Stephen K. Yamashiro
Mayor

County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
Z 095 323 290

February 16, 1996

Marianna and Reiner Schrepfer
P.O. Box 122
Captain Cook, HI 96704

Dear Mr. and Mrs. Schrepfer:

Special Permit Application (SPP 95-27)
Applicant: Marianna and Reiner Schrepfer
Request: Establish a Two-Bedroom Bed and Breakfast Operation
Tax Map Key: 8-1-7:10

The Planning Commission at its duly held public hearing on February 1, 1996, voted to approve the above-referenced application. Special Permit No. 924 is hereby issued to allow the establishment of a two-bedroom bed and breakfast operation on approximately 6.916 acres of land situated within the State Land Use Agricultural District. The property is located in the Kona Kali Farms Subdivision, approximately 676 feet on the makai side of Mamalahoa Highway at Keopuka, South Kona, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. 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 Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are classified as "E" of "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH map.

In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural 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 Agricultural district.

The subject property is situated within the County's Agricultural-5 acres zoned district. The proposed bed and breakfast would be situated on a 6.916 acre parcel of land.

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The proposed use will not take significant lands out of the agricultural inventory for this area and will not significantly affect the agricultural resource of the area. The proposed use will be confined within the existing dwelling and its immediate vicinity. The subject property is presently being used for agricultural purposes, and no active agricultural lands will be taken out of production to provide the area necessary to establish this use.

The approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the above-referenced subject conditions. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has been in agricultural use in years.

The request is not contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG map, which designates the property for Agricultural uses. The proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use Element

* Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.

* The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

* Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.

* The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

The desired use will not adversely affect the surrounding properties. The dwelling is situated on a 6.916 acre parcel. Surrounding the property are lands zoned A-5a. Along the Mamalahoa Highway to the west and east of the property are various single family residences situated within zoned RS-10. The driveway to the property is base course. Pavement improvements to the 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, police and fire protection. The site is currently served by water, telephone and electrical utilities. The traffic to be generated by the proposed bed and breakfast use is minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated by the use accessory to the dwelling. The applicant shall meet all applicable agency requirements of the Departments of Transportation, Health, Public Works and the Fire Department prior to the establishment of the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations are becoming a 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 in 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 the 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. Applicable agencies reviewing the request had no objections to the proposal.

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

Approval of this request is subject to the following conditions:

1. The applicants, 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 and death arising out of any act or omission of the applicants, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.

3. The bed and breakfast business shall be established within one (1) year from the effective date of this permit. Prior to the establishment of the bed and breakfast business, Final Plan Approval shall be secured from the Planning Director. The applicants, 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.

4. The bed and breakfast business shall be limited to the use of two (2) bedrooms.

5. The applicant shall comply with all applicable requirements as stated in Ordinance No. 92-104, regulating bed and breakfast establishments.

6. Driveway access(es) and drainage improvements to the property, if any, shall meet with the requirements of the Department of Public Works. Such approval shall be secured prior to the establishment of the bed and breakfast business.

7. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.

8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

   A. 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.

   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).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this 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.

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

Sincerely,

K. M. Balog

Kevin M. Balog, Chairman
Planning Commission

AK:syw
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cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Department of Land & Natural Resources