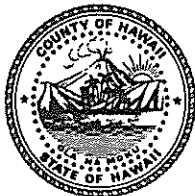


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

P 101 317 809

JUL 02 1999

Henry and Jane Uyehara
1251 Ainaola Drive
Hilo, HI 96720

Dear Mr. and Mrs. Uyehara:

Special Permit Application (SPP 99-002)

Applicant: Henry and Jane Uyehara

Request: Renovate the Interior of a Structure That is Connected to the
House to Create a Duplex (Separate Quarters) Unit

Tax Map Key: 2-4-34:14

The Planning Commission at its duly held public hearing on June 18, 1999, voted to approve the above-referenced application. Special Permit No. 1030 is hereby issued to allow the renovation of an existing structure which is connected to the existing dwelling by a carport in order to create a duplex unit within the State Land Use Agricultural District. The property is located on the south side of Ainaola Drive approximately 1,165 feet west of its intersection with Kupulau Road, Waiakea Homestead 2nd Series, South Hilo, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations. 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 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 Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. In this particular case, the subject property falls within the State Land Use Agricultural District, has a zoning designation of A-3a and is approximately 2.32 acres in size. It is also classified as "C" or "Fair" for agricultural productivity by the Land Study Bureau and classified Prime Agricultural Lands by the ALISH Map. The Land Use Pattern Allocation Guide (LUPAG) Map of the General Plan designates the area as Low Density Urban. The rear section of the property is in pasture and used by a neighbor. The applicants propose to renovate an existing storage building into a dwelling to be used for their

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residence and to rent out the existing family dwelling on the property. The existing dwelling and storage building are connected by a carport which would create a duplex. The applicants do not intend to actively conduct agricultural activity to support the issuance of a farm dwelling agreement to support a second farm dwelling on the subject property and are, therefore, applying for a Special Permit.

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. This special permit process is an available option for pursuing a second dwelling on the subject property without issuance of a farm dwelling agreement.

An existing recreation and storage structure would be renovated into the second dwelling. The proposed use will not remove any lands out of agriculture and, therefore, not affect the agricultural resources for the area as the renovations would be confined to an existing structure. Also, the applicants were previously entitled to a second dwelling when he was issued an Ohana Dwelling Permit in 1991. However, failure to secure a building permit within one year of issuance of the permit, thereby, voided the ohana dwelling permit. Based on the above, the approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations nor diminish the agricultural potential of the area.

The request is not contrary to the General Plan. Although the subject property is within the State Land Use Agricultural District and zoned Agricultural (A-3a), the subject request is not contrary to the General Plan LUPAG Map, which designates the property for Low Density Urban. This designation is single family residential in character, with ancillary community and public uses and convenience type commercial uses and would allow for the proposed use.

The proposed renovation of the existing storage into a dwelling would also be consistent with the following goals and policies of the General Plan:

Land Use Element

- * Designate and allocate land areas 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.

Economic Element

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

- * 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.
- * The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.

Housing

- * Attain safe, sanitary, and livable housing for the residents of the County of Hawaii.
- * Maintain a housing supply which allows a variety of choice.
- * Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals.
- * Increase rental opportunities and choices in terms of quality, cost, amenity, style and size of housing, especially for low and moderate income households.

The desired use will not adversely affect the surrounding properties. The subject property is approximately 2.32 acres in size. The existing dwelling, carport and storage building is on approximately .3 acres of the property with the remainder in pasture. Surrounding properties are lands zoned A-3a and A-20a and vary in size from 2.9 to 5 acres in size. Therefore, the property is large enough to accommodate two dwellings without adverse impact to surrounding neighbors. In addition, several other adjacent properties have been issued ohana dwelling permits with building permits for second dwellings issued on TMK: 2-4-34: 5, 6 and 11. In addition, no letters of objection has been received by surrounding neighbors.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. Water to the subject property is available by an existing 5/8-inch meter. The construction of a second dwelling would require a second 1-inch service lateral to service a 5/8-inch meter. The traffic to be generated by the additional dwelling is not expected to adversely affect the existing roadways. All utilities are available to the subject property. Agencies had no objections to the proposed duplex. The applicants would be required to comply with applicable agency requirements for the construction of a duplex.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Families grow and change. In this particular situation, the family dwelling is too large for the landowners to maintain. They would prefer to build a second smaller dwelling and rent out the family home without the filing of a Farm Dwelling Agreement for the second dwelling.

The use will not substantially alter or change the essential character of the land and the present use. The applicants intend to renovate an existing storage structure; and therefore, no significant improvements or changes to the land are anticipated. The applicants will continue to reside on the subject property.

Based on the above considerations, the renovation of an existing storage structure in order to create a duplex 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. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicants, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. A building permit for the duplex renovation shall be secured within one year of the effective date of the issuance of this Special Permit.
3. The applicants shall comply with all applicable laws, rules, regulations, and requirements of other affected agencies.
4. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
5. 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 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.
 - 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).

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.

Henry and Jane Uyehara
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Should you have any questions, please feel free to contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

LUyeha.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