

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit) SP79-330
of MINOLU R. CHENG) MINOLU R. CHENG
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_____)

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the) SP79-330
Petition for Special Permit)
of MINOLU R. CHENG) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) DECISION AND ORDER
_____)

The Land Use Commission of the State of Hawaii,
having duly considered the entire record in the above entitled
matter, makes the following findings of fact and conclusions
of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by
MINOLU R. CHENG to allow the establishment of a medical office
on approximately .934 acre of land situated within the State
Land Use Rural District at Keauhou 1st, North Kona, Hawaii,
Tax Map Key 7-8-07: 32.

2. The subject property is located between the
Kuakini Highway and the old Mamalahoa Highway, approximately
400 feet south of the Keauhou School.

3. The proposed medical office would be located on
the ground floor of a proposed two-story structure. The upper
story would be used by the petitioner as his residence.

4. Each floor of the structure would have an area
of 2,800 square feet. Plans submitted by the Petitioner indicate
that the ground floor would have a doctor's office, a reception
and waiting area, examining rooms, a guest room, restrooms,
and a 1,200 square foot area designated as additional professional
office space. The second floor living area would consist of

two bedrooms, a den, a living room, a dining room, a kitchen, a laundry room and two bathrooms.

5. The Petitioner has indicated that 20 parking stalls would be provided for the medical office.

6. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the property low density urban. The site is presently zoned residential agricultural one-half acre (RA-.5a).

7. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "C" or "Fair" for soils of the subject property.

8. Surrounding land uses include vacant areas, single family dwellings, a quarry and diversified agricultural activities.

9. Access to the site would be directly off of the old Mamalahoa Highway. This roadway has a right-of-way width of between 30 and 50 feet, and a pavement width of between 18 to 20 feet.

10. The Petitioner has in part stated that the proposed use of the subject site would not adversely affect surrounding properties nor unreasonably burden public agencies to provide services and facilities.

11. The County Department of Public Works commented that construction of the medical office would increase traffic to the Mamalahoa Highway. The department further noted that this roadway is in poor condition.

12. The State Department of Transportation had no objections to the request but stated that access to the Belt Highway would not be permitted.

13. The State Department of Health deferred comments on the proposed use until ground water concerns relative to the

Kahaluu Shaft could be investigated.

14. The State Department of Education, Police Department, U.S.D.A. Soil Conservation Service, Department of Parks and Recreation, State Department of Agriculture and Fire Department had no objections to the granting of the Special Permit.

15. The Hawaii County Planning Department recommended approval of the application for Special Permit.

16. The Hawaii County Planning Commission conducted a public hearing on the application for Special Permit on November 16, 1978. At that time, the Petitioner, Minolu Cheng, testified in support of the request. Under public testimony, Mr. Leon Sterling, Ms. Esther Delaires, Ms. Lily Kong, Ms. Ann Madawi and Mrs. Ronald Kahaliononi spoke in opposition to the request because of traffic concerns. Also under public testimony, Mrs. Carol Sasaki testified in support of the permit request, stating that the proposed facility would have sufficient parking and would not create traffic problems.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in a Rural District may be permitted by Special Permit pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the subject request will be consistent with the Land Use Law and Regulations. The purpose of the Land Use Law and Regulations is to preserve, protect and encourage the development of lands in the State for those uses to which these lands are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The subject property is situated within the State Land Use

Rural District. Areas within this district consists of small farms and/or low density residential uses where "city-like" concentrations of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low density residential lots. Keauhou Village, which encompasses the subject property, includes single family dwellings, agricultural activities, a store, service station, and the old Keauhou School site.

3. The proposed medical facility will be small in scale, designed in keeping with the low density character of the area, and will provide a necessary service to the community. Medical health services are an essential part of community life and its ready availability to the residents in the area is especially valuable in treating emergency situations. The proposed medical facility can become an integral part of the rural community. The medical facility also includes a residential unit for the petitioner. This "live-in" doctor situation will assume that activities on the subject property will be conducted in a manner consistent with the residential character of the area. Based on the nature and scale of the proposed development, it is determined that it will be ancillary to community needs, compatible with the rural character of the area, and consistent with the intent of the State Land Use Rural designation for Keauhou Village.

4. The proposed use will not unreasonably burden public agencies in providing public utilities and facilities. All essential utilities are available to the subject property. Access to the subject property would be via the Mamalahoa Highway which connects with Kuakini Highway approximately 1,000 feet north of the subject area. In this vicinity, the Mamalahoa Highway has a variable pavement width of 18 to 20 feet and is

currently in poor condition. Plans for resurfacing this portion of the Mamalahoa Highway is programmed for next year. Given the planned improvement of Mamalahoa Highway, its relatively uncongested traffic condition, and the scale of the proposed use, it is not anticipated that the approval of the subject request will create a traffic problem in the area.

5. The proposed use is not anticipated to adversely affect surrounding properties. Due to the relatively small size and character of the proposed medical facility, it is not anticipated to generate unusual amounts of traffic, noise or adverse visual impact.

6. The use described in the Petition is an unusual and reasonable use pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulations, Part V.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 79-330 for the establishment of a medical office on approximately .934 acre of land situated within the State Land Use Rural District at Keauhou 1st, North Kona, Hawaii, Tax Map Key 7-8-07: 32, be approved subject to the following conditions:

1. The use of the medical facility shall be limited to one (1) doctor and his or her staff, and (1) dwelling unit.

2. That the residential unit can only be occupied by the doctor utilizing the medical facility.

3. That a minimum of fifteen (15) parking stalls shall be provided on-site.

4. That the design of any and all structures shall be consistent with the rural-residential character of the area.

5. That no direct access off Kuakini Highway shall be permitted. All access shall be off the Mamalahoa Highway.

6. That the plan approval process shall be complied with. The petitioner, or his authorized representative, shall submit plans for plan approval within one (1) year from the effective date of the Special Permit. Construction shall commence within one (1) year from the receipt of final plan approval and shall be completed within two (2) years thereafter.

7. That the Special Permit shall be recorded in the Bureau of Conveyances within 60 days of its effective date.

8. Should the use of the property change from the proposed medical-residential use, the Special Permit shall automatically become null and void.

9. That all other applicable rules, regulations and requirements shall be complied with.

10. That should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

DATED: Honolulu, Hawaii, May 30, 1979.

LAND USE COMMISSION

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By *Mitsuo Oura*
MITSUO OURA
Commissioner

By *George R. Pascua*
GEORGE R. PASCUA
Commissioner

By *Carol B. Whitesell*
CAROL B. WHITESELL
Commissioner

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MINOLU R. CHENG

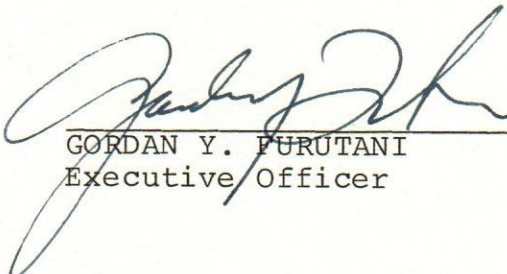
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by certified mail:

SIDNEY FUKE, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

DR. MINOLU R. CHENG
P. O. Box 879
Kailua-Kona, Hawaii 96740

DATED: Honolulu, Hawaii, this 6th day of June, 1979.



GORDAN Y. FURUTANI
Executive Officer