

CERTIFIED MAIL

September 4, 1986

Mr. Daniel DeLuz
c/o Kushi & Kushi
140-A Haili Street
Hilo, HI 96720

Dear Mr. DeLuz:

Special Permit Application (86-14)
Tax Map Key: 1-7-21:25

The Planning Commission at its duly held public hearing on August 28, 1986, voted to approve your application, Special Permit No. 625, to allow the establishment of a woodcraft workshop on 1 acre of land situated within the State Land Use Agricultural District at Hawaiiki Subdivision, Oloo, Puna, Hawaii.

Approval of this request is based on the following:

The proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The purpose of the Land Use Law and Regulations is to protect, preserve, and encourage the development of lands in the State for the public health and welfare of the people of the State of Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also lands which are surrounded by or contiguous to agricultural and ancillary activities by reason of topography, soils, and other related characteristics. The State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) system designates the property as "Unclassified." As a result of this classification, the Department of Agriculture stated that it "continue(s) to believe that small lots of this size in the Agricultural district do not provide a sufficient area for viable economic agricultural production. Since the property is already a nonconforming residential use in the Agricultural District, we have no objection to the Special Permit." Although it is possible that some agricultural activities may be conducted on the property, it is determined that approval of the

Mr. Daniel DeLuz
September 4, 1986
Page 2

subject request would not be contrary to the objectives of the State Land Use Law and Regulations given the low agricultural potential for the subject area and the above-cited criterion for determining the Agricultural District.

The proposed use will not adversely affect the surrounding properties and their improvements. The primary use of the subject property will remain residential in character and the impacts resulting therefrom are anticipated to remain the same. The woodcraft workshop will be one story in height and will be setback a minimum of 58 feet from all property lines. Further, with the imposition of landscaping along the property lines, adequate buffer will be maintained between the property and the adjacent properties.

The proposed use will not unreasonably burden public agencies to provide roads and other infrastructure or services. Further, the limited nature of the proposed use will not require any additional demands or expansions to the services and facilities already available to the property.

Based on the foregoing findings, it is determined that establishment of the proposed use is an unusual and reasonable use of land within the State Land Use Agricultural district. As such, it is further determined that approval of the subject request would promote the effectiveness and objectives of Chapter 205, ERS, as amended.

Approval of this Special Permit request is subject to the following conditions:

1. The petitioner shall be responsible for complying with all of the stated conditions of approval.
2. The plans for the proposed use shall be submitted for Plan Approval within one year from the effective date of approval of the Special Permit.
3. Construction shall commence within one year from the date of receipt of final plan approval and be completed within two years thereafter.
4. No retail sales of the products shall be conducted on the property.
5. The hours of operating power machines shall be limited to between 7:30 a.m. and 5:30 p.m., Monday through Saturday.

Mr. Daniel DeLuz
September 4, 1986
Page 3

6. Only the owner shall operate the wood working shop machinery, although clerical work may be performed by others.
7. All other applicable rules, regulations and requirements, including those of the Department of Public Works, shall be complied with.
8. The Planning Director may administratively grant extensions to the foregoing conditions. Further, should the Director determine that any of the conditions have not been met or substantially complied with, the Director shall initiate procedures to nullify the permit.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Arthur W. Martin
Chairman Pro Tem, Planning Commission

cc: State Land Use Commission
Department of Public Works
Department of Water Supply
County Real Property Tax Division

bcc: Plan Approval Section

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

Z 095 324 394

DEC 07 1998

Mr. Daniel De Luz
P.O. Box 407
Kurtistown, HI 96760

Dear Mr. De Luz:

Special Permit (SPP 625)

Applicant: Daniel De Luz

Request: Amendment to Allow a Certified Kitchen/Snack Shop and
Related Improvements Including Deletion of Condition No. 4

Tax Map Key: 1-7-21:25

The Planning Commission at its duly held public hearing on November 20, 1998, voted to approve the above-referenced request to amend Special Permit No. 625, which allowed the establishment of a woodcraft workshop on 1.00 acre of land within the State Land Use Agricultural District. The amendment is to allow a certified kitchen/snack shop and related improvements, and the deletion of Condition No. 4. The property is located in the Hawaiiiki Subdivision at the northwest corner of the Volcano Highway-Ahuahu Place intersection, Oloo, Puna, Hawaii.

