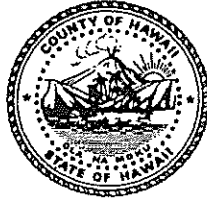


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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MAR 19 2001

Amy and Rick Decker  
75-1027 Henry Street, # 310  
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Decker:

Special Permit Application (SPP 00-028)

Applicant: Amy and Rick Decker

Request: Establish a Five-Bedroom Guest Ranch in an Existing Farm  
Dwelling; Ohana Dwelling; and Proposed Guest House

Tax Map Key: 7-3-8:70, 122 and 123

The Planning Commission at its duly held public hearing on March 2, 2001, voted to approve the above-referenced application. Special Permit No. 1105 is hereby issued to establish a five-bedroom guest ranch in an existing farm dwelling, ohana dwelling and a proposed guest house on approximately 10.15 acres of land in the State Land Use Agricultural District. The property is known as Silver Oaks Ranch located in Kaloko Farm Lots, approximately 700 feet south (makai) of Mamalahoa Highway and 200 feet southwest of Kaloko Drive, Kaloko, North Kona, Hawaii.

Approval of this request is based on the following:

The proposed Guest Ranch 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 properties are 3.115, 3.227 and 3.806 acres in size, respectively. The proposed guest ranch accommodations consist of two bedrooms in the farm dwelling, two bedrooms in the ohana dwelling and one bedroom within the proposed guest house, which is currently used as a farm storage building. The bedroom and bath contained within a 275 square foot portion of the farm storage building was constructed by the

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MAR 19 2001

previous owners without securing the necessary building permits from the Department of Public Works. All three of these structures are located on one of the three parcels. Guest ranch activities, consisting of horseback riding, riding lessons, horse care experience, swimming, ping pong, horse shoe games, hiking and stargazing, will take place on all three properties. The majority of the subject properties are presently used for the existing horse farm and no active agricultural lands will be taken out of production to provide the area necessary to establish the guest ranch. Further, the proposed use would not displace agricultural activity nor diminish the agricultural potential of the area but rather complement the existing horse farm on the subject properties.

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 "D" or "Poor" by the Land Study Bureau's Overall Master Productivity Rating. The Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii Map classifies the subject properties as "Other Important Agricultural Land." Other Important Agricultural Land is defined as land other than Prime or Unique Agricultural Land that is also of state-wide or local importance for agricultural uses. Accommodations for the proposed guest ranch will be confined to existing structures on one of the subject properties and ranch activities will complement existing agricultural uses on all of the properties. Thus, the proposed use will not take any active agricultural lands out of production nor will it diminish the agricultural potential of this important agricultural land. The subject property is situated within the County's Agricultural-3 acre zoned district. Guest Ranch establishments are a permitted use within the County's Agricultural zone district provided a Special Permit is secured. 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 subject properties consist of approximately 10.15 acres. The surrounding area consists of a mixture of agricultural activities, farm dwellings and vacant lots. The majority of the surrounding properties are also zoned Agricultural-3 acres (A-3a), while one adjacent property to the southeast is zoned Agricultural-1 acre (A-1a). Lot sizes range from three to ten acres in size. One neighboring dwelling is located approximately 50 yards from the ohana dwelling while the next closest dwellings are more than 100 yards from either dwelling on the subject properties. The applicants anticipate a maximum of eight guests daily, with a maximum of four guest vehicles entering and leaving the property a maximum of twice daily. Parking for guests, residents and visitors will be provided

entirely on the subject properties, one of which has a concrete-paved parking area for up to twelve cars. Access is from Mamalahoa Highway, approximately one mile north of the Palani Road/Mamalahoa Highway junction, and 200 feet southwest of Kaloko Drive. In this area, Mamalahoa Highway has an 80-foot wide right-of-way and 22-foot wide pavement with a posted speed limit of 45 miles per hour. A private access road on the west (makai) side of Mamalahoa Highway travels approximately 700 feet to the front of the northernmost of the subject properties and also serves two other neighboring properties located further to the west. However, one of these other properties does not use the access road. The access road has a 40-foot wide right-of-way and 10-foot wide concrete pavement. There is also a 40-foot wide access and utility easement that connects with the main access road and travels south along the eastern boundary of all three of the subject properties. The State Department of Transportation (DOT) requires the installation of street lighting at the intersection of the access road with Mamalahoa Highway and off site improvements to meet site distance requirements, if sight distance restrictions are not caused by design features of Mamalahoa Highway itself. For a three-leg intersection with a posted speed limit of 45 miles per hour and 22-foot pavement width, the DOT requires a sight distance of 770 feet as measured 15 feet from the stop bar or, if no stop bar is present, the usual stopping point at the intersection. According to the applicants, the sight distance to the north of the intersection of the access road and Mamalahoa Highway is approximately 200 feet when measured 15 feet from the stopping point. When the line of sight is measured at 13 feet from the stopping point, however, it is at least 800 feet from the intersection. Beyond this point, the line of sight is restricted by a crest in Mamalahoa Highway itself. The applicants have applied for a variance from the Department of Transportation's line of sight requirements. If this variance is not approved, the applicants will be required to meet the DOT line of sight requirements by cutting away the rock embankment that presently restricts the line of sight north of the intersection. As a condition of approval, the applicants shall be required to comply with all of the Department of Transportation's requirements.

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 guest ranch facility is minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated. The access road is owned by the applicants and two other landowners whose property abuts the roadway. The two landowners have expressed their concerns regarding potential liabilities on the use of the access road by guests and/or visitors associated with the guest ranch operation. Therefore, a condition of approval has been included which requires the applicants, its successors or assigns maintain a continuous liability insurance coverage and to indemnify all owners of the access road. 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 this special permit request is to allow the establishment of a guest ranch. This type of alternative visitor accommodation, similar to bed and breakfast operations, capitalizes on the increasing local, national and worldwide trends towards providing alternative lodging sites in rural and agricultural areas such as this particular location. These types of alternative accommodations are becoming increasingly popular for visitors who seek a more localized and authentic experience in a home-type setting. Such small-scale use is consistent with the social and physical character of a rural-agricultural area, contributes to the economy of the County, and complements existing agricultural activities.

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. While the subject properties are classified as "Other Important Agricultural Land" by the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii Map, the soils contained on the properties are also classified as "D" or "Poor" by the Land Study Bureau. Furthermore, the U.S. Soil Survey states that although this soil is not suitable for cultivation, small areas are used for pasture, macadamia nuts, papaya, and citrus fruits. The majority of the subject properties is actively used for a horse farm consisting of pastures, paddocks and training areas. None of the area currently used in this manner will be taken out of agricultural use. The guest ranch accommodations will consist of two bedrooms in an existing farm dwelling, two bedrooms in an existing ohana dwelling and one bedroom in a proposed guest house located within part of an existing farm storage building. No modifications or additions to these existing structures are planned by the applicants. 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 Urban Expansion 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 guest ranch 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 guest ranch accommodation facility shall be secured from the Planning Director in accordance with the Zoning Code, Section 25-2-72, 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, driveway and five (5) parking areas associated with the proposed use.
3. The guest ranch operation shall be limited to the use of two (2) bedrooms in the farm dwelling, two (2) bedrooms in the ohana dwelling and one (1) bedroom in the guest house.

4. The applicants shall secure approvals for all applicable building, plumbing and electrical permits for the bedroom and bath located within the existing farm storage building prior to the establishment of the guest ranch operation.
5. The applicants shall comply with the requirements of the Department of Transportation prior to the establishment of the guest ranch operation. Improvements shall include the installation of street lighting at the intersection of Mamalahoa Highway and the access road, and, if required, off-site improvements to comply with Department of Transportation sight distance requirements.
6. The applicants shall comply with the requirements of the Department of Water Supply prior to the establishment of the guest ranch operation. These requirements include the submittal of water use calculations prepared by an engineer registered in the State of Hawaii and, if required, the installation of a larger water meter to accommodate increased water use. The applicants shall also install backflow preventers on each of the existing meters that are to remain in service.
7. Driveway access to the property shall meet with the approval of the Department of Public Works.
8. 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 guest ranch operation.
9. The applicants shall comply with all applicable requirements of the Zoning Code.
10. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
11. 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.

12. Prior to the establishment of the guest ranch operation, the applicants, its successors or assigns shall maintain a general commercial liability policy, with per occurrence limits of not less than five million dollars (\$5,000,000) that will indemnify all owners of the 40-foot wide roadway (Lot 10) fronting the subject property from financial liability related to activities associated with the guest ranch operation. This insurance coverage shall be continuously maintained for the duration of the guest ranch operation. In the event that there is any lapse in required insurance coverage, the applicants, its successors or assigns shall immediately notify the Planning Director in writing, and the Director shall investigate and if necessary, suspend the permit. The Director shall then refer the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the applicants, its successors or assigns fail to comply with this condition of approval, the permit shall be revoked.
13. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health, for approval of the proposed use.
14. 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).

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.

Amy and Rick Decker  
Page 8

Should you have any questions, please contact Daryn Arai of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Ldeckersp00-028PC

cc: 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  
Brian Minaai, Director/DOT-Highways, Honolulu  
Department of Health