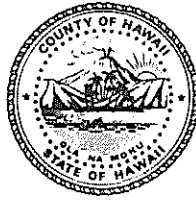


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

August 5, 1993

Mr. Mark S. Richards, President
Maryl Development, Inc.
PO Box 1928
Kailua-Kona, HI 96745

Dear Mr. Richards:

Special Permit No. 756
Applicant: Maryl Development, Inc.
Request: Nullification of Special Permit No. 756
Tax Map Key: 6-6-1:por 38

The Planning Commission at its duly held meeting on July 29, 1993 voted to nullify Special Permit No. 756 issued to Maryl Development, Inc. which allowed the construction of a model home and real estate sales office on 1 acre of land situated in the State Land Use Agricultural District. The project site is located in the Sandalwood, off the Kamuela-Mahukona Road between its intersection with Lindsey Road and Kawaihae Roads, Lalamilo, South Kohala, Hawaii.

The applicant has determined that the use of a model home as a real estate sales office is no longer required as they will conduct their on-site real estate sales from a temporary real estate sales office located in a trailer. Special Permit No. 846 allows the temporary real estate sales office.

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AUG 9 1993

Mr. Mark S. Richards, President
August 5, 1993
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Should you have any questions, please feel free to contact Rodney Nakano or Daryn Arai of the Planning Department at 961-8288.

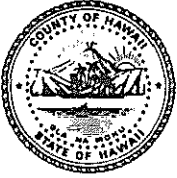
Sincerely,



for Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LMary102.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
State Land Use Commission
West Hawaii Office



Planning Commission

Larry S. Tanimoto
Mayor

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

CERTIFIED MAIL

November 19, 1990

Mr. Keola Childs, Executive Vice President
Maryl Development, Inc.
P.O. Box 1928
Kailua-Kona, HI 96743

Dear Mr. Childs:

Special Permit Application
Tax Map Key: 6-6-01:Portion of 38

The Planning Commission at its duly held public hearing on November 8, 1990, voted to approve your application, Special Permit No. 756, to allow the construction of a model home and real estate sales office on 1 acre of land situated within the State Land Use Agricultural District at Waiauia, Waimea, South Kohala, 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. The subject property is situated within the State Land Use Agricultural District. The soil is classified as Fair according to the Land Study Bureau's Overall Master Productivity Rating. The property is identified as "Other Important Agricultural Land" according to the ALISH Map. Since the temporary real estate office will occupy the garage portion of a single family dwelling, the agricultural potential of the property will not be affected. The parking area to be constructed for office use is temporary and will be removed at the end of the three-year period. Thus, it is determined that the approval of the request would not be contrary to the objectives of the State Land Use Law and Regulations.

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November 19, 1990
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The desired use will not adversely affect the surrounding properties. As previously stated, the proposed use will be temporary and will be conducted within the garage portion of a single family dwelling. Therefore, the scale of the proposed real estate office will not create any negative physical or visual impact on the surrounding properties. The proposed real estate office is intended to provide the necessary on-site services for potential purchasers of property within the future subdivision.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Consulted agencies had no objections to the request. The Department of Transportation requires that access to the State highway is constructed to appropriate standards. The limited nature of the proposed use will not require any additional demands or expansion of those services and facilities already available to the property. The Department of Public Works' comments regarding roadway circulation with adjacent properties refer to subdivision improvements not affected by this application.

The land upon which the proposed use is sought is suited for the uses permitted within the district. However, the real estate office use will be confined to a permitted structure. Therefore, the real estate office use will result in no displacement or loss of potential agricultural lands, nor will it preclude agricultural activity from occurring on the property.

The use will not substantially alter or change the essential character of the land and the present use. As previously stated, no permanent structures other than a single family dwelling will be built on the property. The temporary parking area will be removed within three years.

The request is not contrary to the General Plan and the Waimea Design Plan. A real estate sales office for the subdivision will support the goal of the Land Use Element of the General Plan to "Designate and allocate land uses in appropriate proportions and mix and keeping with the social, cultural, and physical environments of the County."

The Department of Land and Natural Resources has stated that the proposed use could have an adverse impact on significant historic sites. While the DLNR has expressed

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concerns for the archaeological resources of the entire subdivision, only a one-acre portion of the lot is the subject of this application. It is, therefore, recommended that an archaeological reconnaissance survey of the subject property be carried out prior to Final Plan Approval.

Based on the above considerations, it is determined that a temporary model home and sales office 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 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 structures, landscaping, and paved parking stalls associated with the sales office. Parking shall comply with the requirements of Chapter 25 (Zoning Code). No parking variance from the Code shall be applied for or granted. Parking for all functions shall be maintained on the subject property.
3. Construction of the improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter. The applicant shall notify the Planning Director in writing of establishment of use.
4. The real estate office use shall be terminated within three years of establishment of use or upon sale of all lots within the 44-lot subdivision, whichever occurs first. Paved parking area for the sales office shall be removed upon termination of use. The applicant shall notify the Planning Director in writing of termination of use.

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5. Prior to submittal of plans for Plan Approval review, an archaeological reconnaissance survey shall be submitted to and approved by the Planning Department in consultation with the Department of Land and Natural Resources-Historic Sites Section.
6. Driveway access to the property shall meet with the approval of the State Department of Transportation and may require left-turn storage, acceleration and deceleration lanes.
7. Real estate sales shall be restricted to lands within the 44-lot subdivision of which the subject property is a portion.
8. Comply with all other laws, rules, regulations, and requirements of 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. The report shall include sales reports indicating the Tax Map Key of each property sold. 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

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substantially complied with in a timely fashion, the Director shall initiate procedures to revoke 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,



Fred Y. Fujimoto
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
State Land Use Commission
DLNR-Historic Sites Section
State Department of Transportation, Highways Division

bcc: Subdivision Section 84-188