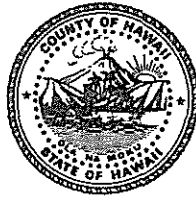


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 324 875

DEC 20 1999

Frank and Pat Isham
P.O. Box 1237
Captain Cook, HI 96704

Dear Mr. and Mrs. Isham:

Special Permit Application (SPP 99-011)
Applicant: Frank and Pat Isham
Request: Establish a Four-Bedroom Bed and Breakfast Operation
Within a Farm Dwelling
Tax Map Key: 8-3-7:54

Note: Should be
Special Permit 1042

The Planning Commission at its duly held public hearing on December 2, 1999, voted to approve the above-referenced application. **Special Permit No. 1040** is hereby issued to allow the establishment of a four-bedroom bed and breakfast operation within an existing farm dwelling situated in the State Land Use Agricultural District. The property is located on the west side (makai) of Middle Keei Road, approximately 1.8 miles 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 10.2 acres in size. The bed and breakfast operation will be confined to the existing dwelling and its immediate vicinity, about .5 acre. 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 establish the bed and breakfast use. Further, the proposed use would not displace agricultural activity nor

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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 would be a permitted use within the County's Agricultural District provided a Special Permit is secured. The bed and breakfast operation will be confined to the existing dwelling and its immediate vicinity. The property has an income-producing macadamia nut tree orchard consisting of approximately 400 mature trees. 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 10.2-acre parcel of land. Surrounding properties are zoned Agricultural-5 acres (A-5a). Surrounding uses consist of a mixture of agricultural activities, single-family residences and vacant lots. Access to the property is provided by two cement driveways, both of which are approximately 60 feet long and vary in width from 11 to 30 feet. One driveway is accessed directly from Middle Keei Road at which point it is approximately 30 feet wide. This driveway narrows to a width of approximately 11 feet, travelling northwest before widening to approximately 15 feet and leading to a parking area. The other driveway is accessed via a private road, Hua Nani Place, which is approximately 25 feet south of the first driveway. Hua Nani Place is approximately 35 feet wide at the point where it meets Middle Keei Road. The second driveway begins approximately 50 feet south of the intersection of Middle Keei Road and Hua Nani Place and has a beginning width of approximately 25 feet. The driveway narrows to approximately 12 feet as it travels approximately 60 feet to the west and along the southern property boundary of the property before leading north to a second parking area. The two parking areas provide a total of five parking spaces. An area measuring approximately 25 feet wide by 20 feet long at the end of the northern driveway will provide space for two gravel parking spaces while an area measuring 40 feet wide by 20 feet long at the end of the southern driveway will accommodate three gravel parking spaces. At a maximum, four of these spaces will be used for guest parking. The one

remaining parking space will be used by the applicants. These parking spaces are approximately 30 feet from the eastern boundary of the property, which abuts Middle Keei Road. The property has in place mature landscaping, including a buffer along the driveway which runs parallel to the southern border, 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 one-story five-bedroom farm dwelling, of 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 Land Use Pattern Allocation Guide (LUPAG) Map, which designates the property for Orchard 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, landscaping, fire protection measures, driveways and four (4) gravel parking areas associated with the proposed use.
3. The bed and breakfast business shall be limited to the use of four (4) bedrooms.
4. The applicants shall comply with the requirements of the Department of Water Supply prior to the establishment of the bed and breakfast operation.

5. Driveway access to the property shall meet with the approval of the Department of Public Works.
6. 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.
7. The applicants shall comply with all applicable requirements of the Zoning Code.
8. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
9. 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.
10. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health, for approval of the proposed use.
11. 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).

Frank and Pat Isham

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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 Eleanor Mirikitani 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

Lisham01PC

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