

County of Hawai'i

WINDWARD PLANNING COMMISSION

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

AUG 29 2011

Ms. Yuko Ishikawa
c/o Grif Frost
32 Noluahu Place
Hilo, HI 96720

Dear Ms. Ishikawa:

Special Permit (SPP 10-000103)

Applicant: Yuko Ishikawa

Request: Amendment to SPP 10-000103 to Increase Square Footage for Art Studio Within Dwelling from 99 Square Feet to 604 Square Feet

Tax Map Key: 1-6-073:031

The Windward Planning Commission, at its duly held public hearing on August 4, 2011, voted to approve the above-referenced request to amend Special Permit No. 10-000103 which allowed the use of a portion of a proposed 3-bedroom single family dwelling as an artist studio on approximately 12,000 square feet of land situated within the State Land Use Agricultural District. The applicant requests to increase the area within the dwelling that will be used as an artist studio from 99 square feet to approximately 604 square feet. The property is located along Gardenia Drive approximately 550 feet southeast from its intersection with Ainaloa Avenue within Ainaloa Subdivision, Puna, Hawai'i.

Approval of the request is based on the following:

In 2010 the applicant requested a Special Permit to establish an artist studio within one room (approximately 99 square feet in size) of a 3-bedroom single-family dwelling that was under construction. Special Permit No. 10-103 was issued on August 12, 2010 to establish the artist studio and construction of the dwelling was completed in December 2010. Since then the applicant has utilized a larger area within the dwelling than she originally anticipated. Therefore, the applicant is requesting to amend Special Permit No. 10-103 in order to increase the area used as an artist studio to

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approximately 604 square feet. The applicant will be the only employee and there will be no visitors to the site.

The Planning Director recommends that the area utilized as an artist studio should not be limited to a specific room or square footage within the dwelling but should be flexible so long as the use is conducted entirely within the existing dwelling and the dwelling continues to be used primarily as a residence.

The granting of the amendment request would not be contrary to the original reasons for the granting of the permit. The amendment request continues to be consistent with the original reasons for approving the Special Permit.

Use of a portion of the dwelling as an artist studio continues to be considered a "home occupation" as defined by the County's Zoning Code. A home occupation is any activity intended to provide income that is carried out within a dwelling, within an accessory structure to a dwelling, or on a portion of a building site used principally for dwelling purposes. The County's Zoning Code and State Land Use Law require a special permit to allow a home occupation on lands designated Agricultural by the County and State. The use is not agricultural in nature but will occur entirely within an existing dwelling, and therefore will not foreclose opportunities to use the remainder of the property for agriculture. Thus the use is an unusual but reasonable use within the Agricultural District.

Soils on the property continue to be classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and are unclassified by the Department of Agriculture's ALISH Map. The property has not been used for commercial agriculture in the past and due to its poor soil qualities is not ideal for producing sustained high agricultural yields.

Since the use will continue to operate entirely within the existing dwelling and there will be no client's onsite, it is unlikely that the use will have any adverse impacts on surrounding properties. To date there have been no complaints from surrounding property owners. Additionally, the request will not burden public agencies to provide additional services and improvements. Therefore, approval of the amendment request is not contrary to the original reasons for granting the permit.

The granting of the amendment request would not be contrary to the General Plan or Zoning Code. The request continues to be consistent with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area as Rural. This designation includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. 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.

Although the applicant is requesting to utilize a larger area of the dwelling as an artist studio, the dwelling will continue to be used as the applicant's primary residence. Thus, the request continues to be considered a home occupation-type business because it occurs entirely within a dwelling and does not involve a large number of clients going to and from the business.

The Puna Community Development Plan (PCDP) does not specifically state support for or opposition to home occupations; however, the Transportation section of the plan indicates that allowing residents to work from home is a benefit to the community because it reduces the need to travel outside of the Puna district for work. Based on the above discussion, the granting of the amendment request is not contrary to the General Plan or Zoning Code.

Based on the above, the request to amend Special Permit No. 10-103 to allow an increase in the area that will be utilized as an artist studio within an existing single-family dwelling is an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations. Approval of this request is subject to the following condition.

1. The applicant(s), its successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including Section 25-4-13 (Home Occupations) of the Zoning Code (Chapter 25), County of Hawai'i.

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. Yuko Ishikawa
c/o Grif Frost
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Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

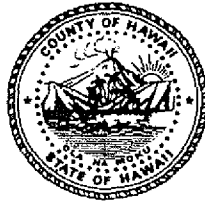
Sincerely,

A handwritten signature in black ink, appearing to read 'Zendo Kern', with a long horizontal line extending to the right.

Zendo Kern, Chairman
Windward Planning Commission

Lishikawaspp10-000103amendapp

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Mr. Gilbert Bailado ✓



County of Hawai'i

WINDWARD PLANNING COMMISSION

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

September 9, 2010

Ms. Yuko Ishikawa
120 Ainaola Drive
Hilo, HI 96720

Dear Ms. Ishikawa:

Special Permit Application (SPP 10-000103)

Applicant: Yuko Ishikawa

Request: To Establish an Artist Studio Within a Proposed Dwelling

Tax Map Key: 1-6-73:31

The Windward Planning Commission at its duly held public hearing on August 12, 2010, voted to approve the above-referenced application to allow the use of a portion of a proposed 3-bedroom single family dwelling as an artist studio (photo studio with digital photography production workspace). The property, consisting of 12,000 square feet within the State Land Use Agricultural District, is situated along Gardenia Drive approximately 550 feet southeast from its intersection with Ainaloa Avenue within Ainaloa Subdivision, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Special Permit to establish an artist studio as a home business in a dwelling that she is currently constructing. The artist studio will be located within an approximately 99-square foot room which will contain computers and printers used in digital photography production and a small photo-shooting studio with lighting equipment. The applicant will be the only employee and there will be no visitors/clients coming to the site.

The criteria for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. Rule 6-6 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, Hawai'i Revised Statutes, as amended.

The proposed 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 the State Land Use Law and Regulations and Chapter 205, 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 the 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 use is considered a "home occupation" as defined by the County's Zoning Code. A home occupation is any activity intended to provide income that is carried out within a dwelling, within an accessory structure to a dwelling, or on a portion of a building site used principally for dwelling purposes. The County's Zoning Code and State Land Use Law require a special permit to allow a home occupation on lands designated Agricultural by the County and State. The proposed use is not agricultural in nature but will occur entirely within a proposed dwelling, and therefore will not foreclose opportunities to use the remainder of the property for agriculture. Thus the proposed use is an unusual but reasonable use within the Agricultural District.

In addition to the above listed criteria, the Planning Commission shall also consider the following criteria listed under Section 6-3(b)(5) (A) through (G) of its rules of practice and procedure:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The subject property is not classified as prime agricultural land. Thus the proposed use is considered an unusual and reasonable use of the agricultural land that will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

(B) The desired use would not adversely affect surrounding properties.

Surrounding properties are zoned A-1a and range in size from 9,000 to 12,000 square feet. Most of the immediately surrounding properties are vacant. The closest dwelling is located on the adjacent property to the north. Since the proposed use will occur within the proposed dwelling and will not generate noise or odors, it is unlikely that the use will have any adverse impacts on surrounding properties. No traffic impacts are anticipated because clients will not be coming to the artist studio.

(C) The proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The property is accessed from Gardenia Drive, which is a private subdivision roadway of mixed gravel/cinder. Water will be provided to the proposed dwelling via a private catchment tank. Wastewater generated at the dwelling will be disposed on in a septic tank. The artist studio will operate as a home business within one room of a single-family dwelling, and therefore, will not increase demand on services. As no clients will come to the site, there will be no impacts to public roads. Based upon the above information, the proposed use will not unreasonably burden public agencies to provide infrastructure and services to the site.

(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 project site and surrounding areas are designated for agricultural uses by both State and County land use laws but the area has become more urban in nature since the land use boundaries were established. Additionally, many technological changes have occurred, such as the internet, which make it easier for people to operate home-based business. Thus the issuance of a Special Permit for the proposed "non-agricultural" use is appropriate.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils on the project site 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 property has not been used for commercial agriculture in the past and due to its poor soil qualities is not ideal for producing sustained high agricultural yields. Based on the above information, it has been determined that the land upon which the proposed use is sought is unsuited for the uses permitted within the district.

(F) The use will not substantially alter or change the essential character of the land and the present use. The current character of the approximately 12,000-square foot lot is vacant land. The applicant is in the process of constructing a single-family dwelling on the property, a portion of which will be used for the artist studio. Since all activities associated with the proposed use will take place within the proposed dwelling, the essential character of the land is not expected to change.

(G) The request will not be contrary to the goals, policies, objectives and actions of the General Plan, Puna Community Development Plan (CDP) 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 designated Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. 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.

The proposed use is considered a home occupation-type business because it occurs entirely within a dwelling and does not involve a large number of clients going to and from the business. The Puna CDP does not specifically state support for or opposition to home occupations; however, the Transportation section of the CDP states that wireless communication technology should become more accessible in Puna so that more residents can work from home, thereby reducing the need to travel outside of the Puna district. Based on this information, the proposed use will not be contrary to the goals, policies, objectives and actions of the General Plan or Puna CDP.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to the coastal zone management program. The property is located well outside of the Special Management Area (SMA) and tsunami evacuation zone. There is no designated public access to the mountain or shoreline areas over the property. 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. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Ms. Yuko Ishikawa
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Based on the above considerations, the approval of the request to establish an artist studio within a dwelling would support the objectives sought to be accomplished by the Land Use Law and Regulations.

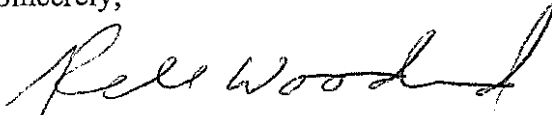
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This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Rell Woodward, Chairman
Windward Planning Commission

Lishikawaspp10-000103

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Mr. Gilbert Bailado ✓