

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

August 5, 2003

Mr. James A. Ferreira
1600 Haleloke Street
Hilo, HI 96720

Dear Mr. Ferreira:

Special Permit No. 1195
Applicant: Patricia Cann-Ferreira
Request: Legitimize an Existing Hair Cutting/Beauty Salon within
a 100-Square Foot Area of an Existing Dwelling (Home Occupation)
Subject: Time Extension Request
Tax Map Key: 2-5-058: 022

Thank you for your letter dated July 28, 2003 requesting a six-month time extension to comply with Condition No. 2 of Special Permit No. 1195.

Condition No. 2 of Special Permit No. 1195 states:

"The applicant shall finalize all necessary permits as required by the Department of Public Works, Building Division within six (6) months from the effective date of this permit."

Based on the request and reason, the Planning Director has determined that non-performance is beyond the control of the applicants and that the granting of a time extension would not be contrary to the General Plan, Zoning Code or original reasons for granting the request. The Planning Director hereby grants a six-month time extension until **February 3, 2003** to comply with Condition No. 2.

Please be informed that should you need an additional extension of time, your request with reasons, 20 copies of that request and a \$250.00 filing fee shall be submitted to this office for a public hearing with the Planning Commission.

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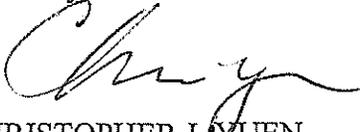
Mr. James A. Ferreira

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August 5, 2003

If you have questions or require further information, please feel free to contact Jeff Darrow of this office at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JWD:pak

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cc w/letter: Planning Commission

Christopher J. Yuen
Planning Director
County of Hawaii Planning Department
101 Pauahi Street, Suite No. 3
Hilo, HI 96720

03 JUL 29 PM 12 56 July 28, 2003
RECEIVED
COUNTY OF HAWAII
PLANNING
DEPT.

Dear Mr. Yuen,

Special Permit No. 1195 (SPP 1195)
Applicant: Patricia Cann-Ferreira
Approved Use: To legitimize an existing hair cutting and beauty salon as a home occupation within an approximately 100 square foot portion of an existing single family dwelling
Request: Extension of Time in which to Comply with Condition No. 2
TMK: 2-5-058: 022; Hilo Heights Subdivision, South Hilo, Hawaii

In accordance with the provisions of Condition No. 9 of Special Permit No. 1195 (SPP 1195), I would like to request, on behalf of my wife, Patricia Cann-Ferreira, an extension of time of six (6) months by which to finalize all necessary building permits as required by Condition No. 2 of said Special Permit.

Condition No. 2 of SPP 1195 states that "*The applicant shall finalize all necessary permits as required by the Department of Public Works, Building Division within six (6) months from the effective date of this permit.*" SPP No. 1195 was approved by the Planning Commission on January 17, 2003 and authorized by Planning Commission Chairman Fred Galdones by letter dated February 3, 2003. Therefore, we are required to finalize all building permits by August 3, 2003. For various reasons, obtaining necessary information about our existing home and the preparation of plans has taken much longer than we originally anticipated. The construction drawings are now complete and we attempted to obtain the necessary building permits on July 28, 2003. We were then informed by the DPW-Building Division that electrical and plumbing contractors must also apply for the requisite electrical and plumbing permits in order to complete the processing of the building permit application. As I write this letter on July 28, 2003, my wife has already left for the mainland on a last-minute trip and I will be leaving in a couple of days. We will not be back by the August 3, 2003 deadline by which to finalize necessary building permits as required by Condition No. 2.

Should the additional six months be granted, it will allow us the opportunity to have our electrical and plumbing contractors apply for and secure the necessary electrical and plumbing permits as well as our building permit and to finalize same in accordance with Condition No. 2. We fully anticipate that the necessary building/electrical/plumbing permits will be finalized much earlier than the six months being requested since most of

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Mr. Christopher J. Yuen
Planning Director
Page 2 of 2
July 28, 2003

the improvements are already in place, but the additional time being requested is also to accommodate any unforeseen events that could delay our compliance.

Please accept our apologies for not being able to meet our initial August 3, 2003 deadline. We are trying our best and have learned that it is not an easy task to prepare and apply for building, electrical and plumbing permits. We emphasize that our plans are already complete and we are on the verge of securing the proper permits, we just need a little more time in which to obtain and then finalize these permits.

For your information, a backflow preventer is scheduled to be installed this week in satisfaction of Condition No. 3, which also maintained an August 3, 2003 compliance deadline.

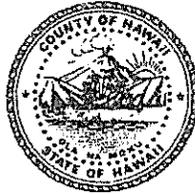
Thank you for considering our request. Should you have any questions regarding my request or require more information, please do not hesitate to contact me or my wife Patricia at 935-0768. We expect to return to Hilo on August 9, 2003.

Sincerely,



James A. Ferreira for
Patricia Cann-Ferreira
1600 Haleloke Street
Hilo, HI 96720

Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

FEB 03 2003

Ms. Patricia Cann-Ferreira
1600 Haleloke Street
Hilo, HI 96720

Dear Ms. Cann-Ferreira:

Special Permit Application (SPP 02-041)

Applicant: Patricia Cann-Ferreira

Request: Legitimize an Existing Hair Cutting/Beauty Salon Within a 100-Square
Foot Area of an Existing Dwelling (Home Occupation)

Tax Map Key: 2-5-58:22

The Planning Commission at its duly held public hearing on January 17, 2003, voted to approve the above-referenced application. Special Permit No. 1195 is hereby issued to legitimize an existing hair cutting/beauty salon (Home Occupation) within an approximately 100 square foot area of an existing dwelling situated on one acre of land in the State Land Use Agricultural District. The property is located in Hilo Heights Subdivision on the north side of Haleloke Street, Punahoa 1st, South Hilo, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting to legitimize an existing hair cutting and beauty salon (salon) as a home occupation within an existing dwelling. The applicant originally owned her own salon in Hilo from 1984 to 1998. However, due to financial reasons and the needs of her family, the salon was closed. The applicant would like to continue to tend to the hair needs of family, friends and select former clientele at her home. She is the sole operator of the salon and there will not be any employees. The business would be restricted to the existing laundry room, which is enclosed and has internal connection to the existing dwelling. The number of clients would average to about 5 per day. Hours would be between 8:00 a.m. to 5:30 p.m. daily. However, weekend appointments would be infrequent and sporadic due to family commitments. The applicant and her family live within the dwelling and would like to establish this as a home occupation.

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FEB 03 2003

Ms. Patricia Cann-Ferreira

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The existing 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, Hawaii Revised Statutes (HRS), 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. 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 project will be located within an area whose soils are classified as "D" or Poor by the Land Study Bureau's Overall Master Productivity Rating and "Other Important Agricultural Lands" by the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The subject property is situated within the County's Agricultural (A-1a) zone district. The salon would be located within an existing dwelling. There are bananas planted to the rear of the subject property; and with the home occupation, no additional land will be taken out of the existing agricultural inventory nor will the agricultural resources of the area be negatively impacted. In addition, the proposed parking area would be in the existing driveway. Thus, no potential agricultural lands will be used to provide the area necessary to establish the required parking.

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 existing agricultural activity since this parcel has not been in major agricultural use for years.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to the Coastal Zone Management Program (CZMP). According to the applicant, there are no known archaeological features or threatened flora or fauna on the subject parcel. There is no designated public access to the mountain or coastal areas over this parcel. The project site is located over 5 miles from the nearest shoreline and in an agricultural/residential area. The proposed project will not impact any recreational, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Finally, the applicant's salon is located within a laundry room attached to the main dwelling and would not significantly obstruct any makai views or

significantly affect view planes. Therefore, the approval of the subject request shall not be contrary to the objectives and policies of the Coastal Zone Management Program.

The desired use will not adversely affect the surrounding properties. The subject property is located in the Hilo Heights Subdivision - Unit I that consists of 37 lots. There are existing dwellings and residents located to the east and south of the subject property. The subject property contains a main dwelling, shed and kennel. The salon is located within the existing dwelling in the laundry room. Due to the limited nature of the use, it is not anticipated that the salon would generate any noise or significant traffic that would create an adverse impact to surrounding neighbors. Further, the applicant has stated that she will not advertise or post signs advertising the salon on her property.

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 telephone and electrical utilities. Wastewater is disposed of within an existing cesspool. County water is available to the subject site. The Department of Water Supply has no objections to the establishment of the salon; however, it will require the installation of a backflow preventer. Access is from Akolea Road onto Haleloke Street which are County paved roads. The amount of traffic will be minimal and within the capability of the existing paved road. Building Division has informed us that permits have not been secured for the salon, deck, storage and kennel. Therefore, the applicant shall secure all building permits within 6 months from the effective date of the permit. Finally, the applicant shall comply with applicable requirements of the Department of Health for her business. According to subdivision files, there are restrictive covenants prohibiting a business. Covenants, however, are considered a private matter and not enforceable by the Planning Department.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The applicant has resided at this residence for approximately 17 years. Although, previously owning her own salon in Hilo, the applicant decided that a part-time home occupation business would be more feasible for her. The special permit application is the procedure for establishing a salon as a home occupation.

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 United States Department of Agriculture's Soil Survey Report classifies soils within the project site as Keaukaha extremely rocky muck (rKFD). The Land Study Bureau's Detailed Land Classification System indicates the soils within the subject property are classified as "D" or Poor. The request is to allow for the establishment of a home occupation within an existing dwelling. Parking shall be located on site. The parcel has been developed. There are some banana trees along the rear

property boundary. The existing dwelling and use will not remove any significant agricultural land from the existing inventory.

The use will not substantially alter or change the essential character of the land and the present use. The salon is located entirely within the existing dwelling. No additional structures are required. Further, no agricultural activities will be curtailed or diminished as a result of the establishment of this activity on the subject property.

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 Urban Expansion. 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 existing hair cutting/beauty salon as a home occupation 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 Planning 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 applicant shall finalize all necessary permits as required by the Department of Public Works, Building Division within six (6) months from the effective date of this permit.
3. The applicant shall install a backflow preventer meeting with the requirements of the Department of Water Supply within six (6) months from the effective date of this permit.
4. The hours of operation for the salon use shall be limited from 8:00 a.m. to 5:30 p.m., daily.
5. No signage shall be posted on the subject property advertising the salon.
6. All parking shall be maintained on the subject property.

7. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works – Building Division and Department of Health for the salon use.
8. 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.
9. 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. 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.

Ms. Patricia Cann-Ferreira
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Should you have any questions, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lcann-ferreira01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu