)

Applicant: Michael & Joy Mentnech

Request: To Establish a Community Store Within the Garage of an Existing Dwelling

Tax Map Key: 1-5-15:61

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The Windward Planning Commission at its duly held public hearing on November 10, 2010, considered the above-referenced special permit application to allow the establishment of a community store within the garage of an existing dwelling on one acre of land situated within the State Land Use Agricultural District. The property is located at the intersection of 31<sup>st</sup> Avenue and Maku'u Drive, along the makai side of 31<sup>st</sup> Avenue and the south side of Maku'u Drive, Hawaiian Paradise Park Subdivision, Kea'au, Puna, Hawai'i.

The Planning Director recommended denial of the application. The Commission, however, voted to approve the application based on the following:

The applicants are requesting a Special Permit to establish a community store within the garage of an existing dwelling situated on one acre of land within the State Land Use Agricultural District. An approximately 1,008-square foot portion of a 1,344-square foot garage is proposed to be utilized as a convenience-type community store by selling a variety of items such as Asian food, fruit and vegetables, plants, bottled water and soft drinks, ice, toiletries, grocery items such as bread and milk, and gifts and crafts such as mats, woven bags, seashell products and tropical garments. Alcohol and tobacco will not be sold at the store. The store will operate Monday through Saturday from 9:00 a.m. to 5:00 p.m. and only family member residents of the dwelling will be the employees. The applicants propose to provide four (4) gravel parking stalls on the property.

*Hawai'i County is an Equal Opportunity Provider and Employer*

The Windward Planning Commission, after hearing testimony from the applicant and several members of public, voted to approve the Special Permit request subject to conditions based upon the following reasons:

Due to population growth in Hawaiian Paradise Park (HPP), more commercial properties are needed. Specifically, the community store would enhance the social well-being of HPP residents by providing fresh farm produce and other necessities within the subdivision so that residents do not have to travel on Hwy 130 to obtain these necessities elsewhere. With the exception of one letter of opposition, written and oral public testimony provided at the hearing indicated that the community supports the establishment of the proposed use upon the subject property.

The location of the proposed use is not consistent with the "Rural" General Plan LUPAG Map designation and is not located within one of the village centers identified in the Puna Community Development Plan (CDP). However, the properties where the village centers are located are owned by landowners that have no schedule for developing the properties as intended in the CDP. Therefore, the Commission recommends that the CDP and general plan be amended to provide areas in HPP where entrepreneurs owning small lots can start a business rather than waiting for the landowners to develop the village center properties. The Commission is limiting the validity of this permit to a 5-year time period in order to allow the business to operate while CDP implementation issues are being resolved.

The proposed use is a small-scale operation (since it is limited to the garage) and conditions of the permit limit the hours of operation and employees. The Commission finds that because the community store will be utilized mainly by residents of HPP, any increase in traffic is expected to be minimal and the use shall not unreasonably burden public agencies. Additionally, the time-limited permit allows the Commission to revisit the use in five years to evaluate whether the business has had any adverse effects on surrounding properties and deny future requests for special permit use accordingly or impose additional conditions to reduce these adverse effects, if needed. No extension of this special permit has been promised or guaranteed.

Lastly, because the issuance of special permits are considered and evaluated on an individual basis, based on the merits of the proposed use and the surrounding area and environment, the approval of this permit would not set a precedent for approval of other commercial uses in HPP that are inconsistent with the long-range plans for the subdivision.

Based on the above, the request to allow the establishment of a community store within the garage of an existing dwelling on one acre of land is approved by the Windward Planning Commission and shall be subject to the following conditions:

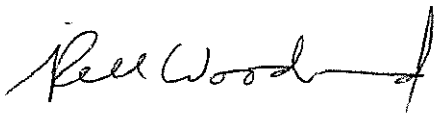
1. The applicants, successors or assigns shall comply with all of the stated conditions of approval.
2. This Special Permit shall be valid for a period of five (5) years from the effective date of the permit.
3. Hours of operation shall be limited to 9:00 a.m. to 5:00 p.m., Monday through Saturday.
4. The family member residents of the dwelling shall be the only employees of the community store.
5. As represented by the Applicants, alcohol and tobacco shall not be sold at the community store.
6. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

Should any of the conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate the revocation of the 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 Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Rell Woodward, Chairman  
Windward Planning Commission

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cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Mr. Scott Leonard, Zoning Inspector  
HPP Community Association  
Mr. Gilbert Bailado ✓