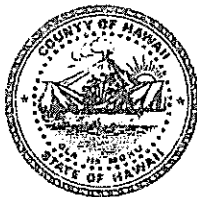


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

Mr. Robert J. Widdecombe
dba Kau Diversified
P.O. Box 898
Naalehu, HI 96772

Dear Mr. Widdecombe:

Special Permit Application (SPP 02-044)
Applicant: Robert J. Widdecombe dba Kau Diversified
Request: Establish a Domestic Violence Shelter
Tax Map Key: 9-2-197:Portion of 62

The Planning Commission at its duly held public hearing on February 21, 2003, voted to approve the above-referenced application. Special Permit No. 1199 is hereby issued to establish a domestic violence shelter on approximately 2,500 square feet of land in the State Land Use Agricultural District. The property is located in Hawaiian Ocean View Ranchos Subdivision, along the makai side of Bougainvillaea Drive, approximately 309 feet northwest of its intersection with Hokulani Boulevard, and approximately 2,400 linear feet makai of Māmalahoa Highway, Hawai'i.

Approval of this request is based on the following:

The applicant proposes to convert an existing shed to a dwelling that would be used to provide temporary housing for victims of domestic abuse. The owner and her husband are volunteers with Hale Ola Ka'u, a non-profit organization dedicated to providing a 72-hour transitional housing sanctuary for domestic violence victims. The shelter would operate 24 hours a day and 7 days a week. There are no employees as the shelter will be for client use only. The property owner and her husband live in the existing dwelling on the parcel.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

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This particular property is situated within the County's Agricultural (A-3a) zoned district and within the State Land Use Agricultural District. The use will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating. The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map does not classify the property as Prime, Unique or Other Important Agricultural Lands. The shed is existing and will not displace any existing agricultural uses on the property, diminish the agricultural potential of the area, or adversely affect the agricultural potential of the property and the surrounding area.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program. Given the fact that the entire property was developed for residential use or landscaped, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. There is no designated public access to the mountain areas or to the shoreline over the property. The project site is located over 4 miles from the nearest shoreline. The proposed use does not impact any recreational resources, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion. Due to its location and distance from the ocean, it is not anticipated that the shelter would obstruct any ocean (makai) views. Therefore, the approval of the subject request shall not be contrary to the objectives and policies of the Coastal Zone Management Program.

The desired use shall not adversely affect the surrounding properties. The existing dwelling and shed are situated on 3 acres of land. The property is of sufficient size to allow for adequate buffers in minimizing any physical, social or other impacts that this use may have on the area. The shed is located approximately 71 feet from the front property line and approximately 53 feet from the east property line. The terrain is rocky and mildly slopes downhill so that only the roof and upper portion of the shed is visible from Bougainvillaea Drive. Due to the topography and distance of the shed from all property lines, it is determined that the location of the shed is adequate to mitigate any potential noise and visual impacts to the adjacent properties.

A letter of support from Hale Ola Ka'u was included as part of the Special Permit application. Further, no comments have been received from the surrounding property owners, Hawaiian Ocean View Ranchos Community Association or the public in response to this application.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the project site is from Bougainvillaea Road, which is a private tar and chip

sealed road in good condition. The traffic generated by the shelter will be within the capability of the existing road. The site is currently served by telephone and electrical utilities. Although sewage is handled by a cesspool, the owner agrees that should the cesspool need to be upgraded, compliance with wastewater rules that are in effect at the time of the building permit application will be required. As County water is not available to the subject property, the owner has installed two water tanks, one near each structure, and will provide bottled water for the shelter. The development is in an area designated as Zone "X", area outside the 500-year floodplain. The applicant is working with and will comply with requirements of the Department of Public Works and all applicable agencies. Further, the volunteer fire station is located less than two miles away in the Hawaiian Ocean View Estates Subdivision and a police substation is located approximately a mile away at the Pohue Plaza.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The project site and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services and uses that benefit its residents. The owner and her husband, volunteers with Hale Ola Ka'u, seek to convert the existing shed to a dwelling that would be used to provide temporary housing for victims of domestic abuse. Hale Ola Ka'u is a non-profit organization dedicated to providing a 72-hour transitional housing sanctuary for domestic violence victims. While at the shelter, victims are educated on the dynamics of domestic violence and helped with safety options to prevent or decrease the occurrence of violence in their lives. This type of public benefit effectively serves the needs of the community with minimal impact to the surrounding community.

The land upon which the use is sought is suited for the uses permitted within the district, however, this use will not interfere with such uses. The subject property is developed with a residence, a shed and two water tanks. No agricultural use was established other than the landscaping of the property. Thus, the shelter does not impair the agricultural productivity or potential of the subject property, nor will it seriously or significantly deplete the County of Hawai'i's agricultural land resource.

The use will not substantially alter or change the essential character of the land and the present use. The shelter will continue to utilize the developed areas of the subject parcel. In addition, an area adjacent to the dwelling can be utilized for any required parking. Since this parcel was already residentially developed, it is not anticipated that cultural, archaeological or botanical resources will be affected. Further, as no valued cultural, historical or native resources or any traditional and customary Native Hawaiian rights were practiced in the area, it is also not anticipated that the request will have any adverse impact on cultural or historical resources in the area.

The request will not be contrary to the General Plan. The subject property is within an area designated as Orchards in the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The use is consistent with the following goals and policies of the General Plan.

Land Use Element

- Designate and allocate land uses in appropriate proportions 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.
- The County shall coordinate with appropriate State agencies for the provision of public facilities to serve the needs of the community.

Protective Services

- Additional rehabilitation and counseling centers shall be established as needed.

Based on the above considerations, the approval of the domestic violence shelter is an unusual and reasonable use of lands situated within the State Land Use Agricultural District 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

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dba Kau Diversified

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2. The proposed use shall be established in substantial conformance with representations made in the application.
3. The applicant shall finalize all necessary permits for the establishment of the use as required by the Department of Public Works, Building Division within one (1) year from the effective date of this permit.
4. The domestic violence shelter shall be established within one (1) year from the effective date of this permit. Prior to the establishment of this use, Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code pertaining to Plan Approval. Plans shall identify all existing structures, fire protection measures, parking area, driveways and other improvements associated with the use.
5. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works and the Department of Health.
6. Should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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.
7. 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.
8. A final status report shall be submitted for approval by the Planning Director demonstrating compliance with all conditions of this permit.
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:

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- A. The 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 of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lwiddecombe01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu