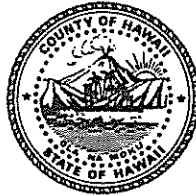


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

OCT 1 1 1994

Mr. Wendall Karr
PO Box 10885
Hilo, HI 96721

Dear Mr. Karr:

Special Permit Application (SPP 94-09)
Applicant: Wendall Karr
Request: Establish a real estate office within a residence
Tax Map Key: 1-5-15:143

The Planning Commission at its duly held public hearing on September 22, 1994, voted to approve your application. Special Permit No. 889 is hereby issued to establish a real estate office within an existing one-story single family residence on approximately 1 acre of land within the State Land Use Agricultural district. The project site is located on the makai side of Uluhe Avenue approximately 270 feet from its intersection with Makuu Drive, Hawaiian Paradise Park Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

In considering a Special Permit for any proposed use, Rule 6 of the Planning Commission relating to Special Permits require that such action conform to the following guidelines:

- a. Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- b. The desired use shall not adversely affect surrounding properties;
- c. Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;

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- d. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- e. The land upon which the proposed use is sought is unsuited for the uses permitted within the district;
- f. The proposed use will not substantially alter or change the essential character of the land and the present use;
- g. The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans;

In addition to the guidelines detailed above, the Planning Commission must also find 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. Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

The granting of this special permit will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law is 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 of the State Land Use Law is to preserve or keep lands of high agricultural potential in agricultural use.

The land on which the proposed activity will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the ALISH Map. The applicant proposes to establish a real estate office within an existing single-family dwelling with no additional land to be taken out of existing or potential agricultural use. The limited nature of the proposed activity will not have an adverse effect on the County's agricultural land inventory. The proposed activity will be conducted in conjunction with an existing single family residential use, a permitted use within the County Agricultural District. Therefore, it can be determined that approval of the request will not be contrary to the objectives of the State Land Use Law for the Agricultural District.

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The request is not contrary to the goals, policies and standards of the General Plan. Approval of the subject request would support a goal of the Economic Element of the General Plan which states that the County shall "Provide residents with opportunities to improve their quality of life." The General Plan also recommends that "The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment." The proposed use would also be consistent with the Land Use policy of the General Plan which states: "Designate and allocate land uses in appropriate proportions and mix 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." There are uses which allow the residents of this County to enjoy certain economic benefits while preserving the character of the subject property and lands surrounding the proposed use. The proposed real estate office is such an operation. By limiting the use of the real estate office to the applicant and within the confines of the existing single family dwelling, the single family residential character of the subject property will be maintained and will not substantially alter or change the essential character of the land and the present use.

The desired use will not adversely affect surrounding properties. As mentioned, the proposed real estate office will be conducted within a portion of an existing single family dwelling and restricted to use solely by the applicant. The applicant anticipates approximately 5 to 10 clients per year will visit the proposed real estate office. With such a low visitation rate by clients, possible noise generated by the activity is expected to be negligible. However, it is impossible to monitor and restrict the number of visitations to the proposed office by clients, which may increase beyond that represented should the applicant become extremely successful in his endeavors. In addition to restricting use of the real estate office to the applicant, it is recommended that a limitation on the hours of operation be imposed as well as the provision of a paved (asphalt, asphaltic-concrete or chip-seal) driveway and client parking area to minimize adverse impacts to surrounding properties from potential noise and dust generated by an increase in traffic to the subject property.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Access from the Keaau-Pahoa Highway is via Maku'u Drive, which is a private roadway having a pavement width of approximately 21 feet within a 40-foot wide right-of-way. Access then proceeds along 'Uluhe (33rd) Street, another private roadway having a 21-foot wide

gravel-bed surface within a 40-foot wide right-of-way, for a distance of approximately 270 feet to the subject property, exclusive of its roadway frontage. As with similar requests before the Planning Commission, adequate access is always a priority. While the applicant will be the sole proprietor with an anticipated 5 to 10 clients per year, it is reasonable to assume that good fortune may fall upon the applicant which may result in daily visitations by clients. The Commission, in recommending approval of the applicant's request, must also consider the possibility of daily visitations by the general public and the need to provide adequate access to the proposed real estate office. Therefore, it is recommended that 'Uluhe Street be improved from its intersection with Maku'u Drive to and including the subject property's driveway access. Asphalt, asphaltic-concrete or chip-seal of sufficient width for two-way traffic is recommended. While a County water supply is not available to support the proposed activity, potable water is not necessary for the proper operation of a real estate office. All other essential utilities and facilities are or will be made available to support the proposed use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Increasingly, the county is experiencing a blurring of uses once well defined by land use districts. More specifically, individuals are opting to work at home that at an office located within the traditional commercial area. Technological advancements such as the facsimile machine, advance telephone services and networking have made the traditional office structure much more flexible. While the benefits of working and establishing an office at home may be attractive, the need to ensure the ability of an area to accommodate such a use must still demand our greatest attention.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. As mentioned, the soil within the subject property is generally not suitable for agricultural use. Furthermore, the one acre size of the parcel and its improvement as a homesite precludes extensive or intensive forms of agriculture at a reasonable scale.

Approval of this request is subject to the following conditions:

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. Final Plan Approval for that portion of the single family dwelling which will accommodate the proposed real estate office shall be secured from the Planning Department. Plans shall identify existing structures and paved (concrete, asphalt-concrete or chip-seal) driveway and

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parking area associated with the proposed real estate office.

3. The real estate office use shall be established within one year from the date of receipt of Final Plan Approval. The applicant shall notify the Planning Department, in writing, prior to commencing operation of the real estate office.
4. Operation of the real estate office shall be limited to the hours from 8:00 a.m. to 4:00 p.m., daily.
5. The real estate office shall be limited to its use by the applicant only.
6. Exterior signs must comply with Section 3-26 of the Hawai'i County Code, regarding signs permitted in residential districts.
7. The applicant shall provide pavement improvements to 'Uluhe Street (33rd Avenue) from its intersection with Maku'u Drive to and including the subject property's driveway access. Pavement improvements shall include a surface treatment of asphalt, asphaltic-concrete or chip-seal of sufficient width to accommodate two-way traffic. These improvements shall be provided in a manner meeting with the approval of the Department of Public Works, prior to establishing the real estate office use.
8. The applicant shall comply with applicable laws, rules and regulations of State and County agencies.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: 1) 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.

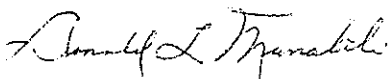
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This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please feel free to contact Rodney Nakano or Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LKarrW01.PC

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