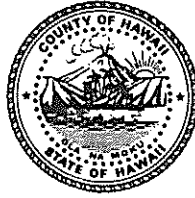


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
Z 095 324 379

DEC 07 1998

Mrs. Doris A. Armbruster
P.O. Box 825
Pepeekeo, HI 96783

Dear Mrs. Armbruster:

Special Permit Application (SPP 98-13)

Applicant: Doris A. Armbruster

Request: Establishment of a Real Estate Broker's Principal Office Within
A Separate Structure or Within One Room of an Existing Dwelling

Tax Map Key: 1-5-40:95

The Planning Commission at its duly held public hearing on November 20, 1998, voted to approve the above-referenced application. Special Permit No. 1013 is hereby issued to establish a real estate broker's principal office within a separate structure or within one bedroom of an existing dwelling situated within the State Land Use Agricultural District. The property is located in Hawaiian Paradise Park Subdivision on Naniialii Street (22nd Avenue) approximately 1 mile from its intersection with 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 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 subject property is one acre in size with an existing dwelling and

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in very limited agricultural use. The applicant resides in the existing dwelling and proposes to establish a real estate broker's principal office in a separate 12-foot by 14-foot structure or, if that is not possible, within one room of the existing dwelling. 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 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 Orchards and the property's zoning is Agricultural (A-1a), the subject property is not actively used for agricultural activity. Although the establishment of a real estate broker's office would not take significant lands out of existing or potential agricultural use, it would allow for commercial activity to take place on the subject property.

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:

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.

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.
- * The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

The desired use will not adversely affect surrounding properties. Surrounding lands are predominantly vacant or in single-family residential uses. No employees or other realtors will be hired. A majority of the business will be conducted by phone, fax or mail. Although clients would be meeting at her office, the applicant anticipates approximately one client meeting per month. 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. As there will be no other employees, and the visitation rate by clients is anticipated to be low, the propose use will not alter or change the essential character of the land and present uses 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 22nd Avenue off Paradise Drive in the Hawaiian Paradise Park Subdivision. All roads within the subdivision are private. 22nd Avenue is paved with cinder to an approximate width of 15 feet. It is not anticipated that the proposed broker's principal office will impact the existing roadways nor burden public agencies given the size of the business. The driveway and parking area on site are paved. 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. All other essential utilities and facilities are available to support the proposed use. Finally, agencies reviewing the request had no objections to the request.

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 such as a real estate offices. 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 establish the broker's principal office on the subject property. As the applicant does not have any employees or realtors working with her, ample room is available to accommodate this business. As many of her clients are from this vicinity, any commuting time to Hilo would be reduced.

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 real estate broker's principal office within a separate structure or within one bedroom of 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 real estate broker's principal office 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 broker's principal office shall be limited to one bedroom within the existing dwelling or within a separate structure.

4. In addition to the required parking stall for the residence, one additional paved parking stall shall be provided for the real estate broker's principal 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 Friday, 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.

Mrs. Doris A. Armbruster
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Should you have any questions, please feel free to contact Alice Kawaha or Phyllis Fujimoto of the Planning Department at 961-8288.

Sincerely,


Kevin M. Balog, Chairman
Planning Commission

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