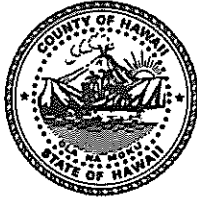


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 323 438

July 25, 1996

Ms. Mary R. Kim  
P.O. Box 1775  
Hilo, HI 96721-1775

Dear Ms. Kim:

Special Permit Application (SPP 96-11)  
Applicant: Mary R. Kim  
Request: Establish a Real Estate Brokerage Office  
In a Single Family Dwelling  
Tax Map Key: 1-7-3:22

The Planning Commission at its duly held public hearing on July 11, 1996, voted to approve the above-referenced application. Special Permit No. 937 is hereby issued to allow the establishment of a real estate brokerage office within an existing dwelling situated on approximately 1.16 acres of land within the State Land Use Agricultural District. The property is located within Olaa Homestead Reservation Lots, along the south (Volcano) side of Huina Road at Olaa, Puna, Hawaii.

Approval of this request is based on the following:

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. In addition, 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 agricultural use.

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The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the ALISH Map. The subject property is a 1.16 acre parcel presently with the existing dwelling and in very limited agricultural use. The applicant resides in the existing dwelling and proposes to establish a real estate office within a portion of the dwelling on a part-time basis. Therefore, the limited nature of the proposed use will not have an adverse effect on the County's agricultural land inventory. It is, therefore, determined that the proposed use within the existing dwelling is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

The proposed request is not contrary to the General Plan. The subject area has been designated as Urban Expansion Area since 1970. Further, during the General Plan comprehensive review in 1989, the area further west of the subject property and Kurtistown was redesignated from Orchards to Urban Expansion Area for the purposes of expanding the urban area around Keaau. This Urban Expansion Area designation would allow for commercial uses. Approval of the subject request would support the following goals of the General Plan:

Economic Element:

- \* Provide residents with opportunities to improve their quality of life.
- \* 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.

Land Use Element:

- \* Designate and allocate land uses in appropriate proportions and mix 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 desired use will not adversely affect surrounding properties. The proposed real estate brokerage office will be established within a portion of the applicant's existing dwelling and be restricted to solely the applicant on a part-time basis. The applicant anticipates the visitation rate of approximately 1 to 2 or fewer clients per week to the proposed real estate office. The applicant would primarily conduct her business by telephone or mail and meet the clients at specified properties for viewing. With such a low visitation rate by clients, possible noise generated by the activity is expected to be negligible. Surrounding lands are predominantly vacant or in agricultural uses. By limiting the use of the proposed office to the applicant and within the confines of the existing dwelling and with the anticipated low visitation rate by clients, the proposed use will not alter or change the essential character of the land and present use nor will it impact the surrounding area.

The desired 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 property will be directly from Huina Road which is a County maintained roadway having a pavement width of approximately 20-feet within a 50-foot right-of-way. It is not anticipated that the proposed office will impact or burden public agencies given the anticipated low visitation rate by clients. The applicant would be required to pave the parking area on site to accommodate any client parking. Although a County water supply is available to the subject property, potable water is not necessary for the proper operation of a real estate office. Agencies reviewing the request had no objections to the proposed use. All other essential utilities and facilities are available to support the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Due to the present economic situation, the County is experiencing an increase in requests to establish small businesses and home occupations. Technological advancements such as the facsimile machine, advance telephone services and networking have made the traditional office structure much more flexible. The applicant resides in the existing dwelling and proposes to use a portion of the dwelling for the proposed office use. The applicant has stated that because she is a sole operator on a part-time basis and having to maintain an office in Hilo for which the expense is high, driving to and from the office, and real estate being down, the applicant has sought the Special Permit process for the proposed office.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. As mentioned, the soil within the subject property is classified as "E" or Very Poor for agricultural productivity and unclassified by the ALISH Map. Furthermore, the Special Permit process, established by legislation, allows for other uses to be established that for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

Based on these considerations, it is determined that the approval of the Special Permit request to establish a real estate brokerage office would be supportive of 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 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. Final Plan Approval for the real estate office use shall be secured from the Planning Department within one year from the effective date of this permit. Plans shall identify existing structures, paved (concrete, asphalt-concrete or

chip-seal) driveway and parking area and landscaping, if applicable, associated with the proposed real estate office.

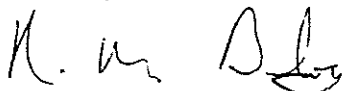
4. The real estate office use shall be established within one year from the date of receipt of Final Plan Approval. The applicant shall notify the Planning Department, in writing, prior to commencing operation of the real estate office.
5. The real estate office shall be limited to its use by the applicant only.
6. Any exterior signs shall meet with the approval of the Department of Public Works.
7. The real estate office hours of operation shall be limited to Monday through Saturday, 8:00 a.m. to 4:00 p.m.
8. The life of the permit shall be for a period of five (5) years from the effective date of this permit.
9. The applicant shall comply with applicable laws, rules and regulations of State and County agencies for this proposed use.
10. 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).

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. Mary R. Kim  
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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

LKimMa01.PC

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