

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 26, 2009

Mr. Johnson Lum
15-1695 12th Avenue
Kea'au, HI 96749

Dear Mr. Lum:

Special Permit Application (SPP 09-000087)

Applicant: Johnson Lum

Request: To Allow Operation of an Educational Hobby Garden and Play
Facility on One Acre of Land

Tax Map Key: 1-5-48:80

The Windward Planning Commission at its duly held public hearing on October 2, 2009, voted to approve the above-referenced application to allow the operation of an educational hobby garden and play facility on one acre of land situated within the State Land Use Agricultural District. The property is located along the makai side of 12th Avenue, approximately 1,200 feet north of the 12th Avenue – Paradise Drive intersection, Hawaiian Paradise Park Subdivision, Kea'au, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant, Johnson Lum, is requesting a Special Permit to legitimize the establishment of an educational hobby garden and play facility for children, the community and visitors on one acre of land located in the Hawaiian Paradise Park Subdivision. The Hobby Garden Hawai'i facility consists of the following:

- Exhibits of model trains, boats, airplanes, cars and trucks.
- Model scene of an old sugar plantation with an old sugar train.
- Model scene of a Hawaiian village with a smoking volcano and river.
- Other model scenes including the Eiffel Tower, the Pyramids in Egypt, the Great Wall of China, the Golden Gate Bridge and the Empire State Building.

- Hobby and gift shop.
- A train that winds around the garden with seating for five children.
- A four-foot deep pond that is approximately fifty feet in diameter with approximately five hundred fish including catfish, tilapia and koi, which guests can catch and release.
- An area for parties and barbeques.
- A 6-hole miniature golf area.
- Instruction classes on model building.

Hobby Garden Hawai'i's objective is to create an educational and play facility for children, the community and visitors to learn about model landscaping, engineering and hobbies. There will be two employees and the hours of operation are from 8:00 a.m. to 4:00 p.m. on Wednesday through Sunday.

The Windward Planning Commission, after hearing testimony from several members of public, including the general manager of the Hawaiian Paradise Park Owner's Association, voted to approve the Special Permit request with conditions.

One reason for approving this Special Permit application is the support received from the community, including the Hawaiian Paradise Park Owner's Association, for the continued operation of this facility. Based on this support, the Planning Commission has determined that there is an expressed need for this facility. Additionally, the Planning Commission finds that this facility provides for recreational uses, which meets the requirements of the provisions under both the General Plan and the Puna Community Development Plan. Both plans call for providing recreational uses, although the plans do not specifically identify this property for these uses. Lastly, the Planning Commission finds that the applicant's facility does provide a valuable service and benefit to the Puna community and to people from other parts of the island.

Based on the above, the request to allow the operation of an educational hobby garden and play facility on one acre of land shall be approved subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. The construction of the proposed development and related improvements shall be completed within five (5) years from the effective date of this permit. Prior to the start of construction, Final Plan Approval for the proposed building and related improvements shall be secured from the Planning Director in accordance with the Zoning Code pertaining to Plan Approval. Plans shall identify all existing

structures, proposed structures, signage, fire protection measures, proposed parking area, driveway and other improvements associated with the proposed use. The parking area and driveways will consist primarily of hard-packed gravel and cinder surface in keeping with the natural environment. The driveways will be 20 feet wide to accommodate emergency vehicles. The ADA parking stall shall be paved. Landscaping shall also be indicated on the plans in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) standards for the Village Commercial (CV) zone adjoining a Single-Family Residential (RS) zone. The native species appropriate to the area shall be incorporated into the landscaping where possible.

3. Prior to commencement of operations, the applicant shall secure and finalize all building permits for all existing structures from the Building Division-Department of Public Works. The permits shall be finalized within six (6) months from the effective date of this permit.
4. No parking shall be allowed on 12th Avenue. Vehicles shall not be allowed direct access from 12th Avenue into parking spaces, nor shall vehicles be allowed to backup onto 12th from the subject property.
5. Hours of operation shall be limited to 8:00 a.m. to 4:00 p.m., Wednesday through Sunday.
6. The applicant shall provide bottled water for guests of the facility.
7. All development-generated runoff shall be disposed of onsite and not directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the receipt of Final Plan Approval. Any drainage improvements, if required, shall be constructed meeting the approval of the Department of Public Works.
8. 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.
9. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials 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.

10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
11. Upon compliance with applicable conditions of approval, the applicant shall submit a final status report, in writing, to the Planning Director.
12. An initial 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 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 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).
 - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

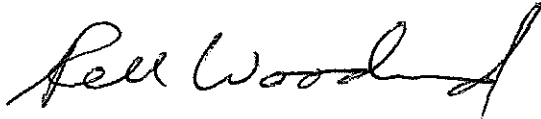
Should any of the conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate the revocation of the permit.

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.

Mr. Johnson Lum
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

A handwritten signature in cursive script that reads "Rell Woodward".

Rell Woodward, Chairman
Windward Planning Commission

Ljohnsonlum01PC(app)

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources-HPD
DOT-Highways, Honolulu
Mr. Gilbert Bailado
Brandon Gonzalez, Esq.