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Sep 27 - Nov 11



COUNTY OF
HAWAII

PLANNING DEPARTMENT

25 AUPUNI STREET • HILO, HAWAII 96720

HERBERT T. MATAYOSHI
Mayor

SIDNEY M. FUKU
Director

DUANE KANUHA
Deputy Director

October 23, 1980

Mr. Bruce Sutherland
Star Route Box 6207
Captain Cook, Hawaii 96704

Dear Mr. Sutherland:

Amendment to Special Permit No. 72-137
and Deletion of Condition No. 3 (LUC 222)
Tax Map Key 9-2-85:22 and 23

The Planning Commission at its duly held public hearing on October 14, 1980, considered your request for an amendment to Special Permit No. 72-137 (LUC 222) to allow the conversion of portions of the existing building for a real estate office and a laundromat. Also a request to delete Condition No. 3 of the Special Permit regarding access to the facility. The area involved is the site of the existing Five Loaves and Two Fishes Restaurant, along the mauka side of Hawaii Belt Highway and between Tiki Lane and King Kamehameha Boulevard, Hawaiian Ocean View Estates Subdivision, Kahuku, Ka'u, Hawaii.

The Commission voted to approve the above stated requests, based on the following considerations:

The original condition which closed off direct access to the subject property from the Hawaii Belt Road and allowed access from Tiki Lane only was imposed because of concerns for traffic safety and serviceability along a major highway. The limited access provision was placed as a means of controlling or reducing the possibilities of traffic conflicts at intersections and/or entry-exit points. This is a long-standing engineering and planning principle.

In evaluating the applicant's request, the Commission believe that the question is whether there are peculiar circumstances now which justify deviation or "variance" from this principle. From that perspective, it should be noted that

Mr. Bruce Sutherland

Page 2

over the past eight (8) years, the property was used intermittently as a restaurant. While there was a legal prohibition against a direct access from the Highway, the access was nevertheless used. During that period, there were no recorded traffic mishaps resulting from that access.

It should also be pointed out that representations made by the public and applicant indicate that the subject property is being used as a school bus pick-up and drop-off point. As such, vehicles tend to congregate along the roadside waiting to pick up children. There apparently is a general expectation of vehicular interruption in that area, similar to a roadside stand or visitor look out area.

As such, the legal confirmation of a direct access, as well as improvements thereto, would improve the present roadside use of that area by both patrons of the restaurant and students and parents. Off-street parking would be available and it would be away from the main highway.

We also note that at this particular location there is reasonable sight distance from both sides of the Hawaii Belt Road. The property is located along a straight-away section of the Belt Highway and not along or near curves.

In view of the foregoing and while being mindful of the concerns of the Department of Public Works, it is felt that there are bases for deleting the no-access requirement.

It should be noted that the continued allowance of direct access would generate problems and defeat the concept of the Belt Highway. As such, this favorable action should not be interpreted as condoning further direct accesses. As noted above, there are extenuating circumstances in this case.

Further, it is acknowledged that the actual violation contributed to our understanding of the traffic concerns. However, it should be made clear that this position is not designed to legitimize or confirm a violation. We do not wish to suggest at all that one can or should violate first and hope to have this violation legalized later.

The Commission is also approving the request to allow the conversion of a portion of the existing building for a real estate office and laundromat. The recommendation to approve this portion of the request is based on the following findings:

In 1972, the State Land Use Commission voted to grant a Special Permit request to allow a restaurant and bar facility on the subject property. This approval established a commercial use on the subject property within a single structure. The applicant is requesting that he be allowed to convert a portion of the existing building for a real estate office and a laundromat. Therefore, approval of the subject request will not involve a physical expansion of commercial activity on the property.

Allowing the conversion of the existing building for a real estate office and laundromat will not be in conflict with the reasons for the originally approved Special Permit. More specifically that there is a need for such facilities in the area; that the poor soil productivity classification makes it difficult to fulfill the intent of the agricultural designation; and that there would not be an unreasonable burden on public agencies to provide necessary services. Furthermore, by allowing the inclusion of the proposed uses at this particular area, it would concentrate commercial activities in a centralized location rather than dispersing them throughout the subdivision.

Based on the above, it is determined that the granting of the requested amendments to Special Permit 72-137 is reasonable and would not violate the spirit and intent of the State Land Use Law and Regulations.

Approval of the requests is subject to the following conditions:

1. That the petitioner or his authorized representative shall submit plans and receive final plan approval within one year of the effective date of approval of this amendment request.
2. That the petitioner or authorized representative provide a paved driveway to the highway built to commercial standards. Furthermore, the number of parking stalls, including adequate area for drop-off and pick-up of school students, shall meet with the requirements of the Zoning Code; provided further, that the parking area shall be improved with an oil-treated surface prior to issuance of occupancy permit for the restaurant and any other commercial uses considered by this Special Permit No. 72-137.

Mr. Bruce Sutherland
Page 4

3. That construction of the required improvements shall commence within one (1) year from the date of receipt of final plan approval and be completed within one (1) year thereafter.
4. That all other applicable rules, regulations, and requirements be complied with.

Should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

Should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,

for *Gene Whitmarsh*
WILLIAM J. PARIS, JR.
Chairman, Planning Commission

lgv

cc: Chief Engineer, Public Works
Building Division, Public Works
Kona Services Office
State Land Use Commission

MEMORANDUM:

PLANNING DEPARTMENT — County of Hawaii, Hilo, Hawaii 96720

To: Corporation Counsel

Date: November 22, 1978

From: Planning Director

Sidney M. White

Subject: Illegal Driveway Access Fronting Hawaii Belt Highway
Karl Mabrey (SP-137)
TMK: 9-2-85:22

Attached is a letter from Mr. Chas L. Schuster, District Engineer, Highways Division, Dept. of Transportation, State of Hawaii, in which he has stated that the illegal driveway was closed on October 30, 1978.

Since the access has been closed, please disregard our Memo of November 13, 1978 requesting assistance in resolving the violation (illegal access) of the Special Permit.

Encl.

cc: Planning Commission
State Land Use Commission
Chief Engineer

LAND USE COMMISSION
STATE OF HAWAII
NOV 27 4 07 PM '78

GEORGE R. ARIYOSHI
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
HAWAII DISTRICT
50 MAKALA STREET
P. O. BOX ~~xxx~~ 4277
HILO, HAWAII 96720

Ryokichi Higashionna, Ph.D.
~~XXXXXXXXXXXX~~
DIRECTOR

DEPUTY DIRECTORS
DOUGLAS S. SAKAMOTO
WALLACE AOKI

Charles O. Swanson

IN REPLY REFER TO:

LT-H
78-2.1382

November 17, 1978

Mr. Sidney Fuke, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Fuke:

Subject: Access to TMK 9-2-85:22, Ka'u, Hawaii

In reply to your letter of November 9, 1978, our records note that the subject access to the Hawaii Belt Road was closed on October 30, 1978 and has remained closed to this date.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Chas L. Schuster".

CHAS L. SCHUSTER
District Engineer

NOV 27 4 07 PM '78
LAND USE DIVISION
STATE OF HAWAII

MEMORANDUM:

PLANNING DEPARTMENT - County of Hawaii, Hilo, Hawaii 96720

To: Corporation Counsel

Date: November 13, 1978

From: Planning Director

Subject: Illegal Driveway Access Fronting Hawaii
Belt Highway: Karl Embrey (SP 72-137)
TMK: 9-2-85:22

A complaint was received by this office regarding the use of a driveway from the Hawaii Belt Highway. An on site inspection was conducted by Dennis Shigeoka of my staff on October 25, 1978, and it was found that the barricade has been removed and the driveway is in use again.

Mr. Embrey along with his attorneys were notified of the illegal driveway and of the violation of Chapter 3 Art. 3, Les 11.10 of the County Code per your letter dated March 17, 1978.

However, since your letter of March 18, 1978, the Hawaii Belt Road has been turned over to the State Department of Transportation, Highways Division. Because of this transfer, the County driveway ordinance is not applicable.

In addition, the letter also mentioned the requirements of the Special Permit 72-137. Condition 3 of the Special Permit stated "that access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road."

Mr. Embrey has been informed previously of this condition and violation. Attached for your information is a chronology of letters or actions relating to the driveway.

We are requesting your help in resolving the violation of the Special Permit. In addition, we are contacting the State Highways Division for assistance in the removal of the illegal driveway.

Should you have any further questions, please feel free to contact Masa Onuma of my staff.

MO:lwo

Attachments - Chronology

cc - Planning Commission w/ atch
SLUC w/ atch

1. Sept. 14, 1972 - SP(72-137) : Approved

One of the conditions was that access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Rd.

2. Nov. 3, 1972 - SLUC Meeting: Approval granted

To allow the establishment of a restaurant/cocktail lounge ^{by Mr. Theron Darling}, subject to the conditions imposed by the Hawaii County PC

3. Nov. 5, 1975 - Certified letter to Mr. Theron Darling

Informed him that access is from Tiki Lane and not from Hawaii Belt Hwy

4. Dec. 11, 1975 - Letter to Mr. & Mrs. Karl Embrey

PD advised them that Mr. Darling ceased operations as of Feb. 25, 1975, and that if the specific use is abandoned, discontinued or not reestablished for a period of 1 year, it would be deemed null & void.

5. Jan. 12, 1976 - Letter to PD

Notified by Mr. Karl Embrey that Mr. Darling

was removed from the premises, Jan. 1, 1976, and new tenants ~~are~~ were remodeling and hoped to be open for business by Jan. 15, 1976.

6. Jan. 27, 1976 — Acknowledgement to Mr. Embrey
Informed him that there wasn't any record of a building permit for remodeling.

7. Nov. 8, 1976 — DPW letter to K. Embrey
Notified him that access from Hawaii Belt Hwy was an illegal driveway. His action & cooperation in relocating his access would be appreciated.

8. July 27, 1977 — Certified letter to K. Embrey
Reference is made to access requirements & other conditions of the SP. Status Report requested.

9. Aug. 2, 1977 — Letter from Helen Embrey
Requested that condition # 3 (access req.) of the SP be deleted.

10. Aug. 10, 1977 — Acknowledgement to Helen Embrey

- Also. Helen Embrey's letter of 8/2/77

forwarded to DPW & State Hwy for comments.

11. Aug. 23, 1977 - DOT comments

It is their policy to recommend that where a lot has double frontage on a highway and subdivision road, that access to the lot be off the subdivision road rather than off the highway, in the interest of traffic safety & serviceability.

12. Aug. 25, 1977 - DPW comments

"When a lot abuts a major road the access should be from interior roads. We strongly suggest that this request be denied."

13. Oct. 3, 1977 - PC denies request

Commission denied request to delete condition #3 of SP 72-1137.

14. Dec. 19, 1977 - Letter to Mrs. Embrey fr. Terence Yoshioka

Advises her to discontinue use of driveway and barricade it.

15. March 17, 1978 - Letter to Embrey's fr. Lionel Meyer

Notified to cease the illegal driveway access

immediately or the County would obtain a temp. restraining order & subsequent permanent injunction from the 3rd Circuit Court

16. April 11, 1978 — Letter fr. Masanori Kushi

PD informed that Mr & Mrs. Embrey would place an appropriate & visible barricade across the illegal driveway.

17. July 1978 — Hawaii Bell Hwy fronting Hawaiian Ocean View Estates is turned over to State

18. Oct. 25, 1978 — Field check complaint

Per Dennis, subject site shows that the barricade has been removed & that the driveway is being used again.

COPY

PLANNING DEPARTMENT
25 AUPUNI STREET

COUNTY OF HAWAII
HILO, HAWAII 96720

LAND USE COMMISSION
STATE OF HAWAII

Nov 16 2 59 PM '78

November 9, 1978

Mr. Chas L. Schuster
District Engineer
State of Hawaii
Department of Transportation
Hawaii Division
P. O. Box 4277
Hilo, HI 96720

Dear Mr. Schuster:

Illegal Driveway Access Fronting Hawaii
Belt Highway: Karl Embrey (SP 72-137)
TMK: 9-2-85:22

We recently received a complaint that the illegal driveway access off the Hawaii Belt Highway to the subject property is being used again. An on site inspection by Dennis Shigeoka of my staff on October 25, 1978, has confirmed that the barricade has been removed and the driveway is in use again.

Prior to the State DOT taking over this section of the highway, Mr. Embrey did comply with our requirements and closed off the driveway from the Belt Highway.

As a condition of approval of the Special Permit (SP 72-137) "access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road."

Mr. Harano's letter of August 23, 1977, stated that "Where a lot has double frontage on a highway and subdivision road, it is our policy to recommend that access to the lot be off the subdivision road rather than off the highway. This recommendation is made in the interest of traffic safety and preserving the serviceability of the highway for the through traffic."

Mr. Chas L. Schuster

-2-

November 9, 1978

The driveway off the Belt Highway has not been approved by the County and is deemed as illegal. We have formally requested the support of our Corporation Counsel to assure compliance with our requirement. Because the jurisdiction of the Highway is under the State now, we are also requesting your assistance in correcting this violation. Your cooperation on this matter is appreciated.

Should you have any further questions, please feel free to contact Masa Onuma of my staff at 961-8288.

Sincerely,

Sidney Fuke
SIDNEY FUKU
Director

MO:lwo

Encls. Chronology letters

cc: Corporation Counsel
Planning Commission
✓ SLUC

COPY

PLANNING DEPARTMENT

COUNTY OF HAWAII

25 AUPUNI STREET

HILO, HAWAII 96720

LAND USE COMMISSION
STATE OF HAWAII

OCT 18 10 01 AM '77

October 13, 1977

Mrs. Helen Embrey
P. O. Box 670
Pahoa, Hawaii 96778

Dear Mrs. Embrey:

Request to Delete Condition No. 3
Special Permit 72-137 (LUC 222)
Tax Map Key 9-2-85:22 and 23

The Planning Commission at its regular meeting of October 3, 1977 considered your request to delete condition No. 3 of Special Permit 72-137. The Special Permit allowed the establishment of a restaurant and cocktail lounge on two (2) acres of land identified by TMK: 9-2-85:22 & 23. Condition No. 3 stipulated that access to the area shall be from Tiki Lane and not from the Hawaii Belt Road at Kahuku, Ka'u, Hawaii.

The Commission voted that the request be denied based on the following findings:

1. That the primary reason for the inclusion of Condition #3 within the Special Permit is still applicable under the present situation. The concern present even at the time of subdivision approval was for traffic safety and serviceability along a major highway. The limited access provision was placed as a means of controlling or reducing the possibilities of traffic conflicts at intersections and/or entry/exit points. With the completion of improvements along the Hawaii Belt Highway, greater speeds than previously possible can be achieved. Thus, the need for continual limited access increases rather than decreases.

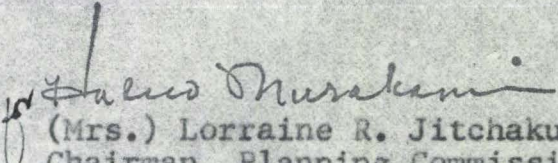
Mrs. Helen Embrey
Page 2

October 13, 1977

2. That the closure of access to Tiki Lane as mentioned in the petitioner's statement is temporary. It will be reopened upon completion of the road improvements which is scheduled for December, 1977. Thus, other means of access to the restaurant and cocktail lounge will be available.

Should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,


(Mrs.) Lorraine R. Jitchaku
Chairman, Planning Commission

lgv

cc State Land Use Commission
Land Use Division, DPED

COPY

PLANNING DEPARTMENT

25 AUPUNI STREET

COUNTY OF HAWAII

HILO, HAWAII 96720

LAND USE COMMISSION
STATE OF HAWAII
SEP 21 10 45 AM '77

September 19, 1977

Mrs. Helen Embrey
P. O. Box 670
Pahoa, Hawaii 96778

Dear Mrs. Embrey:

Request to Delete Condition No. 3
Special Permit 72-137
Tax Map Key 9-2-85:22 and 23

This is to inform you that your request to delete condition no. 3 of Special Permit 72-137 will be discussed on Monday, October 3, 1977, by the Planning Commission. The meeting will be held at the Waimea School Cafetorium, Waimea, South Kohala, Hawaii and is scheduled to begin at 1:30 p.m.

The presence of a representative will be appreciated in order that all questions relative to the request may be clarified.

A copy of the agenda is enclosed for your information.

Sincerely,

Sidney Fuke
Sidney Fuke
Director

lgv

cc: State Land Use Commission
Land Use Division, DPED

BACKGROUND: AMENDMENT TO SPECIAL PERMIT 72-137 - HELEN EMBREY

The petitioner, Helen Embrey, has submitted a request to amend Special Permit 72-137 by deleting Condition 3. The property in question is located at the eastern end of the Hawaiian Ocean View Estates subdivision on the mauka side of the Hawaii Belt Road and approximately 600 feet west of Tiki Lane, Kahuku, Ka'u, (TMK: 9-2-85:22 and 23).

More specifically, Special Permit 72-137 was originally granted on November, 1972, to Theron Darling to allow the establishment of a restaurant and cocktail lounge within an Agricultural District. Condition 3 stated "That access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road."

The restaurant use was established in 1972 and has been in use since that year. In November, 1976, the property owner was notified that the existing access from the Belt Highway was in violation of Special Permit 72-137 by the Department of Public Works. In July of 1977 it came to the attention of the Planning Department that access to the restaurant was still being derived directly from the Hawaii Belt Highway and the owner was again notified of the breach.

In an attempt to rectify the situation, the petitioner and owner, Helen Embrey, has submitted this request for a deletion of the condition. In support of her petition, the applicant has stated that:

"In reply to your letter of July 27, 1977, concerning Special Permit Application (72-137) Theron Darling Establishment of Restaurant and Cocktail Lounge TMK: 9-2-85-22-23 Kahuku, Kau. Tiki Lane has not

been accessible since January of this year. Furthermore, Tiki Lane and King Kam Blvd. have always been very dangerous and blind intersections due to the high banks on both sides of these two intersections

When the new highway is completed there will be an even greater obstruction from King Kam intersection onto the highway.

We are submitting a request to the Land Use Commission to have condition number 3 of the special permit deleted from the permit.

From the restaurant entrance there is a full visibility in excess of 500 feet to the East and 800 feet to the West."

When Hawaii Ocean View Estates was granted approval in 1963, a twenty-five (25) foot strip of land between the Hawaii Belt Highway and the subdivision parcels was retained by the developers. The purpose of this strip was to be a buffer and to limit direct access onto the highway. Any access across this strip will require an agreement from the developers.

The Hawaii Belt Highway fronting Hawaiian Ocean View Estates subdivision is now being improved to a 40 foot wide right-of-way and 24 feet pavement width. The project began in January, 1977, and is expected to be completed by December of this year. It is this project which has temporarily closed access from Tiki Lane.

Upon review of the subject request to delete Condition 3, the Department of Public Works commented as follows:

"When a lot abuts a major road the access should be from interior roads. We strongly suggest that this request be denied."

The State Department of Transportation, Land Transportation Facilities Division submitted the following comments:

"Where a lot has double frontage on a highway and subdivision road it is our policy to recommend that access to the lot be off the subdivision road rather than off the highway. This recommendation is made in the interest of traffic safety and preserving the serviceability of the highway for the through traffic.

"In the subject instance, we believe that the highway improvements now under construction will provide a safe intersection at King Kam Boulevard, and we, therefore, reiterate our recommendation.

However, since the subject highway is under the jurisdiction of the County, the acceptance or rejection of our recommendation is your prerogative."

All other cooperating agencies had no comments on or objections to the subject petition.

The Department has also received a petition signed by 100 people in support of the request.

Additionally two other letters in support of the request has been received.

(READ TWO (2) LETTERS INTO THE RECORD)

Planning Dept.
County of Hawaii
Hilo Hawaii

9-30-77

This is in reference to the upcoming hearing, Oct. 3rd, on the driveway to the Embrey property in Hawaiian Ocean View Estates now being operated as a restaurant.

I am against any property in Ocean View, having highway frontage, being allowed to have ingress or egress from the Belt Highway. The Belt Highway is now a high speed road with the completion of highway improvements. If the Embrey request is approved, a precedent will be set and all property owners with highway frontage property would expect approval of driveways from the Belt Highway. All of the frontage lots have access from roads within the Estates so they would not be denied access to their property.

I feel the granting of this permit will result in an unsafe traffic condition because it will be an unexpected feature to have cars turning in and out of these areas

other than the established roads.

Please deny the request to
delete condition No. 3 of Special
Permit 72-137 for the reasons
stated herein.

Thank you

C. F. Carlson

S/R Box 6005,

Capt. Cook Hawaii

96704

P.S.

I have been a resident of Ocean
View for 8 years.

9-30-77

Reference Staff Report dated Nov. 3 1972

As an official NOAA weather station observer located in Hawaiian Ocean View Estates approximately 2 miles from the Embrey property, TM 9-2-85: 22 + 23, the rain fall figure of 85 inches per year as quoted on page 2 is incorrect. The average is approximately 32 inches per year. This figure may be verified either by the Field NOAA office or by my records which are available for inspection.

C. F. Carlson

S/R Box 6005

Capt. Cook, Hawaii

NOAA Station 91293

96704

SEP 14 1971

9/6/77

nm
N
✓

Ref Special Permit 72-137

Hammam Occasional Estate

Please give favorable consideration
to allowing ingress and egress from
the belt road on this property.

We need a restaurant in
this area very badly -- it is 16 mi
to the nearest one. This affects
not only residents, but land owners
such as we are who come over
often to check on our property,
prepare for building etc.

Thank you
Mahvals

Sue Anti

6136 N 27 Ave

002577

77 SEP 13 1977

Sept 3, 1977

Hawaiian Planning Dept
25, Aupuni St
Hilo, Hawaii 96720

Gentlemen:

I am writing in the interest of the Restaurant that is to be opened at Hawaiian View Estates on the corner of Lake Lane & Belt Highway by Karl & Helen Embrey.

Since the highway is almost completed in front of the property, the entrance to the Restaurant will be blocked off.

Since we are residents in the Estates, we surely want this Restaurant to be opened and available to our residents as well as Highway traffic. Therefore we would suggest deletion of Condition #3 of Permit # 72-137 and therefore allowing the conditions needed for the driveway

and opening of the Restaurant and
Cocktail Lounge.

Sincerely,

Edlyn M. Tucker

John A. Walker

S/R 6008 Captain Cook

Hawaii 96764

ROUTE SLIP — DATE: SEP 12 1977

☒ DIRECTOR	9/12/77
☒ DEPUTY	
☒ ASST. SECRETARY	
☒ LONG RANGE DIVISION	Norm
☒ PLANNER	
☒ SHORT RANGE DIVISION	
☒ PLANNER	
☒ DRAFTING SECTION	
☒ DRAFTSMAN	
☒ GENERAL ADMINISTRATION	
☒ SECRETARY TO COMMISSION	
☒ FILE	☐ REVIEW & COMMENT
☒ SEE ME	☒ APPROPRIATE ACTION
☒ CIRCULATE	☐ INVESTIGATE & REPORT
☒ DRAFT REPLY	☐ RECOMMENDATION

REMARKS:

RECOMMENDATION: AMENDMENT TO SPECIAL PERMIT #72-137/HELEN EMBREY

Upon careful review of the request to amend Special Permit #72-137 by deleting Condition #3 staff recommends that the request be denied based on the following considerations:

- 1) That the primary reason for the inclusion of Condition #3 within the Special Permit is still applicable under the present situation. The concern present even at the time of subdivision approval was for traffic safety and serviceability along a major highway. The limited access provision was placed as a means of controlling or reducing the possibilities of traffic conflicts at intersections and/or entry/exit points. With the completion of improvements along the Hawaii Belt Highway greater speeds than previously possible can be achieved. Thus the need for continual limited access increases rather than decreases.
2. That the closure of access to Tiki Lane as mentioned in the petitioner's statement is temporary. It will be reopened upon completion of the road improvements which is scheduled for December, 1977. Thus other means of access to the restaurant and cocktail lounge will be available.

Nov 25 11 30 AM '77

PLANNING COMMISSION

Planning Department
County of Hawaii

MINUTES
October 27, 1977

The Planning Commission met in regular sessions at 10:00 a.m. in the Councilroom, County Building, South Hilo, Hawaii, with Chairman Lorraine R. Jitchaku presiding.

PRESENT: Lorraine R. Jitchaku
William F. Mielcke
Scott Asai
Shigeru Fujimoto (Left at 3:00 p.m.)
J. Walsh Hanley (Left at 3:00 p.m.)
Arthur Martin
Haruo Murakami
William J. Paris, Jr.
Charles H. Sakamoto

Sidney M. Fuke, Planning Director (Left at 4:15 p.m.)
Duane Kanuha, Deputy Planning Director (From 4:15 p.m.)
Norman Hayashi, Planner
Virginia Goldstein, Planner
Keith Kato, Planner
Gerald Hay, Planner (Left at 4:30 p.m.)

Galen Kuba, representing Ex-officio Member, Edward Harada
Quirino Antonio, representing Ex-officio Member, Akira
Fujimoto (Left at 4:30 p.m.)

and about 4 people at 10:00 a.m., about 4 people at 1:00 p.m.,
about 4 people at 3:00 p.m. and about 9 people at 7:00 p.m.

MINUTES: It was moved by Commissioner Murakami and
seconded by Commissioner Paris that the minutes
of October 3, 1977, be approved as circulated; motion unanimously carried.

All those testifying were duly sworn in.

PLANNED DEVELOPMENT
PERMIT
BRUCE BAKER AND RAY
HAMILTON
WAIKOLOA, SOUTH KOHALA

Application of Bruce Baker and Ray Hamilton for a Planned Development Permit (PDP) to allow the construction of a 76-unit condominium project. The property involved is located approximately 1,500 feet north of the intersection of Paniolo Avenue and Waikoloa Road in Waikoloa Village, Waikoloa, South Kohala, TMK: 6-8-03:3.

Staff presented recommendation to approve with conditions on file.

The Department of Public Works reported that they would be using the Hawaii County Storm Drainage Standards for 100-year storms. The applicant Ray Hamilton informed the Commissioners that the first increment was well above the storm drain area, however there was one area where the Public Works Department said there was a possibility that it would come within flood water areas in 100 years.

It was moved by Commissioner Murakami and seconded by Commissioner Hanley to approve the Planned Development Permit application with the conditions as outlined by the staff. A roll call vote was taken and motion carried with nine ayes.

T SPECIAL PERMIT 72-137
HELEN EMBREY
KAHUKU, KA'U

Although this item was not on the agenda, the Chair read into the record and placed on file two letters from Mr. E. Dale Bartholomeu and Mr. and Mrs. John Davies requesting the Commission reconsider its recent action denying the request by Helen Embrey to delete Condition No. 3 of the Special Permit No. 72-137. The Planning Director informed the Commissioners that if they wished to consider the letters and previous action, they would have to make a motion to renew its previous decision by any Commissioner who was present at the last meeting.

In discussion, Staff reported that State statute governing accesses are not applicable because the road was under County jurisdiction. The Department of Public Works recommended that there be access only off of the roads rather than direct access from each of the lots. However there are no specific ordinance relating to access of of County roads.

Commissioner Murakami said he felt eventually the State Highways would take over this roadway and retain the 55-mile per hour speed limit, at which time a criteria would be established as to who can make exists to the highway.

The Planning Director reported that the applicants have the right to appeal the decision to the Third Circuit Court. He pointed out that the original applicant (Darlings) in 1972 accepted this condition and although they did use the access from the highway, the Planning Department unfortunately did not police that requirement - nevertheless it was a violation.

Commissioner Hanley pointed out that Planning Commission's hearings are not a popularity contest, that testimony is invited, but the criteria that Commissioners have to decide on has nothing to do with

the headcount of people for or against a request. Commissioner Martin agreed and added that the Commission represents the entire island and whatever action they take could affect the entire island - if they grant one area a certain request, it would set a precedent for the entire island.

Upon the Chairman's request, the Planning Director said he would prepared the appropriate letter in response to Mr. Bartholomeu and Mr. and Mrs. John Davies and enclose a copy of the minutes. Commissioner Martin pointed out that he has spent a lot of time in the Ka'u area and has never found difficulty finding Tiki Lane. He pointed out that twelve years ago when he lived in Ka'u, the road was so bad that if anyone drove 55 mph, they drove with the peril of their lives. He maintained that now that the road is new, people are not going to drive at the same speed they drove before.

In opening the meeting for new business, the Chair reported that the Planning Director took expeditious action regarding the Victoria Silva's application and read into the record his letter to the Corporation Counsel (copy attached). Further discussion was had regarding the Planning Director's request for a legal opinion. Commissioner Hanley pointed out that there would be a number of spot zoning requests should the Corporation Counsel rule it should go through the rezoning process.

VARIANCE
MITSUO ENOMOTO
WAIAKEA, SOUTH HILO

Preliminary hearing on the application of Mitsuo Enomoto for a variance request to allow the construction of a second dwelling on a 19,326 square foot lot situated within the Single Family Residential - 10,000 square foot (RS-10) zoned district. The property involved is located along the Puna side of Mohouli Street, approximately 600 feet makai of Komohana Street, Waiakea, South Hilo, TMK: 2-4-24:44.

Staff asked that this be deferred as it was similar to the Victoria Silva's application.

It was moved by Commissioner Hanley and seconded by Commissioner Murakami that this application be deferred pending an opinion from the Corporation Counsel's office. Motion unanimously carried.

VARIANCE
ANTON LARSEN
RIVERSIDE PARK, SOUTH
HILO

Preliminary hearing on the application of Anton Larsen for a variance request to allow the construction of a carport with a 3-foot front yard setback in lieu of the minimum requirement of twenty (20) feet as stipulated within the Single Family Residential - 15,000 square foot (RS-15) zoned district. The property involved is located along the south side of Kaiulani Street and Hamakua side of the Hilo High School complex, Riverside Park, South Hilo, TMK: 2-3-15:54.

Staff presented background information on file.

In answer to Commissioner's question whether other variances have been approved in this area, Planning Director pointed out that he recalled of a side yard setback variance in that area where a musical shop or studio was built illegally and the Commission approved the variance for the retention of the building.

October 7, 1977

Hawaii Planning Department

25 Aupuni Street

Hilo, Hawaii 96720

Reference: Helen Embrey's Special Permit #72-131

Attention: Board Members

Madam Chairlady:

We, as residents of Hawaiian Ocean View Estates, would like to voice our opinion of why we feel you made the wrong decision Monday, October 3, 1977, by denying Helen Embrey's request.

First of all, it seems to us that all of the signatures and letters, urging you to allow the driveway to remain, would have meant much more than the letter from one vindictive person.

With all due respect, if you people knew the area here, as the residents do, you would know that using Tiki Lane, as the entrance to the restaurant, is just as dangerous, if not more so.

Also, the only people that would know how to enter by Tiki Lane would be the residents here, and that would not be enough customers daily to keep the restaurant going. They also need the business of the local people.

(other than Ocean View residents) and tourists.

You mentioned the entrance to our new grocery store, and it's true his entrance is not right off the highway, but it is a driveway across his property to his parking area, and is in plain view from each direction. This would be ideal for the restaurant, but the Embrey's would have to purchase three acres of additional land, which would be extremely impractical.

As for the danger of entering the highway from the restaurant, it seems quite nil to us. That driveway was first used by us in 1967, and we have used it many times since, and to our knowledge there has never been an accident there. We have never used Tiki Lane as an entrance to Ocean View; one reason is we are usually hit before we see it, and also we feel it is a bad entrance (and exit).

One member mentioned the tour buses, and there is no way they could enter the restaurant from Tiki. However, the driveway and parking lot could be used, as they have room and it has been leveled.

The highway speed was mentioned, and true it will no doubt be 55 miles per hour again (right now it is posted 20), but it has always been at that speed. However, due to increased residents in the area, there has been talk of making it a reduced speed area.

Also, for danger, what about all the businesses along the highway that their small parking lots are right on the highway, and many right on a curve. They are all far more dangerous than the driveway into the restaurant parking lot.

We all wish with all our hearts your decision could be reversed, as this restaurant is badly needed, and without their driveway it is unlikely they will get the necessary business to remain open. Unless they remain open, all of us have to drive all the way to Naalehu or the Volcano, one way, or to Kailua the other way, if we want a meal. Everyone enjoys a meal out occasionally.

Please, isn't there something that could be done?

Respectfully,
Mr. & Mrs. John Davies

Star Route, Box 6020
Captain Cook, Hawaii 96704
October 14, 1977

Mr. Sidney Fuke, Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Fuke: Re - Helen Embrey's Special Permit #72-137

Mrs. Bartholomew and I are residents of Hawaiian Ocean View Estates and urgently request, as do many others in this area, that Helen Embrey's request to allow the continued use of the direct highway access driveway for the Restaurant be granted.

