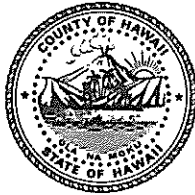


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 416 228 818

July 27, 1995

Tim Lui-Kwan, Esq.
Carlsmith Ball Wichman Case & Ichiki
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lui-Kwan:

Special Permit Application No. 95-7
Applicant: Claire E. Flagg
Request: Construct and Use of a Temporary Model Home
Village for Three Years
Tax Map Key: 1-8-7:68

The Planning Commission at its duly held public hearing on July 13, 1995, voted to approve the above-referenced application. Special Permit No. 907 is hereby issued to allow the construction and use of a temporary model home village for a period of three years on 6.2 acres of land situated within the State Land Use Agricultural District located mauka of the Volcano Highway near the 18-mile marker in the Koi Farms Subdivision approximately 7,000 feet west (mauka) along Lehuanani Road, portion of Olaa Reservation Lots, Puna, Hawaii.

Approval of this request is based on the following:

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 Rules 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 of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The soils within the project site are classified "D" or Poor by the Land Study Bureau for agricultural productivity and classified as "Other Important Agricultural Land" according to the ALISH map system. The subject property is vacant and has not been used for agricultural activity. The applicant proposes to establish a model home village with a sales office for a period of three years on 77,000 square feet, which is less than one-third of the 6.2-acre parcel. The remainder of the parcel will remain vacant and left intact. Upon expiration of the permit, only one model home will remain on the subject property and agricultural activity could take place if desired. This request will not displace a significant amount of land from agricultural activity nor diminish the

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agricultural potential of the area. Therefore, the request would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

The proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- * Designate and allocate land areas 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.

Economic Element

- * Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- * 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 will not have any significant adverse effects on the surrounding properties. Surrounding development is rather sparse. Lands previously used for greenhouses have been abandoned. Adjacent and to the west of the subject property is the old employee housing that was once used for Koi Farms. As previously stated, the proposed model home village will be temporary in nature. As the house-and-lot packages within the Wailani Subdivision are purchased, there will no longer be a need for the model home village. A condition of approval would require that sales be limited to initial house-and-lot sales with resale of these lots to be prohibited. As the model home village would be temporary in nature, this restriction would allow the applicant to achieve the intended purpose of the proposed use, which is to provide the initial sales to potential purchasers. To further insure that potential adverse noise and dust impact to surrounding properties are mitigated, it is recommended that on-site parking be paved and landscaping be provided. Given the temporary nature of the proposed use, paving could include chip-seal, in addition to asphaltic-concrete or concrete.

The proposed use will not substantially alter or change the essential character of the land and the present use. The subject property is presently vacant. The temporary nature of the proposed use will preclude any adverse impact to the character of the project site or its surrounding areas. As stated by the applicant, only one unit will remain at the expiration of the Special Permit. Also, only 77,000 square feet is proposed to be used for the model homes, while the remaining land area is to be left intact.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. The applicant proposes that wastewater disposal be accommodated by a private septic system. The Department of Health will enforce wastewater disposal regulations. Water will be

provided to the subject property by the Glenwood Water Company, Inc., a private water company. Other essential utilities and services are or will be made available to the site and connected to one model home. The other four model homes will be "dry" units. Access to the subject property is from the Volcano Highway onto Lehuanani Street, which has a right-of-way varying between 30-45 feet and a pavement width varying between 16-20 feet wide. The applicant anticipates approximately ten cars per day to the subject property. As such, it is not anticipated that the proposed use will have an adverse impact on traffic along this roadway.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The applicant proposes to use the model home village to promote house-and-lot sales for the existing Wailani Subdivision. There are 822 platted lots within the subdivision that are owned by the applicant. This innovative proposal for the Glenwood area, would provide housing at an affordable price range between \$95,000-\$125,000. Land developers and potential purchasers of homesites have recognized the value of maintaining model homes/sales offices on-site or in the near vicinity of development. These on-site offices facilitate the display of these lands to the benefit of both parties involved.

The proposed use will not have an adverse effect on archaeological resources within the area. The applicant has conducted an archaeological reconnaissance survey for the property, with no surface remains or features located. A condition of approval is included to require work to cease if any unidentified sites or remains are discovered.

Based on the above considerations, the establishment of a temporary model home village/sales office on the project site is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the 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 approval of this permit.
3. Final Plan Approval of the temporary model home village/sales office shall be secured from the Planning Director. Plans shall identify proposed structures, paved (asphaltic-concrete, concrete or chip-seal) parking areas and/or driveway associated with the proposed use. Appropriate landscaping shall be provided for the purpose of mitigating any noise and visual impacts which may be generated by the proposed office facility. In addition, plans shall also indicate a future road widening setback fronting Lehuanani Street, to be determined by the Department of Public Works.
4. The model home village/sales office shall be terminated within three (3) years from the effective date of this permit. At such time, four of the model homes shall be

removed from the subject property. The applicant shall immediately notify the Planning Director in writing of the termination of the model home village/sales office and removal of the structures.

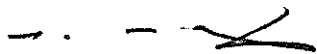
5. The sales from the model home/sales office shall be limited to house-and-lots within the existing Wailani Subdivision. Resales of house-and-lots within the subdivision shall not be permitted.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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 sufficient mitigated measures have been taken.
7. The applicant shall comply with applicable laws, rules and regulations of the affected agencies.
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 model home village and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions off 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) 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).
10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

Tim Lui-Kwan, Esq.
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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 Susan Gagorik or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Wilton K. Wong, Chairman
Planning Commission

AK:syw
LFlagg01.PC

cc: 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
Ms. Claire E. Flagg