

CERTIFIED MAIL

May 20, 1988

Ms. Dorothy Delaney
P. O. Box 6352
Capt. Cook, HI 96704

Dear Ms. Delaney:

Special Permit Application
Tax Map Key: 9-2-201:18

The Planning Commission at its duly held public hearing on May 18, 1988, voted to approve your application, Special Permit No. 664, to allow the establishment of a real estate office within an existing single family dwelling situated on 3.18 acres of land within the State Land Use Agricultural District at Hawaiian Ocean View Ranchos Subdivision, Kahuku, Ka'u, Hawaii.

Approval of this request is based on the following:

The proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law Regulations. The intent of these statutory provisions is 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 Hawaii. The area under consideration is classified Agricultural by the State Land Use Commission. The property is not classified by the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system. The Land Study Bureau's Overall Master Productivity Rating for agricultural use is Class "E" or very poor. Further, while the soil may not be suitable for agricultural use, the proposed use within the existing single-family dwelling will not restrict the land from being used for agricultural purposes. The State Department of Agriculture had no objections to the request considering the existing structure on the property.

MAY 20 1988

Ms. Dorothy Delaney
May 20, 1988
Page 2

Because of the very limited nature of the proposal, approval of the subject request will not have any adverse impact on the future agricultural potential of the subject property or the surrounding area. As such, from a policy analysis standpoint, it is determined that its approval would not be inconsistent with the General Plan.

The proposed use will not adversely affect the surrounding properties and their improvements. As stated previously, the proposed use will be situated within the existing single-family dwelling. The applicant would be conducting business through the mail or over the phone. The applicant and her husband would be the sole realtors working from the office. There are no other employees associated with the business. Thus, the small scale of the proposed real estate business will be compatible with the County's Zoning Code definition of a "home occupation." Since the primary use on the subject property will remain residential, the impacts resulting from the real estate use are anticipated to be negligible.

The proposed use will not unreasonably burden public agencies to provide roads, water, and other similar infrastructure or services. Again, the limited nature of the proposed use will not require any additional demands or expansion to those services and facilities already available to the subject property. It should be noted that the Police and Fire Departments had no objections to the request.

Based on the foregoing, it is determined that the proposed home occupation for a real estate office is an unusual and reasonable use of land within the State Land Use Agricultural District. As such, it is further determined that the approval of the request would still promote the effectiveness and objectives of Chapter 205, HRS, as amended.

Approval of this request is subject to the following conditions:

1. The petitioner shall be responsible for complying with all conditions of approval.
2. The real estate office use shall be restricted to the individuals residing in the affected single family dwelling on the property.
3. The proposed use shall be in operation within one year from the effective date of the Special Permit.

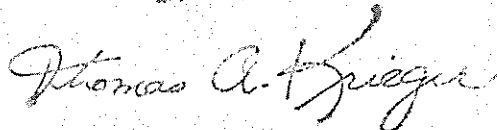
Ms. Dorothy Delaney
May 20, 1988
Page 3

4. There shall be no visible signs or displays on the premises advertising the real estate business.
5. The use shall be restricted to a "home occupation" as defined under Section 25-4, Division 1, Article 1 of Chapter 25 (Zoning Code), Hawaii County Code 1983, as amended.
6. The life of this Special Permit shall be for a five year period ending May 17, 1993.
7. Comply with all other applicable laws, rules, regulations and requirements.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning 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; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

Ms. Dorothy Delaney
May 20, 1988
Page 4

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

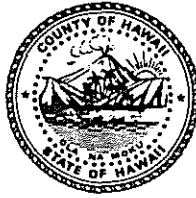


Thomas A. Krieger
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
State Land Use Commission

bcc: Plan Approval Section

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL
Z 095 324 267

OCT 26 1998

Ms. Dorothy Delaney
P.O. Box 6352
Ocean View, HI 96737-6352

Dear Ms. Delaney:

Special Permit No. 664 (SPP 664)
Applicant: Dorothy Delaney
Request: Deletion of Condition No. 7 (Life of Permit)
Tax Map Key: 9-2-201:18

The Planning Commission at its duly held public hearing on October 16, 1998, voted to approve the above-referenced request. Special Permit No. 664 allowed the establishment of a real estate office within an existing dwelling situated within the State Land Use Agricultural District. Although the applicant had originally requested a 5-year extension to the life of the permit, Condition No. 7, concerning the life of the permit, is hereby deleted in its entirety. The property is located in Hawaiian Ocean View Ranchos Subdivision on the south (makai) side of Lanikai Drive approximately 240 feet east of the Kamaaina Boulevard-Lanikai Drive intersection, Kahuku, Ka'u, Hawaii.

Approval of this request is based on the following:

Approval of this request would not be contrary to the General Plan or the Zoning Code. After reviewing the files and further evaluating the applicant's request, the limited life condition is being removed from the permit. Establishing the use on a permanent basis would not be contrary to the original reasons for granting the Special Permit. The request is consistent with the Land Use Element of the General Plan which states to "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to "...encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." The property was granted a Special Permit for a real estate office in 1988 and the applicant has been in operation for ten (10) years. Annual progress reports have been filed every year and no complaints have been filed on the use. The subject request would not be contrary to the objectives of the State Land Use Law and Regulations as the office is established in the existing dwelling and no active agricultural lands will be taken out of use. The

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granting of this particular request would also complement the economic goal of the General Plan which states that "The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors."

The desired use will not adversely affect the surrounding properties. Since the granting of the Special Permit in 1988, which allowed the real estate office, the surrounding area has not changed. The applicant has been operating for about ten years with no complaints. Thus, the establishment of the real estate office on the subject property is not expected to produce any new impacts.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. The real estate office is not expected to produce additional burden to existing facilities. The consulting agencies or surrounding property owners have not expressed any negative concerns regarding the proposal.

Based on the above findings, Condition No. 7 concerning the life of the permit is hereby deleted (material to be deleted is bracketed and material to be added is underscored):

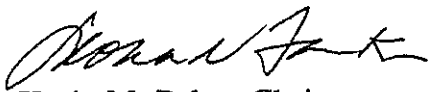
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. Final Plan Approval for the conversion of the recreation room into the real estate office shall be secured from the Planning Director. Plans shall identify structures, landscaping, fire protection measures, paved parking area and paved driveway associated with the proposed use. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Upon securing final plan approval, a change in use of the recreation room into the real estate office shall be reported to the Building Division, Department of Public Works.
4. The real estate office use shall be restricted to the individuals residing in the affected single-family dwelling on the property and may not be expanded to include other employees. This special permit shall be non transferable to any other brokerage firm or agency.
5. The proposed use shall be in operation within one year from the effective date of the Special Permit.
6. Signage shall be restricted to wall signs or yard signs not exceeding four (4) square feet in size.
- [7. The life of this special permit shall be for a period of five years from the effective date of this amendment.]

- [8.]7. Comply with all other applicable laws, rules, regulations, and requirements and requirements.
- [9.]8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include the status of the development, the compliance with the conditions of the approval, and a detailed listing of public complaints or problems and their disposition. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
- [10.]9. An initial extension of time for the performance of conditions within the permit, with the exception of Condition No. 7, 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate proceedings to nullify 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.

Should you have any questions, please feel free to contact Alice Kawaha of the Planning Department at 961-8288 or Royden Yamasato of the Planning Department West Hawaii Office at 327-3510.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

LDelan01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu