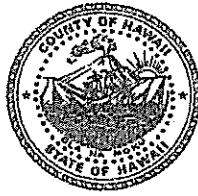


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

April 8, 2003

Mr. Ken Melrose, Vice President  
Maryl Group, Inc.  
P.O. Box 1928  
Kailua-Kona, HI 96745

Dear Mr. Melrose:

**Special Permit No. 1055**  
**Applicant: Maryl Group, Inc.**  
**Request: Termination of Special Permit**  
**Tax Map Key: 7-6-012:007 & 069**

Thank you for your letter dated January 10, 2003 requesting that Special Permit No. 64 be terminated. Based on your request, we will terminate Special Permit No. 1055, which was to establish a temporary on-site real estate sales office on the above listed properties.

If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,

CHRISTOPHER J. YUEN  
Planning Director

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cc: Planning Commission  
Planning Division  
SPP 1055

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**GROUP**

Maryl Group, Inc.  
P.O. Box 1928, Kailua-Kona HI 96745  
75-1000 Henry Street, Suite 200, Kailua-Kona HI 96740  
Ph: (808) 331-8100 Fax: (808) 331-3291

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PLANNING DEPARTMENT  
COUNTY OF HAWAII

January 10, 2003

Mr. Christopher J. Yuen  
Planning Director  
County of Hawaii  
25 Aupuni St., Room 109  
Hilo, HI 96720-4252

Subject: Special Permit No. 19<sup>0</sup>55  
TMK: 7-6-12:69 lot 71

Dear Mr. Yuen,

Let this letter serve as notice that the sales office use for which this Special Permit was granted has been terminated as of 12/31/02. The garage has been converted from the sales office use back to the garage use.

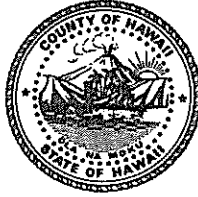
We appreciate the cooperation of the Planning Department in allowing the extended use of the site for sales purposes. It is hoped that this letter will be sufficient to terminate the sales office use, as the home is now being used for its original purpose as a residence.

Sincerely,

Ken Melrose  
Vice President

032766

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  
7099 3220 0000 4869 7824

MAY 22 2000

Mr. Ken Melrose  
Maryl Development, Inc.  
P.O. Box 1928  
Kailua-Kona, HI 96745

Dear Mr. Melrose:

Special Permit Application (SPP 00-007)

Applicant: Maryl Group, Inc.

Request: To Establish a Temporary On-Site Real Estate Sales Office Within A  
Temporary Office Trailer, and Subsequently Relocate Within a Proposed  
Model Home at the Iolani Subdivision

Tax Map Key: 7-6-12:Portion of 7 and 69

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The Planning Commission at its duly held public hearing on May 5, 2000, voted to approve the above-referenced application. Special Permit No. 1055 is hereby issued to establish a temporary on-site real estate sales office within a temporary office trailer and subsequently relocate within a proposed model home situated within the State Land Use Rural District. The properties are located in the 'Iolani Subdivision on Aeo Street approximately 148 feet south of the Aeo Street-Lako Street intersection, Holualoa 1<sup>st</sup> and 2<sup>nd</sup>, North Kona, Hawaii.

Approval of this request is based on the following:

The proposed temporary real estate sales office and related improvements is an unusual and reasonable use of lands situated within the State Land Use Rural District. In recognizing that lands within rural districts might not be best suited for rural activities and yet classified as such, and in recognition that certain types of uses might not be strictly rural 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 Rural district. The subject property where the temporary trailer is proposed to be located is Lot 50 of the proposed Increment IV, Phase I, of the 'Iolani Subdivision. Lot 50 is a 22,157 square feet portion of a 25.433-acre parcel (TMK: 7-6-12:7) located on the north side of Lako Street, approximately 950 feet southwest of the Hualalai Road-Lako Street intersection. The temporary trailer, which will be used for the office, is approximately 200 square feet in area. The subject property where the temporary real estate sales office will be relocated to upon the

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completion of the proposed model home, TMK: 7-6-12:69. This 24,182 square foot parcel is also located on the north side of Lako Street, at its intersection with Road K, approximately 2,100 feet southwest from the Hualalai Road-Lako Street intersection and 600 feet to the west of the proposed location for the temporary office trailer. The sales office will be used to facilitate the sale of .5-acre lots within the subdivision. Once the sale of the lots within 'Iolani Subdivision is completed, the temporary on-site real estate sales office will be terminated and removed from the garage of the model home. Therefore, the proposed temporary on-site real estate sales office constitutes an unusual and reasonable use of lands within the State Land Use Rural District.

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. In the case of the Rural District, the intent is to provide for low density residential lots of not more than one dwelling per half-acre.

The subject property is situated within the County's Residential and Agricultural-.5 acre (RA-.5a) zoned district. A temporary real estate office would be a permitted use in this zoned district provided that a Special Permit is obtained if the building site is located within the State Land Use Rural District. The temporary real estate sales office will be confined to an area of approximately 200 square feet in the temporary trailer and later to the garage of a model home elsewhere within the subdivision. The proposed temporary real estate sales office use, in itself, would not adversely affect the rural potential of the project site or its surrounding area. Ultimately, the real estate sales office use will cease and the site will be sold as part of a lot to be used for agricultural and residential purposes. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The desired use shall not adversely affect the surrounding properties. Surrounding properties consist of other RA-.5a zoned parcels within the 88-lot 'Iolani Subdivision, which consists of a mix of vacant lots and single-family residences. Lands further to the north and south are also zoned RA-.5a and consist of a mixture of vacant lots and single-family residences. To the west is the Kona Vista Subdivision, which is zoned RS-15. Lands further to the east, mauka of Hualalai Road, are zoned A-1a and used for agricultural and residential purposes.

