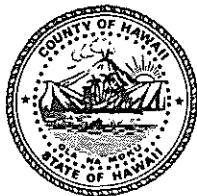


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

November 26, 1993

Ms. Joan D. Widdecomb
dba Aloha Montessori
PO Box 688
Naalehu, HI 96772

Dear Ms. Widdecomb:

Special Permit Application (SPP 93-19)

Applicant: Joan Widdecomb dba Aloha Montessori

Request: Establish a Pre-School in an Existing Single Family
Dwelling and Related Improvements for Five Years

Tax Map Key: 9-2-17:44

The Planning Commission at its duly held public hearing on November 18, 1993, voted to approve your above application. Special Permit No. 856 is hereby issued to establish a preschool on land situated in the State Land Use Agricultural district. The project site is situated on the north side of Aloha Boulevard, midway between its intersections with Hula Lane and Iolani Lane, Hawaii Ocean View Estates, Kahuku, Kau, 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 District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are

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identified as Lava Flows, Aa (rLV) by the Soil Conservation Service and classified as "E" of "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating. The lands are also unclassified by the Department of Agriculture's ALISH map. The parcel is a little over one acre in size and has an existing single-story residential structure on site. No additional structures will be constructed. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in active agricultural use. Although, non-agriculturally in nature, the preschool services would establish a service and meet a need that is in the best interest of the community. Therefore, the proposed use would 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. The subject property is landscaped with ohia and hibiscus. There is an existing dwelling two lots west of the subject property. A building permit was secured for the adjacent lot to the east, in January 1992, however, according to the applicant no construction has taken place. To ensure that visual and noise impacts are minimized upon existing neighbors and future residents, it is recommended that additional landscaping be planted, to be reviewed and approved during final plan approval.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. The applicant anticipates that majority of the children will be coming from the Hawaiian Ocean View Estates subdivision and therefore any traffic generated from the preschool are expected to be from the subdivision. According to the president of the H.O.V.E. Road Maintenance Corporation, roads are paved with chip seal, privately owned and maintained through assessments of individual lot owners. Although roads are paved with chip seal, and not asphalt or asphalt-concrete, they are privately owned and not within County jurisdiction. A chipseal pavement with a width of 20 feet is capable of accommodating two-way traffic. In addition, the H.O.V.E. Road Maintenance Corporation had no objections to the proposal. Although, the preschool is proposed as a temporary use, the driveway, parking area turn around area, which are covered with cinder, would need to be resurfaced with chipseal, asphalt or asphalt-concrete in order to meet standards that the Planning Commission has established with previous applications. Electricity and telephone are available to the subject property; in addition, water, presently by catchment, would need to meet

with the requirements of the Department of Health. All other requirements of the Department of Health, Department of Public Works, and Fire Department shall be complied with prior to establishment of the proposed use. Other consulted agencies had no objection to the request.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The need for local preschool services has increased with the number of working parents. Due to the remote location of the subdivision and its distance from existing preschool facilities (approximately 16 miles), the establishment of a private preschool in the Hawaiian Ocean View Estates will meet a definite need of the community.

The land upon which the proposed use is sought is not unsuitable for the uses permitted within the district, however, the proposed use will not interfere with permitted uses. The proposed preschool will be used by the existing residents and support community development.

The use will not substantially alter or change the essential character of the land and the present use. Upon approval of the request, the preschool will be conducted in an existing residential structure. No displacement of agricultural activities will take place. Because of the small scale of the project, the rural atmosphere will be maintained and there will be no significant change in the character of the land.

The proposed use will not be contrary to the General Plan and Community Development Plan and other documents such as Design Plans. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Extensive Agriculture. 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.
- * 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 successor 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 conversion of the dwelling into the proposed preschool facility shall be secured from the Planning Department. Plans shall identify structures, fire protection measures, paved driveway, paved parking and paved drop-off area (chipseal, asphalt or asphalt-concrete), and existing and proposed landscaping associated with the proposed use. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Parking for all functions shall be maintained on the subject property.
4. The proposed preschool shall be established (change of use) within two years from the effective date of the Special Permit.
5. The life of the permit shall be for a five-year period from the effective date of the Special Permit. An amendment to this condition shall be submitted to the Planning Commission in accordance with Rule 6-8 of the Planning Commission's Rules of Practice and Procedures.
6. Signage shall comply with Residential districts as set forth in section 3-26 of the Hawaii County Code.

7. The preschool facility shall be limited to twenty-three (23) children. Hours of operation shall be limited to Monday through Friday, 7:30 to 3:30 p.m.
8. Driveway access shall meet with the approval of the Department of Public Works.
9. The applicant shall comply with all laws, rules, regulations and requirements, including the Department of Health, Fire Department and Department of Public Works.
10. Upon compliance with all conditions of approval, in conjunction with the application for a certificate of occupancy and prior to the opening of the preschool, the applicant shall submit a final status report, in writing, to the Planning Director.
11. 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 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.

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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

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xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Fire Department
West Hawaii Office
State Land Use Commission
Department of Health
Plan Approval Section