

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

October 5, 2007

Thomas L. H. Yeh, Esq.
85 W. Lanikaula Street
Hilo, HI 96720

Dear Mr. Yeh:

Special Permit Application (SPP 07-000045)

Applicant: Jieyu Shepard

Request: Allow the Use of Portion of an Existing Agricultural Warehouse Building
For Storage of File Cabinets and Home Furnishing

Tax Map Key: 2-7-39:portion 1

The Planning Commission at its duly held public hearing on September 7, 2007, reviewed the above-referenced request to allow the use of an existing agricultural warehouse building for storage of tile, cabinets and home furnishing on approximately 1,000 square feet of land in the State Land Use Agricultural District. The property is located in the Onomea Bay Ranch Subdivision, mauka of the Hawaii Belt Road approximately .3 miles north of the 8 mile marker, Mokuohiki, South Hilo, Hawaii.

Upon review of the request against the guidelines for granting a Special Permit, the Planning Commission has decided to allow the storage of tile, cabinets and home furnishings within an existing agricultural warehouse for a period of three (3) years to give the applicant a reasonable time to relocate the facility to a properly zoned area. Prior to the end of the three-year limitation, the applicant will have the opportunity to request for a one-year administrative time extension, if needed. The approval is based on the following reasons:

The applicant, Jieyu Shepard, is requesting a Special Permit to allow the storage of tile, cabinets and home furnishings within an approximately 1,000 square foot portion of an existing 4,000 square foot agricultural warehouse located on a 24.03-acre property within the State Land Use Agricultural district. The space to be used is primarily located along the interior of the perimeter walls of the warehouse utilizing a 5-foot shelving space. The applicant will use a Chevrolet 540 flat bed pickup truck to transport the items

to and from the property, which is also used for the agriculture related operations on-site. The applicant's need for the Special Permit is generated by the applicant's other business enterprise, which is the operation of a cabinet, tile and home furnishing store, which is located in Hilo.

The Planning Commission found that the proposed request is minimal in size and will not cause adverse impacts, with a majority of the property active in agricultural uses. The approval of the request would be temporary and would require the applicant to discontinue the use on the property within three (3) years, with the option of an administrative time extension of one year, and to relocate the business to a properly zoned area.

There was discussion at the hearing regarding the differences between this request for a light industrial use on agricultural land and similar light industrial Special Permit requests that have previously come before the Planning Commission. There have been several requests for Special Permits for light industrial type uses in the Keaau-Pahoa area, mainly in the Hawaiian Paradise Park Subdivision, and in the Waimea area. Most of these requests have been approved with 5-year time limits. The main reason for the longer time limits was that the Keaau-Pahoa and Waimea locations do not have light industrial zoned areas available, yet there is a need for these light industrial type of businesses in these locations. There are long term prospects for light industrial zoning in these areas and once these zoned areas become available, the previously approved Special Permits that have the five-year time limits will be required to relocate these businesses to the newly zoned properties. The difference regarding this request is that there are light industrial zoned areas already available in the South Hilo area but there is currently a shortage of storage facilities meeting the applicant's needs. The Planning Commission is allowing a three-year period to relocate the facility to one of these appropriately zoned and available areas. The Planning Commission did not believe that the approval of this request would set a precedent for allowing other light industrial types uses in the agricultural district with a Special Permit rather than being located in properly zoned areas.

The Planning Commission discussed several specific conditions including no exterior signs identifying or advertising the proposed operation will be permitted on the subject property or any of its structures, that the applicant continue to make good faith effort to find a suitable alternative site, the submittal of an annual progress report, and other standard conditions.

Based on the above considerations, approval of the Special Permit application of Jieyu Shepard is subject to the following conditions:

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. The life of the permit shall not exceed a period of three (3) years from the effective date of this permit.
3. No commercial sales or pick-up of materials by customers shall be allowed. The applicant shall conduct all deliveries to and from the property.
4. No exterior signs identifying or advertising the approved use under this special permit will be permitted on the subject property or any of its structures.
5. Operation of deliveries to and from the property for the proposed use shall be limited to the hours between 7:30 a.m. and 4:30 p.m., Mondays through Fridays.
6. The applicant shall continue to make a good faith effort to find a suitable alternative site.
7. The applicant shall maintain agriculture as the primary use of the property.
8. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
9. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of effective date of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
10. An initial extension of time of one (1) year for Condition No. 2 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 Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.

Thomas L. H. Yeh, Esq.

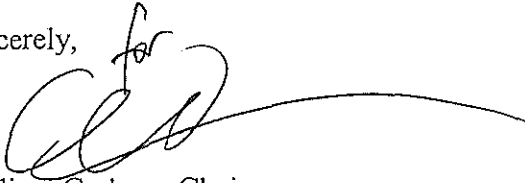
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Should any of the conditions, however, not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

A handwritten signature in black ink, appearing to be 'W. Graham', with a long horizontal flourish extending to the right.

William Graham, Chairman
Planning Commission

Lshepard01PC

cc: Ms. Jieyu Shepard
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
DOT-Highways, Honolulu