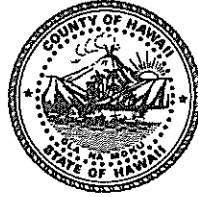


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
7099 3220 0000 4869 6131

MAY 22 2000

Mr. Ken Melrose
Maryl Development, Inc.
P.O. Box 1928
Kailua-Kona, HI 96745

Dear Mr. Melrose:

Special Permit Application (SPP 00-006)

Applicant: Maryl Group, Inc.

Request: To Allow the Establishment of a Temporary On-Site Real Estate Sales
Office in the Garage of a Model Home at the Sandalwood Subdivision

Tax Map Key: 6-6-10:26

The Planning Commission at its duly held public hearing on May 5, 2000, voted to approve the above-referenced application. Special Permit No. 1054 is hereby issued to allow the establishment of a temporary on-site real estate sales office in the garage of a model home situated within the State Land Use Agricultural District. The property is located in the Sandalwood Subdivision on the south side of the Kō Uka Street- Kō Uka Place intersection, Lalamilo, South Kohala, Hawaii.

Approval of this request is based on the following:

The establishment of the temporary on-site real estate sales office in the garage of a model home is an unusual and reasonable use of lands situated within the State Land Use Agricultural District. 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. The subject property is 1.177 acres in size. The establishment of the temporary on-site real estate sales office will be confined to the garage of the existing model home located on the subject property. Parking for the temporary on-site real estate sales office will be

004873

MAY 22 2000

provided on the subject property and on the street fronting the property, if necessary. The sales office will be used to facilitate the sale of the remaining lots within the 46-lot Sandalwood Subdivision. The subject property is not presently used for agricultural purposes. Once lots are developed within the subdivision for agricultural and residential purposes, however, it is anticipated that there will be small-scale agricultural activity in this area. Further, the proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in agricultural use for some time.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. 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. The proposed use will be located within an area whose soils are classified as "C" or "Fair" by the Land Study Bureau's Overall Master Productivity Rating. The Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map classifies the subject property as "Other Important Agricultural Land." "Other Important Agricultural Land" is defined as land other than "Prime" or "Unique Agricultural Land" that is also of statewide or local importance for agricultural use.

The subject property is situated within the County's Agricultural-1 acre (A-1a) zoned district. The establishment of the temporary on-site real estate sales office would be a permitted use within the State Agricultural District provided a Special Permit is secured. While soils within the project site are fairly suitable for agricultural uses, the temporary on-site real estate sales office will be confined to the garage of an existing model home and will utilize a very small area. The establishment of the temporary on-site real estate sales office use, in itself, would not adversely affect the agricultural potential of the project site or its surrounding area. Ultimately, the real estate sales office use will cease and the model home will be sold with the subject property to be used for agricultural and residential purposes. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The desired use shall not adversely affect the surrounding properties. The establishment of the temporary on-site real estate sales office will be situated on a portion of a 1.177-acre parcel. Properties to the west, north and east of the subject property are within the Sandalwood Subdivision. Surrounding property uses within the Sandalwood Subdivision include residences and vacant lots. All of the lots within the Sandalwood Subdivision are zoned Agricultural-1 acre (A-1a). The southern boundary

of the subject property is the course of the Waikoloa Stream, which is bordered by a 215+-acre parcel owned by the Richard Smart Trust, most of which is being used by Parker Ranch. All is used as pasture except for one residence located approximately ½ mile south of the common property boundary of the subdivision. Lands further to the west are used for a HELCO substation, County and State road maintenance baseyards and a County rubbish transfer station. These properties are zoned Agricultural-5 acres (A-5a). Properties north of the subdivision, abutting the Waimea-Kawaihae Road, include several contiguous parcels zoned Single Family Residential-10,000 square feet (RS-10) with single family residences.

The temporary on-site real estate sales office will be used on an intermittent basis, seven days a week. The office operation will be restricted to daylight hours. It is expected that there will be no more than two sales agents and four buyers at the site at any given time. No increase in traffic is expected as a result of the proposed use as agents and buyers would be inspecting the subdivision by automobile whether or not the office was available. Therefore, it is not expected that the establishment of temporary on-site real estate sales office will adversely impact any of the surrounding properties.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Water, telephone and electrical utilities currently service the site. Access to the Sandalwood Subdivision is provided by the Waimea-Kawaihae Road, a State highway having a pavement width of 20 feet within a 50-foot right-of-way. Within the subdivision, access to the subject property is via Kō Uka Street, a private roadway having a pavement width of 20 feet within an 80-foot right-of-way, and Kō Uka Place, also a private roadway having a pavement width of 20 feet within a 50-foot right-of-way. The traffic to be generated by the temporary real estate office is minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated. The applicant will meet all applicable agency requirements of the Department of Health, Department of Water Supply, Department of Public Works and the Fire Department prior to the establishment of the real estate sales office use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Land developers and potential purchasers of homesites have recognized the need to maintain real estate sales offices on-site within larger subdivision developments such as this one. The establishment of the temporary real estate sales office and related improvements will be used to facilitate the sale of 1-acre lots for agricultural and residential purposes. Such use is consistent with the social and physical character of a rural-agricultural area and contributes to the economic structure of the County.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Further, the proposed use will not substantially alter or change the essential character of the land and the present use. The establishment of the temporary on-site real estate sales office will be located on a property that has already been improved with an existing dwelling. No endangered or threatened species will be impacted by the proposed use, as the project site has been extensively graded and improved with the existing dwelling. The proposed project is not expected to have any significant adverse effect on the wildlife of the region. The establishment of the temporary on-site real estate sales office site is not near any historic sites identified for preservation or further data recovery. As such, the establishment of a temporary real estate sales office will not substantially alter or change the essential character of the land any more than the subdivision development. Although the present permitted development of the subdivision has altered the appearance of the vegetation on the property, the proposed use will not contribute to this alteration. Furthermore, once the sale of the lots within the subdivision is completed, the operation of the temporary real estate sales office will be terminated. Therefore, from a physical standpoint, the proposed use will not substantially alter or change the essential character of the land and its present use.

The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Low Density Urban uses. The proposed use is consistent with the following goals and policies of the General Plan.

Economic

- Provide residents with opportunities to improve their quality of life.
- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- The County of Hawaii shall strive for diversity and stability in its economic system.
- 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.

Housing

- Attain safe, sanitary, and livable housing for the residents of the County of Hawaii.

- Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- Maintain a housing supply which allows a variety of choice.
- Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.

Environmental Quality

- Maintain, and if feasible, improve the existing environmental quality of the island.
- The County of Hawaii shall take positive action to further maintain the quality of the environment for residents both in the present and in the future.

Public Utilities

- Ensure that adequate, efficient and dependable public utility services will be available to users.

Transportation

- Provide a transportation system whereby people and goods can move efficiently, safely, comfortably and economically.

Land Use

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and 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.
- Rural-style residential-agricultural developments, such as new small-scale rural communities or extensions of existing rural communities, shall be encouraged in appropriate locations.

Based on the above considerations, the approval of the establishment of a temporary on-site real estate sales office 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 and Regulations.

Approval of this request is subject to the following conditions. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval of the temporary real estate sales office shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-71 (c)(4), 25-2-76 and 25-4-77, within one (1) year from the effective date of this permit. Plans shall identify existing and proposed structures, landscaping, fire protection measures, driveways and two (2) paved parking areas associated with the proposed use.
3. The temporary real estate sales office use shall cease within two (2) years from the issuance of Final Plan Approval, provided that an initial extension may be granted by the Planning Director in accordance with Condition No. 7. The real estate sales office shall be removed from the garage of the model home upon cease of the use. The applicant shall immediately notify the Director in writing that the real estate sales office use has ceased operation.
4. The real estate sales from the temporary on-site real estate sales office shall be limited to lots and lots with home packages within the 46-lot Sandalwood Subdivision.
5. The applicant shall comply with all applicable laws, rules and regulations of the affected agencies.
6. 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 real estate sales office, real estate sales and to what extent conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

Mr. Ken Melrose
Page 7

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 contact Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,

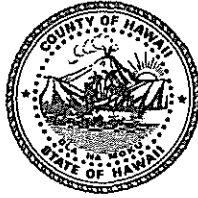


Richard B. Baker, Jr., Chairman
Planning Commission

Lmarylspp00-006PC

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

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
7000 0600 0024 2903 8803

NOV 30 2000

Mr. Ken Melrose
Maryl Group, Inc.
P.O. Box 1928
Kailua-Kona, HI 96745-1928

Dear Mr. Melrose:

Special Permit (SPP 1054)
Applicant: Maryl Group, Inc.
Subject: Terminate Use of Property as a Sales Office
Tax Map Key: 6-6-10:26

The Planning Commission at its duly held meeting on November 1, 2000, voted to revoke the above-referenced permit granted to Maryl Group, Inc., which allowed the establishment of a temporary real estate sales office within the State Land Use Agricultural District. The property is located in the Sandalwood Subdivision on the south side of the Kō Uka Street- Kō Uka Place intersection, Lalamilo, South Kohala, Hawaii.

The applicant had submitted a letter dated August 23, 2000, stating that the residence in which the temporary sales office use was established has been sold and, as such, the sales office use has been terminated. Therefore, Special Permit No. 1054 is hereby revoked.

Should you have questions regarding the above, please contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,

Richard B. Baker, Jr., Chairman
Planning Commission

Lmarylrevocationspp1054

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

011940

NOV 30 2000