Approval of this request is based on the following:

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 subject property, although classified as Agricultural by the State Land Use Commission, has a soil rating of "D" or "Poor." It is also located in an area with soils classified as the Ohia series. These soils are generally used for sugarcane, woodland and pasture. The subject property has been developed with structures which include a wood workshop and gallery and the soils are not being actively used for agricultural purposes. The applicant is, however, working with locally grown wood, thereby conducting agricultural processing on the subject property. A special permit was issued for the wood workshop in 1986. Subsequent to the

011136

DEC 07 1998

issuance of the permit, the Zoning Code was amended in 1992 and further amended in 1996 to allow for processing of agricultural products grown off-site. As amended, the Zoning Code now allows for processing of agricultural products grown off-site, which also includes the sale of these products on the subject property. In review of the revised definition of agricultural processing, the Planning Director now considers the wood workshop business/gallery a permitted use on the property. Thereby, recognizing that the request for deleting Condition No. 4 is also in keeping with the definition of agricultural processing.

The applicant proposes to continue to produce and sell wood products, using native or indigenous hardwoods and other imported exotic woods. The applicant would like to establish a certified kitchen/snack shop on the premises for visitors to complement the existing gallery. The snack shop would be run by the applicant's wife and proposed to be open seven days a week from 5:00 a.m. to 9:00 p.m. According to the applicant, they do not intend to have any tour buses on the subject property. The snack shop would be an added service to visitors of the gallery. The proposed development would support the existing agricultural processing of wood working on the subject property and not be contrary to the objectives of the State Land Use Law for the Agricultural District. No agricultural soils will be taken out of active agricultural use.

The desired use will not adversely affect the surrounding properties. Surrounding uses mainly include single family residential uses. There is a church across the subject property on the corner of Ahuahu Place. Ahuahu Place provides access to eight (8) lots. The one-acre property should be sufficient in size to accommodate the proposed 2,464 square foot structure and the traffic generated with the new use. According to the site plan, the structure is proposed to be built with connection to the existing wood workshop, approximately 36 feet from the Ahuahu Place property boundary and 140 feet from the Volcano Highway boundary. Proposed setbacks are greater than those required for development on a one-acre parcel zoned Agricultural. The grounds are attractively landscaped and consist of trees, groundcover, flowers and other plants. There is a rock wall surrounding the perimeter of the property that is bordered by roadways. Any further landscaping requirements can be reviewed during Final Plan Approval. In the 12 years that the applicant has been operating the wood workshop, no official complaints have been filed with the Planning Department. Department of Transportation expressed concerns for the kitchen/snack shop becoming a primary focus on the property and included comments to limit the number of visitors to 25 per day. As we are unable to monitor the number of visitors, we have included a condition that should the applicant not comply with conditions of approval or resolve any complaints, the Planning Director may forward the request to the Planning Commission for possible revocation.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Access to the subject property is from the Volcano Highway onto Ahuahu Place, a County roadway having a pavement width of 20 feet with 8-foot grassed shoulders within a 50-foot right-of-way. There is a 10-foot wide no-access planting-screen easement along the Volcano Highway frontage of the subject property. The applicant presently has two existing paved driveways for entering/exiting the subject property off of Ahuahu Place. A gravel parking area is proposed to be located adjacent to the Gallery to accommodate 8 parking stalls. The Department of Public Works recommends that the grassed shoulders and swale area fronting the subject property be conditioned and maintained by the

applicant. This will be a condition of approval. Commercial standard frontage improvements, which would normally include pavement widening, curb, gutter and sidewalks, and drainage improvements are not being required for this development. There are no curb, gutter and sidewalk improvements in the existing vicinity in Mt. View. It is anticipated that Ahuahu Place, which has a 20-foot wide pavement can adequately accommodate traffic to the proposed snack shop. The Department of Transportation recommended limitation to prohibit the snack shop from becoming the primary focus on the property. As such, any exterior signage shall comply with the residential signage requirements of Chapter 3, Hawaii County Code. That is, the sign cannot exceed six square feet in area. According to the Department of Water Supply, a larger water meter is required. In accordance with the Department of Health, the existing cesspool would need to be reassessed. The applicant shall comply with and meet applicable agency requirements. Finally, agencies reviewing the request had no objections to the proposed request.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The Puna District has been one of the largest growth areas on the island. The County of Hawaii Data Book 1994, shows a population of 11,751 in 1980 and a population of 20,781 in 1990. This is an approximate 76% increase in 10 years. Although a special permit was originally issued for the wood workshop, the processing and selling of wood products are now a permitted use on Agricultural designated lands. The proposed certified kitchen and snack shop, however, requires a Special Permit. The Special Permit in the Agricultural district would, therefore, be the appropriate vehicle for establishing the use.

