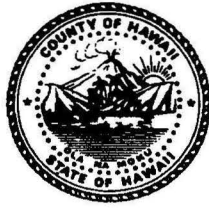


Harry Kim
Mayor

Roy Takemoto
Managing Director



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John Replogle, Vice-Chair
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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

JUL 17 2020

Zendo Kern Planning Consultant, LLC
194 Wiwoole Street
Hilo, HI 96720

Dear Mr. Kern:

SUBJECT; Special Permit No. SPP 20-000214
Applicant: Paradis Kawehionalani Reed & Mark Andrew Reed
Permitted Use: Allows for the Construction and Operation of an Independent Elder Care Home with Ten (10) Units and One (1) Main Kitchen on the Subject Parcel
Tax Map Key: 2-4-078:008

The Windward Planning Commission, at its meeting on July 2, 2020, considered the above-referenced request to allow the construction and operation of an independent elder care home with ten (10) units and one (1) main kitchen on the subject parcel. The 1.143-acre subject parcel is located at 420 Ainalako Road, approximately 0.8 miles southeast of Ainaola Drive in Waiākea, South Hilo District, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The proposed elder care facility shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application dated March 16, 2020, the Hawaii Department of Health License Application for Assisted Living Facility (ALF), any supplemental material, and the representations made before the Windward Planning Commission. Any substantial expansion of the facility or uses beyond what is represented in these documents or information shall require an amendment to this permit.

SCANNED

JUL 20 2020

BY: _____

3. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS.
4. Prior to the issuance of Final Plan Approval, the applicant shall submit evidence to the Planning Department that the Assisted Living Facility has received the appropriate license(s) to operate from the Department of Health-Office of Health Care Assurance.
5. Construction of the proposed facility shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall 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) and Chapter 25 (Zoning Code), Hawai'i County Code.
6. Quiet hours for the facility, which is the time period during which visitation will generally not be allowed, will be from 10:00 p.m. to 7:00 a.m. daily.
7. Facility parking will be entirely on site with no parking allowed on Ainalako Road.
8. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
9. All driveway connections to Ainalako Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
10. During the conversion construction phase, measures shall be taken to minimize the potential of both fugitive dust, runoff sedimentation and littering. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
11. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
12. Construction activities must comply with the provisions of Hawai'i Administrative Rules, Chapter 11-46, "Community Noise Control."
13. The applicant shall upgrade the individual wastewater system meeting with the requirements of the Department of Health prior to the issuance of Certificate of Occupancy for the proposed facility.
14. 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.

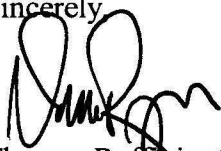
15. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
16. An initial extension of time for the performance of conditions within the permit may be granted by the Director upon the following circumstances:
 - a) The non-performance is the 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 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).

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 Alex Roy of the Planning Department at 961-8140.

Sincerely



Thomas Rafferty, Chair
Windward Planning Commission

LReedSPP20-214wpc

Enclosure: PC Findings

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State DLNR-SHPD
State Department of Health

Mr. Zendo Kern
Page 4

Plan Approval Section
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

PARADIS KAWEHIONALANI REED & MARK ANDREW REED
SPECIAL PERMIT APPLICATION (SPP 20-000214)

Based on the following findings, Special Permit No. 20-000214 is hereby approved to allow for the construction and operation of an independent elder care facility with ten (10) units and one (1) main kitchen on a 1.143-acre subject parcel located at 420 Ainalako Road, approximately 0.8-miles southeast of Ainaloa Drive in Waiākea, South Hilo District, Hawai‘i, TMK: (3) 2-4-078:008.

The applicant is requesting a Special Permit application to change the use of the subject property and existing structures from a residential dwelling to an independent elder care facility with ten (10) units and one (1) main kitchen. There are five (5) existing structures on the property:

1. Main House: built under permit No. 860252 and consists of two (2) bedrooms and two (2) bathrooms totaling approximately 1,192 square feet;
2. Ohana Dwelling: Built under permit No. 89221 and Ohana Dwelling Permit No. OD-89-313; consists of one bedroom and one bathroom of approximately 576 square feet with a 252 square-foot carport and an 84 square-foot utility room (912 total square feet);
3. Storage Building: Built under permit No. 860164 and totals approximately 896 square feet;
4. Warehouse: built under permit No. 871883 and totals approximately 1,872 square feet;
5. Garage: Initially built as a greenhouse without a permit but is listed on RPT as a carport totaling 1,176 square feet.

Staff notes there are unpermitted uses (i.e., residential use of the warehouse/garage) and improvements (i.e., conversion of garage to dwelling units) that were observed during a site visit. The applicant states that all of the structures will be renovated under appropriate permits and brought into compliance. Any permit deficiencies will be corrected in the renovation and conversion process.

The applicant’s reason for the request is to accommodate changing demographics in the area, and to provide residents of the facility opportunities to be engaged and supportive of other residents in a family-like atmosphere. The elder care facility would provide residents with meals and transportation to activities and appointments, along with social programs for seniors.

The grounds for approving a Special Permit is based on Rule 6-7 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 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 for those uses to which they are best suited in the interest of the public 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 proposed use is unusual in that an elder care facility is not normally considered agricultural in nature. It is reasonable for an elder care facility to be considered within the Agricultural district because communities within agricultural districts require certain services that support the agricultural community in which they are located, including senior citizen care and housing.

In recognizing that lands within the Agricultural district 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 1.143 acres in size and is developed with five structures including a dwelling, an Ohana dwelling, a warehouse and a garage. There is a paved parking area and driveway and landscaping typical for residential development. It is situated within the State Land Use Agricultural district and the County's Agricultural 1-acre (A-1a) zoning district. The land on which the proposed use is located is categorized as "prime" by the Agricultural Lands of Significance to the State of Hawai'i (ALISH) Map. The sites soil classification is "D" or "Poor" by the Land Study Bureau's Detailed Land Classification System and is identified mainly as Pana'ewa very cobbly hydrous loam with 2-10% slopes by the U.S. Soil Survey. The soil is moderately well drained with a high runoff potential.

The proposed use is considered an unusual and reasonable use of agricultural land that 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) The granting of this special permit request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. As evaluated above, the proposed 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.

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

Properties to the south and east are similarly zoned Agricultural 1-acre (A-1a). This lot is part of a subdivision of land that occurred in 1954. Lands directly west of the subject parcel include two (2) large parcels, one State-owned Agricultural 20-acres (A-20a) zoned parcel and one zoned Agricultural 3-acres (A-3a). Properties to the north and northeast are also within the Agricultural 3-acres (A-3a) zoning district and range from 3 acres to over 600 acres in size. The majority of the uses in the vicinity of the project parcel are residential with only minor agricultural development located over ½ mile north of the project parcel. The subject property currently has landscaping, trees and vegetation that will help minimize noise and visual impacts.

Based on the above discussion, the proposed use is not anticipated to have a substantial adverse impact on the surrounding properties, but any possible impacts can be minimized through conditions of approval.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The proposed use will not burden public agencies to provide additional services. The existing access to the subject property is from Ainalako Road, which is a county dedicated roadway with a 50-foot right-of-way. There is clear ingress and egress to the parcel from the road and the property is gated. Parking will be entirely on site, with no parking allowed on Ainalako Road. Four (4) parking stalls and one (1) ADA compliant parking stall will be established on the property for the facility. Electricity and telephone are available to the property. The majority of the subject parcel is within Zone X, with approximately 0.07-acres of the southwest corner of the parcel within Zone AH, which corresponds to flood depths of 1 to 3 feet. Base flood elevation has been determined, however, all of the existing buildings are located in Zone X. A condition of approval will be included to require that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

The proposed project is located on Ainalako Road, approximately 0.8 miles from its intersection with Ainaloa Drive. Traffic in this area is generally low and made up primarily of local residents. The proposed use would generate a slight increase in traffic to the subject site, however, the increase would be approximately 10 to 20 visitors per day. This equates to roughly 2 to 3 cars per hour, similar to current residential levels. Potential adverse impacts will be mitigated using "quiet hours" (10pm to 7am) for the facility, during which visitation will generally not be permitted.

Consultation with the Department of Water Supply indicates water can be made available from an existing 8-inch waterline within Ainalako Road. The property is currently served by a 5/8-inch meter with an average daily usage of 400 gallons per day (gpd) and a maximum daily usage of 600 gpd. The DWS requests that the applicant submits estimated maximum daily water usage calculations for review and approval. Currently, there is no municipal wastewater system serving the subject property. There is an existing septic system, however the applicant has stated that they will upgrade the wastewater disposal system as needed to comply with Department of Health standards.

(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, various "non-agricultural" services may be allowed, including an elder care facility.

(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 Pana'ewa very cobbly hydrous loam, classified as "D" or "Poor" by the Land Study Bureau's Overall Master Productivity Rating. However, it is categorized as "Prime" by the Department of Agriculture's ALISH Map. The proposed elder care facility will utilize the existing structures, with the only ground disturbance necessary to include possible septic improvements. Based on the above information, the land on which the proposed use is sought may be unsuitable for the more common uses found within the agricultural district.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed elder care facility will be conducted within all of the five (5) existing structures on the property, which is currently used as a dwelling. All of the structures will be renovated under permit and brought up to code including required access for persons with disabilities. Plans call for the construction of ten (10) units with one (1) main kitchen, within four (4) of the structures with the Ohana Dwelling improved for the on-site caretaker. The site is served by a paved driveway to a large parking area, which will accommodate the four (4) parking stalls and one (1) ADA compliant parking stall. to accommodate a redesigned access drive and parking area. Although the proposed elder care facility will alter or change the present use of the property, the changes are not be anticipated to be substantial.

(G) The request will not be contrary to the General Plan and other documents such as Design Plans. The County of Hawai'i's General Plan is the policy document for the long-range comprehensive development of the island of Hawai'i. One of the purposes of the General Plan is to guide the pattern of future development in this County based on long-term goals. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as Important Agriculture Lands (ial), these are areas *with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors*. While the proposed elder care facility may not align with the LUPAG designation, according to the General Plan allowable uses within thing the Agricultural District may include *old age, nursing and rest homes*. As the Land Study Bureau classification of the subject parcel is "D" or "poor", the parcels agricultural value is limited making the community facility more applicable to the site. Staff notes that the General Plan also indicates there is an opportunity for the public where the primary intent of these types of developments is to provide an added range to housing opportunities in rural areas.

Based on the proceeding, the proposed use would align with the goals and policies of the economic, housing, and land use elements of the General Plan:

Economic:

- 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 improvement shall be in balance with the physical, social and cultural environments of the island of Hawai'i;
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural natural and social environment;
- Encourage the development of the retirement industry (*policy*)

Housing:

- Maintain a housing supply that allows a variety of choices;
- Encourage the construction of specially designated facilities or communities for elderly persons meeting institutional care and small home care units for active elderly persons.
- Accommodate the housing requirements of special need groups including the elderly, handicapped, homeless and those residents in rural areas.

Land Use:

- Designate and allocate the land uses 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.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program. The subject property is approximately 4.5 miles from the nearest shoreline and is not located within the Special Management Area. Given the fact that the property has been previously cleared, landscaped and developed with five (5) structures and a parking area, it is unlikely that any archaeological features and threatened plant, animal or avian species will be adversely affected. There is no designated public access to the mountain areas over the property.

Therefore, based on the preceding the proposed elder care facility will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion.

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 property. Additional governmental requirements may include, but are not limited to: 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), installation of water utility improvements, and State Department of Health Licensing and approval. 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, the request to convert an existing development into a ten (10) unit elder care facility is approved.