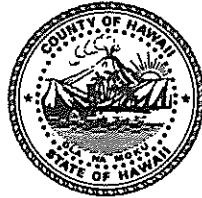


Stephen K. Yamashiro
Mayor



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 7631

SEP 30 1996

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application (SPP 96-15)
Applicant: Charles and Barbara Campbell
Request: Establishment of a Two-Unit Vacation Rental Facility
Tax Map Key: 6-5-1:45

The Planning Commission at its duly held public hearing on September 19, 1996, voted to approve the above-referenced application. Special Permit No. 945 is hereby issued to allow the establishment of a 2-unit vacation rental facility within an existing ohana dwelling situated on approximately 20,000 square feet of land within the State Land Use Agricultural District. The property is located on the mauka side of Kawaihae Road, approximately 500 feet east (Waimea side) of the Kawaihae Road-Kohala Mountain Road junction at Waiaka, South Kohala, 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 "C" of "Fair" by the Land Study Bureau's Overall Master Productivity Rating and classified Prime Agricultural land 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.

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SEP 30 1996

The subject property is situated within the County's Agricultural-1 acre zoned district. The proposed vacation rental facility is situated on a 1.14 acre parcel of land. 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 ohana dwelling and its immediate vicinity. The subject property is presently being used for domestic vegetable and flower crops, 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 and policies 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 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 desired use will not adversely affect the surrounding properties. The dwelling is situated on a 1.14 acre parcel. Surrounding the property are lands zoned A-1a and RS-10. The Hawaii Preparatory Academy (HPA) complex is located directly to the northwest. The HPA campus site is zoned Single Family Residential - 10,000 square feet and is within the State Land Use Urban District. The driveway to the property is paved asphalt. There will be two paved parking spaces in addition to the two other parking stalls for the existing dwelling 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 and police and fire protection. The site is currently served by water, telephone and electrical utilities. The traffic to be generated by the proposed vacation rental facility would be minimal. 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. Transient vacation rental facility accommodations are becoming a popular type of lodging facility for visitors seeking a more personal experience in Hawaii. A transient vacation rental 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. Bed and Breakfast operations which are similar in nature are allowed in the Zoning Code by Use Permit which addresses similar impacts. Bed and Breakfast establishments apply to stays of less than thirty (30) days and which serve meals to guests. The transient vacation rental facility will be rented for both short and long-term basis, and the applicants will not be serving meals to guests or occupants.

The use will not substantially alter or change the essential character of the land and the present use. The transient vacation rental facility will remain secondary to the residential use. No significant improvements are anticipated. Since no restaurant or commercial kitchen facilities are proposed, the transient vacation rental facility is not expected to cause impacts which would significantly alter the character of the land and the present use. Guests and renters have access to the kitchen located within the dwelling. Applicable agencies reviewing the request had no objections to the proposal.

Based on the above considerations, the proposed transient vacation rental facility 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 transient vacation rental business shall be established within five (5) years from the effective date of this permit. Prior to the establishment of the transient vacation rental 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 transient vacation rental business.
4. The transient vacation rental business shall be limited to the use of a two (2) bedroom cottage.
5. Driveway access(es) and drainage improvements to the property, if any, shall meet with the requirements of the Department of Public Works and Department of

Transportation. Such approval shall be secured prior to the establishment of the transient vacation rental business.

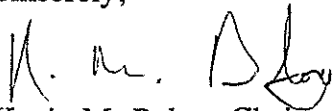
6. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
7. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is 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,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LCampb01.PC

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
Charles and Barbara Campbell