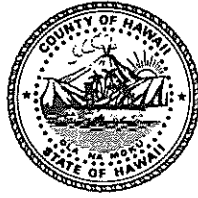


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

July 22, 1993

Fern Forest Vacation Estates
Community Association
PO Box 395
Mt. View, HI 96771

Gentlemen:

Special Permit Application (SPP 93-7)

Applicant: Fern Forest Vacation Estates Community Association

Request: Establish a Volunteer Fire Station, Community Center
and Related Improvements

Tax Map Key: 1-1-28:85

The Planning Commission at its duly held public hearing on July 15, 1993, voted to approve the above application. Special Permit No. 844 is hereby issued, to establish a volunteer fire station, community center and related improvements on approximately 3 acres of land within the State Land Use Agricultural district. The project site is located on the east (towards Keaau) side of Captain's Drive between its intersections with McCoy Road and Kaleponi Road, Fern Forest Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, 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 Hawaii.

In the case of the Agricultural Districts, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The land on which the proposed use is located is classified as "E" or "Very Poor" by the Land Study Bureau for agricultural productivity and not classified by the ALISH Map. The subject property has not been in active agricultural

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production and would not be taking high potential agricultural lands out of use nor will the requested use have an adverse impact on the overall agricultural activity in the area. Although the granting of the proposed fire station and community center would allow the establishment of a non-agricultural use on the property, the proposed use would allow the establishment of the community's basic protective services and be in the best interest of the general welfare of the Hawaiian Acres community. Therefore, the proposed use shall not be contrary to the objectives of the State Land Use Law for the Agricultural district.

The desired use will not adversely affect the surrounding properties. Surrounding uses include vacant lands with scattered residential and agricultural uses. An existing dwelling lies adjacent to the subject property to the southeast; other bordering properties are vacant. However, to ensure that noise impacts are minimized upon the existing neighbor and future residents, it is recommended that a landscaping buffer be established and determined at the time of plan approval review, along both sides and along the rear property boundaries.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, police and fire protection. Sewer will be by cesspool and water will be provided by a water catchment system. Access to the property is approximately 2.5 miles from Highway 11; and 1.6 miles from the beginning of Captain's Drive, which is unpaved and one of the three main arteries within the subdivision. Although the roads leading to the subject property are not paved, the public safety benefits of the proposed uses outweigh the burden that unpaved roads place on public agencies. More specifically, the construction of a fire station would decrease emergency response time to a growing community that is located a considerable distance away (approximately 12 miles) from an existing fire station. Also, the construction of a community center would allow for community activities to be held within the subdivision, in the immediate vicinity where the residents actually live. In addition, all requirements of the Department of Health, Department of Public Works and Fire Department shall be complied with prior to the establishment of the proposed uses as a condition of approval.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The fact that the subdivision was created without adequate infrastructure is a tremendous burden on the County. There is a definite need

for the proposed uses. The efforts of this community to take action and assume responsibility to increase their public safety needs through the construction of a volunteer fire station is laudable. In addition, the construction of a community center building would also provide a place where activities can be held and where a sense of "community" can be fostered.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district, however, the proposed use will not interfere with permitted uses. The proposed fire station, community center and related uses will be used by the existing residents and essentially support community development and provide a much needed public safety service.

The proposed use will not substantially alter or change the essential character of the land and the present use. The subject property is approximately three acres in size and vacant; and it will not displace agricultural uses.

The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the area for Orchards. The proposed use is consistent with the goal of the Land Use Element of the General Plan which is to "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and "The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." The proposed use also meets the goal of the Public Facilities Element of the General Plan which states "Encourage the provision of public facilities that effectively service community needs and seek ways of improving public service through better and more functional facilities which are in keeping with the environmental and aesthetic concerns of the community."

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns 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 shall be secured from the Planning Director for the fire station, community center and related improvements. Plans shall identify structures, fire protection measures, paved parking stalls and paved driveway (chip seal, concrete or asphalt concrete), and landscaping buffer associated with the proposed uses. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Detailed landscaping plans shall include landscaping buffers in the form of trees and shrubbery along both sides and along the rear boundary of the project.
4. Construction of the fire station, community center and related improvements shall be completed within five years from the effective date of this special permit.
5. Should any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
6. Driveway access shall meet with the approval of the Department of Public Works.
7. The applicant shall comply with all applicable county and state laws, rules, regulations and requirements, including the Department of Health, Fire Department and the Department of Public Works.
8. Upon compliance with all conditions of approval, in conjunction with the application for a certificate of occupancy and prior to the opening of the fire station, community center or related improvements, the applicant shall provide, in writing, a final status report to the Planning Director.
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

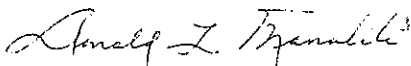
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the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General 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 shall initiate procedures to revoke 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 Rodney Nakano or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LFernF01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Mr. Phil Clemmer
Corporation Counsel
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Fire Department
Department of Health
Plan Approval Section