

Planning Commission

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

Larry S. Tanimoto
Mayor

CERTIFIED MAIL

May 14, 1990

Lance and Miriam Hamasaki
74-5616 Alapa Street, Bay #1
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Hamasaki:

Special Permit Application
TMK: 1-7-24:38

The Planning Commission at its duly held public hearing on May 3, 1990, voted to approve your application, Special Permit No. 731, to allow the establishment of a bakery operation as a home occupation within a single family dwelling on 32,513 square feet of land in the State Land Use Rural District approximately 750+ feet from Kukui Camp Road, Kukui Heights Lots, Olaa, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request 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. Most of the subject property is currently in agricultural use as an anthurium farm. While a portion of the farm will be taken out of agricultural use to accommodate the proposed baking kitchen and single family dwelling, the applicants intend to maintain the remainder of the anthurium farm. The proposed use will be in conjunction with single family residential and agricultural uses, both of which are permitted uses within the district.

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The desired use will not adversely affect the surrounding properties. With the exception of one vacant parcel, surrounding properties are in residential and/or agricultural uses. The nearest dwelling is located approximately 40 feet away from the project site. The siting of the structure and dwelling on the rear portion of the property and the applicants' desire to maintain the anthurium farm will ensure that the rural character of the area is not affected. Norfolk pines located along the rear property line will further mitigate any visual impacts to adjoining properties. All baking activities will be conducted solely within the proposed baking kitchen. The operation will be limited to the hours of 6:00 a.m. to 6:00 p.m., 7 days a week with only the 5 family members to be employed. No retail sales will take place on the property nor will any signs be erected to advertise the proposed activity. Therefore, the proposed use is not anticipated to result in a significant increase in noise, odors, visual impact, or traffic.

The proposed use is not anticipated to unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police, and fire protection. The approval recommendation is based on a condition that limits employees to those persons living in the proposed single family dwelling. The applicants have also stated that their personal vehicles will be used in transporting baking supplies and baked products. Therefore, the limited nature of the proposed use will not require any additional demands or expansion to those services and facilities already available to the property. All basic services are available to the property and consulted agencies have no objection to the proposed use.

The proposed use will not substantially alter or change the essential rural character of the land and the present use. The applicants intend to manufacture the baked goods within a proposed structure that will be part of a single family dwelling. The maintenance of the anthurium farm will further complement the rural character of the parcel and the subdivision as a whole. No other improvements shall be required by applicant that will substantially alter the character of the land provided that the baking activity is limited to those persons living in the proposed single family dwelling.

The request is not contrary to the goals, standards and policies of the General Plan. Approval of this request supports

a goal of the Economic Element of the General Plan which states that the County shall "Provide residents with opportunities to improve their quality of life." The General Plan also recommends that "The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment." The proposed use complements the goals stated above while also conforming to a goal of the Land Use Element to "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County."

Based on the above considerations, it is determined that the establishment of a bakery operation as a home occupation within an existing single family 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.
3. Construction of the baking kitchen and single family dwelling and related improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within one year thereafter.
4. The baking operation shall be limited to the hours of 6:00 a.m. to 6:00 p.m. daily. The baking kitchen shall only be staffed by those persons living in the single family dwelling located on the subject property.
5. The baking facility shall not exceed 900 square feet of gross floor area.

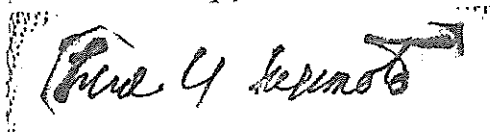
6. No retail sales shall be conducted on the property and there shall be no visible signs or displays on the premises advertising the business.
7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walks be encountered, work in the immediate area shall cease, and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
8. Comply with applicable laws, rules, regulations, and requirements including those of the Department of Health.
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 conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

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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.

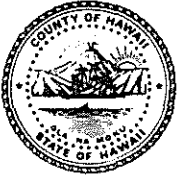
Sincerely,

A handwritten signature in cursive script that reads "Fred Y. Fujimoto". The signature is written in dark ink and is positioned to the right of the typed name.

