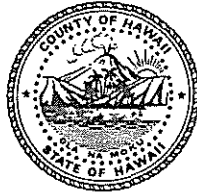


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

SEP 9 1994

Mr. & Mrs. Don Merryman
PO Box 474
Kealahou, HI 96750

Dear Mr. and Mrs. Merryman:

Special Permit Application (SPP 92-13)
Applicant: Don & Penny Merryman
Request: Establish Bedroom Bed and Breakfast Operation
TMK: 8-1-16:41

The Planning Commission on remand from the Third Circuit Court, Civil No. 92-286K, at its duly held meeting on August 25, 1994, voted to approve your application. Special Permit No. 824 is hereby issued to establish a bed and breakfast on approximately 1.250 acres of land within the State Land Use Agricultural district. The property is located on the northeast (mauka) side of the Mamalahoa Highway, approximately 250 feet mauka of the Roman Catholic Church, Keopuka, South Kona, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The Agricultural District includes areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics. The

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land is classified by the Land Study Bureau as "E" or "Very Poor" and the Soil Conservation Service classifies the soils in the area as Honaunau Series which are generally used for pasture and wildlife habitats. The conversion of an existing dwelling into a bed and breakfast is not expected to affect the agricultural potential of the property or region.

The desired use will not adversely affect the surrounding properties. The dwelling is situated on a heavily landscaped 1.25 acre lot. Surrounding properties are consist of single family residential uses to the north on lands zoned Single Family Residential (RS-10) by the County and to the east, west, and south on lands zoned A-1a. Along Mamalahoa Highway to the west of the property are various commercial uses situated on lands zoned Village Commercial (CV-10). Private roads to the property are paved, however, providing pavement improvements to the roads and driveway and parking area is recommended in order to mitigate any potential noise and dust associated with traffic.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Although the private roads leading to the property are not constructed to commercial standards, access to the property is deemed adequate to accommodate the anticipated traffic generated by a use accessory to a single family residence.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations are becoming an increasingly popular type of lodging facility for visitors seeking a more personal experience in Hawaii. A bed and breakfast facility could provide an appropriate scale of service in rural areas which do not offer full hotel services. Provision of such services could satisfy a new trend of visitor demands for an encounter with the less populated areas of the island.

The use will not substantially alter or change the essential character of the land and present use. The bed and breakfast use will remain secondary to the residential use. No significant improvements other than parking and landscaping are anticipated. Since no restaurant or commercial kitchen facilities are proposed, the bed and breakfast facility is not expected to cause impacts which

would significantly alter the character of the land and the present use.

The proposed use would be in keeping with the following Economic Policies of the General Plan:

- * The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents of the County.
- * The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Based on the above, the proposed bed and breakfast facility is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, successors, or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors, or agents under this permit or relating to or connected with the granting of this permit.
3. The applicant, successors, or assigns shall secure Final Plan Approval from the Planning Department, as specified in Section 25-242 of the Zoning Code, within one year from the effective date of this Special Permit. Plans should indicate structures, landscaping, exterior signs, one turnout (16 feet X 50 feet in size to allow two cars to pass each other going in opposite directions) on the private roads leading to the property, and paved (asphalt, concrete, or chipseal) driveway and parking stalls associated with the bed and breakfast business.

4. The applicant, successors, or assigns shall establish the bed and breakfast business within one year from the receipt of Final Plan Approval. The applicant, successors, or assigns shall notify the Planning Department in writing of the completion of required improvements prior to the establishment of the bed and breakfast business.
5. The bed and breakfast business shall be limited to the use of four (4) bedrooms. No more than ten (10) guests are permitted at the facility at one time, and the maximum length of stay for any one guest at the facility must be less than thirty (30) days.
6. The applicant, successors, or assigns must reside in the single-family dwelling which houses the bed and breakfast business in order to operate this business.
7. Breakfast service shall meet with the requirements of the Department of Health. Proof of compliance with this condition shall be submitted to the Planning Department prior to the establishment of the bed and breakfast business.
8. Drainage improvements to the property, if any, shall meet with the approval of the Department of Health and the Department of Public Works. Such approval shall be secured prior to the establishment of the bed and breakfast business.
9. Exterior signs must comply with Section 3-26 of the Hawai'i County Code, regarding signs permitted in residential districts and Section 3-32(5) relating to directional signs.
10. The applicant, successors, or assigns shall comply with all other applicable County, State, and Federal regulations.
11. An extension of time for the performance of conditions may be granted by the Planning Director only when
 - a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successor, or assigns, and that are not the result of their fault or negligence;
 - b) granting of the time extension would not be contrary

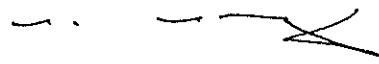
Mr. & Mrs. Don Merryman
Page 5

to the original reasons for granting of the permit; c) granting of the time extension would not be contrary to the General Plan or Zoning Code; and d) the time extension granted does not exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). If any of the conditions are not met or substantially complied with in a timely fashion after the Planning Director has given the permittee notice, this permit may be voided by the Planning Commission.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please feel free to contact Daryn Arai or Rodney Nakano of the Planning Department at 961-8288.

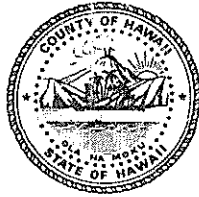
Sincerely,


Wilton Wong, Vice Chairman
Planning Commission

RKN:jdk
LMerry01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Corporation Counsel
Department of Public Works
Department of Water Supply
County Real Property Tax Division-Kona
Department of Health
Bureau of Conveyances
State Land Use Commission
Plan Approval Section

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

September 18, 2001

Mr. & Mrs. Steve Glass
Areca Palms Estate B&B
P. O. Box 489
Captain Cook, Hawaii 96704

Special Permit No. 824
Applicant: Areca Palms Estate B&B
Subject: Name Change
Tax Map Key: 8-1-016:041

This is to acknowledge receipt of your letter dated September 4, 2001 requesting that Special Permit No. 824 be transferred to the Areca Palms Estate B&B.

Our files have been updated to reflect Areca Palms Estate B&B as the applicant with you as the contact.

Should you have any further questions regarding this matter, please contact Susan Gagorik or Esther Imamura at 961-8288.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

SKG:cps
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cc: Planning Department – Kona

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