The use will not substantially alter or change the essential character of the land and the present use. The subject property is developed with a dwelling, shed, wood workshop and gallery. The parcel is landscaped with a lawn, flowers and fruit trees and surrounded by a rock wall. Both of the driveways to the parcel are paved. The construction of a certified kitchen/snack shop would not substantially change the existing character of the land. The applicant proposes to establish the snack shop in order to provide further service to their visitors. The proposed use would complement the existing wood working business.

The lands upon which the proposed use is sought is not unsuitable for the uses permitted in the district, however, the proposed uses will not interfere with permitted uses. The subject site is developed, therefore, no active soil-related agricultural activity will be diminished. The nearest snack shop/take-out foods are located approximately 2 miles in both directions of the subject property. The snack shop would provide an added benefit to the visitors of the gallery and immediate community.

The proposed use is consistent with the following goals, policies and standards of the General Plan.

Economic Element

- * Provide residents with opportunities to improve their quality of life.
- * Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.

- * The County of Hawaii shall strive for diversity and stability in its economic system.
- * The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- * The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

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.
- * The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

In addition, the subject parcel falls within an area designated as Low Density Urban on the General Plan LUPAG Map, which would allow for the proposed use.

Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the new snack shop.

As the existing wood workshop and gallery for display and sale of items are now a permitted use within the State Land Use Agricultural and Agricultural zoned districts, Special Permit No. 625 is being revised with additional conditions to cover and allow for the certified kitchen/snack shop and related improvements. In addition to deleting Condition No. 4 regarding the retail sales, Condition No. 6 limiting the wood workshop to only the owner shall be deleted and replaced with new conditions. There is no reason why we should limit the wood workshop only to the owner, if it is a permitted use. Other conditions are still applicable or revised for the certified kitchen/snack shop and to reflect present day wording.

Based on the above considerations, the request to establish a certified kitchen/snack shop and related improvements would be an unusual and reasonable use of land within the State Land Use District, which would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Special Permit No. 625 is amended as follows (material to be deleted is bracketed and new material is underscored):

1. The petitioner shall be responsible for complying with all of the stated conditions of approval.
2. [The plans for the proposed use shall be submitted for Plan Approval within one year from the effective date of approval of the Special Permit.] Construction of the proposed certified kitchen/snack shop and related improvements shall be completed within five (5) years from the effective date of this permit. This time

period shall include the securance of Final Plan Approval for the proposed development from the Planning Department. Plans shall identify existing and proposed structures, fire protection measures, paved driveway and paved parking stalls (gravel, chipseal, asphalt or asphalt-concrete) and landscaping associated with the proposed uses. Parking for all functions shall be maintained on the subject property and comply with the requirements of Chapter 25 (Zoning Code). Detailed landscaping plans shall include landscaping and buffers along the property boundaries.

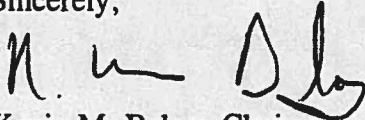
3. [Construction shall commence within one year from the date of receipt of final plan approval and be completed within two years thereafter.] The applicant shall maintain the grassed shoulders and swale area fronting the subject property meeting with the approval of the Department of Public Works.
4. [No retail sales of the products shall be conducted on the property.] Exterior signage shall comply with the residential signage requirements of Chapter 3, Hawaii County Code.
5. The hours of operating power machines shall be limited to between 7:30 a.m. and 5:30 p.m., Monday through Saturday.
6. [Only the owner shall operate the wood working shop machinery, although clerical work may be performed by others.] Hours of operation of the snack shop shall be from 5:00 a.m. to 9:00 p.m. seven days a week.
7. The applicant shall comply with [A]all other applicable rules, regulations and requirements, including those of the Department of Public Works, [shall be complied with] Department of Water Supply and Health Department.
8. Upon compliance with all conditions of approval and in conjunction with the application for a certificate of occupancy, and prior to the opening of the certified kitchen/snack shop, the applicant shall submit a final status report, in writing, to the Planning Director.
- [8.]9. [The Planning Director may administratively grant extensions to the foregoing conditions. Further, should the Director determine that any of the conditions have not been met or substantially complied with, the Director shall initiate procedures to nullify the permit.] If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
10. An initial extension of time for the performance of conditions of 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 the Zoning Code.
- C) Granting of the 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).

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 feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

LDeluz01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Alfred Castro