We in Ocean View and vicinity have urgent need for a nearby restaurant. Without this restaurant our residents have to drive 50 miles in either direction to Volcano or to Kailua for our needs.

Without the direct highway access it would be impossible for the restaurant to continue operation, thus denying us our only nearby dining facility.

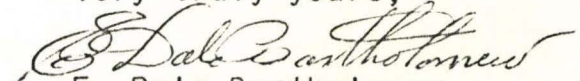
The direct highway access driveway has been in use since 1965 and even with the old narrow highway has had no problem these past 12 years. Therefore, with our new wide highway the oncoming traffic can be observed for over one-fourth mile in either direction and would have no problems.

The only person we know who opposes this is a known very vindictive person and does it because of a purely personal grudge.

Don't you agree it is unfair to penalize a couple hundred residents as well as tourists and other locals to satisfy one or two vindictive persons?

Because of these important reasons I hope you will reconsider your department's October 3rd decision and will grant Helen Embrey's Special Permit No. 72-137 for a direct highway access driveway for the restaurant.

Very truly yours,


E. Dale Bartholomew

cc James L. K. Dahlberg
Councilman

Nov 7 7 29 AM '77

PLANNING COMMISSION

Planning Department
County of Hawaii

MINUTES

October 3, 1977

The Planning Commission met in regular sessions at 1:30 p.m. in the Cafetorium of the Waimea Elementary School, Waimea, South Kohala, with Chairman Lorraine R. Jitchaku presiding.

PRESENT: Lorraine R. Jitchaku

ABSENT: William F. Mielcke

Scott Asai

Shigeru Fujimoto (Left at 4:26 p.m.)

J. Walsh Hanley

Arthur Martin

Haruo Murakami

William J. Paris, Jr.

Charles H. Sakamoto

Sidney M. Fuke, Planning Director

Ilima Piianaia, Planner

Virginia Goldstein, Planner

Roxanna Garcia, Assistant Corporation Counsel

David Murakami, representing Ex-officio Member, Edward Harada

and about 16 people at 1:30 p.m., about 9 people at 4:10 p.m.

and about 13 people at 7:00 p.m.

MINUTES:

Commissioner Martin moved to defer the minutes of September 8, 1977, to the end of the calendar. Seconded by Commissioner Asai and carried.

All those testifying were duly sworn in.

The Chair stated she did not have much time to study the recommendation as she was not present at the last meeting, therefore voted no.

It was moved by Commissioner Fujimoto and seconded by Commissioner Sakamoto to approve the request.

Commissioner Hanley questioned if it was a legal requirement that additional reasons be given when recommendation of the staff is not adhered to. The Chair stated reasons would have to be provided in recommending approval.

Commissioner Martin said that he voted against the previous motion as it had not been established in his mind that this variance was different from any other requests. He expressed concern that this would set a precedent. Commissioner Murakami agreed with the statement.

Commissioner Paris stated his reason for voting no also was the fact that he was not present at the last meeting and was unaware of the staff's recommendation.

Planning Director Fuke stated that whether it was the approval or denial of a variance, findings of fact would have to be provided. He further stated that if the reason for approval is to be predicated on the basis that the Commissioners did not have adequate time to review the application, rather than make a hasty judgment, he suggested this item be deferred.

Commissioner Fujimoto withdrew his motion and Commissioner Sakamoto his second.

It was moved by Commissioner Fujimoto and seconded by Commissioner Paris to defer this application. Motion carried with six ayes and two noes.

SPECIAL PERMIT
HELEN EMBREY
KAHUKU, KA'U

Request by Helen Embrey to delete Condition No. 3 of Special Permit 72-137. The Special Permit allowed the establishment of a restaurant and cocktail lounge. Condition

No. 3 stipulated that access to the area shall be from Tiki Lane and not from the Hawaii Belt Road. The subject property is located at the eastern end of the Hawaiian Ocean View Estates Subdivision on the mauka side of the Hawaii Belt Road and approximately 600 feet west of Tiki Lane, Kahuku, Ka'u, TMK: 9-2-85:22 & 23.

Staff presented background information and recommendation on file.

Upon Commissioner Murakami's and Commissioner Asai's questioning, staff reported that the road has a 55-mph speed limit, and the distance between Tiki Lane to the restaurant was about 600 feet. It was pointed out that the Darlings were the original applicants in establishing the restaurant use, but they have since gone out of business.

Commissioner Martin questioned if it was the contractor's responsibility to repair the entrance at the intersection of the Hawaii Belt Road and Tiki Lane. The Public Works Department responded that they did close off Tiki Lane temporarily, but King Kam Boulevard was still open. The contractor built the road according to the plans designed so that at every intersection there would be a good sight distance.

Commissioner Hanley queried if there was an access from Tiki Road now or if the property had been used without the required access from the beginning. Planning Director Fuke responded that when the initial special permit request was made for the establishment of the restaurant back in about 1972, there was a condition of approval that access be secured off of Tiki Lane and not off the main highway. However, he admitted that some of the enforcement functions have been delinquent and so in fact there have been a lot of vehicles coming directly off of the highway onto the restaurant. He pointed out that the applicant wishes to have this restriction removed, however the staff is saying that there is still some basis for the retention of that special permit condition.

The applicant, Karl Embrey, expressed concern that if his request was not approved, people would be parking up and down the road which would create a traffic hazard and that he would not be able to get any tourists to go around and find his back entrance, especially during the evening. He submitted a petition of about 100 signatures in support of his request.

Commissioner Sakamoto questioned the width of the parking area in front. Mr. Embrey responded that he had a third of an acre paved and if need be, he has a total of two acres to pave. At present, he did have a parking area to provide for approximately 30 cars. Mr. Embrey said that he was not really interested in the big grayline buses but mainly the stretchouts, u-drives, and residents in the area. He said those big buses could come in on Tiki, but the buses would have a hard time turning around. Commissioner Sakamoto pointed out that if the request was approved, those buses could come in one way and out the other.

Commissioner Martin requested Mr. Embrey to comment on the staff's report regarding the developers of the subdivision retaining a 20-foot buffer along the highway and that an agreement must be secured from the developers for any access through the buffer strip. Mr. Embrey commented that there was an easement given to the original owners of the property, but he did not have this in his deed; although he thought it was recorded in the Bureau of Conveyances in Honolulu. Staff reported they did not have it in their files and that it would not necessarily have to be there.

Upon Commissioner Murakami's questioning Mr. Embrey stated that at the time he bought the property in 1965 he was not aware of this particular condition. He said that the driveway from Mamalahoa Highway was already in. Commissioner Martin questioned if it made a difference since the driveway was there in 1965 and our Zoning Code took effect after that. The Planning Director pointed out that when the subdivision was initially approved back in the early 1960's, it was done with the understanding that access would be provided from the interior roads and that no direct access would be considered or allowed on to the main highway. The intent behind that was in a large part, consideration for traffic safety.

The Chair questioned if people travelling during the evening towards Hilo could see the restaurant and cocktail lounge. Mr. Embrey said they could and pointed out that it was a model Lindal home.

Commissioner Sakamoto moved to deny the application; seconded by Commissioner Murakami.

Commissioner Martin stated he would support the motion as he has always gone on record as opposing extra egresses or entrances from major highways and that this would set a precedent.

A roll call vote was taken and motion was carried with eight ayesvotes.

VARIANCE
FRANK'S FOODS, INC.
WAIAKEA, SOUTH HILO

Preliminary hearing on the application of Frank's Foods, Inc. for a variance to allow the construction of a shed addition to an existing non-conforming use within the Frank's Foods, Inc.'s meat plant site. The proposed 10' x 14' shed would be used to house water system equipment. The property involved is located along the south or Puna side of Kawaihine Street, across from the Kawaihine Place Subdivision, Waiakea Homesteads, Waiakea, South Hilo, TMK: 2-4-03:portion of 16.

Staff presented background information on file.

The applicant stated they may have used the wrong words in their letter and that it should have been "water pressure" instead of "water supply". Mrs. Esther Frenz pointed out that the water has to go through a pressure system, a holding tank, a pump and air compressor. The applicant stated that she foresees no additional improvements needed to be made in the future outside of this addition.

It was moved by Commissioner Murakami and seconded by Commissioner Sakamoto that the application be set up for a public hearing; motion carried.

VARIANCE
KENNETH FUJIYAMA
WAIAKEA, SOUTH HILO

Preliminary hearing on the application of Kenneth Fujiyama for a variance to allow a 40-foot right-of-way for a proposed subdivision in lieu of the minimum requirement of fifty (50) feet and to allow a cul-de-sac to serve 25 lots in lieu of the allowable maximum of 18 lots. The property involved is located on the makai side of Kupulau Street, between the Macadamia Grove Estates and Haihai Heights Subdivisions, Waiakea Homesteads, Waiakea, South Hilo, TMK: 2-4-44:1.

Staff presented background information and recommendation on file.

The applicant's representative, Al Inouye, gave a chronology of events and correspondence between the applicant and the Planning Department with regard to this application. He pointed out that because of all the correspondence, they were under the impression that everything was all right as far as the cul-de-sac plan was concerned. He stated that because there was a physical barrier at the end of the cul-de-sac and a rise in the land, they felt it would be economically and physically unfeasible to provide the access to that area. Mr. Inouye then pointed out several subdivisions which were given approval that did not conform to the maximum 600-foot requirement as well as the maximum number of 18 lots per cul-de-sac. In view of these variances, he requested the Commission to approve their request for a public hearing on their second request for a variance to create a subdivision with 25 lots being served off a cul-de-sac.

COPY

PLANNING DEPARTMENT

COUNTY OF HAWAII

25 AUPUNI STREET

LAND USE COMMISSION
STATE OF HAWAII

HILO, HAWAII 96720

AUG 12 2 29 PM '77

August 10, 1977

Mrs. Helen Embrey
P.O. Box 670
Pahoa, HI 96778

Dear Mrs. Embrey:

Special Permit 72-137
Restaurant and Cocktail Lounge
TMK: 9-2-85:22 and 23

This is to thank you for responding to our letter of June 27, 1977.

In your letter, you have stated that a request will be submitted to the State Land Use Commission to have Condition No. 3, pertaining to the access, be deleted. Please be informed that since this condition was initially recommended by the County Planning Commission, the request must first be heard by that body. Should the Planning Commission feel that the request is warranted, then the matter would be forwarded to the Land Use Commission for approval.

However, the Planning Commission may deny the request. In this case, their decision is final. In accordance with the provisions of Chapter 205-6, Hawaii Revised Statutes, a denial by the Planning Commission may be appealable to the Circuit Court in which the land is situated, in this case, the Third Circuit Court.

Since reasons as to why this condition should be deleted were presented in your letter, we will forward your request to the Planning Commission for consideration. You will be informed as to when this matter will be discussed by that body.

Should you have any questions in the meantime, please feel free to contact Norman Hayashi of this office at 961-8288.

Sincerely,

Sidney Fuke

SIDNEY FUKE
Director

NH:mmk

cc: ✓ SLUC

COPY

PLANNING DEPARTMENT

COUNTY OF HAWAII

25 AUPUNI STREET

HILO, HAWAII 96720

LAND USE COMMISSION
STATE OF HAWAII

JUL 29 9 37 AM '77

CERTIFIED MAIL

July 27, 1977

Mr. Karl Emery
P.O. Box 670
Pahoa, HI 96778

Dear Mr. Emery:

Special Permit Application (72-137) - Theron Darling
Establishment of Restaurant and Cocktail Lounge
TMK: 9-2-85:22 & 23
Kahuku, Ka'u

It was recently brought to our attention that access to the existing restaurant is still being utilized via the Hawaii Belt Road. Condition No. 3 of the Special Permit authorizing the Restaurant use stipulated that "access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road". A copy of this permit is attached for your information.

Additionally, as noted in our letter of January 27, 1976 to you (copy attached), we mentioned that since the original applicant (Theron Darling) had terminated the restaurant use, the subject operation had to be re-established prior to February 25, 1976 or the Special Permit would have been transmitted to the County Planning Commission for revocation. This is in accordance with Condition No. 5 of the Special Permit which stated "that if the proposed use ceases for a period of more than twelve (12) months, the Special Permit shall be deemed null and void".

For your information, in accordance with Part IX, Section 9-3(2) of the State Land Use Commission Rules of Practice and Procedure, "... the County Planning Commission shall establish, among other conditions, a reasonable time limit suited to establishing the particular use, which time limit, among other conditions, shall be a condition of the Special Use Permit. If the permitted use is not substantially established to the satisfaction of the County Planning Commission within the specified time, it may revoke the permit ...".

Mr. Karl Emery

-2-

July 27, 1977

In view of the above, we would appreciate a response as to when or if the restaurant use had been re-established and if so, is the restaurant use still in operation? If no response is received within seven (7) days upon receipt of this letter, we shall assume that the restaurant use has not been re-established and action shall be taken to nullify the Special Permit.

In the meantime, should you have any questions, please do not hesitate to contact us.

Sincerely,

Sidney Fuke

SIDNEY FUKS
Director

RHY:mmk

Enclosures

cc: Mayor
Corporation Counsel
State Land Use Commission
Planning Commission

Permanent Record
SOUTH-WORTH CO.
700 COTTON AVENUE
S.W.A.

COPY

PLANNING DEPARTMENT
25 AUPUNI STREET

COUNTY OF HAWAII
HILLO, HAWAII 96720

JAN 30 10 29 AM '76

January 27, 1976

Mr. Karl Embry
P. O. Box 670
Pahoa, HI 96778

Re: Special Permit Application (72-137) Theron Darling
Establishment of Restaurant and Cocktail Lounge
TMK: 9-2-85:22 and 23

This is to acknowledge receipt of your letter of January 12 in response to our inquiry on the subject special permit.

On January 16, a field inspection was conducted by the Kona Office building inspector. His investigation revealed that no restaurant or cocktail lounge is in operation. Nor is there any record of the issuance of a building permit if any remodeling is being done. As you are aware, all conditions of the special permit are still applicable.

As mentioned in our letter of December 11, 1975, however, if the subject operation is not reestablished prior to February 25, 1976, we shall consider Special Permit 72-137 null and void. Condition No. 3 of our letter stipulated that "access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road." Any reestablishment would have to adhere to this condition.

For your information, some time prior to February 25, this Department will be conducting a field inspection to the subject premises.

In the meantime, should you have any questions regarding the above, please do not hesitate to contact us.

Raymond Suefuji
RAYMOND SUEFUJI
Director

RHY:rfd

cc: Mayor
Corporation Counsel
Planning Commission
Colbert Nozaki
SLUC

COPY

PLANNING DEPARTMENT

COUNTY OF HAWAII

25 AUPUNI STREET

HILO, HAWAII 96720

LAND USE COMMISSION
STATE OF HAWAII

DEC 15 1 31 PM '75

December 11, 1975

Mr. and Mrs. Carl Embry
P. O. Box 607
Pahoa, HI 96778

Re: Special Permit - 72-137
Establishment of Restaurant and Cocktail Lounge
TMK: 9-2-85:22 & 23 - Kahuku, Ka'u
2 acres

We have been informed by the Tax Department that you are the present owners of the subject properties. Accordingly, we would like to take this means to advise you that a Special Permit was granted on November 3, 1972, by the State Land Use Commission for the establishment of a restaurant and a cocktail lounge on the subject premises. For your information, our records indicate that the subject operation which was being conducted by Mr. Theron Darling was terminated as of February 25, 1975.

According to Part II, Sub-Part D 2.81 of the State Land Use Regulations, if the specific use is abandoned, discontinued or not reestablished for a continuous period of one year, the Special Permit is then deemed to be null and void.

You should be aware that the Special Permit was granted only for the establishment of a restaurant and cocktail lounge. The utilization of the premises for any other type of commercial purposes will not be permitted.

Mr. and Mrs. Carl Embry
Page 2
December 11, 1975

We shall be conducting periodic field inspections to the premises and if, on February 25, 1976, no subsequent operation has been reestablished, action will be taken to nullify the Special Permit granted in 1972.

Should you have any questions on this matter, please do not hesitate to contact us.

Sidney M. Fuji
Raymond Suefuji
Director

RY:sb

cc: Mayor
✓ SLUC
Planning Commission

Permanent Record
SOUTHWORTH CO
75% COTTON CONTENT
U.S.A.

COPY

PLANNING DEPARTMENT
25 AUPUNI STREET

COUNTY OF HAWAII
HILO, HAWAII 96720

November 5, 1975

CERTIFIED MAIL

RECEIVED
NOV 10 1975

State of Hawaii
LAND USE COMMISSION

Mr. Theron L. Darling
Star Route Box 140
Captain Cook, HI 96704

Re: Special Permit 72-137
Restaurant and Cocktail Lounge
TMK: 9-2-85:22 & 23

It was recently brought to our attention that access to your restaurant and cocktail lounge is presently via the Hawaii Belt Highway. One of the conditions of the Special Permit approval was that "access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Highway be closed off by incorporation of planting along the property line bordering the Hawaii Belt Highway." Compliance with this condition is requested within thirty (30) days, otherwise we have no alternative but to void the Special Permit granted on November 3, 1972.

Please be informed that should you decide to sell the property, the new owner will be equally responsible to abide by the conditions of the Special Permit.

Should you have any questions on this matter, please feel free to contact us.

Sidney M. Aue
Raymond Suefuji
Director

NH:sk

cc: ✓ State Land Use Commission

November 9, 1972

Mr. Theron L. Darling
Star Route Box 140
Captain Cook, Hawaii 96704

Dear Mr. Darling:

The original of the attached letter approving your special permit request (SP72-137) to allow the establishment of a restaurant and cocktail lounge complex on approximately 2 acres of land described as Tax Map Key 9-2-85: 22 and 23, situated at Kahuku, Ka'u, Hawaii, subject to the conditions set forth by the Hawaii County Planning Commission, is on file in the office of the Planning Department, County of Hawaii, 25 Aupuni Street, Hilo, Hawaii.

Very truly yours,

TATSUO FUJIMOTO
Executive Officer

Encls.

November 9, 1972

Hawaii County Planning Commission
25 Aupuni Street
Hilo, Hawaii 96720

Attention: Mr. Raymond Suefuji
Planning Director

Gentlemen:

At its meeting on November 3, 1972, the Land Use Commission voted to approve a special permit to Theron Darling (SP72-137) to allow the establishment of a restaurant and cocktail lounge complex on approximately 2 acres of land described as Tax Map Key 9-2-85: 22 and 23, situated at Kahuku, Ka'u, Hawaii, subject to the conditions set forth by the Hawaii County Planning Commission.

A copy of the staff report is enclosed for your information.

Very truly yours,

TATSUO FUJIMOTO
Executive Officer

Encls.

cc: Theron Darling

Hawaii District Office, Dept. of Taxation
Property Technical Office, Dept. of Taxation
Tax Maps Recorder, Dept. of Taxation
Real Property Tax Assessor, Dept. of Taxation

Confidential
Type-Erase

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

November 3, 1972 - 10:30 a.m.

Discovery Room
Kona Hilton Hotel
Kailua, Kona, Hawaii

COMMISSIONERS PRESENT: Goro Inaba, Chairman
Eddie Tangen, Vice Chairman
Alexander Napier
Sunao Kido
Shelley Mark
Leslie Wung
Stanley Sakahashi

Approved
AUG 30 1973

COMMISSIONER ABSENT: Tanji Yamamura

STAFF PRESENT: Tatsuo Fujimoto, Executive Officer
Ah Sung Leong, Planner
Benjamin Matsubara, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Chairman Inaba swore in persons wishing to testify during today's proceedings.

ACTION

PETITION BY AGNES P. SMITH (A72-323) TO RECLASSIFY 1.5 ACRES FROM AGRICULTURAL TO URBAN AT KAINALIU, NORTH KONA, HAWAII

It was the staff's recommendation that the petition be approved on the basis of its evaluation (see copy of memo on file).

Commissioner Wung moved to approve the petition, which was seconded by Commissioner Mark and unanimously passed.

PETITION BY GENTRY HAWAIIANA ASSOCIATES, J. V. (A72-325) TO RECLASSIFY 290 ACRES FROM AGRICULTURAL TO URBAN AT SOUTH HILO, HAWAII

Mr. Fujimoto, Executive Officer, presented the staff memo recommending that a 167-acre portion of the property be approved for reclassification from the Agricultural to the Urban District, and the remaining 123 acres (approximate) be retained within the existing Agricultural designation (see copy of report on file).

✓

SPECIAL PERMIT APPLICATION BY THERON DARLING (SP72-137) TO DEVELOP
A MAIL STATION AND RESTAURANT/BAR FACILITY AT KA'U, HAWAII

It was the staff's recommendation that this special permit be approved subject to the conditions imposed by the County. (See copy of memo on file.)

Mr. Glenn Miyao of the Hawaii Planning Department staff offered additional information that the County Water Department will establish a minimum capacity tank, and there had been no adverse reaction from the Health Department.

Mr. Carl Reed, representing the residents of Hawaii Ocean View Estate, supported the application on the basis that there was a great need for the proposed facility in the area and that he knew of no objection to this request. Similarly, Mrs. Dolores McMann, Mr. McMann, Mrs. Betty Pettengill all testified in support of the special permit.

Commissioner Napier moved to approve the special permit subject to the conditions imposed by the County, which was seconded by Vice Chairman Tangen and unanimously carried.

SPECIAL PERMIT APPLICATION BY RICHARD SMART (SP72-138) TO DEVELOP
A SKEET AND TRAP SHOOTING RANGE AT WAIKOLOA, SOUTH KOHALA, HAWAII

The special permit was recommended for approval by the staff, subject to the 4 conditions imposed by the County and also subject to the 4 additional stipulations imposed by the Land Use Commission staff (see copy of report on file).

Vice Chairman Tangen moved that the special permit be approved as recommended by staff.

Mr. Bob Page, Manager of Sports Center Hawaii, requested that condition No. 1 imposed by the Land Use Commission staff stipulating that the range operations be limited to the hours of 8:00 a.m. to 5:00 p.m. daily, including weekends, be amended to read from 8:00 a.m. to 11:00 p.m.. He explained that it was not uncommon to operate a shooting range at night, primarily to accommodate the working people who would like to enjoy the sport in the evening. It was also anticipated that some large international shoots would also be hosted here, involving 100 to 150 participants, which could run into overtime in case of shootouts. He concluded that it would not seem unreasonable to allow the activity to continue into the night.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP72-137 - THERON DARLING DATE November 3, 1972
PLACE Discovery Room, Kona Hilton TIME 10:30 a.m.
Kailua, Kona

S M	NAME	YES	NO	ABSTAIN	ABSENT
	SAKAHASHI, STANLEY	X			
	WUNG, LESLIE	X			
	YAMAMURA, TANJI				X
	TANGEN, EDDIE	X			
	NAPIER, ALEXANDER	X			
	MARK, SHELLEY	X			
	KIDO, SUNAO	X			
	INABA, GORO	X			

COMMENTS:

I move for the approval of this petition, subject to the conditions imposed by the County.

STATE OF HAWAII
LAND USE COMMISSION

Discovery Room
Kona Hilton Hotel

November 3, 1972
10:30 a.m.

STAFF REPORT

SP72-137 - THERON DARLING (Ka'u, Hawaii)

A special permit to allow the establishment of a restaurant and cocktail lounge complex on approximately 2 acres of land situated within the Agricultural District at Kahuku, Ka'u, Hawaii has been requested by Mr. Theron Darling. The subject property is located at the eastern end of the Hawaiian Ocean View Estates subdivision and fronts the mauka side of the Hawaii Belt Road, approximately 600 feet west of Tiki Lane. The Waiohinu and Naalehu Urban Districts are situated approximately 12 and 14 miles respectively to the east of the subject land. The property is identified as Tax Map Key 9-2-85: 22 and 23.

Mr. Darling plans to convert an existing residence and former Ocean View Estates tract office into the proposed restaurant and cocktail lounge. The petitioner has submitted a sketch of the existing structure and a rough plan for the proposed facilities. The residence-office contains approximately 4,000 square feet of space under roof and a spacious parking area adjacent to the building.

In substantiation of his request, the petitioner states that:

1. The facilities will be situated on the main highway with adequate off-street parking.
2. Adequate water can be provided by the existing 19,000 gallon catchment tank and a 1,000 gallon tanker for consumption and fire protection.
3. The local residents have requested an establishment of this type to be located in the area.
4. The existing structure on the property can readily be converted into a restaurant and cocktail lounge.
5. A business establishment will help establish needed employment.
6. The proposed use will not be contrary to the objectives of the Master Plan and plan of the state or county.

The applicant further informs that the tract office served as a polling place in previous years and that the Lieutenant Governor has again requested that the office be used for this year's elections.

A major portion of the surrounding lands are vacant and characterized by extensive lava fields. Soil classification by the Land Study Bureau indicates that the subject property is comprised of aa clinkers with no soil material and is very poorly suited for overall crop use. The mean annual rainfall is approximately 85 inches and the elevation is approximately 1,900 feet above sea level. Electricity and telephone services are

available from the Belt Road. However, water is provided for by catchment since no water system is available.

County Recommendation

At its September 14, 1972 meeting, the Hawaii County Planning Commission voted to recommend approval of this special permit based on the following considerations:

- "1. That there is a need for such a facility for that area. Presently, the nearest operating restaurant/bar facility is situated in the village of Naalehu, approximately fourteen (14) miles away. While a special permit for a similar facility was granted to Harry McKee in September, 1962, it is still not in operation. The area, to date, is still unserved by such facility;
- "2. That the subject area has a very poor soil productivity classification, thus making it difficult to fulfill the intent of the agricultural designation; and
- "3. That there would not be an unreasonable burden on public agencies to provide the necessary services. The only utility unavailable at the moment, is a county waterline. It is nevertheless felt that the proposed facility can be adequately served by the roof catchment method."

The recommendation for approval was contingent upon the following conditions:

- "1. That the proposed development comply with all applicable regulations, codes, including 'Plan Approval';
- "2. That the petitioner be responsible for providing his own water catchment system, including compliance with the National Board of Fire Underwriters requirements regarding the fire protection;
- "3. That access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road;

- "4. That the petitioner be responsible for securing a building permit and assuring construction started for the restaurant/bar facility within one (1) year from the date of official approval and that the facility shall be in operation within eighteen (18) months from the date of approval. For clarification, construction is defined as the actual placing of construction materials in their permanent position; and
- "5. That if the proposed use ceases for a period of more than twelve (12) months, the special permit shall be deemed null and void."

The county zoning for the subject property is A-1a and the General Plan designates the area for extensive agricultural uses and alternate urban expansion.

At the hearing, it was reported that the subject land had no severe physical constraints which would render the land unusable for the proposed use, and that "no record of flood inundation problems, historic features, or distinct landforms of significant importance are attributed to this property".

The State Highways Division recommended that, should this request be approved, the following conditions be attached:

"Access to said parcels be from Tiki Lane only and that access to the Hawaii Belt Road be closed off by incorporation of a planting easement along the property line bordering the Hawaii Belt Road". The County Research and Development Department noted that "a properly located eating and drinking facility would add to visitor satisfaction of those traveling on the southern route of the Big Island. The number of people presently

residing in the area and visitors taking the southern route, however, are limited".

The Hawaiian Ocean View Estates Subdivision, the community which the petitioner proposes to serve, consists of approximately 10,000 one-acre lots. As of September, 1972, it was estimated that there were about 85 dwellings in this subdivision.

In the past, a number of special permits have been requested for commercial and industrial uses in this area as follows:

1. SP(T)62-21 - Harry McKee - Granted in October, 1962 to construct a restaurant-bar-office and motel/complex. The grant was made with no time limitation for initiation of construction. Although the special permit is still active, the proposed uses have not been totally established.
2. SP66-32 - Ben Hess - Granted in October, 1966 to construct a motel-restaurant facility. This special permit expired after several time extensions were granted.
3. SP66-33 - David E. Erwine - Granted in October, 1966 to construct a contractor's yard and warehouse. This permit expired since no construction was initiated within the one-year time limitation.
4. SP69-60 - Helen Devine - Granted in January, 1969 to construct an eight-unit apartment building, restaurant-

bar and shopping facilities. Expired since no construction was started within the one-year stipulation.

5. SP72-132 - Ocean View Investment Co. - Granted in September, 1972, to establish a community-commercial center to include a post office, shops, offices, service station, market, warehouse and other convenience facilities. The county has given approval for the construction of the building that will house the post office, grocery store and limited commercial activity, and will incrementally grant approval for the service station and the warehouse uses upon satisfactory completion of earlier approvals. This special permit is within 25 acres of land in the Hawaii Ocean View Ranchos Subdivision. It is situated just over a mile west of the property now under consideration.

As the above indicates, a high rate of failure to perform has been experienced in the past after special permits have been granted by the Land Use Commission.

Upon evaluation of this request, staff finds that:

1. The recently granted special permit to the Ocean View Investment Co. does not include the establishment of a restaurant or bar facility in their request.
2. Approval of the request under the County's stipulation

would not unreasonably burden public agencies to provide services and facilities.

3. The proposed use would not adversely affect the nearby properties since the surrounding area is vacant and not used for any agricultural pursuits. The property is classified as poorly suited for agricultural use according to the Land Study Bureau, and the requested use would not remove any lands from agricultural production.
4. Presently, there are no restaurant-bar facilities within 14 miles of the subject area which can service residents of the Ocean View Estates subdivision or people traveling to and from Hilo and Kona. Although Mr. McKee's special permit duplicates the subject request and is still active, his lack of performance in establishing this convenience facility leaves considerable doubt that his promises will be fulfilled in the near future.

Therefore, based on the above, the staff concurs with the findings and recommendations of the Hawaii County Planning Commission and also recommends approval of this petition, subject to the conditions imposed by the County.

UNIVERSITY OF HAWAII

Land Study Bureau

October 31, 1972

RECEIVED

NOV 3 1972

State of Hawaii
LAND USE COMMISSION

Mr. Tatsuo Fujimoto
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, HI 96804

Dear Mr. Fujimoto

The following comment is in response to your notification of special permit applications:

SP72-137 ✓ Theron Darling
Ka'u, Hawaii

The application is to allow development of a restaurant, cocktail lounge and post office. The land is essentially bare aa lava with virtually no soil material. Topography follows the lava flow, with general slope of approximately 10 percent. Median annual rainfall is about 50 inches. The lands are rated Class E in overall productivity as well as "e" for specific alternative agricultural uses. Thus, the lands are essentially unsuited for agriculture. As far as it is known, this area is not serviced by domestic water systems.

SP72-138 Richard Smart
Waikoloa, S. Kohala

A lack of specific locational information precludes our commenting on this application.

Sincerely

Harold L. Baker
Harold L. Baker
Director

STATE OF HAWAII
LAND USE COMMISSION
P. O. BOX 2359
HONOLULU, HAWAII 96804

October 24, 1972

NOTIFICATION OF SPECIAL PERMIT APPLICATION

SP72-137 - THERON DARLING
(Ka'u, Hawaii)

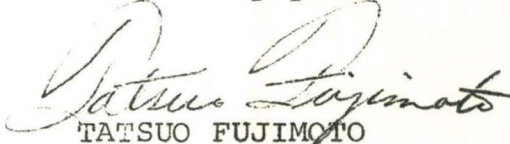
Please be advised that a special permit application has been filed with the Land Use Commission to allow the development of a restaurant, cocktail lounge, and post office on approximately 2.15 acres of land, described as Tax Map Key 9-2-85: 22 and 23; located within the Agricultural District in the Hawaiian Ocean View Estates Subdivision, Kahuku, Ka'u, Hawaii. The Hawaii County Planning Commission approved this request on September 14, 1972.

An action meeting on this application is scheduled for November 3, 1972*.

We would appreciate any written comments for or against this request, or you or your agent may appear at this meeting. Please do not hesitate to call this matter to the attention of other interested parties.

Should you desire additional information, feel free to contact this office.

Very truly yours,


TATSUO FUJIMOTO
Executive Officer

*See enclosed agenda

STATE OF HAWAII
LAND USE COMMISSION
P. O. BOX 2359
HONOLULU, HAWAII 96804

October 24, 1972

NOTIFICATION OF SPECIAL/PERMIT APPLICATION

SP72-137 - Theron Darling
(Ka'u, Hawaii)

Please be advised that a special permit application has been filed with the Land Use Commission to allow the development of a restaurant, cocktail lounge, and post office on approximately 2.15 acres of land, described as Tax Map Key 9-2-85: 22 and 23; located within the Agricultural District in the Hawaiian Ocean View Estates subdivision, Kahuku, Ka'u, Hawaii. The Hawaii County Planning Commission approved this request on September 14, 1972.

