



Planning Commission

STEPHEN K. YAMASHIRO
Mayor

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

CERTIFIED MAIL

February 11, 1993

Ms. Marty Dean
74-4963 Kiwi Street
Kailua-Kona, HI 96740

Dear Ms. Dean:

Special Permit No. 834
Applicants: Robert and Marty Dean
Request: Establish a Business to Provide Skincare
and Nutrition Programs to Individuals
Tax Map Key: 7-4-07:79 (Lot E-2)

The Planning Commission after duly held public hearings on December 10, 1992 and February 4, 1993, considered 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 a business that would provide skin care and nutrition programs to individuals in the State Land Use Agricultural District. The project site consists of approximately 1.539 acres located at 74-4963 Kiwi Street makai of the Paniolo Country Subdivision off Palani Road, Papaakoko, North Kona, Hawaii.

The Commission voted to deny Special Permit No. 834 based on the following findings:

Further review of information related to the property found that restrictive covenants applicable to the Paniolo Country Subdivision would prohibit the proposed skin care and nutrition program from being established within the existing single family residence.

The Warranty Deed (#90-135678) to the property dated August 31, 1989 and recorded in Liber 23647, Page 66, in the Bureau of Conveyances and the Declaration of Covenants, Conditions and Restrictions dated August 10, 1989, and recorded in Liber 23513, Page 406 contain the following covenant:

"12. RESIDENTIAL PURPOSES. All of said lots and every portion thereof shall be used only for single family, private residence purposes including garage and other similar structures reasonably necessary in connection with such private residence and for no other purpose, except

FEB 11 1993

Ms. Marty Dean
February 11, 1993
Page 2

Lots A, B, C, and D may also be used for church purposes, including the erecting of a church structure, and Lots L and P may be used for commercial purposes. Lots L and P are not subject to the restrictions of the Declaration of Covenants, Conditions, and Restrictions."

It is quite evident that the restrictive covenants of the Paniolo Country Subdivision would not allow the establishment of the proposed use on the subject property. While it is not the responsibility of the Planning Commission or the Planning Department to enforce the restrictive covenants which may encumber a parcel, it would be remised in its duties to disregard the limitations of such restrictive covenants in its decision when such restrictions are made known.

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 Rodney Nakano or Daryn Arai the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LDean-01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
State Land Use Commission
Corporation Counsel
Plan Approval Section