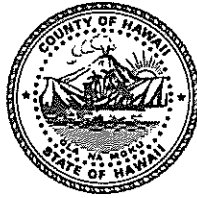


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 416 228 860

October 25, 1995

Mr. Hayward Coleman and
Ms. Star Townshend
10843 Kling Street, #7
North Hollywood, CA 91602

Dear Mr. Coleman and Ms. Townshend:

Special Permit Application No. 95-13

Applicants: Hayward Coleman and Star Townshend

Request: Establish an Organic Farm and Retreat With a Commercial Kitchen

Tax Map Key: 1-3-8:45 and 46

The Planning Commission at a duly advertised public hearing on October 11, 1995, considered the above-referenced request for a Special Permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to allow the establishment of an organic farm and retreat center with a commercial kitchen on approximately 14.244 acres of land situated within the State Land Use Agricultural District. The properties are located along and on the Kalapana side of Pohoiki Road, in the vicinity of the Lanipuna Gardens Subdivision, Lanipuna Macadamia Farms, Pohoiki, Puna, Hawaii.

The Commission voted to deny Special Permit No. 914 based on the following findings:

The applicant proposes to establish an organic farm and retreat center with a certified kitchen on two adjacent parcels of land in the Pohoiki area. The retreat center would accommodate up to a maximum of 12 guests at any one time. Approximately 1 acre out of the total 14 acres would be used to establish the applicants' residence and retreat center, with the remaining 13 acres to be planted with fruit trees, vegetables, sprouts, edible plants, flowers and bamboo. The certified kitchen would be used to prepare meals for their guests, hold vegetarian cooking classes and process various agricultural products. Establishing an organic farm on the subject property and the processing of agricultural products in a certified kitchen are permitted uses on the property, whereas the other uses require securing a special permit. The subject property is located in Pohoiki and in the Kilauea East Rift Zone and in Volcanic Hazard Zone 1. The subject property is also located in a Geothermal Resource Subzone that was established by the Board of Land and Natural Resources. Presently, Puna Geothermal Venture has a power plant in operation a little less than a mile away from the subject property.

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Based on the applicants' proposal and review of the request, the proposed retreat center is not an appropriate land use in this particular area as it would not promote the effectiveness and objectives of Chapter 205, H.R.S., as amended. The intent of these statutory provisions is 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 in Hawaii.

The subject property is located in the Kilauea East Rift Zone and in Volcanic Hazard Zone 1, which is the most hazardous zone, with Zone 9 being the least hazardous. According to the booklet, "Volcanic and Seismic Hazards on the Island of Hawaii," since 1955, approximately 28 percent of the east rift zone and its southern slope has been covered by lava flows. The latest eruption, from Pu'u O'o Cone, began in 1983 and is still ongoing. To approve a use for which a special permit is required in a high hazard area, that would allow for additional people and guests on the subject property and possibly endanger them, would not be in the best interest of public safety and welfare. This would also place the burden for evacuation and safety concerns on the County. Should a lava hazard take place, besides endangering the people, there is a possibility that roads would be impassible and that any existing development and infrastructure in the area may be destroyed, making the land unusable. As a result, the desired use will also unreasonably burden public agencies to provide roadway and safety protection improvements.

The denial recommendation is also based on the potential for similar types of requests in this area, and with cumulative impacts, further burdening governmental agencies to provide for safety and evacuation needs. By establishing this policy direction, we will begin to review similar requests in Volcanic Hazard Zone 1 with greater caution and restriction. It would not be in the best interest of the general public to do otherwise, as we would be supporting an intensification of land use in these areas of high risk at the expense of public safety.

Another issue of concern, as mentioned previously, is the location of the subject property within a Geothermal Resource Subzone. When a resource subzone is designated by the Board of Land and Natural Resources, it allows the area to be utilized for geothermal development activities upon conformance with applicable state and county land use regulations. According to Chapter 205-5.1, H.R.S., geothermal development activities means, "the exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources . . ." The subject property is located in a Geothermal Resource Subzone that was established by the Board of Land and Natural Resources and is located within close proximity of the existing Puna Geothermal Venture power plant. As such, priority is given to geothermal development. Numerous complaints regarding noise and smell were already filed against Puna Geothermal Venture by residents surrounding the power plant (including Lanipuna Gardens and Leilani Estates), resulting in litigation against Puna Geothermal Venture. The potential for future conflicts arising from existing adjacent residents can be expected, just as conflicts may arise from the proposed project. The proposed use involves residential-related uses and involves having guests on the property for retreat purposes, thereby affecting a greater number of people. One possible option would be for the applicant to require every guest who attends the retreat to sign a disclaimer or liability waiver that would be filed with the Planning Department. This type of requirement, however, would be difficult to monitor and enforce.

Mr. Hayward Coleman and
Ms. Star Townshend
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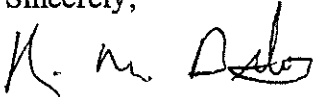
In light of this denial, we are not denying the applicants their right to gain economic benefit or from using their property in a reasonable manner. They are permitted to various uses and rights in conformance with existing permitted uses as stated within Chapter 25 of the County Zoning Code. The special permit procedure, as established by Chapter 205, H.R.S., allows for the establishment of certain unusual and reasonable uses of land situated within the Agricultural or Rural district, upon determination that the use would promote the effectiveness and objectives of Chapter 205. As a result, the discretionary right to approve or deny the request, is granted to the Planning Commission for parcels that are less than 15 acres.

Based on the above considerations, the establishment of the proposed retreat facility on the subject property would be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations and should, therefore, be denied.

As stated in Rule 6-9, "The Planning Commission's decision is appealable to the Third Circuit Court."

Should you have any questions on this matter, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Vice Chairman
Planning Commission

AK:syw
LColem01.PC

cc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
State Land Use Commission
Department of Public Works
Department of Water Supply
Corporation Counsel
Plan Approval Section