

CERTIFIED MAIL

October 31, 1977

Mr. Mark Van Pernis
P. O. Box 1837
Kailua-Kona, HI 96740

Dear Mr. Van Pernis:

Special Permit Application
Petitioner: Roy Harte
Tax Map Key 7-3-22:2 & 3

The Planning Commission at a duly advertised public hearing on October 27, 1977 and in regular session on October 3, 1977 discussed your request for a special permit in accordance with Chapter 205-6 Hawaii Revised Statutes, as amended, to allow the establishment of a music recording studio within an existing dwelling located in the State Land Use Agricultural District. The property involved is located at the southern corner of the intersection of the Mamalahoa Highway and Ahikawa Street in the Kona Coastview Subdivision, Kalaoa 3rd, North Kona, Hawaii.

The Commission voted to deny the special permit based on the following findings:

1. That no unusual conditions, trends, or needs have arisen in relation to the subject request, since the district boundaries and regulations were established. The subject property is in the Kona Coastview Subdivision which consists of 286 lots. Lot sizes in this subdivision range from 15,000 to 30,000 square feet. Surrounding land uses include single family dwellings and vacant lands. The request to establish a recording studio within the State Land Use Agricultural District has not been prompted by development in the vicinity which has largely been single family dwellings. This developmental pattern does not require a recording studio as a support facility, as contrasted to other uses such as neighborhood stores or community centers.

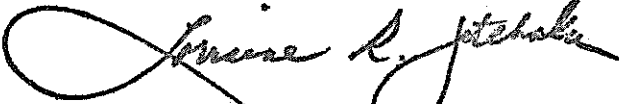
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2. That the proposed use will be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The objectives of the Land Use Law and Regulations are to preserve, protect and encourage the development of lands in the State for those uses to which these lands are best suited in the interest of public health and welfare of the people of the State of Hawaii. The Kona Coastview Subdivision exists as a nonconforming subdivision with respect to lot size in the State Land Use Agricultural District and County Unplanned Zone District. This subdivision which contains 77 single family dwellings is essentially residential in character and thus a pertinent question in the review of the proposed use is whether or not such a use would be permissible under the "home occupation" provisions of the County Zoning Code. "Home occupations" are permitted within the unplanned district and residentially zoned areas. The "home occupation" provision is intended to allow for the conduct of certain types of non-residential activities within a dwelling. The proposed use would not qualify as a home occupation. One of the criteria for determining home occupations is that the use must be conducted solely by the inhabitants of the dwelling. Further, the "home occupation" criteria excludes those activities which rely on visits by customers. The applicant has stated that the recording studio use will also be conducted by people other than residents of the dwelling. The use of the facilities by non-inhabitants will intensify the use beyond that which is permissible under the Home Occupation Provisions of the Zoning Code. The Zoning Code, however, does make provisions for uses such as proposed here in the Village Commercial Zoned District. As such, it is determined that the proposed use is contrary to the County Zoning Code and the objectives sought to be accomplished by the State Land Use Law and Regulations.

A denial by the Commission of the desired use shall be appealable to the Circuit Court in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.

Should there be further questions on this matter, please do not hesitate to call or write us.

Sincerely,



(Mrs.) Lorraine R. Jitchaku
Chairman, Planning Commission

lgv

cc State Land Use Commission
Land Use Division, DPED