

CERTIFIED MAIL

February 29, 1988

Mr. Kenneth Driskell
74-5543 Kaiwi Street
Kailua-Kona, HI 96740

Dear Mr. Driskell:

Special Permit Application
Petitioner: Kona Elks Lodge #2616
TMK: 7-4-04:Portion of 28

The Planning Commission at its meeting on February 23, 1988, adopted the following findings in denying your request for a special permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission to allow the establishment of an Elks Lodge on 2.3 acres of land situated within the State Land Use Agricultural District at Kealakehe Homesteads, North Kona, Hawaii:

Chapter 205-6, Hawaii Revised Statutes, allows the county Planning Commission to issue special permits for "certain unusual and reasonable uses within agricultural districts other than those for which the district is classified," "but only when the use would promote the effectiveness and objectives of [HRS ch. 205]." The proposed Elks Lodge does not meet the guidelines set forth in the Land Use District Regulations, which determines its use as unusual and reasonable.

1. The proposed lodge would adversely affect the surrounding properties. The subject property is located within the Kealakehe Homesteads 1st Series Subdivision. The area is characterized by scattered homes in a pastoral and sometimes wooded setting. The introduction of a lodge that would hold meetings, special functions and dining for its current membership of 400 will have a negative impact on this rural

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community. The type of activities and the hours of operation proposed would not be compatible with the residential and agricultural focus of this area.

The subject property and surrounding Homestead area gains access from Palani Road via Tomi Tomi Road, which has been paved to a width of 10 to 12 feet for a distance of about 1,000 feet. The paved portion also contains an almost 90 degree right turn in order to get to the property. Tomi Tomi Road continues as a dirt and gravel road immediately after the landowner's driveway. The anticipated increase in volume of traffic on Tomi Tomi Road will substantially aggravate an already substandard situation for its current users.

2. The proposed Elks Lodge would unreasonably burden public agencies to provide roads and police protection. According to the Department of Public Works, development along Tomi Tomi Road, which is a paper road maintained by the County, should be discouraged until adequate infrastructure is available. Additionally, the Police Department cautions that the condition and capacity of roadways to and from the subject site be considered. The public testimony by resident users strongly supports concerns of safety directly related to Tomi Tomi Road and the proposed use. It is undeniable that approval of this particular request at this location would create a demand on public agencies to upgrade the substandard roadway and to provide additional police service.

3. The proposal is contrary to the objectives sought to be accomplished by the Land Use Law and Regulations as well as the County General Plan. The four land use districts (Agricultural, Rural, Urban and Conservation) created by the State Land Use Commission provide the basic legal framework of land uses in the State of Hawaii and help implement the long-range land use objectives of the State and Counties. 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 in Hawaii. In this instance, it is felt that the Elks Lodge would be better situated where infrastructure could be made available and where the introduction of a new use does not significantly alter the character of an area. This finding is substantiated by comments from the Department of Agriculture which preferred that the proposed use be established in the existing [Kealakehe] Urban District rather than in the Agricultural District.

The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Extensive Agricultural uses and the Kona Regional Plan recommends the retention of the Unplanned

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zoned district. Arguably, the soil productivity of the property may be poor in its natural state. However, properly prepared, the parcel could be used for pasture, macadamia nut, citrus and papaya. If one were to look at the parcel's potential for agricultural activity together with the overall land use pattern recommended for the area, the requested use would contradict both objectives.

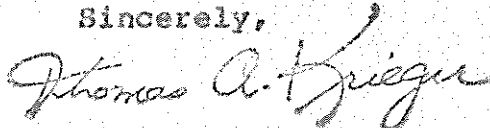
This denial is upheld by a goal of the Land Use Element of the General Plan to "designate and allocate land uses in appropriate proportions and in keeping with the social, cultural, and physical environments of the County." The establishment of an intensive use, such as a lodge, in the Kealakehe Homestead subdivision would create an undesirable situation in conflict with the present neighborhood.

Based upon the above, it is determined that the subject request will not promote the effectiveness and objectives of Chapter 205, HRS, and should therefore be denied.

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 feel free to contact the Planning Department at 961-8288.

Sincerely,



Thomas A. Krieger
Chairman, Planning Commission

cc: Donald McIntosh
State Land Use Commission
Corporation Counsel
Planning Office - Kona
bcc: Plan Approval Section