



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

MAR 20 2015

Ms. Elizabeth J. Hultman-Salfen
HCR3 Box 13088
Kea'au, HI 96749

Dear Ms. Hultman-Salfen:

Special Permit Application (SPP 14-000174)

Applicant: Elizabeth J. Hultman-Salfen

Request: To Allow a 10,000 Square-Foot Portion of a 1-Acre Property for a
Parking Area for a Tree Trimming Business Situated in the State Land Use
Agricultural District

TMK: 1-5-022:140

The Windward Planning Commission, at its duly held public hearing on March 5, 2015, voted to approve the above-referenced request to allow a 10,000 square-foot portion of a one-acre property for a parking area for a tree trimming business situated in the State Land Use Agricultural District. The project site is situated in the Hawaiian Paradise Park Subdivision at the northwest corner of Maku'u Drive and Naupaka (23rd) Avenue, approximately 1.4 miles from the Kea'au-Pāhoa Road intersection, Kea'au, Puna, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. The parking area for the tree trimming business shall be established within one (1) year from the effective date of this permit. Prior to the establishment of the use, the applicant shall secure Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify the gravel and cider driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed use. Landscaping shall also be

indicated on the plans for the purpose of mitigating any adverse noise and visual impacts to adjacent properties and Maku'u Drive in accordance with bufferyard landscaping standards for separation of a residential zone from a commercial zone as provided for in Planning Department Rule No. 17.

3. There shall be a maximum of five (5) tree trimming trucks allowed to park onsite. During times of emergencies, the amount of trucks can be increased upon approval of the Planning Director. Employee parking is allowed in the permitted area.
4. The applicant, successors or assigns shall be pave the entrance of the parking lot from Maku'u Drive onto the subject property within one year from the effective date of this permit.
5. The applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed use.
6. 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 - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
7. 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. 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).

Ms. Elizabeth J. Hultman-Salfen

Page 3

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

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Jeff Darrow of the Planning Department at 961-8158.

Sincerely,



Raylene Moses, Chairman Pro Tem
Windward Planning Commission

LEhultman-salfenSPP14-174wpc

Enclosure: PC Findings Report

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources - HPD
Department of Transportation
Mr. Gilbert Bailado

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

ELIZABETH J. HULTMAN-SALFEN
SPECIAL PERMIT APPLICATION (SPP 14-000174)

The applicant is requesting a Special Permit to allow a 10,000 square-foot portion of a one-acre property for a parking area for a tree trimming business situated in the State Land Use Agricultural District. The property is located in the Hawaiian Paradise Park Subdivision at the northwest corner of Maku'u Drive and Naupaka (23rd) Avenue, approximately 1.4 miles from the Kea'au-Pāhoa Road intersection, Kea'au, Puna, Hawai'i, TMK: 1-5-022:140.

The applicant is requesting a Special Permit to legitimize a 10,000 square-foot portion of a one-acre property for a gravel and cinder parking area to park up to five (5) lift trucks for a tree trimming business called the Asplundh Tree Experts. There are currently 10 employees of which 7 live within the Hawaiian Paradise Park Subdivision.

There are several reasons for the request to park the lift trucks on the subject property including the ability to be the first responders to quickly respond to off-hour emergencies that will allow the electric company to restore power as soon as possible, and to secure the trucks during off-work hours to protect them from vandalism.

The tree trimming business has been instrumental in providing essential services for Hawaiian Paradise Park and for the local community during the recent hurricanes, tropical storms and lava flow events on our island and mainly in the Puna District, such as clearing roadways and removing trees from downed power lines.

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 Chapter 205, Hawai'i Revised Statutes (HRS), as amended. 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. In addition, 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.

