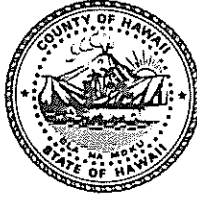


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 858

APR 21 1997

Ms. Beatrice Bowman
P.O. Box 6056
Ocean View, HI 96737

Dear Ms. Bowman:

Special Permit Application (SPP 97-1)
Applicant: Beatrice Bowman
Request: Establish a Real Estate Office
Tax Map Key: 9-2-33:22

The Planning Commission at its duly held public hearing on April 10, 1997, voted to approve the above-referenced application. Special Permit No. 964 is hereby issued to allow the establishment of a real estate brokerage office within an existing dwelling situated on approximately 43,608 square feet of land within the State Land Use Agricultural District. The property is located within Hawaiian Ocean View Estates, along Palm Parkway approximately 356 feet east of its intersection with Hawaii Boulevard at Kahuku, Kau, Hawaii.

Approval of this request is based on the following:

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. In addition, 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.

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The land on which the proposed use 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 a 43,608 square foot parcel presently with the existing dwelling and in very limited agricultural use. The applicant resides in the existing dwelling and proposes to establish a real estate office on a part-time basis within a portion of the dwelling. Therefore, the limited nature of the proposed use will not have an adverse effect on the County's agricultural land inventory. It is, therefore, determined that the proposed use within the existing dwelling is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

The proposed request is not contrary to the General Plan. Although the General Plan for the area is designated Extensive Agricultural and the zoning is Agricultural (A-1a), the subject property is not actively used for agricultural activity. There is an area approximately 3 miles to the south 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. While there are no commercial-zoned lands available in the Hawaiian Ocean View Estates area, 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 within an existing dwelling would not take significant lands out of existing or potential agricultural use, it would be allowing "commercial activity" to take place within the subdivision.

The request is not contrary to the goals, policies and standards of the General Plan. The 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. The proposed real estate brokerage office will be established within a portion of the applicant's existing

dwelling and restricted to solely the applicant on a part-time basis. Therefore, the character of the property or its surrounding area will not be significantly altered. The applicant would primarily conduct her business by telephone or mail and meet clients at specified properties to view the site. Therefore, public visitation would occur infrequently and activity would be minimized on the subject property. With such a low visitation rate by clients, possible noise generated by the activity is expected to be negligible. By limiting the use of the proposed office to the applicant and within the confines of the existing dwelling and with the anticipated low visitation rate by clients, the proposed use will not alter or change the essential character of the land and present use nor will it impact the surrounding area.

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 Palm Parkway which is a private road with paved chipseal. It is not anticipated that the proposed office will impact or burden public agencies given the anticipated low visitation rate by clients. The applicant would be required to pave the parking area on site to accommodate any client parking. While 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. Agencies reviewing the request had no objections to the proposed use. All other essential utilities and facilities are available to support the proposed use.

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. Technological advancements such as the facsimile machine, advance telephone services and networking have made the traditional office structure much more flexible. The applicant resides in the existing dwelling and proposes to use a portion of the dwelling for the proposed office use. The applicant has stated that commercial office space is unaffordable in this depressed economy and, therefore, has submitted the Special Permit request for the proposed office.

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 for agricultural productivity and unclassified by the ALISH Map. Furthermore, the Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

Based on these considerations, the approval of the Special Permit request to establish a real estate brokerage office 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. Should any of the conditions, however, not be met or substantially complied within in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The applicant shall be responsible for complying with all of the stated conditions of approval.

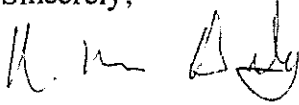
2. The real estate office use shall be established within one year from the date of approval of this Special Permit. The applicant shall notify the Planning Department, in writing, prior to commencing operation of the real estate office.
3. The real estate office shall be limited to its use by the applicant only.
4. In addition to the required parking stall for the residence, one additional paved, chipseal parking stall shall be provided for the real estate office.
5. Any exterior signs shall meet with the approval of the Department of Public Works.
6. The real estate office hours of operation shall be limited to Monday through Thursday, 9:00 a.m. to 5:00 p.m.
7. The applicant shall comply with applicable laws, rules and regulations of State and County agencies for this proposed use.
8. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
9. An initial 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.
 - 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).

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.

Ms. Beatrice Bowman
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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

LBowma01.PC

cc: Department of Public Works
Department of Water Supply
Kazu Hayashida, Director/DOT-Highways, Honolulu
County Real Property Tax Division
State Land Use Commission