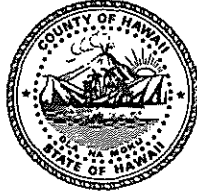


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

JAN - 3 1995

Mr. and Mrs. Ken Smith
76-770 Hualalai Road
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Smith:

Special Permit Application (SPP 94-17)
Applicant: Ken and Ann Smith
Request: Establish A Bed And Breakfast And/Or Inn Within
An Existing Single Family Dwelling
Tax Map Key: 7-6-11:11

The Planning Commission at its duly held public hearing on December 15, 1994, voted to approve your application. Special Permit No. 893 is hereby issued to establish an Inn on approximately 35,763 square feet of land in the State Land Use Rural district. The project is situated on the makai side of Hualalai Road approximately 5500 feet makai of its intersection with the Mamalahoa Highway, Holualoa 1st & 2nd Partition, North 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 of the people of the State of Hawaii. In the case of the Rural District, the intent is to preserve or keep areas of small farms mixed with low density residential lots of not less than one half acre where "city-like" concentration of people, structures, streets, and urban levels are absent.

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Mr. and Mrs. Ken Smith

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In recognizing that lands within Rural districts might not be best suited for rural activities and yet classified as such, and in recognition that certain types of uses might not be strictly rural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Rural district.

The subject property is situated within the County's Residential and Agriculture .5-acre zone district. Private lodging facilities are a permitted use within the County's Residential and Agriculture zoned district. The proposed Inn will be conducted within a substantially large existing cluster family complex. Five (5) out of seven (7) bedrooms are proposed for use as the Inn. The existing garage and open parking spaces (14) will be available for guest use. The proposed use will require no structural changes and will not significantly affect the agricultural use of surrounding areas. Therefore, based on the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations.

The desired use will not adversely affect the surrounding properties. The existing cluster home development has been used as a single family residence for the past twenty five years and the applicant will continue to operate the Inn as an accessory to their single family use.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. All essential utilities such as electricity, water and telephone are available to the subject property. All requirements of the Department of Health, Department of Public Works, and Fire Department are being met. The change in the use of the property from Single Family Residence to an Inn will attract visitors who are not familiar with Hualalai Road to the Inn. The sight distance at the existing driveways need to be re-evaluated accordingly with the Department of Public Works

The drainage system includes existing channels located on the property. Structural changes at the project site require evaluation and approval of the Department of Public Works. Conditions of approval have been attached to the permit to ensure that public safety will not be compromised.

The use will not substantially alter or change the essential character of the land and the present use. The essential character of the land is primarily rural in nature, with the low density residential uses and former and existing coffee orchards and cattle ranch pasture fields in the surrounding area. The proposed Inn will be confined to the area of the existing single

family dwelling and its surrounding grounds. There will be no major alteration to the landscape which would give this area an appearance other than what is presently there.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The proposed lodging facilities are part of a worldwide trend towards providing alternative lodging sites in rural and agricultural areas such as this particular location. A localized and unique lodging facility provides the visitor an opportunity to experience Hawaii in a home-type setting as well as contribute to the economic structure of the County. Within the County of Hawaii, there are unique areas and structures that can provide this type of service to the visitor.

The request is not contrary to the General Plan. The County General Plan Land Use Pattern Allocation Guide Map (LUPAG) map designates this area for Urban Expansion. The Kona Regional Plan land use concept map designates this area for Residential Agriculture 2-acre uses. The property is situated within the County's Residential Agriculture .5-acre (RA-.5a) zone district. Private lodging facilities are a permitted use within this zone district. Therefore, the proposal would also be in keeping with the Economic Element policies of the General Plan which states that "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" and "The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors." Additionally, one of the basis purposes of the County General Plan is "To improve the physical environment of the County as a setting for human activities - to make more functional, beautiful, healthful, interesting and efficient." The proposed Inn at this particular location will fulfill this purpose.

Approval of this request is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicants, 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 applicants, their successors or assigns, officers, employees, contractors, or agents under this permit or relating to or connected with the granting of this permit.

3. Final Plan Approval for the conversion of the cluster home complex to an Inn shall be secured from the Planning Department within three (3) years from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, fire protection measures, paved parking stalls associated with the proposed use.
4. The Inn shall be limited to use of 5 bedrooms out of the existing 7 bedrooms which are currently being used as a single family residence. Any structural addition for use as part of the Inn shall require an amendment to the Special Permit and be approved by the Planning Commission. Further, the Inn shall not be used for ceremonies or events including but not limited to weddings.
5. The applicant shall comply with the Department of Public Works requirements relating to Building, Drainage, and Roadways. The sight distance at the driveways must meet the requirements of the Hawaii State Design Manual.
6. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
7. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

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.

Mr. and Mrs. Ken Smith
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Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,

Donald L. Manalili

Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LSmith01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
Corporation Counsel
County Real Property Tax Division
State Land Use Commission
West Hawaii Office
Plan Approval Section

SENDER: Complete items 1 and/or 2 for additional services. Complete items 3, and 4a & b. Print your name and address on the reverse of this form so that we can return this card to you. Attach this form to the front of the mailpiece, or on the back if space does not permit. Write "Return Receipt Requested" on the mailpiece below the article number. The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: <i>Mr. & Mrs. Ken Smith 76-770 Puakakai Rd Kailua Kona, HI 96740</i>		4a. Article Number <i>P008-113-279</i>	
Signature (Addressee) Signature (Agent) <i>[Signature]</i>		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
		7. Date of Delivery <i>1/5/95</i>	
		8. Addressee's Address (Only if requested and fee is paid)	

P 008 113 279
SPP 94-17

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JAN - 3 1995

Sent to <i>Mr. & Mrs. Ken Smith</i>	
Street and No. <i>76-770 Puakakai Rd</i>	
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Postage	\$ <i>55</i>
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