An action meeting on this application is scheduled for November 3, 1972*.

We would appreciate any written comments for or against this request, or you or your agent may appear at the meeting. Please do not hesitate to call this matter to the attention of other interested parties.

Should you desire additional information, feel free to contact this office.

Very truly yours,

TATSUO FUJIMOTO
Executive Officer

*See enclosed agenda

RECEIVED

SEP 18 1972

PLANNING COMMISSION

State of Hawaii
LAND USE COMMISSION

Planning Department
County of Hawaii

September 14, 1972

The Planning Commission met in regular session in the Conference Room of the Planning Department, County Building, with Chairman Mauricio Valera, Jr., presiding.

PRESENT: Mauricio Valera, Jr. ABSENT: Anthony C. Veriato
Masayuki Kai Akira Fujimoto, Ex-officio Member
Shigeji Kawasaki Edward Harada, Ex-officio Member
Roy H. Nagata
Ed C. Watt
Skippy T. Yasutake

Raymond H. Suefuji
Glenn T. Miyao
Sidney M. Fuke
Ilima A. Piianaia

Clifford Lum, Corporation Counsel
Robert W. Jinks, Asst. Corporation Counsel
Richard Masuda, Public Works

and approximately 35 people in public attendance

MINUTES

The minutes of the regular meeting of August 24, 1972 were approved as circulated.

REPORTS

The Chairman read the following short note from the former Commission Chairman:

"We are all settled and down to work. Sure miss everyone with the Commission. My regards to everyone."

/s/ O. W. EFURD

LAND USE COMMISSION
BOUNDARY AMENDMENT
LILIUOKALANI TRUST &
PALANI DEVELOPMENT CO.
KEAHUOLU, NORTH KONA

Petition of First Hawaiian Bank, Managing Trustees of Liliuokalani Trust and Palani Development Company for an amendment of land use district boundaries from an agricultural to an urban district involving 100± acres of land located in Keahuolu, North Kona, Tax

Map Key 7-4-08:portion of 12.

The staff gave the background report as presented at the previous meeting and further pointed out that the Department of Education initially requested some information from the developer and that such information was sent to DOE. The response from DOE had not been received by the last meeting and this was the reason for a deferral recommendation by the staff at the previous meeting. Subsequently, a letter dated August 24, 1972 was received from the State Department of Education and read as follows:

The favorable recommendation was also contingent upon the following conditions:

1. The proposed facility shall be located a minimum of 1000 feet from the southern-most road realignment for the proposed Waimea-Kawaihae Road and also a minimum of 1000 feet makai of the Mamalahoa Highway;
2. That adequate landscaping satisfactory to the Planning Director shall be required;
3. The owner or lessee of the subject area shall be responsible for constructing the facility and operating the facility within one (1) year from the official date of approval by the State Land Use Commission should such be granted; and
4. All applicable rules and regulations shall be complied with, including "Plan Approval."

Mr. Kawasaki moved to recommend approval to the Land Use Commission with the conditions attached by the staff. The motion was seconded by Mr. Kai and carried unanimously.

LAND USE COMMISSION
SPECIAL PERMIT
THERON DARLING
KAHUKU, KA'U

Special permit to allow the development of a restaurant, cocktail lounge, and post office on approximately 2.15 acres of land located in the Hawaiian Ocean View Estates subdivision, fronting the mauka side of the

Hawaii Belt Road, approximately six hundred (600) feet west of Tiki Lane, Kahuku, Ka'u, Tax Map Key 9-2-85:22 and 23.

The staff gave the background report as presented at the previous meeting. He added that after the public hearing, the department had received a letter from Mr. Chee, Manager of the Honolulu District U. S. Postal Service as follows:

"Mr. Raymond Suefuji, Planning Director

"We are glad to respond to your telephone inquiry concerning the type of postal service available to residents of Hawaiian Ocean View Estates.

"For about a year various residents of that area have complained about the unsatisfactory mail service. Tampering of mail boxes has been reported prevalent, resulting in nondelivery or misdelivered mail.

"A recent study made by this office shows that the number of people residing in Hawaiian Ocean View Estates cannot possibly support a post office. However, representations have been made by Mr. Harry McKee and Mrs. Lorraine Darling to provide voluntary service in the receipting and handling of mail, including mailings, without cost to the Postal Service. Their proposal is acceptable, and we have informed them of our willingness to assist them whenever they were ready. This would preclude having to travel to distant post offices at Naalehu or Captain Cook.

"We have advised them that the identity of a post office should not be included in this particular program. This type of postal service should be treated like a mail drop and not a post office. The suggested use of the term "mail station" or "mail drop" would relieve it of its identity as a post office.

"Since this is a concerted effort by the community on a voluntary basis, the U. S. Postal Service is agreeable to provide this type of service to satisfy the needs of that community. Although we shall furnish them with support equipment, on a loan basis, in the handling of their mail, there are no charges or compensation involved.

"We appreciate your interest and hope we have answered your questions to your satisfaction. If we can be of further assistance, please let us know.

/s/ H. C. CHEE
Manager

Since there were no questions directed to the staff, the Chairman called for further testimony by the applicant.

Mr. Darling stated that he would like to clear up this post office thing. He mentioned that he had just received a letter from Mr. Chee and it was implied that Mr. McKee has applied for the post office as well. He indicated that Mr. Lee flew in from Honolulu and wanted to know what was going on. He remarked that the people got a petition on his end of the development in the Hawaiian Ocean View Estates and the people on the other side got a petition and they didn't want it down at McKee's. The McKee's got a petition ahead of time and stopped it after the applicant had applied for originally. He stated that they started a feud over the post office as to where it should be so Mr. Lee had recommended that they have two mail stations and not a post office. The applicant had informed Mr. McKee in the beginning that they could not have a post office and that it will have to be a mail station. They have sent in petitions now to Mr. Chee complaining that they don't want their mailboxes removed from the highway, so it presents a problem now. Mr. McKee didn't want the mail station any more after he had gone through a lot of trouble to get it. The applicant stated that Mr. Chee had written if he would reconsider because there was no sense in having two mail stations. He had been getting mail for seven people but the other end had more people. Now Mr. McKee had thrown up his hands and he found out that he didn't have to even apply to the Planning Commission for a permit because it was a mail station. He stated that they had asked him to sign a petition saying that he didn't want the boxes removed on his end and after he had applied for a mail station for them at their request. So, he had given up on the whole situation until he got a letter from Mr. Chee yesterday. He stated that he intends to write him back saying that they are still willing to put a mail station in if they would stop fighting and personally he did not want to go any farther and come up with any animosity or any feeling of that sort for anybody. He doesn't know what is happening and he doesn't see anybody saying anything about the restaurant or the cocktail lounge and that is the major reason for opening there in the beginning.

Mr. Watt asked whether they can just delete this post office use since it is just a mail drop and it doesn't supposedly affect the Commission. He wondered about the status of a mail drop.

The Planning Director explained that he had talked with Mr. Chee and this is why he had sent the letter. Basically, the problem began because in their enthusiasm many people applied for a post office. He didn't think there was a very clear statement made by the Postal Service of what they were willing to provide for Kahuku area. Prior to the new Kailua Post Office, he thought it was the intent of the Postal Service to consider a post office at Kahuku. Now, with the mail service in Kailua and the reevaluation of their growth for the area, the Postal Service feels that it is uneconomical to provide a post office and they informed him that they are not going to provide a post office but that they will be happy to sanction a mail drop. If all the inquiries made to the Planning Department from the

beginning were on the basis of a mail drop and with the clear indication that there wouldn't be any commercial activity, they would have been informed that they would not need a special permit for this use. As evidenced by the written application, all of the applications were for a post office and a post office is not allowed in the agricultural zone and therefore a hearing was scheduled.

The Director pointed out that as soon as he got word from Mr. Chee that they are just going on a basis of a drop point with no charges and no compensation, the staff had promptly notified Mr. McKee that he may proceed with this mail drop service because he was doing this on a voluntary basis. That was two weeks ago. But on record, this petition for a post office is still before the Commission. In fact requests are for two post offices.

Mr. Darling explained that he did not request for a post office and that in his letter he stated that they were going to install a mail station. He reiterated that there was no request for a post office at all.

The staff clarified that Mr. McKee's request was for a post office and that Mr. Darling's one was a mail station.

The Planning Director commented that he mentioned two simply because the Commission did consider granting a special permit last month to another development across the street which basically contained a condition that they provide a post office. If the Postal Service is saying they are not ready for a post office there, the developer across the street is hung with a condition he can't perform. So, there are two post offices and he is sure the developer will be running back to the Commission because he can't meet this requirement.

The Assistant Corporation Counsel mentioned that since it is only a mail drop that they should consider this application as a restaurant and cocktail lounge and forget about any reference to the mail drop and that he understood that Mr. Harry McKee is requesting for cancellation of this.

Mr. Watt requested for staff recommendation with the deletion of mail service.

The staff recommended approval of the restaurant and bar facility only, based on the following considerations:

1. That there is a need for such a facility for that area. Presently, the nearest operating restaurant/bar facility is situated in the village of Naalehu, approximately fourteen (14) miles away. While a special permit for a similar facility was granted to Harry McKee in September 1962; it is still not in operation. The area, to date, is still unserved by such facility;
2. That the subject area has a very poor soil productivity classification, thus making it difficult to fulfill the intent of the agricultural designation; and
3. That there would not be an unreasonable burden on public agencies to provide the necessary services. The only utility unavailable at the moment, is a County waterline. It is nevertheless felt that the proposed facility can be adequately served by the roof catchment method.

The favorable recommendation was also contingent upon the following conditions:

1. That the proposed development comply with all applicable regulations, codes, including "Plan Approval;"

2. That the petitioner be responsible for providing his own water catchment system, including compliance with the National Board of Fire Underwriters requirements regarding the fire protection;
3. That access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road;
4. That the petitioner be responsible for securing a building permit and assuring construction started for the restaurant/bar facility within one (1) year from the date of official approval and that the facility shall be in operation within eighteen (18) months from the date of approval. For clarification, construction is defined as the actual placing of construction materials in their permanent position; and
5. That if the proposed use ceases for a period of more than twelve (12) months, the special permit shall be deemed null and void.

Mr. Nagata moved to recommend approval of this special permit to the Land Use Commission with the stipulations as set forth by the staff. The motion was seconded by Mr. Kai and carried unanimously.

LAND USE COMMISSION
SPECIAL PERMIT
HARRY McKEE
KAHUKU, KA'U

Special permit to allow the development of a post office on approximately 1.59 acres of land located in the Hawaiian Ocean View Estates subdivision, fronting the northeast corner of the Hawaii Belt Road and Hawaii Blvd.

Kahuku, Ka'u, Tax Map Key 9-2-83:21.

The Chairman announced that before they take action on it, he would like to read the letter from Mr. McKee as follows:

"Dear Mr. Suejuji:

"Relative to the application for a special permit for a Post Office TMK 9-2-83-21, per your suggestion I hereby request that the application be cancelled.

"As was initially discussed with your Department, there was no need for an application as the use was only for a mail drop station; however, your assistant thought otherwise.

"It is hoped that a refund of the \$100.00 submitted with the application will be forthcoming."

/s/ HARRY F. McKEE

Mr. Watt questioned whether they would need to take action on the \$100 refund.

The Planning Director remarked that the department has already taken action on it. The applicant was informed that the refund is not possible because by the time the question on the mail drop was clarified, the application was already scheduled for a hearing and the legal notice published. Had the applicant brought up the point about the mail drop before he even applied, then he has basis for a refund. In this case, the refund is not justified.

October 24, 1972

Mr. Theron L. Darling
Star Route Box 140
Captain Cook, Hawaii 96704

Dear Mr. Darling:

The Land Use Commission next meets on November 3, 1972 at 10:30 a.m., in the Discovery Room of the Kona Hilton Hotel, Kailua, Kona, Hawaii.

At that time, the application by Theron L. Darling (SP72-137) to allow the development of a mail station and restaurant/bar facility at Ka'u, Hawaii, will be considered.

Should you have any questions regarding this matter, please feel free to contact us.

Very truly yours,

TATSUO FUJIMOTO
Executive Officer

Encl. - Agenda

72-1003
925-3-30
25-1003-30

STATE OF HAWAII
LAND USE COMMISSION
P. O. Box 2359
Honolulu, Hawaii
96804

MEMORANDUM

DATE: October 16, 1972

TO: Department of Agriculture
Office of Environmental Quality Control

FROM: Tatsuo Fujimoto, Executive Officer

We are enclosing herewith copies of application for the following boundary amendment petitions and/or special permits, which are presently pending before the State Land Use Commission:

- A72-332 - County of Maui
- A72-334 - Signal Properties, Inc.
- A72-335 - The Lihue Plantation Co., Ltd.
- A72-336 - Land Use Commission
- A72-337 - Hawaiian Agricultural Company
- A72-338 - Mauna Kea Sugar Co., Inc.
- A72-339 - " " " " "
- A72-340 - Pepeekeo Sugar Company
- A72-341 - " " " "
- A72-342 - Estate of James Campbell
- A72-343 - B. P. Bishop Estate
- A72-344 - Headrick Development Co., Inc.
- A72-345 - Department of Accounting & Gen. Services
- A72-346 - Walter C. Witte
- SP72-137 - Theron Darling
- SP72-138 Parker Ranch

We would appreciate receiving your comments regarding the above applications. For further details, please contact this office.

Encl.

October 1, 1972

Mr. Tatsuo Fujimoto
 Executive Officer
 State Land Use Commission
 P.O. Box 2359
 Honolulu, Hawaii 96804

RECEIVED

OCT 3 1972

State of Hawaii
LAND USE COMMISSION

Dear Mr. Fujimoto,

Regarding our special permit application (SP. 72-137) for restaurant and bar facility in Kā'u, Hawaii, we are in agreement to the six-day extension from November 11, 1972 to November 17, 1972 for the Land Use Commission meeting.

Very Truly Yours,
 Theron L. Darling
 Star Route Box 140
 Captain Cook, Hawaii
 96704

140-000000
257 COTTON FIBER
September 27, 1972

Mr. Theron L. Darling
Star Route Box 140
Captain Cook, Hawaii 96704

Dear Mr. Darling:

Pursuant to your special permit application (SP72-137) to allow the development of a mail station and restaurant/bar facility at Ka'u, Hawaii, we would appreciate receiving a letter from you agreeing to a six-day extension for action on your application from November 11, 1972, the expiration date for action on your request, to November 17, 1972, when a Land Use Commission meeting is scheduled on Hawaii.

We will advise you of the exact time and place of this meeting when they are determined.

Very truly yours,

TATSUO FUJIMOTO
Executive Officer

cc: Hawaii County Planning Commission

Zone Changes Approved For New Subdivision In North Kona

9-17-78 *The Tribune Herald*

The path for another subdivision was cleared Wednesday night by planning commissioners who approved zone changes for land in Halekii, North Kona.

Approved with conditions was an application by Kona Scenic Land Inc. for zone changes of 50.8 acres from agriculture to 39 acres of single family residential; 5.5 acres of multiple family residential; 3.5 acres of open; and 10 acres of village commercial.

All the land is in Halekii and will be developed with single family and apartment houses and supporting commercial establishments.

In another matter, commissioners recommended to the Land Use Commission that it approve an amendment of land use district boundaries from an agricultural to an urban district involving 100 acres in Keahuolu, North Kona.

The request was made by managing trustees of Liliuokalani Trust and Palani Development Co.

Commissioners also recommended the Land Use Commission approve a permit to allow development of a skeet and trap shooting range on 12 acres across from the Parker Ranch Racetrack and adjacent to the old abandoned airport in Waikoloa, South Kohala.

In other matters, commissioners:

—Recommended to the Land Use Commission approval of a permit asked by Theron Darling to allow development of a restaurant, cocktail lounge and post office on 2.15 acres in the Hawaiian Ocean View Estates subdivision fronting the mauka side of the Hawaii Belt Road, 600 feet west of Tiki Land, Kahuku, Ka'u.

—Set a public hearing on the application of Tokyu Land Development Hawaii, Inc. for a variance from an ordinance relating to the improvements of an entire 80-foot right of way for a subdivision in Keahialaka and Pohoiki, Puna.

—Approved an application of K. Que Ltd. for a zone change

from agricultural (A-5a) to an agricultural (A-1a) zoned district for 11.9 acres in Kanaeue, North Kona.

—In unfinished business, planners:

—Set a public hearing on the application of William Morgan for a variance to allow construction of a four story building in lieu of the permitted three story height limit fronting Alii Drive in Holualoa, North Kona.

—Set a public hearing on the application of the H&S Construction Co. for a variance to allow a smaller side yard building set back than called for in ordinances for a dwelling in the Hawaiian Beaches Subdivision.

—Set a public hearing on the application of Kuniyo Nagami for a variance to allow a minimum of six foot front and side yard building setback in lieu of the required 15 foot front and eight foot side yard building setback for a proposed dwelling in the Hawaiian Beaches Subdivision in Puna.

—Recommended that the Land Use Commission deny a petition by the Estate of Hannah Fukushima for an amendment of land use district boundaries from an agricultural to an urban district involving three acres in Waimea Vacationland in Puukapu Homesteads, Waimea, South Kohala.

—Recommended that the Land Use Commission approve a petition of the State Department of Land and Natural Resources for an amendment of land use district boundaries from an agricultural to an urban district involving 40 acres in Kahei, North Kohala.

In public hearings, commissioners:

—Allowed an extension of time requested by the Hawaiian Telephone Co. to reconsider a condition to a previously approved setback variance for a building addition in Manowaiopae Homesteads, North Hilo, which stipulated that the equipment building be removed by Dec. 31.

—Deferred an application of Mauna Kea Sugar Co. for a change in zone from an agricultural (A-20a) to a single family

residential zoned district for approximately 6.9 acres in Wainaku-Halepuna, South Hilo.

Approved with conditions an application of Kikuyoshi Nakayama for a zone change from an open to a limited industrial zoned district for a .52 acre parcel in the Waiakea Houselots in South Hilo.

—Approved with conditions a public hearing on the application of Samuel Lindsey for a change of zone from an agricultural (A-3a) to an agricultural (A-3a) zoned district for a 26.60 acre parcel in the Puukapu Homesteads, Waimea, South Kohala.

—Approved an application of Richard Smart for a zone change from a limited industrial to a village commercial zoned district for 4.915 acres in Waimea Village, Waikoloa, South Kohala.

—Approved an application of the State Department of Land and Natural Resources for a change of zone from an open to single family residential zoned district for a one acre area in the Kanihiku Village, Kanihiku, Puna.



COUNTY OF
HAWAII

PLANNING COMMISSION Planning Department

25 AUPUNI STREET • HILO, HAWAII 96720

SHUNICHI KIMURA
Mayor

Chairman

September 18, 1972

Mr. Tatsuo Fujimoto
Executive Officer
State Land Use Commission
P. O. Box 2359
Honolulu, HI 96804

RECEIVED

SEP 27 1972

State of Hawaii
LAND USE COMMISSION

Re: Special Permit Application - Theron Darling

In accordance with Chapter 205, Section 205-6, Hawaii Revised Statutes, we are transmitting the decision and findings of the County Planning Commission on the above application.

The special permit request was to allow the development of a mail station and restaurant/bar facility on approximately 2.15 acres of land located in the Hawaiian Ocean View Estates subdivision, fronting the mauka side of the Hawaii Belt Road, approximately six hundred feet west of Tiki Lane, Kahuku, Ka'u, Hawaii, Tax Map Key 9-2-85:22 and 23.

The Planning Commission at a duly advertised public hearing held on August 24, 1972 at the County Council Room, County Building, Hilo, Hawaii, discussed the subject request. The Commission on September 14, 1972, voted to recommend the approval of the special permit to the Land Use Commission for a restaurant/bar facility only based on the following considerations:

1. That there is a need for such a facility for that area. Presently, the nearest operating restaurant/bar facility is situated in the village of Naalehu, approximately fourteen (14) miles away. While a special permit for a similar facility was granted to Harry McKee in September 1962, it is still not in operation. The area, to date, is still unserved by such facility;
2. That the subject area has a very poor soil productivity classification, thus making it difficult to fulfill the intent of the agricultural designation; and

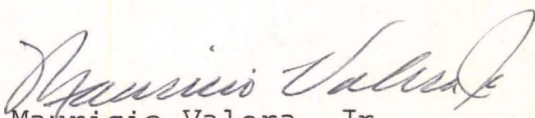
Mr. Tatsuo Fujimoto
Page 2
September 18, 1972

3. That there would not be an unreasonable burden on public agencies to provide the necessary services. The only utility unavailable at the moment, is a County waterline. It is nevertheless felt that the proposed facility can be adequately served by the roof catchment method.

The favorable recommendation was also contingent upon the following conditions:

1. That the proposed development comply with all applicable regulations, codes, including "Plan Approval;"
2. That the petitioner be responsible for providing his own water catchment system, including compliance with the National Board of Fire Underwriters requirements regarding the fire protection;
3. That access to the subject area be from Tiki Lane only and that direct access to the Hawaii Belt Road be closed off by incorporation of planting along the property line bordering the Hawaii Belt Road;
4. That the petitioner be responsible for securing a building permit and assuring construction started for the restaurant/bar facility within one (1) year from the date of official approval and that the facility shall be in operation within eighteen (18) months from the date of approval. For clarification, construction is defined as the actual placing of construction materials in their permanent position; and
5. That if the proposed use ceases for a period of more than twelve (12) months, the special permit shall be deemed null and void.

Action on the mail station was not taken inasmuch as it was determined that a special permit was not required for such a facility. A mail station as described in the attached letter from Mr. Chee, U. S. Postal Service, is quite different from a post office.


Mauricio Valera, Jr.
Chairman

lat

Enclosures

cc Theron Darling

COUNTY OF HAWAII

COUNTY PLANNING DEPARTMENT

FOR OFFICIAL USE ONLY

Date petition and fee received by
Commission _____

Date petition is scheduled for public
hearing _____

Date Commission took action and its
ruling _____

APPLICATION FOR SPECIAL PERMIT

(I) (We) hereby request approval for a Special Permit to use certain property located at Kau/ Ocean View Estates Tax Key 9-2-85-22/23 in accordance with provisions of Section 98H-6, Act 205, SLH 1963 for the following described purpose.

Restaurant and Cocktail Lounge (see attached)

Description of Property:

4,000 sq. ft. under roof on 2 acres

tax key 9-2-85-22/23

Petitioner's interest in subject property:

Buyer

Petitioner's reason(s) for requesting Special Permit:

NOTE: The applicant must show that all of the following conditions exist: 1) that there are unusual or exceptional circumstances applying to the subject property, building or use which do not generally apply to surrounding property or improvements in the same zone district; 2) that the unusual or exceptional circumstances which apply to the subject property, building or use are reasonable and proper and will not be materially detrimental to public health, safety, morals, and general welfare; nor will it be injurious to improvements or property rights related to property in the surrounding area; 3) that the strict enforcement of the zoning regulation would result in practical difficulties and unnecessary hardship inconsistent with the intent and purpose of Act 205; and 4) that the granting of a special permit will not be contrary to the objectives of the Master Plan or Plans of the State and/or County Government.

(see attached)

The application will be accompanied with a deposit of \$ 100.00 to cover publication and administrative costs and a map of the area proposed for change.

Signature Theron L. Darling
Address 1401 Rte 140 Capt Cook
Telephone 929-9984

This space for official use

The property is situated in a(n) _____ District.

REMARKS:

Receipt no. 5878 7/11/76

Planning Department
County of Hawaii
25 Auruni Street
Hilo, Hawaii 96720

Dear Sirs,

- A. Land of 2 acres and 4,000 sq. ft. of housing. It is situated on main highway.
- B. It has been requested by the local residents for a establishment of this type to be located in this area.
- C. Situated on main highway with adequate off-street parking. Adequate septic tank and water already on site. A 19,000 gallon tank of water on property, plus a 1,000 gallon tanker full and parked on property for fire protection.
- D. Residents have requested closer facilities to their properties while visiting or in the process of building. (restaurant, lounge, motel, Post Office, and garage facilities, etc.)
- E. Ocean View Estates is now a community and in need of such facilities.
- F. All the facilities are presently in and ready for use.
(See exhibit "A")
- G. (See exhibit "A")

July 1972

Hawaiian Ocean View Estates
Kau
Tax Parcel Key 9-2-85-22/23
Total Area of 2 Acres

Restaurant and Cocktail Lounge

Previously the residence of Karl Embrey and tract office for Ocean View Estates.

Property on main highway, improved by a residence with 4,000 sq. ft. under roof, which can readily be converted to a class "A" restaurant and cocktail lounge.

There is no facility of this type between Kailua and the Volcano House except for small eating places at Naalehu. There is a need for such a facility at this location to serve not only the residents but the travelers. People that have purchased land in the surrounding area need a place to rest, eat, and obtain information. We get many calls from people who wish to stay near their property while they are developing and building on it. In the near future we plan to erect facilities on our adjoining acre to help eliminate this problem. Tour drivers and escorts have informed us they need a more convenient place to stop with more parking and better facilities.

Authorization has been given by Mr. Chee, the Postmaster of Honolulu, to use an adjoining building (14 x 12') facing highway 11 for a Mail Station for Ocean View. The boxes from the old Post Office in Kailua will be used for this purpose.

This property has been the polling place (precinct 1) in previous years and Lieutenant Governor Ariyoshi has requested it again this year for the Primary and General Elections.

A business in this area will help establish needed employment here.

The property is on the main highway and the proposed use will not be contrary to the objectives of the Master Plan and Plans of the State and or County Government.



OFFICE OF THE LIEUTENANT GOVERNOR
STATE CAPITOL
HONOLULU, HAWAII 96813

GEORGE R. ARIYOSHI
LIEUTENANT GOVERNOR

June 21, 1972

Mr. Karl Embrey
Hawaiian Ocean View Estate Tract Office
S.R. Box 140
Captain Cook, Hawaii

Dear Mr. Embrey:

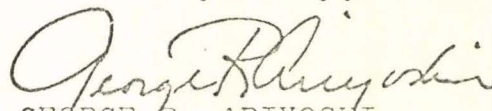
As in the past, we will again be needing space for a polling place at your Tract Office for the 1972 Elections. Therefore, we would like to request permission to use such space on the following dates:

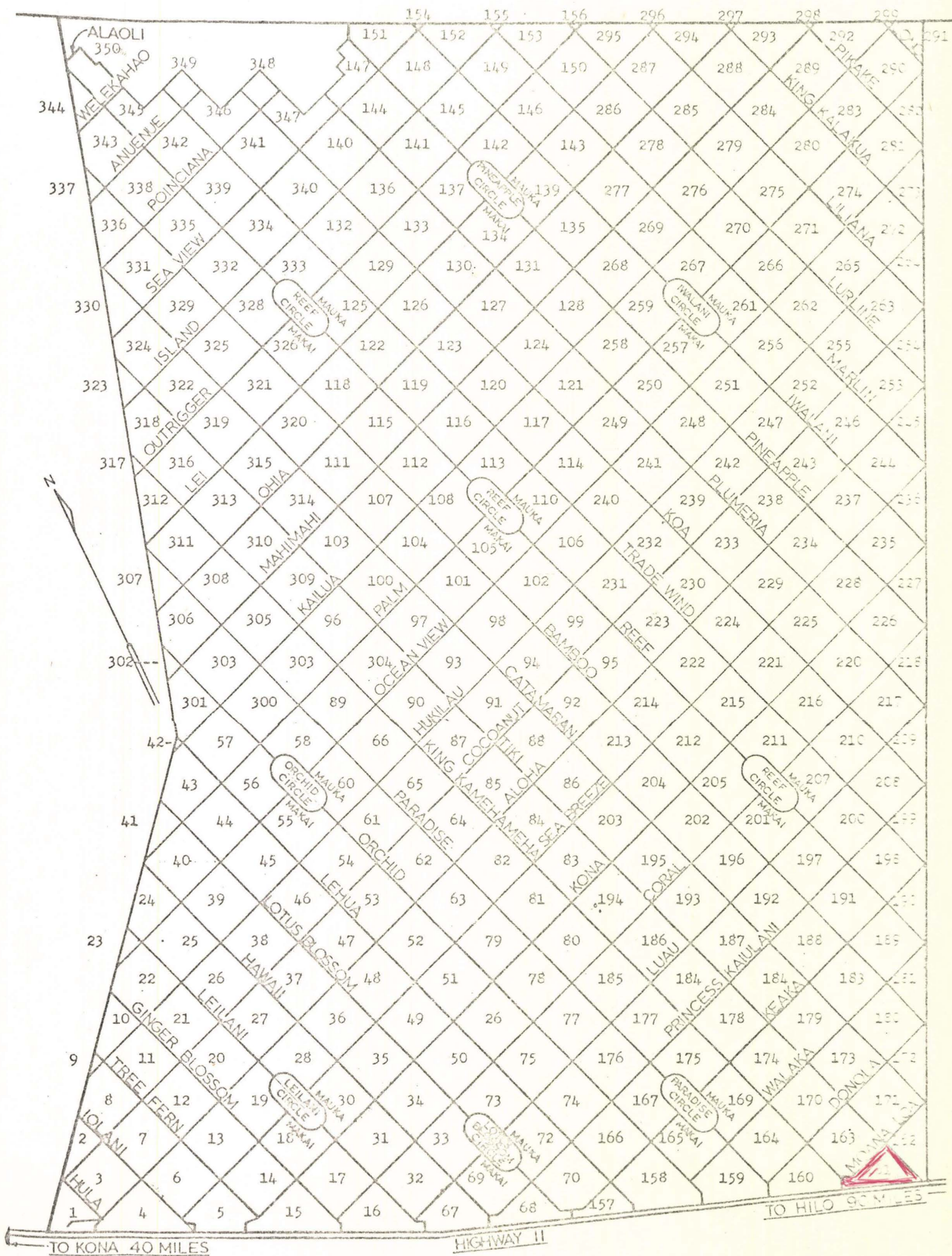
Primary Election - October 7th, Saturday
General Election - November 7th, Tuesday

If your permission is granted, Mr. Owen Konishi of my office will be in contact with you to discuss the details. Thank you for the consideration of the above matter.