Fred Y. Fujimoto
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
DLNR
Department of Health

bcc: Plan Approval Section



Planning Commission

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

Lorraine R. Inouye
Mayor

CERTIFIED MAIL

January 23, 1991

Lance and Miriam Hamasaki
74-5616 Alapa Street, Bay 1
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Hamasaki:

Special Permit Application
Tax Map Key: 2-4-47:20
and Revocation of Special Permit 731
Tax Map Key: 1-7-24:28

The Planning Commission at its duly held public hearing on January 10, 1991, voted to approve your application, Special Permit Permit No. 763, to allow the establishment of a bakery operation as a home occupation on 43,628 square feet of land situated within the State Land Use Agricultural District at Waiakea Homesteads, 2nd Series, Waiakea, South Hilo, Hawaii.

The Commission also voted to revoke Special Permit No. 731 which allowed the establishment of a bakery operation at Olaa, Puna, Hawaii.

Approval of Special Permit No. 763 is based on the following:

The granting of the Special Permit to allow the establishment of a bakery operation on the subject property 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agriculture use. The land is identified by the Soil Conservation Service as Olaa Series and is generally utilized for the cultivation of sugarcane. The soil is classified as Fair by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. No agricultural activity is presently being conducted on the property. While a portion of the parcel will be taken out of

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potential agricultural use to accommodate the proposed baking kitchen and single family dwelling, the limited nature of the proposed baking kitchen will have a negligible effect on the County's agricultural land inventory. The proposed use will be in conjunction with single family residential use, which is a permitted use within the district. Therefore, it can be determined that the proposed use will not affect important agricultural lands within the district or region.

The desired use will not adversely affect the surrounding properties. Surrounding properties are in residential and/or agricultural uses. The nearest dwelling is located in excess of 40 feet away from the proposed bakery facility. All baking activities will be conducted solely within the proposed baking kitchen. The operation will be limited to the hours of 6:00 a.m. to 6:00 p.m., 7 days a week with only the 5 family members to be employed. No retail sales will take place on the property nor will any signs be erected to advertise the proposed activity. Therefore, the granting of the proposed use will not result in a significant increase in noise, odors, visual impact, or traffic. Further, it can be determined that the proposed use is not anticipated to adversely affect surrounding properties or the agricultural character of the area.

The proposed use is not anticipated to unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police, and fire protection. The approval recommendation is based on a condition that limits employees to those persons living in the proposed single family dwelling. The applicants have also stated that their personal vehicles will be used in transporting baking supplies and baked products. Therefore, the limited nature of the proposed use will not require any additional demands or expansion to those services and facilities already available to the property. All basic services are available to the property and consulted agencies have no objection to the proposed use.

The proposed use will not substantially alter or change the essential agricultural character of the land and the surrounding uses. The applicants intend to manufacture the baked goods within a proposed structure that will be part of a single family dwelling. No other improvements shall be required by the applicants that will substantially alter the character of the land provided that the baking activity is limited to those persons living in the proposed single family dwelling.

The request is not contrary to the goals, standards and policies of the General Plan. Approval of this request supports a goal of the Economic Element of the General Plan which states that the County shall "Provide residents with opportunities to improve their quality of life." The General Plan also recommends that "The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment." The proposed use complements the goals stated above while also conforming to a goal of the Land Use Element to "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County."

Based on the above considerations, it is determined that the establishment of a bakery operation as a home occupation within an existing single family 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 Special Permit No. 763 is subject to the following conditions:

1. The applicant(s), 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.
3. Construction of the baking kitchen and single family dwelling and related improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within one year thereafter.
4. The baking operation shall be limited to the hours of 6:00 a.m. to 6:00 p.m. daily. The baking kitchen shall only be staffed by those persons living in the single family dwelling located on the subject property.

5. The baking facility shall not exceed 900 square feet of gross floor area.
6. No retail sales shall be conducted on the property and there shall be no visible signs or displays on the premises advertising the business.
7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walks be encountered, work in the immediate area shall cease, and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
8. Comply with applicable laws, rules, regulations, and requirements including those of the Department of Health.
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(s), 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 shall initiate procedures to revoke the permit.

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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,

Mike Luce

Mike Luce, Chairman Pro Tem
Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
DLNR
Department of Health