The proposed temporary real estate sales office will be used on an intermittent basis, seven days a week. The office operation will be restricted to daylight hours. It is expected that there will be no more than two sales agents and four buyers at the site at any given time. No increase in traffic is expected as a result of the proposed use as agents and buyers would be inspecting the subdivision by automobile whether or not the office was available. Therefore, it is not expected that the establishment and operation of the temporary real estate sales office will adversely impact any of the surrounding properties.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Water, telephone and electrical utilities currently service the site. Fire and police services are also available to the subject properties. Access to the subject properties is provided from Lako Street, a County maintained road with 60-foot right-of-way improved with curbs, gutters and sidewalk. The traffic to be generated by the temporary real estate office is minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated. The applicant shall meet all applicable agency requirements of the Department of Health, Department of Water Supply, Department of Public Works and the Fire Department prior to the establishment of the proposed real estate sales office use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Land developers and potential purchasers of homesites have recognized the need to maintain real estate sales offices on-site within larger subdivision developments such as this one. In recent years, there has been an increasing trend towards residential and agricultural subdivisions that enable buyers to build homes and engage in income-producing or personal agricultural pursuits. The proposed temporary real estate sales office and related improvements will be used to facilitate the sale of .5-acre lots for agricultural and residential purposes. Such use is consistent with the social and physical character of a rural-agricultural area and contributes to the economic structure of the County.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Further, the proposed use will not substantially alter or change the essential character of the land and the present use. The proposed use will be located on properties that are presently being developed as part of an 88-lot subdivision. There are no known endangered or threatened species on the subject properties nor any known archaeological resources as these properties have been extensively improved. As such, the temporary real estate sales office will not substantially alter or change the essential character of the land any more than the present subdivision development. Although the present permitted development of the subdivision has altered the appearance of the vegetation on the property, the proposed use will not contribute to this alteration. Furthermore, once the sale of the lots within

the subdivision is completed, the temporary real estate sales office will be removed. Therefore, from a physical standpoint, the proposed use will not substantially alter or change the essential character of the land and its present use.

The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Low Density Urban uses. The proposed use is consistent with the following goals and policies of the General Plan.

#### Economic

- Provide residents with opportunities to improve their quality of life.
- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- The County of Hawaii shall strive for diversity and stability in its economic system.
- 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.

#### Housing

- Attain safe, sanitary, and livable housing for the residents of the County of Hawaii.
- Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- Maintain a housing supply which allows a variety of choice.
- Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.

#### Environmental Quality

- Maintain, and if feasible, improve the existing environmental quality of the island.
- The County of Hawaii shall take positive action to further maintain the quality of the environment for residents both in the present and in the future.

Public Utilities

- Ensure that adequate, efficient and dependable public utility services will be available to users.

Transportation

- Provide a transportation system whereby people and goods can move efficiently, safely, comfortably and economically.

Land Use

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and 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.
- Rural-style residential-agricultural developments, such as new small-scale rural communities or extensions of existing rural communities, shall be encouraged in appropriate locations.

Based on the above considerations, the approval of the proposed temporary on-site real estate 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. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.

2. Final Plan Approval of the temporary real estate sales office shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-71 (c)(4), 25-2-76 and 25-4-77, within one (1) year from the effective date of this permit. Plans shall identify existing and proposed structures, landscaping, fire protection measures, driveways and two (2) paved parking areas associated with the proposed use.
3. The real estate sales office shall not be occupied until the applicant has been issued a Certificate of Occupancy.
4. Driveway access to the property shall meet with the approval of the Department of Public Works prior to occupancy.
5. Drainage improvements to the property, if required, shall meet with the requirements of the Department of Public Works. Such improvements shall be provided prior to occupancy.
6. Wastewater generated by the real estate sales office shall be disposed of in a manner meeting with the requirements and approval of the Department of Health.
7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
8. The temporary real estate sales office use shall cease within two (2) years from the issuance of Final Plan Approval, provided that an initial extension may be granted by the Planning Director in accordance with Condition No. 12. The real estate sales office shall be removed from the garage of the model home upon cease of the use. The applicant shall immediately notify the Director in writing that the real estate sales office use has ceased operation.
9. The real estate sales from the temporary real estate sales office shall be limited to lands within the 88-lot 'Iolani Subdivision.
10. The applicant shall comply with all applicable laws, rules and regulations of the affected agencies.



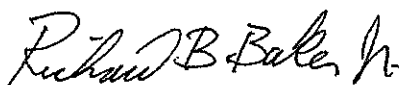
Mr. Ken Melrose  
Page 7

11. 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 real estate sales office, real estate sales and to what extent conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
12. 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.

Should you have any questions, please contact Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Richard B. Baker, Jr., Chairman  
Planning Commission

Lmarylspp00-007pc

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office State Land Use Commission  
Department of Land & Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu