

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 17, 2007

Carl and Amy Lou Okuyama
16-586 Old Volcano Road
Keaau, HI 96749

Dear Mr. and Mrs. Okuyama:

Special Permit Application (SPP 07-000046)
Applicant: Carl and Amy Lou Okuyama
Request: To Allow Residence to be Used for Office Purposes
Tax Map Key: 1-6-10:85

The Planning Commission at its duly held public hearing on October 5, 2007, voted to approve the above-referenced request to allow the conversion of an existing single family dwelling to Sure Save Super Market, Ltd.'s administration office and to allow portion of the building for office use by the Orchidland Community Association. The 42,253-square foot property is located along the north side of Orchidland Drive, across from the Wiki Wiki Mart, Orchidland Estates Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicants are requesting a Special Permit to allow an existing 2,112 square foot residence to be used for offices on a 42,253 square foot parcel. The existing residence consists of three (3) levels, which includes 3-bedrooms, 3-bathrooms, a living room, a family room, a kitchen and a laundry room.

The reasons for the request is that Sure Save Super Market, Ltd. is interested in using the existing residence for offices for its Administrative Service Department. The subject property is located between two of the company's stores, Wiki-Wiki Mart in Orchidland and Puna Fresh Foods in Keaau Village. Additionally, a portion of the residence will be used for the Orchidland Community Association.

OCT 17 2007

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the Agricultural District. 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 subject property is less than 1 acre in size (42,253 square feet) and is situated within the State Land Use Agricultural district and the County's Agricultural (A-3a) zoned district. The applicants are proposing to establish office space within the existing 3-bedroom/3-bathroom dwelling on-site. Therefore, the subject request is considered an unusual and reasonable use of the land situated within the State Land Use Agricultural District.

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. It is situated on land characterized as Lava Flows A'a (rLV). This lava has practically no soil covering and is bare of vegetation, except for mosses, lichens, ferns and small ohia trees. This lava is rough and broken. The use will be located in an area where 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. The proposed offices will be confined to the existing dwelling on-site. The proposed use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property. Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. This criterion has been met based on the previous

discussion listed above, mainly because the subject request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands that is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties. The property is located along the northwest side of Orchidland Drive, near the Orchidland Drive – Keaau-Pahoa Road (Highway 130) intersection. Surrounding properties are similarly zoned A-3a. The surrounding area is characterized by a mix of single-family residences, a commercial center with a gas station (Orchidland Estates Convenience Center), a proposed commercial center (Orchidland Trade Center), a church, and vacant parcels. Orchidland Estates Convenience Center, which has been constructed, was approved on December 12, 1984 by Special Permit No. 569. Orchidland Trade Center was approved on May 19, 1994 by Special Permit No. 870. This establishment has not been constructed as of the date of this writing. There is an existing dwelling on the property that will be used for the offices and related activities. The use will be conducted entirely within the existing dwelling. The remainder of the property is landscaped with palms, ohia, ferns, and other landscaping plants. There have been no objections or concerns received from the surrounding property owners. It is not anticipated that the requested use will have a substantial adverse impact on the surrounding properties. Based on the above information, the applicants have met this criterion.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the property from the Keaau-Pahoa Highway is via Orchidland Drive, which is one of the primary subdivision roads. Orchidland Drive has a 20-foot wide pavement within an approximate 60-foot wide right-of-way. The subdivision roads are considered private and are collectively owned by the lot owners within Orchidland Estates. The Department of Transportation had no objections to allow the existing residence to be used for offices, only to note that on-site employee parking is required. Electricity and telephone are available to the property. There is no municipal sewer system in the area. The applicants will utilize an existing cesspool for the use. County water is available to the subject site. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Additionally, a condition of approval will include that the applicants meet all applicable County, State and Federal laws, rules, regulations and requirements.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim

regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964: The property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services that may not be available or allowed by zoning for its residents. The request to allow offices within an existing structure in this area is in line with the intent for allowing the issuance of a Special Permit. Based on the above discussion, the applicants have met this criterion.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property is situated on soil identified as Lava Flows A'a (rLV), 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. Additionally, the proposed request will be conducted entirely within the existing dwelling located on the property. Based on the above information, the applicants have met this criterion.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed request will be conducted entirely within the existing dwelling located on the 42,253 square foot parcel of land. The proposed request will not substantially alter or change the essential character of the land or its present use. The applicants have met this criterion.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The property is located in area identified as Rural. This category includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. As the proposed request will be conducted within an existing dwelling, it will not be contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area. Additionally, the approval of the subject request would support the goals and policies of the Land Use and Economic elements of 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.
- 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 through economic development that enhances the County's natural and social environments.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Strive for an economic climate which provides its residents an opportunity for choice of occupation.

The proposed request will allow the applicants to provide an economic environment that allows this new, economic opportunity for Hawaii.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. Given the fact that the property has been developed with a residential dwelling, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There is no designated public access to the mountain areas over the property. The property is not located within the Special Management Area. Therefore, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion.

Based on the above considerations, the request to allow the establishment of offices within an existing 2,112 square foot residence on a 42,253 square foot parcel of land 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:

1. The applicants, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Prior to the issuance of a water commitment by the Department of Water Supply, the applicants shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this permit.
3. The offices shall be established within five (5) years from the effective date of this permit. This time period shall include securing Final Plan Approval for the proposed use from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, gravel driveway access and parking stalls associated with the offices. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Landscaping shall comply with the bufferyard standard for separation of a CV (Village Commercial) zone adjoining a RS (Single-Family Residential) zone in Rule No. 17. The landscaping fronting Orchidland Drive shall conform to the front yard landscaping requirements for a CV (Village Commercial) zone in Rule No. 17.
4. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
5. All driveway connections to Orchidland Drive shall conform to Chapter 22, County Streets, of the Hawaii County Code.
6. There shall be no off-street parking allowed on the Orchidland Drive. All parking for the offices shall be provided on-site.
7. The applicants shall comply with fire-flow requirements meeting with the approval of the Fire Department and the Department of Water Supply.

8. Any exterior signs shall conform to Section 3-12 of the Sign Code, Chapter 3 of the Hawaii County Code, relating to signs in the Agricultural district.
9. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
10. An 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 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 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).

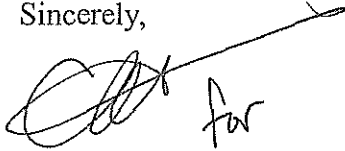
Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special Permit.

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.

Carl and Amy Lou Okuyama
Page 8

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 line extending to the right from the end of the signature.

William Graham, Chairman
Planning Commission

Lcarlokuyama01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
DOT-Highways, Honolulu
Mr. Daryn Arai