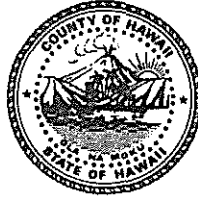


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 179 517 453

APR 08 1998

Mr. and Mrs. Dan Malavenda
HCR - 1 Box 5328
Keaau, HI 96749

Dear Mr. and Mrs. Malavenda:

Special Permit Application (SPP 98-1)
Applicant: Dan and Marie Malavenda
Request: Establish a Travel and Activity Desk Agency in Their Home
Tax Map Key: 1-5-51:160

The Planning Commission at its duly held public hearing on March 20, 1998, voted to approve the above-referenced application. Special Permit No. 996 is hereby issued to establish a travel and activity desk agency within an existing dwelling situated in the State Land Use Agricultural District. The property is located in Hawaiian Paradise Park Subdivision on Kahili Street (8th Avenue) between Kaloli Drive and Paradise Drive, Keaau, Puna, 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 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 for 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.

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 property has been landscaped with palms and other plantings. The applicants propose to establish a travel and activity desk agency in their home on the subject property. There are outstanding permits with the Building Division,

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Department of Public Works for a farm dwelling to allow for the conversion of the structure they are residing in from a storage to a dwelling. There would be no clientele coming to the subject property as all work is through the internet, telephone and by mail. The applicants would be the only employees and would operate similar to a home occupation. Therefore, due to the limited nature of the proposed use, there should not be an adverse effect on the County's agricultural land inventory. The proposed use within the existing structure, upon conversion to a 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. The General Plan for the area is designated Orchards and the property's zoning is Agricultural (A-1a). The establishment of a Travel Activity Desk Agency within an existing farm dwelling would not take significant lands out of existing or potential agricultural use, and still allow for the applicants to work out of their home.

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.

Two building permits were originally applied for by the previous owner in 1994 for a dwelling and a storage. The applicant resides in the existing structure that the Travel and Activity Desk Agency will be established in; therefore, the proposed business would need to be established in a legitimate structure. The applicants have informed us in writing of their intent to comply with applicable requirements by converting the slab into a greenhouse and the storage into a dwelling. A condition of approval is included to require that the applicant secure Final Building Inspection for those permits within one year from the effective date of this permit. Upon securing approvals from the Building Division for the conversion of the structure into a dwelling, the request will be in conformance with the County Zoning Code and Building Code.

The desired use will not adversely affect surrounding properties. Surrounding lands predominantly are vacant, with the exception of the property to the rear, which has a dwelling. The Travel and Activity Desk Agency operation will be established within the existing residence on the property and be restricted to the applicants only. No employees will be hired nor will clients be meeting at the site. All of the business will be conducted by internet, phone, fax or mail. Due to the nature of the business, public visitation or noise would not have a major impact on surrounding properties. No exterior signs, symbols, displays or advertisements, and no interior signs shall be displayed. As the proposed use would be established within an existing structure, the character of the property or its surrounding area will not be significantly altered. Therefore, the proposed use will not alter or change the essential character of the land and present uses nor will it impact the surrounding area.

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 in their homes. Technological advancements such as the facsimile machine, advance telephone services and networking have made the traditional office structure much more flexible. As the business would be limited to the applicants, with no employees and confined to their residence, it is not anticipated to significantly impact the surrounding area.

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 allow the establishment of a Travel and Activity Desk Agency within an existing dwelling, 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 with in a timely fashion, the Director may initiate procedures to revoke the permit.

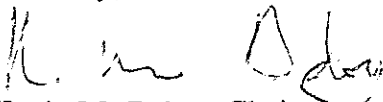
1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. The Travel and Activity Desk Agency office shall be established within one year from the date of Final Building Inspection. Prior to establishing the business, Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-72. Plans shall identify existing and proposed structures, driveway, landscaping and fire protection measures associated with the business. In conjunction with Final Plan Approval, the applicant shall submit documentation that Final Building Inspection has been secured from the Building Division, Department of Public Works for the applicable permits to convert the storage into a farm dwelling.

3. The Travel and Activity Desk business shall be limited to use by the applicants only.
4. No exterior signs, symbols, displays or advertisements related to the business shall be displayed, nor shall any interior signs be visible from the public view.
5. Comply with all applicable laws, rules and regulations of the affected agencies prior to commencing operation, including the Building Division, Department of Public Works.
6. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval and prior to commencing operation of the travel and activity desk agency.
7. 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.

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

LMalav01.PC

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