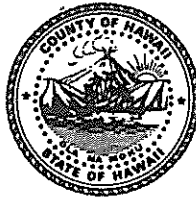


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 306

March 8, 1996

Mr. William McCowatt
P.O. Box 5044
Honokaa, HI 96727

Dear Mr. McCowatt:

Special Permit Application No. 95-18
Applicant: Sarah A. McCowatt Trust
Request: Establish Three (3) Unit Guest House
Accommodations (Vacation Rental) Facility
Tax Map Key: 4-8-7:12 and 27

Pursuant to Rule 6 of the Hawaii County Planning Commission Rules of Practice and Procedure, the Planning Commission, at its duly held public hearing on February 23, 1996, considered Special Permit Application No. 95-18 to allow the establishment of a two-unit guest cottage accommodations (vacation rental) facility within the existing second residence (ohana dwelling) and the proposed one-unit guest cottage on approximately 4.274 acres of land situated within the State Land Use Agricultural District. The property is located on the makai side of the Government Main Road at the Waipio (west) end of the village of Kukuihaele, Kukuihaele, Hamakua, Hawaii, TMK: 4-8-07: 12 and 27. The Planning Commission denied the request as the proposed guest cottage accommodations (vacation rental) establishment will substantially cause adverse affects to the surrounding area, community or region.

The Commission voted to deny Special Permit No. 926 based on the following findings:

In considering a Special Permit for any proposed use, Rule 6 of the Planning Commission relating to Special Permits states, "The Planning Commission shall not approve a Special Permit unless it is found that the proposed use:

- (a) Is an unusual and reasonable use of land situated within the Agricultural

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Mr. William McCowatt
Page 2
March 8, 1996

- (b) Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended."

The Planning Commission shall also consider the following criteria for granting a Special Permit:

- "(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- (B) The desired use shall not adversely affect surrounding properties;
- (C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection;
- (D) Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- (E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district;
- (F) The proposed use will not substantially alter or change the essential character of the land and the present use; and
- (G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans."

Non-conformance with any of the above-mentioned criteria would require that the requested Special Permit be denied.

The Planning Commission had before it the opportunity to assess a proposed use and its effect on surrounding properties and the community before such a use is approved by the Commission. As evidenced by and openly admitted by the applicant, an illegally operated vacation rental accommodation facility was being conducted on the subject property. Subsequent to the official filing of the subject application with the Planning Commission, letters and signed petitions in opposition to the proposed use were submitted to the Planning Department and forwarded to the Commission. The landowners and/or residents who reside in the immediate vicinity of the subject property as well as in the community have expressed their opposition to the request.

Mr. William McCowatt

Page 3

March 8, 1996

Many of the residents expressed the potential adverse impact to the character of the rural lifestyle and affected agricultural area, increase in property value and taxes and increase in traffic to the already substandard government road. The residents also expressed that there are existing facilities and commercial areas available in Honokaa town and proposed resort areas which allow for vacation accommodations. Hence, the proposed use or any commercial uses should not infringe and be established in residential and agricultural areas.

The existing driveway to the dwellings allows for only one car traffic at a time and portion of the driveway has been observed to be in an unsafe condition. The proposed use has and would cause traffic hazards at the driveway entrance as site distance is not adequate from the property.

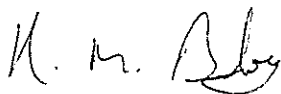
The discussion above indicates that the proposed use will not be consistent with the goals of the County General Plan which states that the County shall "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County."

Based on the foregoing, the request for a Special Permit to allow the establishment of a three (3) unit guest cottage accommodations (vacation rental) facility located on the subject property is denied.

Pursuant to its Rules, the Planning Commission's denial 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, Chairman
Planning Commission

AK:syw

LMcCow01.PC

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