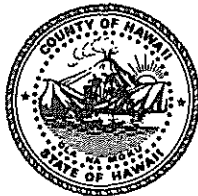


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
Z 095 324 881

DEC 2 0 1999

Ms. Mara Hisiger and Mr. John Rees
P.O. Box 4
Captain Cook, HI 96704

Dear Ms. Hisiger and Mr. Rees:

Special Permit Application (SPP 99-004)

Applicant: Mara Hisiger and John Rees

Request: Establishment of a Two Bedroom Bed and Breakfast Operation

Tax Map Key: 8-3-10:28

The Planning Commission at its duly held public hearing on December 2, 1999, voted to approve the above-referenced application. Special Permit No. 1041 is hereby issued to allow the establishment of a two-bedroom bed and breakfast operation within an existing dwelling situated in the State Land Use Agricultural district. The property is located on the west side (makai) of Middle Government Main Road, approximately 1/2 mile northwest from its intersection with Mamalahoa Highway, Keei 2nd, South Kona, Hawaii.

Approval of this request is based on the following:

The proposed Bed and Breakfast use is an unusual and reasonable use of land situated within the State Land Use Agricultural District. 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 one acre in size. The bed and breakfast operation will be confined to the existing dwelling and its immediate vicinity. The remaining portion of the property is presently used for agricultural purposes and no active agricultural lands will be taken out of production to provide the area necessary to

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establish the bed and breakfast use. Further, the proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has been in agricultural use for some time.

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 use will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and "Unclassified" land by the Department of Agriculture's ALISH Map.

The subject property is situated within the County's Agricultural-5 acre zoned district. Bed and breakfast establishments are a permitted use within the County's Agricultural zone district provided a Special Permit is secured. As previously mentioned, the bed and breakfast operation will be confined to the existing dwelling and its immediate vicinity. The property has been farmed for coffee in the past and the applicants have reestablished abandoned coffee plantings and intend to continue the agricultural activity. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The desired use shall not adversely affect the surrounding properties. The dwelling is situated on a 1.000 acre parcel. The surrounding area consists of a mixture of agricultural activities, single-family residences and vacant lots. The zoning pattern in the vicinity is a mixture of Agricultural-1 acre (A-1a) and Agricultural-5 acres (A-5a). A 10-foot wide gravel driveway runs 48 feet from Middle Government Main Road along the northwest portion of the property to the guest parking area. Guest parking consists of two (2) gravel parking stalls measuring a total of 18-feet wide by 15-feet long. These parking spaces are 12 feet from the northern boundary of the property. An additional 10-foot wide concrete driveway runs 46 feet west from Middle Government Main Road to the existing one-car carport which will continue to be used by the applicants. The property has in place mature landscaping and coffee trees that will mitigate any potential noise and view from the proposed bed and breakfast use.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The site is currently serviced by water, telephone and electrical utilities.

The traffic to be generated by the bed and breakfast facility is minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated. The applicants shall meet all applicable agency requirements of the Department of Health, Department of Water Supply, Department of 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. The purpose of the special permit request is to allow the establishment of bed and breakfast accommodations which has become part of a worldwide trend towards providing alternative lodging sites in rural and agricultural areas such as this particular location. They are becoming increasingly popular for visitors who seek a more localized and authentic experience in home-type setting. Such small-scale use is consistent with the social and physical character of a rural-agricultural area and contributes to the economic structure of the County.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Further, the proposed use will not substantially alter or change the essential character of the land and the present use. The subject property presently has the existing 2-story dwelling which a portion will be used for the bed and breakfast operation. No existing agricultural plantings will be removed to provide for the proposed use. Therefore, from a physical standpoint, there will be no major alteration to the landscape which would give this area an appearance other than what is presently there.

The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Extensive 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.

Based on the above considerations, the approval of the proposed bed and breakfast operation 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. 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.

1. The applicants, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval for the establishment of a bed and breakfast accommodation facility within the existing dwelling shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-72, 25-2-73 and 25-4-7, within two (2) years from the effective date of this permit. Plans shall identify existing and proposed structures and/or rooms (including the lower level of the dwelling which consists of two separate bedroom/bath and bar area), landscaping, fire protection measures, driveway and two (2) gravel parking areas associated with the proposed use.
3. The bed and breakfast business shall be limited to the use of two (2) bedrooms.
4. Prior to the establishment of the bed and breakfast operation, the applicants shall secure approvals for all applicable building, plumbing and electrical permits for the lower level of the dwelling which consists of two separate bedroom/bath and bar area.
5. The applicants shall comply with the requirements of the Department of Water Supply prior to the establishment of the bed and breakfast operation.

6. Driveway access to the property shall meet with the approval of the Department of Public Works.
7. Drainage improvements to the property, if required, 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.
8. The applicants shall comply with all applicable requirements of the Zoning Code.
9. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
10. If the applicants fail to comply with the conditions of approval or causes complaint(s) relating to any interference, nuisance or added off-site parking and is unable to resolve them with the surrounding community, the Planning Director shall investigate and, if necessary, suspend the permit. The Planning Director shall then refer the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the applicants fail to comply with the conditions of approval or has caused any unreasonable interference, nuisance, or added off-street parking on the surrounding community, the permit may be revoked.
11. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health, for approval of the proposed use.
12. 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.

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- 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).

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 contact Pam Harlow of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

Lhisiger02PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu