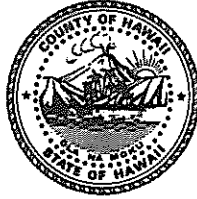


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 441

August 8, 1996

Ms. Antoinette L. Freitas
P.O. Box 695
Honokaa, HI 96727

Dear Ms. Freitas:

Special Permit Application (SPP 96-10)
Applicant: Antoinette Freitas
Request: Establish a Certified Kitchen for Cakes and Breads
Tax Map Key: 4-4-8:Portion of 28

The Planning Commission at its duly held public hearing on July 25, 1996, voted to approve the above-referenced application. Special Permit No. 938 is hereby issued to allow the construction and establishment of a certified bakery kitchen facility, as a home occupation, on an approximately 150 square foot portion of the 9.423 acres of land within the State Land Use Agricultural District. The property is located along Kalopa Road approximately 2.9 miles mauka of the Hawaii Belt Highway, within Kalopa Homesteads at Kalopa, Hamakua, Hawaii.

Approval of this request is based on the following:

The granting of this special permit will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules 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 districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The ALISH map system recognizes the area as "Prime Agricultural Land." The Land Study Bureau rates the soils as "Fair" and "Poor" for agricultural productivity. The subject property has an existing dwelling with lands in pasture use for cattle grazing. The construction and establishment of a 150 square foot certified kitchen to the existing dwelling on the existing property will not displace a significant amount of land from agricultural activity nor diminish the agricultural potential of the area. Therefore, the request would not be contrary to the intent and purpose of the State Land Use Law for the Agricultural District.

08089

AUG 08 1996

The proposed request is not contrary to the General Plan. The County General Plan Land Use Pattern Allocation Guide Map (LUPAG) designates this area for Intensive and Extensive Agricultural. The property is in pasture use for cattle grazing, and there will be no diminishing of agricultural uses on the property or in the area.

Approval of a Special Permit to allow the establishment of a certified kitchen facility on the project site will not be contrary to the goals, policies and standards of the General Plan. The proposed use will compliment the following goals and policies of the General Plan:

Economic Element:

- * Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- * 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 County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.
- * Provide residents with opportunities to improve their quality of life.

Land Use Element:

- * Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- * The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The subject property, although not unsuited for the uses within this district, will not interfere with permitted uses within the district. The subject property is in pasture use and already has an existing 3-bedroom dwelling on it. The proposed 150 square foot certified kitchen will be attached to the existing dwelling and, therefore, not significantly impact existing agricultural lands.

The proposed use will not have any significant adverse effects on the surrounding properties. The subject property is approximately 8.8 acres in size with surrounding lands in pasture use. According to plans submitted, the proposed certified kitchen will be constructed along the front section of the dwelling. Along with the property size and the nature of a certified kitchen, with its use by the applicant or residents only, it is not anticipated that any visual and noise impacts would be experienced by surrounding properties.

The proposed use will not substantially alter or change the essential character of the land and the present use. Surrounding lands are predominantly in pasture use with scattered dwellings. The proposed certified bakery kitchen will be attached to the existing residence

and, therefore, not substantially change the existing character of the property or its surrounding area. The applicant does not intend to hire any employees. A condition restricting employees to individuals residing on the property will be incorporated as a condition of approval as a means of limiting additional traffic and its associated impacts to surrounding properties.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Due to the present difficult economic conditions, a growing trend within the County appears to be the establishment of home business as a means of providing residents with primary or supplemental incomes. While such "home occupations" are permitted within State Land Use Urban Districts, such uses are not permitted within the Agricultural District. Through the review process and issuance of a Special Permit, residents located within the Agricultural District are now being afforded the opportunity to establish home occupations.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. Access to the subject property is from Kalopa Road, which is a County-maintained and paved road. Kalopa Road is approximately 10 feet wide fronting the subject property and in good condition. No additional traffic is anticipated to be generated from the proposed use as there are no outside employees and no sales are permitted on the premises. Therefore, existing roadways which service the project site are sufficient to support the requested use. No further roadway improvements are recommended. In addition, County water is available to support the proposed use.

Similarly, approval from the Department of Health will be required for the disposal of wastewater generated by the proposed facility. The applicants current proposal is for wastewater disposal within an existing cesspool. Fire protection measures will also be required per Fire Department requirements. All other essential utilities and services are or will be made available to support the proposed use.

Based on the above consideration, the establishment of a certified bakery kitchen on the subject property 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.
3. The applicant shall complete construction within three (3) years from the effective date of the Special Permit. Prior to the start of construction, Final Plan Approval of the certified bakery kitchen shall be secured from the Planning Director. Plans shall

identify existing and proposed structures, landscaping and driveway(s) associated with the proposed use.

4. Operation of the certified bakery kitchen shall be limited to persons residing on the subject property.
5. No retail sales shall be conducted on the property, and there shall be no visible signs or displays on the premises advertising the certified bakery kitchen.
6. The applicant shall comply with all applicable laws, rules and regulations of the affected agencies.
7. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. 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.
 - 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).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this 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.

Ms. Antoinette L. Freitas
Page 5
August 8, 1996

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LFreit01.PC

cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission