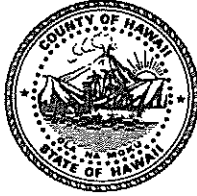


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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JUN 02 2000

Mr. Robert E. Oliver, III, AIA
209 Kinoole Street, Suite 8
Hilo, HI 96720

Dear Mr. Oliver:

Special Permit Application (SPP 00-011)

Applicant: Eden Roc Estates Association

Request: Allow for a Volunteer Fire Station, Community Center Pavilion and
Related Improvements

Tax Map Key: 1-1-91:Portion of 13

The Planning Commission at its duly held public hearing on May 19, 2000, voted to approve the above-referenced application. Special Permit No. 1059 is hereby issued to allow the construction of a Volunteer Fire Station, Community Center Pavilion and related improvements on approximately 1.57 acres of land within the State Land Use Agricultural District. The property is located in the Eden Roc Estates on the north side of Ahi Street, approximately 1,562 feet from the Palainui Avenue-Ahi Street intersection, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, 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. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public 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 subject property is approximately 10 acres in size and vacant. The applicant

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proposes to construct a volunteer fire station, community center pavilion and related improvements on approximately 1.57 acres of the subject property. The applicant proposes that the remainder of the property will be used for open recreational uses. Soils are classified as A'a Lava Flows(rLV) and Lava Keei extremely rocky muck soils (rKGD). The property has a soil rating of "E" or "Very Poor" and the ALISH maps identify the property as Unclassified. The property is zoned Open. According to the County Zoning Code, community buildings are permitted in all districts, subject to securing plan approval from the Planning Director. As the property is vacant and there is no existing agricultural activity, the proposed use will not diminish the agricultural potential of the project site or surrounding area.

The desired use will not adversely affect the surrounding properties. Surrounding uses include scattered residential and agricultural uses and vacant lands. There is no immediate development on either side of the property. To minimize impacts from community activities to future adjacent property owners, a minimum landscaping buffer of 10 feet wide shall be established along all other property borders.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. Water will be provided by a water catchment system. Access to the property is from Highway 11 onto Kopua Road, a paved two-lane County road, which at the bend of the road turns into Kahikopele Road. Palainui Road, which is paved 20-foot wide roadway with grass shoulders, is one of the two main roads running the length of the subdivision. The subject property is located on Ahi Avenue, which is a gravel roadway about 12 feet wide. Although the roads leading to the subject property are private not paved to a width of County standards, the proposed community and public safety benefits of the proposed uses outweigh the burden that unpaved roads place on public agencies. As the roads are private, maintenance is by the Eden Roc Community Association and not by the County. The advantage of constructing a volunteer fire station on the subject property is to increase the emergency response time to a community that is located a considerable distance away (approximately 11 miles from Keaau) from an existing County fire station. Also, the construction of a community center pavilion would allow for community activities to be held within the subdivision, in the immediate vicinity where the residents actually live. Public agencies reviewing the request had no specific objections to the proposal.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The fact that this subdivision was created without adequate infrastructure is a tremendous burden on the County. There is a definite need for the proposed uses. The efforts of this community to take action and assume responsibility to increase their public safety needs through the construction of a volunteer fire station is laudable. Further, by developing a community center pavilion, the Association would

also have a place where meetings and activities can be held and where a sense of "community" can be fostered. In addition, a majority of the property will be used for open recreational uses, which would allow for community gatherings and activities. The proposed uses will be in keeping with the original reasons for requiring an open space area for recreational uses by owners within the subdivision.

The land upon which the proposed use is sought is suited for the uses permitted within the district, however, the proposed use will not interfere with permitted uses. Although, the lands are within the State Land Use Agricultural District, the proposed community association center, volunteer fire station, and open recreational area and related improvements will be used by the existing residents. The community resource center will essentially support existing and future community development by providing a much needed community and public safety services. The proposed uses would actually supplement the community's basic needs.

The use will not substantially alter or change the essential character of the land and the present use. The subject property is presently vacant, however, an approximately 1.57 acre area will be developed with a volunteer fire station and community center pavilion. The remaining 8 acres will be used for open recreational uses by the community. The proposed fire station will be constructed in an existing cleared area (40,000 square feet); however, additional clearing of land may be needed when the community pavilion is constructed. The proposed uses will be in keeping with the existing character of the surrounding area. The requested use will neither conflict with nor intensify existing land uses.

The lands upon which the proposed use is sought is suitable for the uses permitted in the district, however, the proposed use will not interfere with permitted uses. The subject property is zoned Open, and would be allowed under the Zoning Code as Community Buildings. Community buildings are permitted in all districts, subject to the issuance of Plan Approval by the Planning Director. The proposed volunteer fire station, community center pavilion, and open recreational area and related improvements will be used by the existing residents. These will essentially support the needs of existing and future residents in Eden Roc by providing much needed community and public safety services. The proposed structures would take approximately 1.57 acres out of the 10 acres, with the remaining area to be used for open recreational uses by the community. Therefore the proposed uses will not interfere with permitted uses, but, rather enhance the existing uses in the subdivision.

The proposed use is consistent with the following goals, policies and standards of the General Plan. The subject parcel falls within an area designated as Intensive Agricultural on the General Plan LUPAG Map. The zoning for the property is Agricultural (A-1a) and the State Land Use designation is Agricultural. As such, a

Special Permit is the appropriate means to establishing the proposed volunteer fire station and community center pavilion. The request would complement and be consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- * Designate and allocate lands in appropriate proportions and mix and 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.

Public Facilities

- * Encourage the provision of public facilities that effectively service community needs and seek ways of improving public service through better and more functional facilities which are in keeping with the environmental and aesthetic concerns of the community.

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.

Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the proposed use. Finally, agencies had no objections to the proposed uses.

Based on the above considerations, the request to establish a volunteer fire station, community center pavilion and related improvements on the subject property would be an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules 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 Special Permit.

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Prior to the establishment of the volunteer fire station, community center pavilion and related uses, Final Plan Approval shall be secured for each phase from the Planning Director in accordance with the Zoning Code, Sections 25-2-72, 25-2-73 and 25-4-7. Plans shall identify existing and proposed structures, driveway, landscaping, lighting, fire protection measures, parking stalls and exterior sign(s) associated with the business.
3. A minimum 10-foot wide landscaping buffer, which may consist of the existing forest, shall be maintained along all property boundaries and indicated on plans submitted for plan approval.
4. An archaeological clearance, in writing, shall be secured from the Department of Land and Natural Resources- Historic Preservation Division prior to any further land alteration activity.
5. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed development.
6. A status report shall be submitted upon completion of each increment, in writing, to the Planning Director upon compliance with applicable conditions of approval.
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.

Mr. Robert E. Oliver, III, AIA

Page 6

- 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 Susan Gagorik or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Richard B. Baker, Jr., 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
Department of Land & Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Louie Miller