

CERTIFIED MAIL

March 13, 1981

Mr. William. H. Mansfield
P. O. Box 243
Captain Cook, Hawaii 96704

Dear Mr. Mansfield:

Special Permit Application (80-18)
Tax Map Key 8-2-01:59

The Planning Commission at its duly held public hearing on March 11, 1981, considered your application for a Special Permit to allow the construction of a caretaker's living quarters on 1.9 acres of land situated within the State Land Use Agricultural District at Kealahou, South Kona, Hawaii.

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

The petitioner has not demonstrated that the proposed use will not be contrary to the objectives sought to be accomplished by the State Land Use District Regulations. These regulations are intended 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. Under the State Land Use District Regulations, the uses and activities permitted within the Agricultural District are primarily related to agriculture. Housing which is occupied by persons engaged in agricultural activities on the property is permitted. In this particular case, however, there is an existing single family on the subject property. The petitioner is now requesting that he be allowed to construct a caretaker's living quarters on the property. Although the application form refers to a "caretaker's living quarters," in his reasons and the site plan submitted with the application, reference is also made to a "guest house." Further, in his reasons, the petitioner also stated that "this building will be for quarters for a farm hand." Therefore,

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there is a discrepancy as to what the actual use of the proposed building will be. In fact, it is questionable as to what the actual use of the proposed building will be.

Even if a so-called "farm hand" proposes to reside in the additional living unit, in this particular case, it is determined that this 1.9-acre lot is not large enough to provide full-scale agricultural activities to support two households. Furthermore, an on-site inspection conducted by the staff revealed that the land is not currently being used for active agricultural purposes. Although there are some coffee trees and banana plants on the property, the basic use of this property can be characterized as residential in nature. Further, it is felt that persons conducting so-called "backyard farming" activities should have no need for assistance, particularly full-time, live-in employees. If the land was actively used for agricultural purposes, then the petitioner could have constructed a farm dwelling for his worker, provided that the latter's major source of income is from working on the land.

The intent of Special Permits is to provide flexibility to accommodate those uses which are deemed to be both unusual and reasonable and which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. It has been found that there are no unusual and reasonable attributes related to the proposed use which would warrant its approval. Further, the proposed use would be contrary to the Land Use Law objective of protecting agricultural lands. The basic large-lot residential use of the land is incongruous to the objectives of the Land Use Law. The caretakers' quarters or guest cottage will effectively intensify the residential usage of the subject property. In essence, the subject property would be supporting two residences of two families instead of one family. The potential for surrounding and/or similar areas to have one basic home and one "caretaker's living quarters" or "guest cottage" would be undeniable if this request were approved. Such a proliferation would be directly contrary to the Land Use Law. It is therefore felt that the granting of the propose use will alter or change the essential character of the land of its present use. The propose use would also adversely affect the surrounding properties and their existing uses and improvements.

In addition, the granting of this particular request will have the long-range effect of unreasonably burdening public agencies to provide services, improvements and facilities, such

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as roads, and fire and police protection, by creating an unanticipated need for such services. In fact, the existing roadways are substandard based on the minimum Subdivision Code requirements.

Further, there are no special or unusual circumstances applying to the subject property which do not generally apply to surrounding properties or improvements in the same district. It has been found that the area under consideration has no special or unusual topographic or similar features which would deprive the petitioner of substantial property rights or which would interfere with the best use or manner of development of the subject property. The petitioner is in fact enjoying his property rights in that there is an existing residence on the property. Because no unusual conditions exist, the approval of the petition would constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification.

It should also be pointed out that there may be reasonable alternatives available to the petitioner by which he could fulfill his desires, such as adding living area to the existing dwelling.

Based on the above stated circumstances, it is determined that, to a degree, the granting of this particular request will be contrary to the General Plan.

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.

We will be forwarding you a certified copy of the Decision Order as soon as the document is prepared.

Should there be further questions on this matter, please feel free to contact the Planning Department at 961-8288.

Sincerely,



BERT H. NAKANO
CHAIRMAN, PLANNING COMMISSION

lgv
cc: State Land Use Commission
Department of Public Works
Kona Services Office

bcc: Land Use Controls Division, Planning Dept.