



County of Hawai'i

LEEWARD PLANNING COMMISSION

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

SEP 04 2012

Daniel Bal dba Speedy Motors
P.O. Box 459
Kamuela, HI 96743

Dear Mr. Bal:

Special Permit Application (SPP 12-000135)
Applicant: Daniel Bal dba Speedy Motors
Request: To Operate an Auto Repair Business in an Existing Building
Tax Map Key: 6-4-031:004

The Leeward Planning Commission, at its duly held public hearing on August 16, 2012, voted to approve the above-referenced request to allow the establishment of an automotive repair business and accessory uses within an existing agricultural building on a 0.5 acre portion of a 10-acre parcel within the State Land Use Agricultural District. The property is located along the south side of Māmalahoa Highway approximately 650 feet east from the intersection of Māmalahoa highway and Mānā Road within Pu'ukapu Homesteads, 2nd Series, Pu'ukapu, South Kohala, Hawai'i.

Approval of the request is based on the following:

The applicant is requesting a Special Permit to legitimize an existing automotive repair business, which includes utilizing one half of an existing approximately 5,500-square foot agricultural building, vehicle storage area, parking area and accessory uses on a 0.5-acre portion of a 10.148-acre parcel. The applicant proposes to limit the number of vehicles stored on-site to 25. No long term storage of inoperable vehicles or their major components will be allowed under the applicant's lease agreement with the landowner. At this time the applicant is the only employee but up to four part-time employees may be hired in the future. Hours of Operation will be from 8:00 a.m. to 6:00 p.m., Monday through Saturday.

The criteria for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. Rule 6-6 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 District, and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

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, HRS, as amended. 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 use will utilize only a 0.5-acre portion of an approximately 10-acre parcel. Since all activities will be contained within the existing structure and nearby surrounding area it is reasonable because existing agricultural activity on the property will not be adversely affected. Based on the minimal use of land for the proposed use, the minimal impacts to existing or potential agricultural activities and the majority of the property to be maintained in agricultural use, the subject request is considered an unusual and reasonable use of agricultural land.

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. 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed use will not displace any existing agricultural activity or diminish the agricultural potential of the property because the automotive repair business will take place in an existing agricultural equipment building and the immediately surrounding area. Therefore, the proposed use will not adversely affect the preservation of the County's prime agricultural lands for agricultural use, and 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. Surrounding properties are similarly zoned A-1a, and consist mainly of small farms and ranches to the south, east and west, and dwellings on smaller agricultural lots to the north

across Māmalahoa Highway. The proposed use has the potential to increase noise and dust in the area; however it should be noted that noise and dust are typical of agricultural land uses for which the property is zoned. The proposed use will occur within an existing building situated on a relatively large parcel that is surrounded by farmland. Also, the project site is visually screened from neighboring properties by hedges of tall trees along the property line. Thus, the proposed use is not anticipated to have an adverse affect on surrounding properties.

(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 site is via a gravel driveway from Māmalahoa Highway, which is a two-lane paved County roadway with paved shoulders. Traffic at the property is not anticipated to be significant. County water is available to the property. The building that the applicant is proposing to utilize for the auto repair business is not completely permitted. A building permit was issued for the structure in 1987 but construction of the building was never inspected by the County and therefore the permit was never finalized. Since the applicant is proposing to operate a commercial business within a portion of the existing agricultural building, a change of use building permit will be required from the Department of Public Works to ensure that the building meets commercial standard building codes. The applicant will install an individual wastewater system(s) if required by the Department of Health. The permit area is situated in an area determined by FEMA to be outside of the 500-year flood plain. Electrical and telephone service is currently available at the property. Police, fire and medical facilities are available nearby in Waimea. Thus the proposed use will not burden public agencies to provide additional services.

(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 Land Use District Boundaries became effective in August of 1964; however, a comprehensive review and update of the district boundaries has not been completed since the 1970's. The Waimea area has grown substantially and therefore become more urbanized since that time but the amount of land zoned for commercial uses in the Urban District has not kept pace with this growth. Thus, there has been more pressure over the recent years to utilize lands in the Agricultural District for urban land uses in order to provide goods and services to the community.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property is classified as Prime Agricultural Land by the State Department of Agriculture's ALISH system. Prime Agricultural Land is land best suited for the production of food, feed, forage and fiber crops. The land has

the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops economically when treated and managed, including water management, according to modern farming methods. The property is also classified as "C" or "Fair" by the Land Study Bureau's Overall Master Productivity Rating and identified as Maile silt loam, which is used for truck crops and pasture. Therefore, the property is suited for agricultural use and is actively being farmed in truck crops. Nevertheless, the proposed use will mainly occur within an existing building on a 0.5-acre portion of a 10 acre parcel and will not displace the commercial agriculture that is occurring on the properties surrounding fields.

(F) The use will not substantially alter or change the essential character of the land and the present use. The essential character of the land in this area is rural and agricultural. The property has been used for agricultural purposes over the past 20 years. Structures on the property include a dwelling built in 1990 and an agricultural building built in 1987 located on the south end of the property. These buildings are adjacent to another dwelling and agricultural building located on the adjoining property which is owned by the landowner's brother. The remainder of the property consists of fields that are actively being farmed in truck crops such as cabbage. The proposed use will occur within a portion of the existing agricultural building and the remaining portion of the building will continue to be used to store farm equipment. Vehicle storage associated with the proposed use will be located in a grassy area between the existing agricultural building and the agricultural building on the adjacent property and will not adversely affect the fields being used for growing truck crops. Additionally, a tall hedge of trees lines the perimeter of the entire property thereby providing a visual screen of the proposed use from surrounding properties. Thus, the proposed use will not substantially alter or change the essential character of the land.

(G) The request will not be contrary to the General Plan, South Kohala Community Development Plan (CDP) 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 property is located in an area designated as Low Density Urban which allows for residential uses (up to six units per acre), with ancillary community and public uses, and neighborhood and convenience-type commercial uses. It should be noted that the General Plan recognizes that certain areas, such as the subject property, that have the potential to be agriculturally productive due to good soil quality have been placed within urban land use categories. Generally, these are adjacent to existing urban areas. This represents a decision that the orderly development of those urban areas justifies the eventual conversion of those agricultural lands to urban use. The proposed use could be considered a convenience-type commercial use as it will

provide automotive repair services to nearby area residents. Thus, the proposed use is consistent with the LUPAG designation of the General Plan which seeks to locate commercial land uses in urban areas.

The South Kohala Community Development Plan (SKCDP) identifies the subject property as being located in the Small Farms and Ranches Preservation Program area of Waimea. The SKCDP suggests preserving the rural and agricultural character of this area by locating commercial and industrial uses on properly zoned lands within and close to the Waimea town center. Approval of this Special Permit would introduce a commercial/light-industrial use on property that has actively being farmed for the last 20 years. Ideally the proposed use should be located on properly zoned lands as the SKCDP suggests; however, there are limited options in Waimea to locate auto repair businesses as mentioned in the Waimea Community Association's memo (**P.D. Exhibit 8, Background Report**). Based on this and in light of the unique characteristics of the subject property (large size and existing visual screening from neighboring properties), the Planning Director considers it reasonable to allow the proposed use on the subject property although the request is not consistent with the South Kohala CDP.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program. The property is located over 7 miles from the shoreline and is outside of the Special Management Area. There is no designated public access to the shoreline or mountain areas that traverses the property. Thus, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Based on the above considerations, the request to establish an automotive repair business and accessory uses within an existing agricultural building on the subject property is an unusual and reasonable use of land which would not be contrary to 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, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The permit area, which includes the building and vehicle storage area for the repair business, shall be limited to an area of a ½-acre. A description of the ½-acre permit area, excluding the driveway access, shall be submitted in map and

written form by metes and bounds, as certified by a registered surveyor, to the Planning Department within one year from the effective date of this permit.

3. The applicant shall submit estimated daily water usage calculation for the proposed uses, prepared by a professional engineer licensed in the State of Hawai'i, for review and approval to the Department of Water Supply. Prior to commencement of the proposed use, the applicant shall install an additional or larger water meter to provide County water to the proposed uses, as required by the Department of Water Supply.
4. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
5. Final Plan Approval for the automotive repair facility shall be secured from the Planning Department in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code within one year from the effective date of this permit. Plans shall identify all existing and proposed structures, signage, fire protection measures, parking areas, driveway, existing landscaping, and other improvements associated with the proposed use. Pavement of parking spaces is not required; any material may be used that will eliminate erosion, mud and standing water. The existing tree hedge around the perimeter of the property shall be maintained in good health in order to visually screen the permit area from neighboring properties.
6. The applicant shall secure and finalize the necessary building, plumbing and electrical permits to convert the existing agricultural building to an automotive repair facility within one year from the date of issuance of Final Plan Approval.
7. No more than twenty five (25) vehicles associated with the business shall be parked at the site at any given time.
8. Hours of operation for the business shall be from 8:00 a.m. to 6:00 p.m., Monday through Saturday.
9. The applicant shall remove any encroachments within the Māmalahoa Highway right-of-way and the subject property which obstruct sight distance at the driveway approach. Sight distances at the approach shall meet AASHTO Guidelines.

10. The applicant shall install an individual wastewater system(s) if required by the Department of Health.
11. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
12. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
13. An initial extension of time for the performance of conditions 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 the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

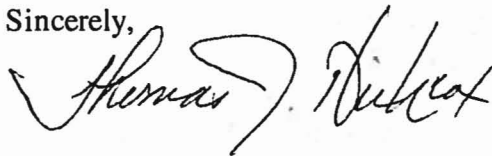
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Daniel Bal dba Speedy Motors

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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 "Thomas Hickcox". The signature is written in a cursive style with a large initial "T".

Thomas Hickcox, Chairman Pro Tem
Leeward Planning Commission

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cc: Mr. Clint Okada
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Mr. Gilbert Bailado /