



County of Hawai'i

WINDWARD PLANNING COMMISSION

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NOV 26 2012

Mr. James S. Stutheit, President
Ocean View Seniors Association
P.O. Box 6433
Ocean View, HI 96737

Dear Mr. Stutheit:

Special Permit Application (SPP 12-000139)
Applicant: Ocean View Seniors Association
Request: To Allow the Construction of a Senior Center
Tax Map Key: 9-2-084:052

The Windward Planning Commission, at its duly held public hearing on November 9, 2012, voted to approve the above-referenced request to allow the establishment of a senior center with a certified kitchen that will also be used as a community center and an emergency shelter, to be located on 2 acres of land situated within the State Land Use Agricultural District. The project site is located at 92-8718 Lotus Blossom Lane, approximately 250 feet southeast of the Lotus Blossom Lane/Princess Ka'iulani Boulevard intersection, Hawaiian Ocean View Estates, Ka'u, Hawai'i.

Approval of the request is based on the following:

The applicant has submitted a Special Permit applicant to allow the establishment of a senior center with a certified kitchen on two acres of land. The senior center will also be used as a community center and a community emergency shelter. The center will be a 3,840 square-foot, one story building that will accommodate up to 100 people. It will be used to implement programs to improve health, finances, intellectual stimulation and a sense of community for seniors in the Ocean View area. These include:

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- Health: Classes will be offered on exercise, nutrition, meal planning and cooking.
- Finances: Seminars will be offered on budgeting, investing, taxes, and the availability of helpful government programs.
- Intellectual Stimulation: Courses will be offered on Hawaiian culture, history, geography, and language.
- Sense of Community: The center will be used for community meetings and will have a certified kitchen to cook items to sell. Hands-on crafts will be taught, and there will be space for growing vegetables, flowers and spices. The center will also be used for seniors to meet together informally for fellowship. Lastly, it will be used for programs mandated by Title IV of the Older Americans Act.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural District; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the 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.

Although the two-acre property is zoned Agricultural by the County and designated Agricultural by the State Land Use Commission, its soils are considered very poor and are therefore not optimal for agricultural use. The request is considered unusual in that a senior/community center is not normally considered agricultural in nature. The request is also considered reasonable in that a senior/community center is a reasonable use to be located within the Agricultural district because communities within agricultural districts require certain services that support the community in which they are located, including a senior/community center. Therefore, the subject request is considered an unusual and reasonable use of the agricultural land.

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 for those uses to which they are best suited in the interest of the public 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.

The property is situated within an area where soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. The proposed use will be located within a 3,840 square-foot, one story building on a portion of the property. As the property consists of poor soil, the applicant is proposing to build raised "growing beds" for members to grow vegetables, herbs, and plants.

Based on the above, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. This criterion has been met because the proposed use is considered an unusual and reasonable use of the agricultural land that will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

(B) The desired use would not adversely affect surrounding properties. Surrounding properties are zoned Agricultural (A-1a) and consist of scattered dwellings and vacant land. The nearest dwelling is located approximately 100 feet from the rear of the property boundary. It is unlikely that a significant amount of noise or traffic will be generated by the proposed use. Additionally, parking will be made available on the subject property.

As a community center with hours of operation extending till 10:00 p.m. daily, activities and events held at the facility could generate noise that interferes with the surrounding residences. Noise mitigation through landscaping and limiting operational hours should control noise to reasonable levels. Paved driveway and parking will control noise and dust. Therefore, it is not anticipated that the requested use will adversely affect the surrounding properties.

(C) Such 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 property is from Lotus Blossom Lane off of Hawai'i Belt Road (Hwy. 11). This is a private subdivision roadway that is owned collectively by the subdivision lot owners and maintained by the Hawaiian Ocean View Estates Road Corporation. Electricity and telephone service is available to the property. The applicant

will utilize a septic system for wastewater and a water catchment system for potable water. Medical and fire services are available about 1 mile from the property in Ocean View. Based upon the above, the proposed use will not burden public agencies to provide additional services.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. Since then the Hawaiian Ocean View Estates subdivision has become more residential in nature; however, the property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various "non-agricultural" services may be allowed.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property is situated on land that has soils classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. Therefore, the land upon which the proposed use is sought consists of soils that are considered very poor and are not optimal for agricultural use.

(F) The use will not substantially alter or change the essential character of the land and the present use. The land is currently vacant of uses and structures. The surrounding character is rural in nature. The senior/community center will consist of a proposed one-story structure with a parking area on a portion of the two-acre parcel, which will not substantially alter or change the character of the land or the surrounding area. As a senior and community center, we expect that this facility will evolve into an integral part of the community.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The property is located in area identified as Rural in the General Plan. This category includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. These subdivisions may contain small farms, wooded areas, and open fields as well as

residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. As the senior/community center will be a support facility and soils on the property are considered very poor for agricultural use, the request will not be contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area. Additionally, the approval of the subject request would support the goals and policies of the Land Use and Economic elements of General Plan.

Land Use Element

- 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 through economic development that enhances the County's natural and social environments.

Approval of the proposed request will allow the applicant an opportunity to improve the quality of life in this area while providing a service to residents in the community.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to the coastal zone management program. The subject property is located over five miles to the nearest shoreline and therefore will not cause beach erosion or affect marine resources, coastal ecosystems, and coastal recreational opportunities. Nor will the property be affected by coastal hazards. Additionally, there is no designated public access to the mountain areas over the property. There is no record of traditional Hawaiian rights being practiced on the property. Lastly, the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) has issued a "no-effect" determination for the project stating that DLNR-SHPD believes that no historic properties will be affected by this project. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Based on the above considerations, the proposed senior/community center is an unusual and reasonable use of land, and would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes. Approval of this request is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.

2. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all structure(s), paved driveway access and paved parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
3. The hours of operation for the center shall be limited from 7:00 a.m. to 10:00 p.m.
4. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
5. A drainage study shall be prepared and the recommended drainage system shall be constructed meeting with the approval of the Department of Public Works.
6. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.
7. The certified kitchen shall meet the requirements of Chapter 12, Food Establishment Sanitation.
8. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
9. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:
 - 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.

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- c) Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 - d) The time extension 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).
10. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this Special Permit.

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 Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Zendo Kern, Chairman
Windward Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Mr. Gilbert Bailado