With warm personal regards, I remain,

Yours very truly,

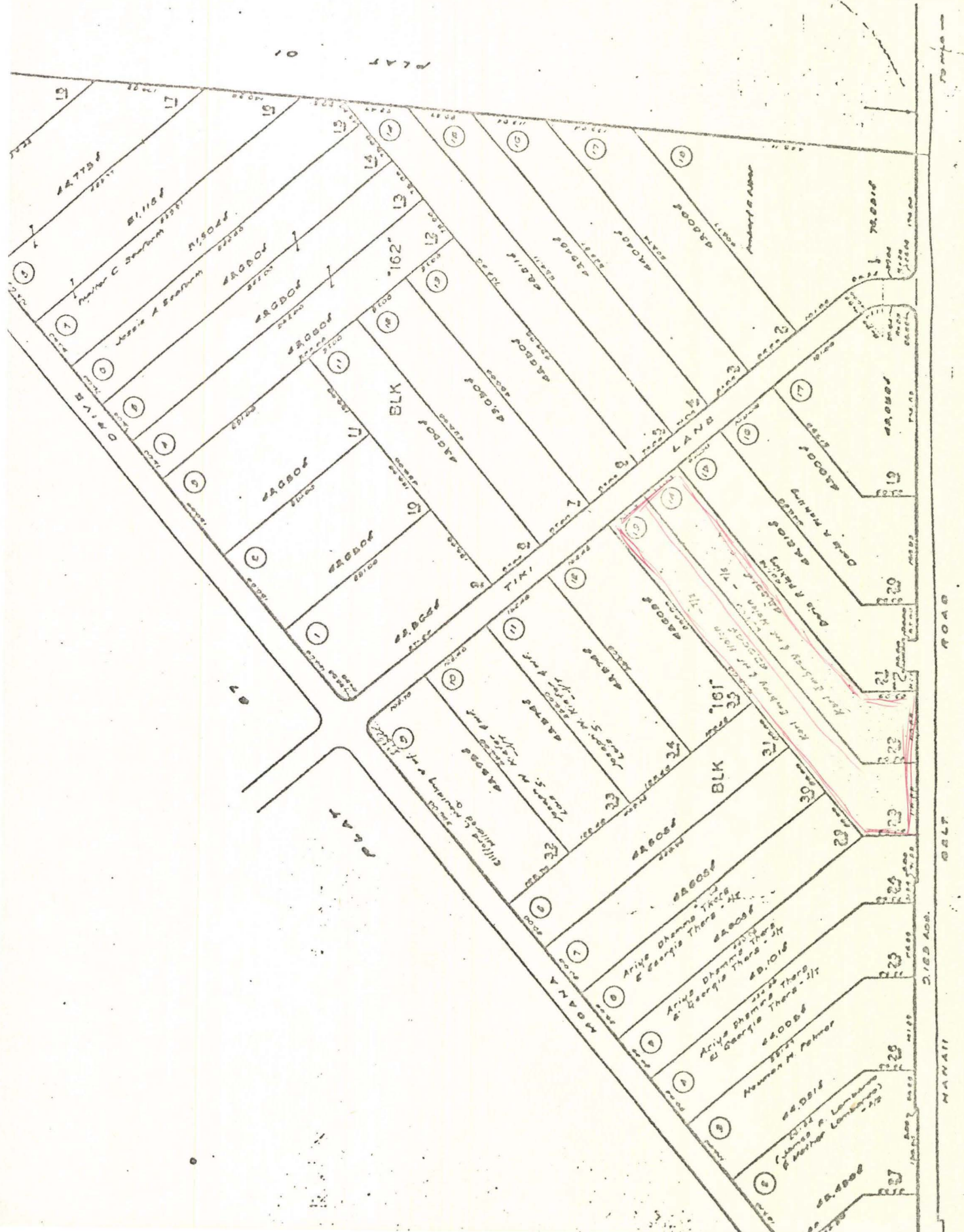

GEORGE R. ARIYOSHI



HAWAIIAN OCEAN VIEW ESTATES

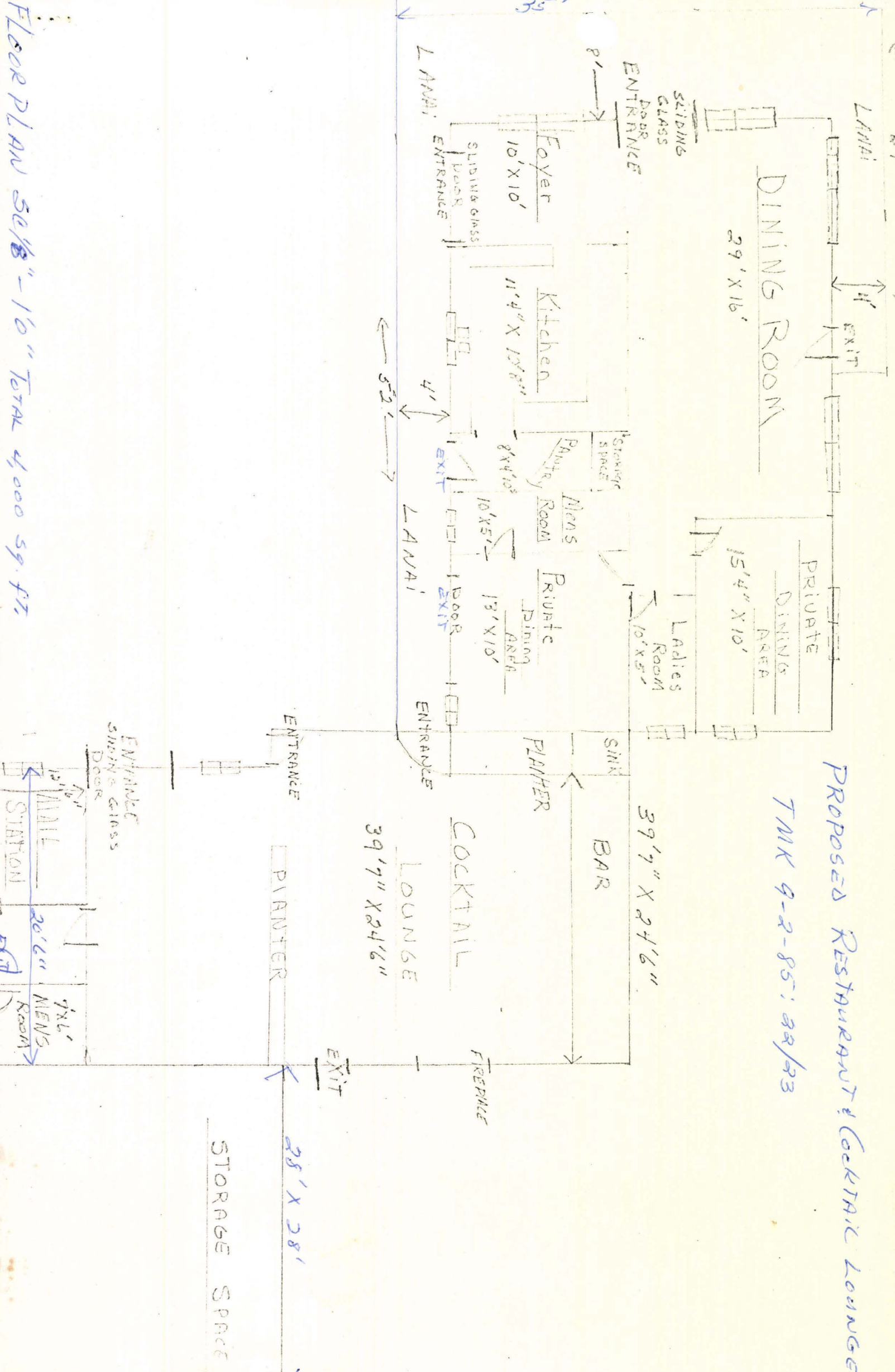
[illegible]

190-10-6 (Formerly 9-2-01-06).



PROPOSED RESTAURANT & COCKTAIL LOUNGE

TAK 9-2-85: 22/23



FLOOR PLAN 36'18"-10" TOTAL 4,000 SQ. FT.

July 24, 1972

Planning Department
35 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Suefugi,

Re: Special Permit - Restaurant - Lounge
J.M.K. 9-2-85 22/23.

In regards to your letter of July 17, 1972, the approximate timetable for opening of restaurant and lounge, on approval; would be a minimum of 2 weeks and a maximum of 30 days.

In the past, at this location on the highway, was the pick-up point for Ocean View children going to school. We would like to offer a pick-up area, off the highway in our large parking lot for the protection of the children and to eliminate congestion on the highway. In bad weather, a sheltered area is also available.

We are having pictures developed and will forward to you as soon as possible.

Sincerely,
Lorraine Harlin

PLANNING COMMISSION

Planning Department
County of Hawaii

August 24, 1972

A regularly advertised public hearing, on the application of Theron Darling, was called to order at 7:58 p.m., in the County Council Room, County Building, by Chairman Mauricio Valera, Jr.

PRESENT:	Mauricio Valera, Jr.	ABSENT:	Shigeji Kawasaki
	Masayuki Kai		Skippy T. Yasutake
	Roy H. Nagata		Akira Fujimoto, Ex-officio Member
	Anthony C. Veriato		Edward Harada, Ex-officio Member
	Ed C. Watt		

Raymond H. Suefuji
Glenn T. Miyao
Sidney M. Fuke

and approximately 20 people in public attendance

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN of the public hearing to be held by the Planning Commission of the County of Hawaii to consider the following application for a Special Permit within the County of Hawaii in accordance with the provisions of Section 98H-6, Revised Laws of Hawaii 1955, as amended.

The Special Permit is for the purpose of allowing the development of a restaurant, cocktail lounge, and post office on approximately 2.15 acres of land located in the Hawaiian Ocean View Estates Subdivision, fronting the mauka side of the Hawaii Belt Road, approximately six hundred (600) feet west of Tiki Lane, Kahuku, Ka'u, Hawaii, Tax Map Key 9-2-85:22 and 23.

CHAIRMAN: Item No. 19, public hearing on the application of Theron Darling for a special permit to allow the development of a restaurant, cocktail lounge, and post office on approximately 2.15 acres of land located in the Hawaiian Ocean View Estates Subdivision, fronting the mauka side of the Hawaii Belt Road, approximately six hundred (600) feet west of Tiki Lane, Kahuku, Ka'u, Hawaii.

STAFF PLANNER FUKU: Mr. Chairman and members of the Commission. An application for a special permit has been submitted by Theron Darling for a post office and restaurant/cocktail lounge facility. The proposed building is to be situated in the Hawaiian Ocean View Estates subdivision, Kahuku, Ka'u, Hawaii on approximately two acres of land, described as Tax Map Key 9-2-85:22 and 23. The land fronts the Belt Road, approximately 800 feet west of Tiki Lane and 14 miles west of the village of Naalehu.

The State Land Use classification of the subject area is Agriculture, and thus, the basis for this request. The County zoning is A-1a, and the General Plan earmarks the area for extensive agricultural uses and alternate urban expansion.

The subject land has no severe terrain constraints which would render the land unusable for the proposed use. No record of flood inundation

problems, historic features, or distinct landforms of significant importance are attributed to this property.

If the request is approved, the applicant intends to convert a restaurant and cocktail lounge and a post office out of an existing 4,000 square foot residential structure. In behalf of his request, the applicant has maintained that such a facility has been requested for by residents within the area. He added further, that, "there is no facility of this type between Kailua and the Volcano House except for small eating places at Naalehu. There is a need for such a facility at this location to serve not only the residents but the travelers. People that have purchased land in the surrounding area need a place to rest, eat, and obtain information. We get many calls from people who wish to stay near their property while they are developing and building on it. In the near future, we plan to erect facilities on our adjoining acre to help eliminate this problem. Tour drivers and escorts have informed us they need a more convenient place to stop with more parking and better facilities.

"Authorization has been given by Mr. Chee, the Postmaster of Honolulu, to use an adjoining building (14 x 12') facing Highway 11 for a Mail Station for Ocean View. The boxes from the old Post Office in Kailua will be used for this purpose.

"This property has been the polling place (Precinct 1) in previous years and Lieutenant Governor Ariyoshi has requested it again this year for the Primary and General Elections.

"A business in this area will help establish needed employment here.

"The property is on the main highway and the proposed use will not be contrary to the objectives of the Master Plan and Plans of the State and or County Government."

The applicant intends to open the restaurant for business, if approved, between two to four weeks after notification of approval. He has also consented to devote the parking area for the embarking and disembarking point for the school children within the subdivision.

HELCO, the Police Department, and the Department of Education had no comments to offer. The County Liquor Department has stated that its office has not received any inquiry from the applicant regarding a cocktail lounge. Approval from the Liquor Commission would be needed before such activities may be conducted. The Department of Water Supply commented that as there is no water system in this area, they would recommend that "a water system capable of delivering domestic and fire flow be provided should this request be approved." The State Highways Division recommended that should the request be approved, the following condition be attached: "that access to said parcels be from Tiki Lane only and that access to the Hawaii Belt Road be closed off by incorporation of a planting easement along the property line bordering the Hawaii Belt Road."

The County Research and Development Department noted that "a properly located eating and drinking facility would add to visitor satisfaction of those traveling on the southern route of the Big Island. The number of people presently residing in the area and visitors taking the southern route, however, are limited."

It should also be noted that the McKee's request is located approximately a mile to the west or Kona side of the subject area and approximately .7 mile from the Ocean View Investment Company's special permit request which this Commission had favorably recommended to the Land Use Commission.

CHAIRMAN: Thank you. You've heard the staff presentation. Any comments or questions from the Commissioners? If not, is there a representative here who wish to give further testimony.

THERON DARLING: Mr. Chairman and members of the committee. I am Theron Darling. I would like to clear one point right now that the post office that we applied for when we came up and that the people had requested that there be a post office in that area. So, we wrote to the Postmaster in Honolulu and were given permission to open a mail station, not a post office, but a convenience station for the people so we had signs made up ahead of time because it really didn't need a permit for such a business type operation as Mr. Lee came up last week after there were two applications for permits. He came from Honolulu, flew in, and told me he didn't want to start any bad feelings and I said well I just assume that Mr. McKee have the post office and he can have the signs that we had made up and everything down there. It doesn't make any difference to us. We were trying to help out the people in the area.

As far as the restaurant/cocktail lounge and the situation of water, we have 20,000 gallons on the property. We have a 1,000 gallon water truck that belongs to us. We bring water from South Point and I am also having a purifier attached to the waterline so that we will have enough water, ample water, to take care or serve anybody.

We've had many problems on the highway with people. Even this morning, Slim Holt had a bus breakdown. We had fifty people in the place already this morning and tried to help out and give them assistance. Many other people, since we have been there, the same problems. We hope to establish a place that would be a fine place for people of Naalehu to come and eat as well as the Ocean View Estates and as well as the tourists. I spent three years with Hilton Hawaiian Village as Assistant Day Manager. I know all the problems, I know all the tour drivers and I know everybody around the area. We have been seven years in Hawaii. My son is recently out of and back in Vietnam after three years and this is as well an investment for them and their future. We can be open within two or three weeks from now. We have been doing a lot of work and have already revamped the place in many many ways. So, we hope to have your permission to go ahead and do so.

If there is any question, I would be glad to answer them.

COMMISSIONER VERIATO: Mr. Darling.

DARLING: Yes, Sir.

COMMISSIONER VERIATO: How far is this Hawaiian Ocean View Estates from the Hawaiian Ocean View Investment Company that we have just given them a go ahead signal for a special permit.

DARLING: Oh that, I don't know.

COMMISSIONER VERIATO: I understood it to be about 14 miles from Naalehu.

STAFF PLANNER FUKU: That's right. At the last Planning Commission meeting, this Commission took action on a special permit request from the Hawaiian Ocean View Investment Company. That request also called for a post office facility. The requested area is located approximately .7 miles away from this subject area.

COMMISSIONER WATT: So, that was the service station and a grocery wasn't it?

STAFF PLANNER FUKU: The one that this Commission had recommended approval upon the staff's recommendation was that the first increment would consist of a building which would house the post office facility and the grocery store minimum facility. Provided that they met with those conditions, they could have gone with a service station.

COMMISSIONER VERIATO: It also included a motel complex and office and post office facility, service station and so forth on incremental basis.

STAFF PLANNER FUKU: But to that portion, the motel one, we did not recommend approval. Regarding that application, we just recommended approval on the post office facility and grocery store and provided that they met with that condition, then, warehousing facility and the service station.

COMMISSIONER WATT: The Health Department didn't have anything to say about using tank water as long as there is a purifier.

STAFF PLANNER FUKU: No.

CHAIRMAN: Any further questions?

STAFF PLANNER FUKU: Excuse me. May I ask the applicant one question?

CHAIRMAN: Yes.

STAFF PLANNER FUKU: At the time of submitting this request, were you aware of Hawaiian Ocean View Investment's special permit request?

DARLING: At the time no. I wasn't aware of it. We were new and I have been coming up here for six months before we purchased the property, but I had understood that they had been turned down. I knew that. I heard that somebody had applied for 51 acres. I believe it was turned down and then I believe the next time I read, there wasn't anything about it in the paper at all after the meeting. After I was informed of such a thing, there was nothing in the paper after the meeting here whether it had been granted or not, so to me, it's still I don't know whether it's approved.

COMMISSIONER VERIATO: It was in the paper.

DARLING: I am sorry but I didn't read it that day. Our facility wouldn't be the same in any way. I don't see how we could bother them at all.

STAFF PLANNER FUKU: The only duplication quite possibly would be the postal services.

DARLING: I've already turned the postal services over to Mr. McKee. He may have them because Mr. Lee said why not have two - make everybody happy; and I said you mean a mile or two miles down the road we have two post office now and we have been wanting post office for all these years. I can't understand having two of them. I mean it just wouldn't make much sense so I'd just assume they have it if they want it. I don't want to start any feud or animosity or anything else. I came up there to try and do business and be a nice guy.

STAFF PLANNER FUKU: So, your request really is for a restaurant primarily?

DARLING: Restaurant and cocktail lounge, and I would like to retract the post office.

COMMISSIONER VERIATO: You are quite aware of the projects that's coming in this Ka'u development regarding hotel complexes restaurant complexes and everything.

DARLING: I am aware of them? Yes, I am aware of everything. It has to be.

COMMISSIONER VERIATO: I was just wondering. It's a short distance from your area to this Naalehu and Punaluu Landing. It's coming up and....

DARLING: This property, I don't know whether you are aware of this property. You probably have seen it. It's a big red drive on the right hand side. It used to be the tract office of Ocean View Estates for a long time and it has a tremendous possibility. If people stop there, it's the best view of South Point that you can get any place from our lanai. There's a tour bus that stops there all the time to let the tourists see South Point from that particular vantage point and it's just a beautiful piece of land. It is actually too large for a home. It's an enormous place and we have the facilities and have already started developing the interior for such a facility. In fact, my son just lost his two fingers sawing the boards, so we got our blood on the walls.

COMMISSIONER WATT: We were thinking he was a Vietnam victim.

DARLING: No. Well, he went through that all right but he was the Admiral's cook for three years in Vietnam so he's a pretty good chef. He was with Spencecliff for three years in Honolulu. So, we think we got a winning combination. I was with Fred Astaire for 16 years and I was a marine for 9 and we had a restaurant in Florida for 7 years. It was a top restaurant, so we hope to establish a very nice place for everybody to enjoy it.

STAFF PLANNER FUKU: Another question. Did you contact the Liquor Commission regarding.....

DARLING: No, I haven't for a simple reason that I can't until the permit is granted. I don't know why I would contact the Liquor Commission. I am only going by lack of experience in that department. I know in Florida, we bought the existing place and then transferred the liquor license. We had 5 years there and there's no bad mark against us. It was a number one, Class A place and in fact it was considered the second finest restaurant in Miami proper after a year's time of operation.

CHAIRMAN: Any further questions? If not, thank you.

DARLING: Thank you.

CHAIRMAN: Anyone wishing to give further testimony in favor?

KARL EMBREY: Mr. Chairman and Commissioners, I am Karl Embrey. I was public relations and representative for this subdivision for 8 years. I am also the past owner of this piece of property that is before you. This was my ex-home and I've always thought that the place was too good a place for just a home. It was an ideal place for a restaurant and cocktail lounge.

Mr. Darling has told you that people drop in there. For 4-1/2 years that I was there, there was hardly a day that somebody doesn't come up and drive up in the yard and expects to find a place to eat, and I didn't dare put tiki torches or anything out in the front because I would have nothing but people in. But I don't want to represent myself. I represent thousands of owners in the subdivision who would like to see this go in for a place where they can stop and eat and have something if they can stop and get a drink. I guess that's 5,000 owners in the subdivision. I have personal contacts with all of them.

CHAIRMAN: Thank you.

Anyone here further wishing to give testimony in favor of?

STAFF PLANNER FUKU: Excuse me. Mr. Chairman, could I redirect another question to the applicant?

CHAIRMAN: Yes.

STAFF PLANNER FUKU: Do you already have in mind facilities or equipment for your proposed use?

DARLING: Pardon?

STAFF PLANNER FUKU: Do you already have the facilities or have made arrangements to secure equipment for your restaurant and cocktail lounge business?

DARLING: Have we made arrangements?

STAFF PLANNER FUKU: Yes, to secure either the equipment, chairs, tables and so forth.

DARLING: Oh no. Not exactly, not yet. No, because without permission, how do you go ahead? We only went ahead with the interior and getting ready with the hopes that it would go through, that's all.

STAFF PLANNER FUKU: But then, in two weeks you would be able to secure?

DARLING: Oh sure. We can be in operation in two weeks to start, but not the cocktail lounge - not until we got our license of course. But as far as the restaurant, yes, we can do all that - everything else that we have mentioned.

And, I might say, I would like to add about the school bus - the stopping. I have children - I have nine kids but only four of them lives with us at the present time but that all the others have grown up. I have seven, no eight grandchildren - I can't count any more. I'm not that old either but anyway I do have an enormous amount of children. The school bus, I understand when it stops, there's a blind spot as you come over the hill into the home; and if the bus has been stopping there, any car coming along at a good clip could hit the back of that bus and it would be a tragedy. So, I felt that if they pulled right into the property and the kids could wait on the lanai for the bus stopping in the morning, it would be lot better for them all the way around for everybody because the children do come there to be picked up. Thank you.

CHAIRMAN: Thank you.

Is there anyone here wishing to give testimony opposing the special permit?

If not, what is your pleasure?

COMMISSIONER VERIATO: Mr. Chairman, I move that the public hearing be closed.

COMMISSIONER WATT: Excuse me, should we strike out that post office on this application before we close or can we do that as I understand that the post office should be deleted.

STAFF PLANNER FUKU: The Commission has the prerogative at the time of taking action to delete that.

COMMISSIONER WATT: Okay.

CHAIRMAN: Second to that motion?

COMMISSIONER NAGATA: Second.

CHAIRMAN: It has been moved and seconded that the public hearing be closed. Any discussion?

COMMISSIONER VERIATO: Question.

CHAIRMAN: All those in favor, say aye.

COMMISSIONERS: Aye.

CHAIRMAN: Opposed? Carried.

The public hearing was adjourned at 8:21 p.m.

Respectfully submitted,

Lei A. Tsuji

Lei A. Tsuji, Secretary

A T T E S T :

Mauricio Valera, Jr.

Mauricio Valera, Jr., Chairman
Planning Commission



HONOLULU DISTRICT OFFICE
METRO AREA OFFICE
Honolulu, HI 96813

August 29, 1972

Mr. Raymond Suefuji
Planning Director
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Suefuji:

We are glad to respond to your telephone inquiry concerning the type of postal service available to residents of Hawaiian Ocean View Estates.

For about a year various residents of that area have complained about the unsatisfactory mail service. Tampering of mail boxes has been reported prevalent, resulting in non-delivery or misdelivered mail.

A recent study made by this office shows that the number of people residing in Hawaiian Ocean View Estates cannot possibly support a post office. However, representations have been made by Mr. Harry McKee and Mrs. Lorraine Darling to provide voluntary service in the receipting and handling of mail, including mailings, without cost to the Postal Service. Their proposal is acceptable, and we have informed them of our willingness to assist them whenever they were ready. This would preclude having to travel to distant post offices at Naalehu or Captain Cook.

We have advised them that the identity of a post office should not be included in this particular program. This type of postal service should be treated like a mail drop and not a post office. The suggested use of the term "mail station" or "mail drop" would relieve it of its identity as a post office.

Since this is a concerted effort by the community on a voluntary basis, the U.S. Postal Service is agreeable to provide this type of service to satisfy the needs of that community. Although we shall furnish them with support equipment, on a loan basis, in the handling of their mail, there are no charges or compensation involved.

We appreciate your interest and hope we have answered your questions to your satisfaction. If we can be of further assistance, please let us know.

Sincerely,



H. C. CHEE, Manager
Honolulu District
U.S. Postal Service

fw

JOHN A. BURNS
GOVERNOR



WALTER B. QUISENBERRY, M.D., M.P.H.
DIRECTOR OF HEALTH

WILBUR S. LUMMIS, JR., M.D.
DEPUTY DIRECTOR OF HEALTH

DEPARTMENT OF HEALTH

STATE OF HAWAII

P. O. BOX 916

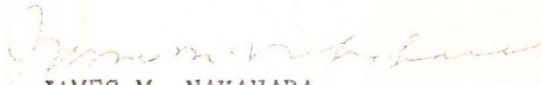
HILO, HAWAII 96720

August 8, 1972

Mr. Raymond H. Suefuji, Director
County Planning Department
25 Aupuni Street
Hilo, HI 96720

Re: Application for Special Permit by Theron L. Darling to erect
Restaurant and Cocktail Lounge at Kau Ocean View Estates,
Kau, Hawaii
TMK: 9-2-85-22/23

We recommend the approval of the above request on the basis that the
rules and regulations of the Department of Health can be complied with
satisfactorily.


JAMES M. NAKAHARA
Chief Sanitarian, Hawaii District
/hy

DEPARTMENT OF RESEARCH AND DEVELOPMENT

COUNTY OF HAWAII • HILO, HAWAII 96720 • PHONE 935-5721

MEMORANDUM

72-8-10

To: PLANNING DEPARTMENT

Date: 8/3/72

From: RESEARCH & DEVELOPMENT/pk

va

Subject: SPECIAL PERMIT APPLICATION - THERON L. DARLING (TMK: 9-2-85:22,23)

A properly located eating and drinking facility would add to visitor satisfaction of those traveling on the southern route of the Big Island.

The number of people presently residing in the area and visitors taking the southern route, however, are limited.

HAWAII DISTRICT
Department of Education

Date: July 14, 1972

To: Hawaii County
Department of Planning

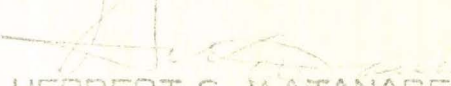
From: Hawaii District
Department of Education

Subject: Theron L. Darling

Hawaii District Department of Education has no objection to
the application.

Hawaii District recommends the following:

For the Department of Education:


HERBERT S. WATANABE
STAFF SPECIALIST
BUSINESS & FACILITIES

HAWAII DISTRICT
P. O. BOX 276
HILO, HAWAII 96720



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION

IN REPLY REFER
TO LETTER NO

HWY-H
72-2.792

July 24, 1972

Mr. Raymond Suefuji, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Suefuji:

Subject: Special Permit Application for Restaurant/Bar
Theron L. Darling, TMK: 9-2-85:22, 23
Hawaii Belt Road, Kahuku to Honuapo
Project No. F-011-1(2)

We recommend that as a condition of the special permit that access to said parcels be from Tiki Lane only and that access to the Hawaii Belt Road be closed off by incorporation of a planting easement along the property line bordering the Hawaii Belt Road.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Chas L. Schuster".

CHAS L. SCHUSTER
District Engineer



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

P. O. BOX 1820

HILO, HAWAII 96720

25 ALPANI STREET

July 19, 1972

Planning Department
County of Hawaii
Hilo, Hawaii 96720

Re: Special Permit Application
Applicant: Theron L. Darling
Tax Map Key: 9-2-85:22,23

We do not have a water system in this area. We recommend that a water system capable of delivering domestic and fire flow be provided should this request be approved.


Akira Fujimoto
Manager

WHS

cc: Theron L. Darling

... Water brings progress...

SHUNICHI KIMURA
MAYOR



HIDEO KUNIYOSHI
DIRECTOR

DEPARTMENT OF LIQUOR CONTROL

COUNTY OF HAWAII
25 AUPUNI STREET
HILO, HAWAII 96720

July 18, 1972

TO: Raymond Suefuji
FROM: Hideo Kuniyoshi
SUBJECT: Special Permit Application - Theron L. Darling

Our department has not received any inquiry from Theron L. Darling relative to a proposed restaurant and cocktail lounge in Ocean View Estates.

If the residents of the area are in agreement that such a facility is needed, and Mr. Darling meets the liquor commission's requirements as an applicant, our department has no objections to the proposed licensed premises.

As you are aware, there will be two public hearings on the application. The final approval is within the jurisdiction of the liquor commission.

Very truly yours,

Hideo Kuniyoshi
Hideo Kuniyoshi
Director

HK:kmi



COUNTY OF HAWAII
DEPARTMENT OF POLICE
HILO, HAWAII



OUR REFERENCE

ADDRESS ALL
COMMUNICATIONS TO
ERNEST J. FERGERSTROM
CHIEF OF POLICE
HILO, HAWAII

YOUR REFERENCE

July 20, 1972

Mr. Raymond Suefuji
Planning Director
Planning Department
County of Hawaii
Hilo, Hawaii

The attached application for change of zone for Airports Division, State Department of Transportation, and applications for special permit for Theron L. Darling and Parker Ranch have been reviewed for traffic considerations.

We have no comments to offer at this time and appreciate the opportunity to review these matters.

Ernest J. Fergerstrom
ERNEST J. FERGERSTROM
Chief of Police

GCA:mf

Attachments

Hilo Electric Light Company, Ltd.

HILO, HAWAII-96720

July 21, 1972

Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Attention: Mr. Raymond Suefuji, Director

Subject: Change of Zone Applications

Gentlemen:

Reference is made to the following change of
zone applications:

1. Samuel Lindsey, Tax Map Key: 6-4-02-132,
No Comments
2. David W. Branco, 25 Haihai Street, No
Comments
3. Samuel Shimizu, Honaunau, South Kona,
Hawaii, No Comments
4. County of Hawaii/Parks & Recreation Keel
Golf Course, Keel 2, South Kona, Tax Map
Key: 8-3-04:Por 9, No Comments
5. Southwood Investments, Tax Map Key:
7-5-18,29-32, No Comments
6. Amfac, Inc., Tax Map Key: 7-5-06-20, 21
and 7-5-05-62,66, No Comments

HILO ELECTRIC LIGHT COMPANY, LTD.

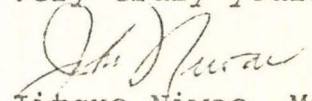
Planning Department

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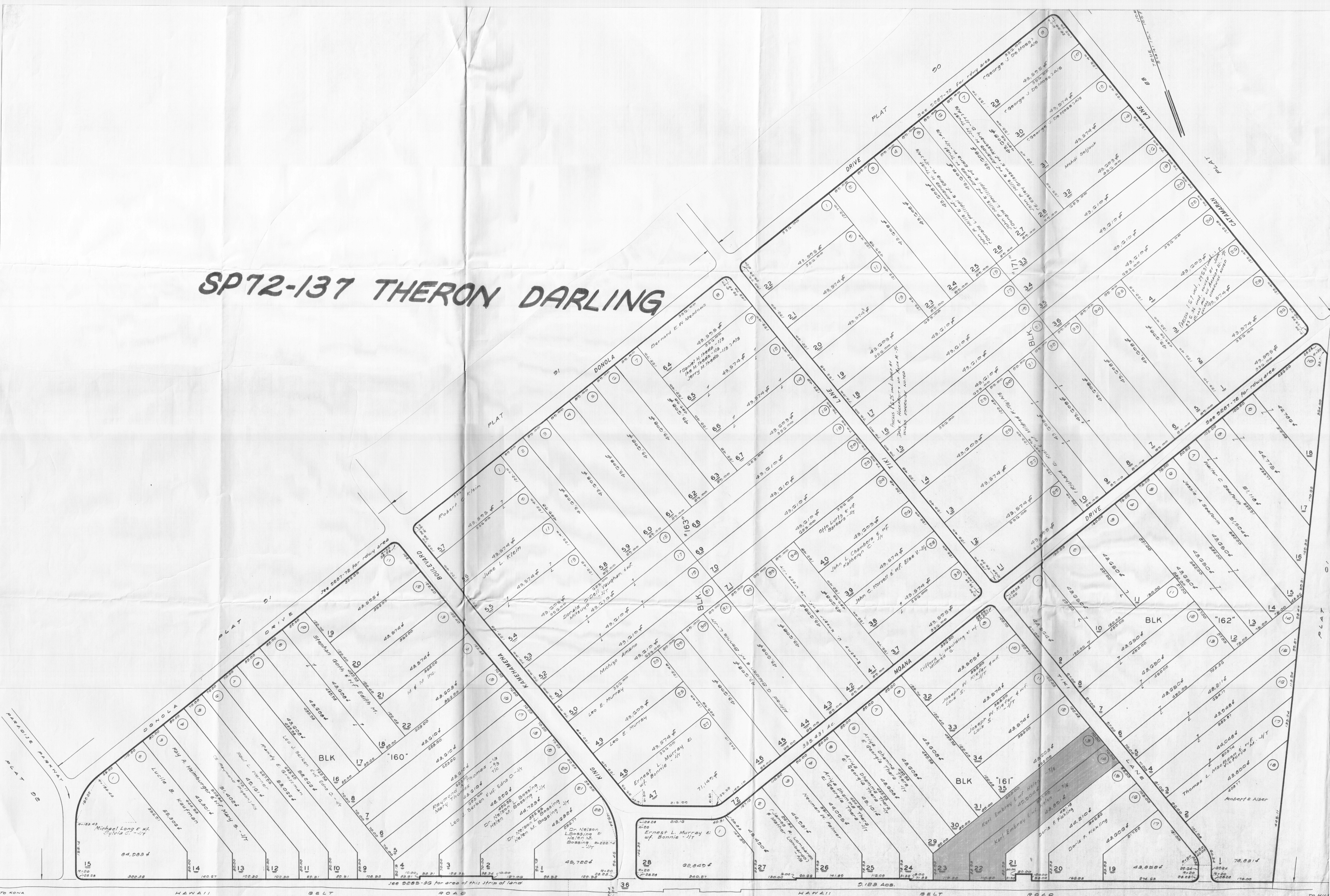
7. Parker Ranch, Tax Map Key: 6-8-01:01
(por.), No Comments
8. ~~Theron L. Darling~~, Tax Map Key:
9-2-85:22, 23, No Comments
9. Airports Division, DOT, General Lyman
Field, No Comments

Very truly yours,


Jitsuo Niwao, Manager
Engineering Department

JN:can

SP72-137 THERON DARLING



[illegible]