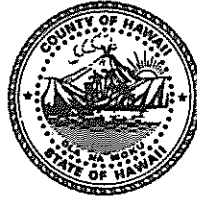


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 436

July 25, 1996

Mr. Robert F. Self
dba Ocean View Realty
P.O. Box 6317
Ocean View, HI 96737

Dear Mr. Self:

Special Permit Application (SPP 96-5)
Applicant: Robert F. Self dba Ocean View Realty
Request: Establish a Real Estate Brokerage Office
Tax Map Key: 9-2-15:26

The Planning Commission at its duly held public hearing on July 11, 1996, voted to approve the above-referenced application. Special Permit No. 934 is hereby issued to allow the establishment of a real estate brokerage office for the applicant only within an existing dwelling situated on approximately 43,574 square feet of land within the State Land Use Agricultural District. The property is located within Hawaiian Ocean View Estates Subdivision, along the west side of Iolani Lane, approximately 122 feet south of the Iolani Lane-Aloha Boulevard intersection at Kahuku, Kau, Hawaii.

Approval of this request is based on the following:

The granting of a special permit for a real estate brokerage office with three real estate agents in addition to the applicant would be contrary to the General Plan. The General Plan serves as a policy document from which we envision long range planning. This document assists us in making evaluations and decisions to better time and stage developments to achieve quality growth. The General Plan for the area is designated Intensive Agricultural, and the zoning is Agricultural (A-1a). There is an area to the east of the subject property that is designated Urban Expansion by the General Plan. This is in the vicinity of the Ocean View General Store where Special Permits have been issued along both sides of the Hawaii Belt Road. This area is identified as the "commercial center" for this area. We recognize that there are no commercial-zoned lands available in the Hawaiian Ocean View Estates area; however, a centralized area where commercial activity now exists has been identified along the Hawaii Belt Road through the establishment of Special Permits. Although, the establishment of a real estate brokerage office on the property would not take

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significant lands out of existing or potential agricultural use, it would be allowing "commercial activity" to take place within the subdivision. By operating with salespersons, or in essence, employees, a full-scale commercial operation would be in place. In order to allow for orderly and planned development, commercial activity of this extent should take place within a core commercial-zoned or designated area where a business could operate fully to the extent they chose to with supportive public facilities. It is preferred that any new commercial activity be centered along the Hawaii Belt Road within the existing Urban Expansion area where adequate facilities can support this use rather than within the subdivision where "residential-type" activity exists. Approving this Special Permit for commercial activity would encourage others to apply and this would set precedence for the further expansion of commercial uses within the subdivision which would further impact the community. Since the applicant lives adjacent to the subject property, it is recommended that the proposed real estate brokerage office be limited to the applicant, thereby maintaining the residential nature of the operations.

The granting of a Special Permit for a real estate brokerage office for the applicant only 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 subject property is presently not in agricultural use and, therefore, significant lands will not be taken out of agricultural use. By limiting the proposed activity only to the applicant, some limitations would be placed on the level of so called "commercial" activity that takes place on the subject property. As the applicant lives on the adjacent property to the north, this particular operation would be similar to a home occupation, with the exception of visitation by the general public. The applicant has stated that a majority of activity is conducted by mail, fax or phone. Therefore, public visitation would occur infrequently and activity would be minimized on the subject property. 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, the essential character of the land and the present use will be maintained and the proposed use will not be contrary to the objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended.

The proposed request is not contrary to the General Plan. Although the General Plan designates the area as Intensive Agricultural, the subject property is not actively used for agricultural activity. In addition, the request is not contrary to the goals, policies and standards of the General Plan. Approval of the subject request would support the following goals of the General Plan:

Economic Element:

- * Provide residents with opportunities to improve their quality of life.
- * 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.

Land Use Element:

- * Designate and allocate land uses in appropriate proportions and mix 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 desired use will not adversely affect surrounding properties. Surrounding lands are predominantly vacant or in single-family residential uses. As mentioned, the proposed real estate office will be conducted within an existing dwelling and restricted to use by the applicant, who lives on the adjacent property. Therefore, the character of the property or its surrounding area will not be changed significantly. Although clients will be serviced at the office, the applicant anticipates a majority of transactions to occur by telephone, fax and mail thereby minimizing impacts to surrounding neighbors. Iolani Lane, fronting the subject property, is located approximately 1/4 mile from the Hawaii Belt Road thereby relieving clients from traveling deep into the subdivision and subject to getting lost. As clients would be coming to the office, hours of operation are limited from Monday to Saturday, 8:00 a.m. to 4:00 p.m. Further, signage shall be restricted to wall signs or yard signs not exceeding four (4) square feet in size to minimize visual impacts. The sign would provide identification for clients yet be unobtrusive. This sign requirement was also included with Special Permit No. 664 for Dorothy Delaney.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Due to the present economic situation, the county is experiencing an increase in requests to establish small businesses and home occupations. The applicant lives in a dwelling on the adjacent property to the north. Establishment of his office on the subject property would allow him to walk to his office and yet maintain the privacy and atmosphere of an office. More individuals are opting to work at home rather than at an office located within the traditional commercial area that is located some distance from their residence. Technological advancements such as the facsimile machine, advance telephone services and networking have made the traditional office structure much more flexible.

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 classified as "E" or "Very Poor" and not in agricultural use. Furthermore, the Special Permit process, established by legislation, allows for other uses to be established than for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. The subject property is located on Iolani Lane which is a private road paved with chipseal. It is not anticipated that the proposed office will impact or burden public agencies. The applicant would be required to pave the parking area on site to accommodate any client parking. 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. Agencies reviewing the request had no objections to the proposed use. However, as commercial activity will take place on the subject property, to allow for further review of the real estate office, the life of the permit shall be for five (5) years with any request for an extension being forwarded to the Planning Commission. This limitation would allow for additional review of the permit, to assess and determine if there is growth within the subdivision, if substantial increase in traffic has occurred or if other substantial impacts have resulted from the real estate office.

Based on these considerations, it is determined that the granting of the Special Permit request to establish a real estate brokerage office for the applicant only would be supportive of the objectives sought to be accomplished by the Land Use Law and Regulations.

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 the proposed real estate office shall be secured from the Planning Department within one year from the effective date of this Special Permit. Plans shall identify existing structures, paved (concrete, asphalt-concrete or chip-seal) driveway and parking area and landscaping associated with the proposed real estate office.
3. A building permit for a change in use shall be secured from the Building Division, Department of Public Work within two years from the date of Final Plan Approval.
4. The real estate office hours of operation shall be limited to Monday through Saturday, 8:00 a.m. to 4:00 p.m.
5. The real estate office shall be limited to use by the applicant and shall be nontransferable to any other brokerage firm or agency. There shall be no employees or subcontractors hired.
6. Signage shall be restricted to wall signs or yard signs not exceeding four (4) square feet in size.
7. The life of the permit shall be for a period of five (5) years from the effective date of this permit.
8. The applicant shall comply with applicable laws, rules and regulations of State and County agencies.

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dba Ocean View Realty
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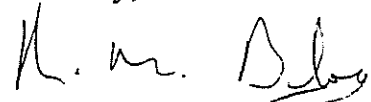
9. A final status report shall be filed with the Planning Director upon compliance with all conditions of approval and prior to commencing operation of the real estate office.
10. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 6, may be granted 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.
 - 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).

Should any of the conditions, however, not be met or substantially complied with in a timely fashion, the Director may 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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LSelfR01.PC

cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission