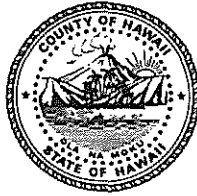


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

February 3, 1995

Mr. Don Seaton
HCR 2, Box 6433
Keaau, HI 96746

Dear Mr. Seaton:

Special Permit Application (SPP 94-18)

Applicant: Don & Wilma Seaton

Request: Proposed Warehouse/Office for Storage & Wholesale
Distribution of Prefabricated Greenhouses & Related
Nusery Products

Tax Map Key: 1-5-20:79

The Planning Commission at a duly advertised public hearing on January 26, 1995, considered your request for a Special Permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to establish a greenhouse selling business on approximately 1 acre of land within the State Land Use Agricultural district. The project site is on the makai-Pahoa corner of the intersection of 28th Street and Paradise Drive, Hawaiian Paradise Park Subdivision, Keaau, Puna, Hawaii.

The Commission voted to deny the Special Permit based on the following findings:

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;

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- c. Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;
- 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 proposed use will not promote the effectiveness and objectives of Chapter 205, H.R.S., as amended. Chapter 205, H.R.S., otherwise known as the State Land Use Law, provides the basic legal framework of land uses in the State of Hawaii and assisted in the implementation of the long-range land use objectives of the State and Counties. 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 in Hawaii. The Planning Director recognizes that the project site is composed of Pahoehoe Lava, which the Land Study Bureau's Overall Master Productivity Rating system classifies as "E" or "Very Poor" for agricultural productivity and which is not classified by the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. However, the approval or denial of a Special Permit is not solely dependent on the agricultural potential of the project site but must be considered under the broader statewide objectives specified under the State Land Use Law and which are articulated through the County General Plan. Land use and its consistency with the goals, objectives and policies of the General Plan will therefore promote the effectiveness and objectives of Chapter 205, H.R.S..

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The granting of this particular request at this particular location would be inconsistent with the objectives to be sought to be accomplished by the Land Use Law and Regulations as well as the County General Plan. A goal of the General Plan states that the County shall "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments" while maintaining a policy to ". . . encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The applicants propose to develop a warehouse/office complex for the wholesale distribution and sale of greenhouses and other nursery-related items. The applicant stated that "About 38.6% of our customers are located from Keaau through paradise park, Orchidland Estates, Pahoia Kapoho and Kalapana. In Paradise Park alone, we have 68 people with whom we do business. 16% of our active accounts are from Hilo/Panaewa, and 20.8% are from Kurtistown, Mountain View, Glenwood and Volcano. The balance are divided between Kamuela, Kohala, Kona, Pahala/Naalehu and along the Hamakua Coast. In addition we serve the other islands, shipping greenhouse materials directly from the manufacturer to our customers and shipping other items from Hilo primarily by Young Brothers." While a substantial percentage of the applicant's customer base is from the Puna District, the numbers provided above emphasizes the regional and statewide service anticipated to be provided by the applicant through the proposed warehouse/office complex. In considering the subject request, the Planning Commission must weigh the benefits to be provided to agriculturalists by the proposed complex against the appropriateness of its location within Hawaiian Paradise Park Subdivision and its impact to surrounding areas.

It could be argued that the proposed use is a direct service to agriculturalists and should therefore be approved through the issuance of a Special Permit. If this argument is carried to other uses, such as the sale of tractors, trailers, and other agricultural machinery or a chemical plant producing fertilizers or agricultural chemicals, it is easier to make the correlation and understand its implications. Many uses and activities can establish some sort of relationship to agricultural activities. Does this relationship qualify the use as reasonable and unusual to be situated within the Agricultural District?

To place the proposed warehouse/office complex within Hawaiian Paradise Park Subdivision would provide little or no direct benefit to the majority of residents of the subdivision while burdening them with the impacts such a regional activity would generate, such as increased traffic and noise. Unlike a day care center, fire station or school, the proposed complex will

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benefit a few select residents who could take advantage of the products and services to be offered by the applicant. This further emphasizes the appropriateness of locating such a facility so deep within Hawaiian Paradise Park Subdivision and so far away from adequate support facilities. The State Land Use Law and Planning Commission Rules of Practice and Procedure states that a Special Permit may be granted to allow the establishment of uses not otherwise permitted within the State Land Use Agricultural District upon finding that such a use "Is an unusual and reasonable use of land situated within the Agricultural District" and "Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended." To establish the proposed warehouse/office complex through the issuance of a Special Permit would be contrary to the intent or purpose of the State Land Use Law and the Hawaii County Zoning Code, which seeks to establish an effective land use pattern which utilizes the land to its highest and best use while ensuring that proper support facilities and services are available.

Effective land use planning requires a regional perspective towards establishing a proper land use pattern. The proposed development will be located approximately 3,300 feet off of the Keaau-Pahoa Road within Hawaiian Paradise Park Subdivision. Paradise Drive, which provides access to the project site from the Keaau-Pahoa Road, is a private roadway with a pavement width of approximately 20 feet within a 60-foot wide right-of-way. From Paradise Drive, access then proceeds along 28th Street to the subject property. 28th Street is a private gravel roadway with a right-of-way of 40 feet. Due to the nature of the proposed use, these roadways do not meet the minimum pavement and right-of-way width requirements of 36 feet and 60 feet, respectively, for roadways within the Commercial- or Industrial-zoned districts as required by the Subdivision Code. Curb, gutter and sidewalk improvements, normally associated with commercial and industrial areas, are also not available. County water is available to service the subject property, provided the applicant is willing to construct a 3,300-foot waterline connection from the watermain located along the Keaau-Pahoa Road. Approval of the proposed warehouse/office complex deep within an existing agricultural-residential subdivision with substandard roadways and facilities would adversely impact surrounding properties by encouraging the mixing of agricultural, residential and urban-levels of traffic along these substandard roadways. Approval could also encourage similar regional types of uses to be established within the subdivision, further impacting its residents while providing little in the way of direct benefits. Until such time as regional infrastructure is able to accommodate widespread urban level of development, it would not be prudent for the County to

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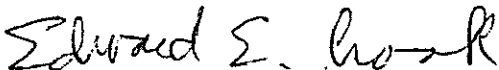
sanction the spread of such traffic-generating uses in a manner which would frustrate the government's efforts to provide these basic levels of infrastructural facilities. Therefore, approval of the proposed use would also unreasonably burden public agencies to provide roads, streets and water.

Based on the above considerations, it is determined that the establishment of a warehouse/office complex for the wholesale storage and distribution of prefabricated agricultural greenhouses and warehouses and other nursery-related items at this particular location would not promote the effectiveness and objectives of the State Land Use Law. It is therefore recommended that the Special Permit application be denied.

A denial by the Commission of the desired use shall be appealable to the Circuit Court in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.

Should there be further questions on this matter, please feel free to contact Daryn Arai and Connie Kiriu of the Planning Department at 961-8288.

Sincerely,



Edward E. Crook, Vice-Chairman
Planning Commission

CRK:smn

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