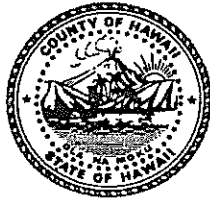


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL  
7000 0600 0024 2905 3332

FEB 28 2001

Ms. Barbara Arthurs, President  
Orchidland Community Association, Inc.  
P.O. Box 280  
Keaau, HI 96749

Dear Ms. Arthurs:

Special Permit Application (SPP 00-048)  
Applicant: Orchidland Community Association  
Request: Establishment of a Community Association Center and  
Related Improvements  
Tax Map Key: 1-6-11:250

The Planning Commission at its duly held public hearing on February 12, 2001, voted to approve the above-referenced application. Special Permit No. 1101 is hereby issued to allow the construction of a Community Association Center, Road Maintenance Building, caretaker's cottage, and related improvements on approximately 2.00 acres of land within the State Land Use Agricultural District. The property is located in the Orchid Land Estates Subdivision at the western corner of the intersection of Orchid Land Drive and 36<sup>th</sup> Avenue, approximately 1 mile from the Keaau-Pahoa Road, 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 2.00 acres in size and vacant. It is an

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uncleared lot consisting of ohia trees, ferns and grasses. The applicant proposes to construct a community association center, road maintenance building, caretaker's cottage and related improvements on approximately 2.00 acres of the subject property. Soils are classified as Lava flows, pahoehoe (rLW), a miscellaneous land type. The property has a soil rating of "E" or "Very Poor" and the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map identifies the property as Unclassified. The property is zoned Agricultural (A-3a). 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 proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. This parcel is overgrown with vegetation but the Department of Land and Natural Resources – Historic Preservation Division records do not indicate the presence of any significant historic sites. There are no designated public access to the mountain areas over the property. The subject property is located about four (4) miles from the nearest coastline. It is adjacent to existing mixed agricultural, residences, pasture uses, and vacant lands. The proposed development will not adversely impact any recreational resources, including access to and along the shoreline and mountain, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Therefore, 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 will not adversely affect the surrounding properties. Surrounding uses include scattered residential and agricultural uses and vacant lands. Within a radius of 500 feet, there are only five dwellings, none adjacent to the subject parcel. Agricultural uses include an adjacent papaya orchard and across 36<sup>th</sup> Avenue, a guava/macadamia orchard. It is not anticipated that the proposed use will negatively impact surrounding neighbors. No objections were received from these owners. However, to minimize impacts from community activities to future adjacent property owners, a minimum 10-foot wide landscaping buffer consisting of natural forest where possible and plantings will be required.

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. The subject property is located at the corner of Orchid Land Drive and 36<sup>th</sup> Avenue. Access to the property is from the Keaau-Pahoa Road (Highway 130) onto Orchid Land Drive, a 30-foot wide graded and

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gravel road within a 60-foot right of way. Thirty-Sixth Avenue is a 16-foot wide gravel road within a 40-foot right-of-way. Although the roads leading to the subject property are privately maintained and not paved to a width of County standards, the proposed community benefits of the proposed uses outweigh the burden that unpaved roads place on public agencies. In addition, the roads are wide enough to accommodate two-way traffic. The advantage of constructing a community center 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. By the efforts of this community to take action and assume responsibility to developing a community center, road maintenance building, caretaker's cottage and other related improvements, the Association would have a place where meetings and activities can be held and where a sense of "community" can be fostered.

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, it will be developed with a small dwelling, water tank, community center and a road maintenance building. 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 land has not been cleared. The Historic Preservation Division, Department of Land and Natural Resources concurs with the Association that the probability of significant historic sites is low except for underground lava tubes. Therefore, based upon their recommendation, we will require that the applicant inform the Historic Preservation Division upon discovery of a lava tube or other sites during construction.

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 Agricultural (A-3a), and the proposed use 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 community association center, road maintenance building, caretaker's cottage and related improvements will be used by the existing residents. These will essentially support the needs of existing and future residents in Orchid Land Estates by providing much needed community services. 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 Orchards on the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The zoning for the property is Agricultural (A-3a) and the State Land Use designation is Agricultural. As such, a Special Permit is the appropriate means to establishing the proposed community association center, road maintenance building, caretaker's cottage and related improvements. 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.

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Based on the above considerations, the request to establish a community association center, road maintenance building, caretaker's cottage 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 community association, road maintenance building, caretaker's cottage 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 and 25-44-51. Plans shall identify proposed structures, driveways and parking stalls (gravel, chipseal, asphalt or asphalt-concrete), landscaping and 10-foot wide landscaping buffer, lighting, and exterior sign(s) associated with the community association center, road maintenance building, caretaker's cottage and related improvements.
3. A minimum 10-foot wide landscaping buffer consisting of the natural forest when possible and plantings shall be maintained along all adjacent property boundaries and indicated on plans submitted for plan approval.
4. During any land alteration activity, should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walks be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
5. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed development.

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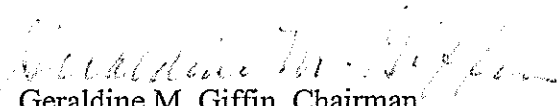
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6. A status report shall be submitted upon completion of each increment, in writing, to the Planning Director upon compliance with applicable conditions of approval.
7. An initial extension of time for the performance of conditions within the permit 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.
  - 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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,

  
Geraldine M. Giffin, Chairman  
Planning Commission

Lorchidlandspp00-048PC

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