

CERTIFIED MAIL

December 17, 1987

Ms. Mikiko Malasek
P. O. Box 2710
Kamuela, HI 96743

Dear Ms. Malasek:

Special Permit Application (87-10)
TMX: 6-2-07:4

The Planning Commission at its duly held public hearing on December 8, 1987, voted to approve your application, Special Permit No. 652, to allow the establishment of a real estate office within an existing single family dwelling situated on 5 acres of land within the State Land Use Agricultural District at Kamuela Plantation Subdivision, Ouli, South Kohala, Hawaii.

Approval of this request is based on the following:

The proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law Regulations. The intent of these statutory provisions 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 Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The property is not classified by the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system. Further, the Land Study Bureau's overall master productivity rating for agricultural uses is Class "E" or Very Poor. However, while the soil may not be suitable for agricultural use, the proposed use within the existing dwelling will not restrict the land from being used for agricultural purposes. The remainder of the area is currently vacant and can be put into agricultural use.

It should be further noted that approval of the subject request will not have any adverse impact on the future agricultural potential of the subject property or the surrounding area. As such, from a policy analysis standpoint, it is determined that approval of the subject request would not be inconsistent with the General Plan.

The proposed use will not adversely affect the surrounding properties and their improvements. As stated previously, the proposed use will be situated within the existing single family dwelling. The nature and scale of the proposed real estate business will be compatible with the County's Zoning Code definition of a "home occupation." Therefore, the primary uses on the subject property will remain residential and agricultural in character and the impacts resulting therefrom are anticipated to remain the same.

The proposed uses will not unreasonably burden public agencies to provide roads, water, and other similar infrastructure or services. Again, the limited nature of the proposed use will not require any additional demands or expansion to those services and facilities already available to the subject property.

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

Approval of this request is subject to the following conditions:

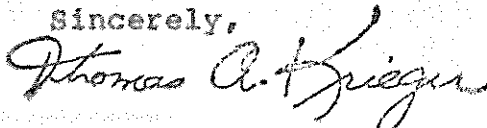
1. The applicant, successors or assigns, shall be responsible for complying with all conditions of approval.
2. The real estate office use shall be restricted to the individual(s) residing in the affected single family dwelling on the property.
3. The proposed use shall be in operation within one year from the effective date of the Special Permit.
4. There shall be no visible sign or display on the premises advertising the real estate business.
5. The use shall be restricted to a "home occupation" as defined under Section 25-4, Division 1, Article 1 of Chapter 25 (Zoning Code), Hawaii County Code 1983, as amended.

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6. All other applicable laws, rules, regulations, and requirements shall be complied with.
7. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
8. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning 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; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

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

Sincerely,



Thomas A. Krieger
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
State Land Use Commission
bcc: Plan Approval Section