

CERTIFIED MAIL

March 5, 1982

Mr. Clifford H. F. Lum
Attorney at Law
192 Kapiolani Street
Hilo, Hawaii 96720

Dear Mr. Lum:

Special Permit Application (91-20)
Petitioner: Real Estate Gallery Kona, Inc.
TMK: 9-2-93:12

The Planning Commission at its regular meeting on March 4, 1982, voted to approve your application, Special Permit No. 506, to allow the establishment of a real estate office within a portion of an existing single family dwelling located on 48,223 square feet of land situated within the State Land Use Agricultural District at Hawaiian Ocean View Estates, Kahuku, Ka'u, Hawaii.

Approval of this request is based on the following:

1. That the proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The intent of the Land Use Law and Regulations is 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 Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also lands which are surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reasons of topography, soils and other related characteristics. The subject property's dominant soil type is A'a lava. The Land Study Bureau's rating of these lands for overall agricultural productivity is Class "E" or Very Poor.

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Furthermore, the subject area has not been included in the Department of Agriculture's classification of Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. Although it is possible that some agricultural activities may be conducted on the subject property, it is determined that approval of the subject request would not be contrary to the objectives of the State Land Use Law and Regulations given the low agricultural productivity rating for the property and the above-cited criterion for determining the Agricultural District.

2. That the proposed use will not adversely affect surrounding property. The nature and scale of the proposed real estate office is compatible with the County's Zoning Code definition of a home occupation. Therefore, the primary use of the structure remains residential in character and the impacts resulting therefrom are anticipated to remain the same.
3. That the proposed use will not unreasonably burden public agencies to provide roads and other similar infrastructure or services. Again, the limited nature of the proposed real estate office will not require any expansion to those services and facilities already available to the subject property.
4. That unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. In terms of population, this section of the Ka'u district has grown since the district boundaries and regulations were established. The demand for increased services in the area is evidenced by the approval of three (3) other Special Permits relating to commercial activities, including the establishment of real estate offices. The petitioner further states that a number of their agents have averaged 125-150 sales per year, centered generally in the Ka'u district.

Based on the foregoing findings, the Planning Commission has determined that the proposed home occupation for a real estate office is an unusual and reasonable use of land within the State Land Use Agricultural district. As such, the Planning Commission has further determined that approval of the subject request would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

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Approval of this Special Permit request is subject to the following conditions:

1. That the petitioner, Real Estate Gallery Kona, Inc., shall be responsible for complying with the stated conditions of approval.
2. That the real estate office use shall be restricted only to persons living in the subject dwelling unit.
3. That there be no visible sign or display on the premises advertising the real estate activity.
4. That the petitioner provide one (1) parking stall, meeting with the approval of the Planning Director, for the real estate office.
5. That all other rules, regulations and requirements be complied with.

Should any of the foregoing conditions not be met the Special Permit shall be automatically void.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

fn Clyde Orta
ALFREDO ORITA
CHAIRMAN, PLANNING COMMISSION

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cc: Real Estate Gallery Kona, Inc.
State Land Use Commission
Building Division, Public Works
Kona Services Office

bcc: Land Use Controls Division, Planning Dept.