



## Planning Commission

Bernard K. Akana  
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

### CERTIFIED MAIL

November 17, 1989

Mr. Arte L. McCollough  
P.O. Box 1581  
Kamuela, HI 96743

Dear Mr. McCollough:

Special Permit Application(89-25)  
TMK: 6-4-25:30

The Planning Commission at its duly held public hearing on November 7, 1989, voted to approve your application, Special Permit No. 719, to allow the establishment of a private investigator's office within an existing single family dwelling on a 16,974-square foot property situated within the State Land Use Agricultural District. Please be advised that the storage of repossessed vehicles on the property was denied. The property is located along the southeast side of Kalae Place, approximately 90 feet from the Kalae Place-Hohola Drive intersection, Puu Nani Subdivision, Unit 4, Waimea, South Kohala, Hawaii.

Approval of this request is based on the following:

The granting of this request for a private investigator's office would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended 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 property is situated within the Agricultural State Land Use District. The property is classified as Existing Urban Development by the Department of Agriculture's ALISH Map. The Land Study Bureau's Overall Master Productivity rating for agricultural uses is "C" or Fair. It should be noted that the subject property is a 16,974-square foot lot which already contains two single family dwellings. The property is located

NOV 17 1989

Mr. Arte L. McCollough  
November 17, 1989  
Page 2

within a large subdivision containing similar size lots. Because of the size of the lot, existing uses on the lot, and the fact that the proposed office use will be conducted within an existing dwelling, it is determined that granting of the request for office use would have no adverse impact on the agricultural potential of the property or the surrounding area.

The desired office use will not adversely affect the surrounding properties. As stated previously, the office use will be conducted within the existing single family dwelling. The office will not be open to the public. There are no employees associated with this office. Thus, the scale of the proposed private investigator's office will be compatible with the County Zoning Code definition of a "home occupation." The primary use on the subject property will remain residential, and the impacts resulting from the use are anticipated to be no more than that of residential use.

The storage of repossessed vehicles is anticipated to adversely affect surrounding properties. This application for Special Permit is the outcome of complaints by neighboring property owners about the storage of vehicles on the property. Such use would involve traffic impacts and negative visual impact associated with increased numbers of vehicles over normal residential levels. Although the applicant has stated that vehicles would only be stored overnight or over the weekend, such use is not compatible with the existing residential use. Furthermore, the storage of vehicles is not consistent with the criteria for determining a "home occupation" which states that such a business "Is customarily conducted entirely within a dwelling."

The vehicle storage will alter or change the essential character of the land and the present use. The character of the land and present use is single family residential. While office use would be consistent with that characterization, the increased vehicle traffic involved with the storage of vehicles is inconsistent with same.

The desired office use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Again, the limited nature of the proposed office use will not require any additional demands or expansion to those services and facilities already available to the subject property.

Mr. Arte L. McCollough  
November 17, 1989  
Page 3

The request for office use is not contrary to the General Plan. The subject property is designated as Low Density Urban on the General Plan LUPAG Map. Such a designation allows for single family residential and ancillary community and public uses. In the case of the proposed office use, the primary use of the property will remain single family residential. Although the County zoning designation of the property is A-1a, the subject property and surrounding properties are primarily 15,000- to 17,000- square foot lots which are residential in use. A "home occupation" is a permitted use in the County's A-1a zoned district. Therefore, the establishment of a private investigator's office as a home occupation complies with the General Plan Goal to "Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural, and physical environments of the County."

The storage of repossessed vehicles is not compatible with the General Plan's Low Density Urban designation. It is also determined that the proposed vehicle storage is not compatible with the surrounding single-family residential type of use.

Based on the above considerations, it is determined that the establishment of a private investigator's office within an existing dwelling is an unusual and reasonable use of land which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify the office space within the existing structure.
3. The proposed use shall be in operation within one year from receipt of Final Plan Approval. Compliance with conditions of approval shall be confirmed in writing by the applicant.

Mr. Arte L. McCollough  
November 17, 1989  
Page 4

4. The private investigator's office use shall be restricted to the individual residing in the affected single family dwelling on the property.
5. The private investigator office use shall be restricted to a 270-square foot office area within the affected dwelling. The storage of repossessed vehicles, temporary or otherwise, shall not be permitted on the subject property.
6. There shall be no visible sign or display on the premises advertising the private investigator business.
7. 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.
8. Comply with all other applicable laws, rules, regulations, and requirements of relevant State and County agencies.
9. 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 be 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 and the Planning Director acknowledges that further reports are not required.
10. An extension of time for the performance of conditions within the permit 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

Mr. Arte L. McCollough  
November 17, 1989  
Page 5

conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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

Sincerely,



Gary Mizuno  
Chairman, Planning Commission

xc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
State Land Use Commission

bcc: Plan Approval Section