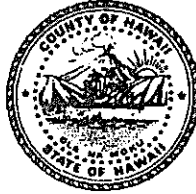


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

APR 28 2003

Ms. Cindy Schrader  
P.O. Box 628  
Naalehu, HI 96772

Dear Ms. Schrader:

Special Permit Application (SPP 03-001)  
Applicant: Cindy Schrader  
Request: Establishment of a Massage Therapy and Clinical  
Counseling Business  
Tax Map Key: 9-2-193:Portion of 25

The Planning Commission at its duly held public hearing on April 17, 2003, voted to approve the above-referenced application. Special Permit No. 1207 is hereby issued to establish a massage therapy and clinical counseling business within the existing dwelling situated on approximately 2.99 acres of land within the State Land Use Agricultural District. The property is located in Kula Kai View Estates Subdivision at the southeast corner of Kona Kai Boulevard and Tapa Street intersection, and approximately 2.2 mile makai of Māmalahoa Highway, Kahuku, Ka'u, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting to establish a massage therapy business, clinical counseling business and an office within an approximate 580 square foot portion of the existing single family dwelling within the State Land Use Agricultural District.

The existing 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. 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. 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

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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.

The proposed project will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and the ALISH maps do not classify soils within the project site. The subject property is situated within the County's Agricultural (A-3a) zoned district. The proposed business would be located within an existing single family dwelling. There are existing ohia trees and the subject property is partially landscaped with aloe, cactus, bougainvillea palms trees, plumeria trees, mango trees, fig trees and lime trees. With the home occupation, no additional land will be taken out of the existing agricultural inventory nor will the agricultural resources of the area be negatively impacted. In addition, the proposed parking area would be in the existing driveway. Thus, no potential agricultural lands will be used to provide the area necessary to establish the required parking.

Based on the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions. The proposed use would not displace existing agricultural activity since this parcel has not been in major agricultural use for years.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to the Coastal Zone Management Program (CZMP). According to the applicant, there are no known archaeological features or threatened flora or fauna on the subject parcel. There is no designated public access to the mountain or coastal areas over this parcel. The project site is located over 3 miles from the nearest shoreline and in an agricultural/residential area. The proposed project will not impact any recreational, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Finally, the applicant's business is located within an existing dwelling and will not significantly obstruct any makai views or significantly affect view planes. Therefore, the approval of the subject request shall not be contrary to the objectives and policies of the Coastal Zone Management Program.

The desired use will not adversely affect the surrounding properties. The subject property is located in Kula Kai View Estates consisting of 156 lots. Surrounding uses are predominantly vacant lands with scattered residential and agricultural uses. There is no immediate development on the adjacent properties. The size of the subject property (3 acres) will provide for sufficient physical buffers to minimize adverse noise and visual impacts upon adjoining properties. The proposed hours of operation for the business are 9:00 a.m. to 6:00 p.m., Tuesday through Saturday. The limited nature of the proposed use

and the size of the property will ensure that any noise and visual impacts generated and its activities will not adversely impact adjoining properties.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. The site is currently served by telephone and electrical utilities. Wastewater is disposed of within an existing cesspool. County water is not available to the subject site. There is an existing water catchment system on site. Access is from the Mamalahoa Highway onto Kula Kai Boulevard, then onto Tapa Drive, both of which are paved, two-lane private roadways. The amount of traffic will be minimal and within the capability of the existing paved road.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. While the subject property and surrounding parcels within the Kula Kai View Estates Subdivision is designated for agricultural uses by both the State and County, the State Land Use Law does provide the opportunity to apply for a Special Permit to allow for unusual and reasonable uses within the State Land Use Agricultural District. The residents of this area have needs for services just as do the residents of any other typical urban areas.

The land upon which the proposed use is sought is not suitable for the uses permitted within the district. Soils within the subject property are classified as Very Poor for agricultural productivity. The property is not identified as Agricultural Lands of Importance to the State of Hawaii. With no agricultural activities currently being conducted on the property, the establishment of massage therapy business, clinical counseling business and office (home occupation) within the existing dwelling will not displace any agricultural activity nor will the establishment of such a use significantly affect the County's agricultural land inventory.

The use will not substantially alter or change the essential character of the land and the present use. The proposed use of the massage therapy business, clinical counseling business and office (home occupation) will be located entirely within the existing dwelling. No additional structures are required. Further, no agricultural activities will be curtailed or diminished as a result of the establishment of this activity on the subject property. The size of the property and the limited nature of the proposed use will help to minimize any adverse impacts upon the character of this existing community.

The request is not contrary to the General Plan. The subject request is not contrary to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates the property Extensive Agricultural. The request would support the General Plan's goals and policies of the Economic and Land Use Elements of the General Plan. Based on the above considerations, Cindy Schrader's request for a massage therapy

business, clinical counseling business and office (home occupation) 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 the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate the revocation of the Special Permit.

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall conduct the business entirely within the existing dwelling.
3. Only one employee shall be permitted in addition to household members.
4. The hours of operation for the business shall be limited from 9:00 a.m. to 6:00 p.m., Tuesday through Saturday.
5. No signage shall be posted on the subject property advertising the massage therapy business, clinical counseling business and office (home occupation).
6. All parking shall be maintained on the subject property.
7. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works – Building Division and Department of Health.
8. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
9. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

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- 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.
- 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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman  
Planning Commission

Lschrader01pc

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
State Land Use Commission  
Rodney Haraga, Director/DOT-Highways, Honolulu