The subject property is a one-acre parcel with a dwelling that was constructed in 1999 and is currently not in agricultural use. The applicant is proposing to establish a 10,000 square-foot portion of a one-acre property for a parking area for a tree trimming business on the subject property in the Hawaiian Paradise Park Subdivision. The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. Additionally, the soil is classified as rLW (lava flows, Pāhoehoe). As a result, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

It is therefore determined that the proposed use is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

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. As discussed above, the subject request 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. Therefore, the proposed request 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 in the Hawaiian Paradise Park Subdivision on the northwest corner of Maku'u Drive and Naupaka (23rd) Avenue. It is rectangular in shape and is one acre in size. There is an existing dwelling on the subject property that was constructed in 1999. The property is situated within the State Land Use Agricultural district and the County's Agricultural (A-1a) zoning district.

The Planning Department previously received a complaint alleging that a portion of the property was used as a base yard for a tree trimming business. The applicant submitted this Special Permit application to legitimize the use of the parking/baseyard area. During the Special Permit process, the Planning Department received a letter from nearby neighbors who are opposed to the request because of the encroachment of industrial uses within a residential type neighborhood that will compromise the value of property and the quality of life.

The nearest dwellings are located on the adjoining parcel to the northwest along on Nani'ali'i (22nd) Avenue and directly across Maku'u Drive. The parking area will be limited to a total of five (5) tree trimming trucks and will be required to have landscaping installed through the Plan Approval process to further minimize any adverse noise and visual impacts that may be generated by the proposed request. Based on the above discussion, no significant adverse impact to surrounding properties is expected.

(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 parking area is from Maku'u Drive just makai (northeast) of 23rd Avenue. Maku'u Drive has an approximately 20-foot wide pavement within a 60-foot right-of-way, which is a private subdivision road.

Water is not needed to support the proposed use, although the dwelling is serviced by a water catchment system. Wastewater disposal is provided via an existing cesspool connected to the existing dwelling. Lastly, electrical and telephone service are available to the property. Based on the above discussion, the requested use will not burden public agencies to provide additional services.

(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. A portion of 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, various "non-agricultural" uses may be allowed.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils on the property are classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and is unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. The U.S. Soil Survey Type for the subject property is Pāhoehoe lava flows, (rLW). Pāhoehoe lava has no soil covering and is typically bare of vegetation except for mosses and lichens. 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. Thus, 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 essential character of the area is rural residential. The proposed use will alter the character of the land, but it will not be a substantial change since only a quarter of the property will be used for the parking with the remainder maintained in residential use. The proposed parking area will have landscaping to minimize any visual impacts to the existing rural character of the neighborhood.

(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 designated Rural. This designation includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component, including the Orchidland Estates, Ainaloa, and Hawaiian Paradise Park (HPP) subdivisions. 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. The tree trimming business has provided essential services for the community during the recent hurricanes, tropical storms and lava flow events, such as clearing roadways and removing trees from downed power lines. The request is not contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area and complements the Land Use and Economic elements of the General Plan.

Additionally, the subject property is located near one of the proposed Hawaiian Paradise Park neighborhood village centers identified along Maku'u Drive between 15th and 17th Avenues within the Puna Community Development Plan. Therefore, the proposed request is not contrary to the General Plan and official Community Development Plan for the area.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawai'i Revised Statutes, relating to the Coastal Zone Management Program. The property is not located within the Special Management Area and is over three

miles from the nearest coastline. There is no record of a designated public access to the shoreline or mountain areas traversing the property. Due to the project site's distance from the shoreline, the property will not impact any recreational resources, scenic and open space or visual resources, coastal ecosystems and marine coastal resources.

The property has been previously cleared and is developed with a dwelling. The likelihood of any rare or endangered species, habitat or flora on the property is remote. The Department of Land and Natural Resources-State Historic Preservation Division has issued a "no-effect" letter stating that they believe that no historic properties will be affected by this project.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above considerations, Special Permit No. 14-000174 is approved to allow a 10,000 square-foot portion of a one-acre property for a parking area for a tree trimming business situated in the State Land Use Agricultural District on TMK: 1-5-022:140.