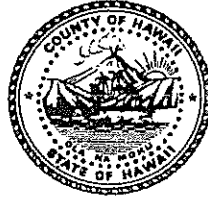


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
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NOV 5 2000

Mr. Thomas W. Pack
73-1524 Laakea Street
Kailua-Kona, HI 96740

Dear Mr. Pack:

Special Permit Application (SPP 00-038)

Applicant: Thomas W. Pack

Request: Arts and Craft Center Including an Art Gallery, Tea Room, and Art Classes

Tax Map Key: 8-2-8:80

The Planning Commission at its duly held public hearing on November 1, 2000, voted to approve the above-referenced application. Special Permit No. 1085 is hereby issued for the establishment of an arts and craft center, including art gallery, tea room and art classes on approximately 5,000 square feet of land within the State Land Use Agricultural District. The property is located along the north side of Napo'opo'o Road and adjacent to the Old Coffee Mill site, Kahauloa 2nd, South Kona, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the 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. The proposed project will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH Map.

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

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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 subject property is situated within the County's Family Agricultural-1 acre (FA-1a) zone district. The proposed arts and crafts center, which will include an art gallery, tea room, art classes, retail sales and other related activities, would be situated on approximately 5,000 square feet of land. The proposed 5,000 square feet of land that will be taken out of the agricultural inventory for this area will not significantly affect the agricultural resource of the area and no additional surrounding lands are to be developed. In addition, no active agricultural lands will be taken out of production to provide the area necessary to establish the proposed use. The remainder of the property, consisting of approximately one acre, will continue in agriculture. The applicant intends to keep this area in agricultural use with the following horticultural or botanical focus: 1) Native and Polynesian – introduced plants: This would be a garden dedicated to propagating and displaying plants growing in the arid zones of the Hawaiian Islands. The following groups of plants will be planted together as naturally occurring communities: Mai'o (Dwarf Banana), Naupaka Kahakai, Ma'o (Hawaiian Cotton), Kukui (Candlenut Tree), 'Ilima, Pa'uo Hi'iaka (Morning Glory), Wiliwili, Hala, Hau, Ulu (Breadfruit) and a variety of other Native Hawaiian plants; 2) Herb Garden: This would be a formal garden dedicated to the propagation and cultivation of a wide variety of herb plants; 3) Citrus and Other Agricultural Products: Lemon, Lime, Orange and Papaya.

Therefore, based on the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in agricultural use in years. Therefore, the proposed use would not be contrary to the objectives of the State Land Use Law for the Agricultural district.

The desired use will not adversely affect the surrounding properties. The subject property is presently vacant of any structures. The subject parcel is adjacent to and surrounded by lands zoned Family Agricultural (FA-1a). Other surrounding parcels are zoned Agricultural (A-5a) with properties ranging in size from .5 acre to 12 acres. Kealakekua Bay Estates Subdivision is located approximately 800 feet to the east of the subject parcel and is zoned Agricultural (A-1a). Uses in the area consist of farm dwellings, agricultural activities and vacant lands. The Coffee Mill located adjacent to the subject property operates an Espresso and Coffee Bar in conjunction with the operation of the Coffee Mill. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social or other impacts that this proposed use may have on the area.

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The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and police and fire protection. The site is currently served by water, telephone and electrical utilities. The traffic generated by the project will be minimal and within the capability of the existing road. In addition, the proposed use will not generate concerns for additional services as reflected by the agencies' responses. All requirements of the Department of Health, Department of Water Supply, Department of Public Works and Fire Department shall be complied with prior to establishment of the proposed use.

The land upon which the proposed use is sought is not suitable for the uses permitted within the district. The soils within the project area are not suitable for many types of agricultural uses. The nature of the request is to allow for the establishment of an arts and crafts center, which will include an art gallery, tea room, art classes, retail sales and other related activities, situated on approximately 5,000 square feet of land. The only commercial zoned properties are located in Captain Cook, Kealahou and Kainaliu. The United States Department of Agriculture's Soil Survey Report classifies soils within the project site as Kainaliu extremely stony silty clay loam, 12 to 20 percent slopes (KEC). The Kainaliu series consists of well-drained silty clay loams that formed in volcanic ash. These are moderately sloping to moderately steep soils on uplands at an elevation ranging from 800 to 1,200 feet. The annual rainfall is 40 to 60 inches, and most of it falls during the summer months. The mean annual soil temperature is between 71 and 73 degrees Fahrenheit. The natural vegetation consist of guava, lantana, koa haole and guinea grass. Kainaliu soils are used mostly for coffee, macadamia nuts and pasture. A small acreage is used for truck crops. The Land Study Bureau's Detailed Land Classification System indicates the soils within the subject property are classified as "E" or "Very Poor." The subject area is central to the South Kona areas which it will serve and therefore, the proposed use will not remove good agricultural land from the existing inventory.

The use will not substantially alter or change the essential character of the land and the present use. One acre of the property will be devoted to agricultural uses. The proposed use would be located on approximately 5,000 square feet of land. Therefore the requested use would constitute only a small portion of the entire property. Visually, the use will not be significant, as the adjoining Coffee Mill is an imposing structure. The proposed use would complement the character of the area.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The rapid tourist growth in East and West Hawaii has resulted in an increased desire for different retail uses. The Napo'opo'o area has been experiencing an increase in tourism, with a great potential for growth in the agricultural and historic tourism areas. Persons interested in the arts and crafts of the Big Island are a

small market of the tourist industry, but on a sustainable basis. To meet this demand, the applicant is seeking to establish an arts and crafts center which will evolve around the cultural history of the area and will frame the historical background within the arts. The local community members will serve as a basic resource through the presentation of their arts within the center. Art classes offered at the center will benefit adults and children from the local community. No existing area for agricultural activities will be curtailed or diminished as a result of the establishment of this activity on the subject property. As such, other undeveloped areas are still available for agricultural development and the removal of 5,000 square feet of land from the agricultural inventory will not have a detrimental impact on the agricultural resources of the area or the County of Hawaii.

The request is not contrary to the General Plan. The subject request is not contrary to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates the property for Orchard uses. The soil classification rating for the subject area is "E" or "Very Poor" by the Soil Conservation Service Soil Survey Report. The request would support the General Plan's goals and policies of the Economic and Land Use Elements of the General Plan which are to: *"Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County"* and to *"...encourage the development and maintenance of the communities meeting the needs of its residents in balance with the physical and social environment."*

Based on the above considerations, the proposed arts and crafts center, including an art gallery, tea room, art classes, retail sales and related activities, 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 the conditions not be met or substantially complied with in a timely fashion, the Director may initiate the revocation of the Special Permit.

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The arts and crafts center, including an art gallery, tea room, art classes, retail sales and other related activities, shall be established within five (5) years from the effective date of this permit. Prior to the establishment of this use, Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-71 (f), 25-2-72, 25-2-76, and 25-2-77. Plans shall identify all proposed structures, proposed parking areas and driveway(s), and landscaping to mitigate any visual or noise impacts. The applicant, its successors

or assigns shall notify the Planning Department in writing of the completion of required improvements prior to the establishment of the proposed use.

3. The hours of operation for the proposed use shall be limited from 9:00 a.m. to 7:30 p.m. daily.
4. Access(es) to the subject property shall meet with the requirements of the Department of Public Works. Prior to the establishment of the arts and crafts center, the applicant shall provide documentation to the Department of Public Works demonstrating that the required sight distance easement has been recorded over lots 2 and 3 in favor of lot 6 for the subdivision entry at Napo'opo'o Road.
5. Drainage improvements to the property, if required, shall meet with the requirements of the Department of Public Works.
6. Any new construction or substantial improvements within the special Flood Hazard Area shall be subject to the requirements of Chapter 27, Flood Control, of the Hawaii County Code.
7. The applicant shall prepare and submit a solid waste management plan to the Department of Public Works for its review and approval prior to the establishment of the arts and crafts center.
8. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the (DLNR-HPD) when it finds that sufficient mitigative measures have been taken.
9. The applicant, its successors or assigns shall comply with all other laws, rules, regulations and requirements, including those of the Department of Health, Department of Water Supply, Fire Department and the Department of Public Works.
10. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

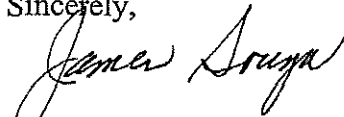
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- A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
- B. Granting of the time extension 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).

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 West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



fw
Richard B. Baker, Jr., Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Department of Land & Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu