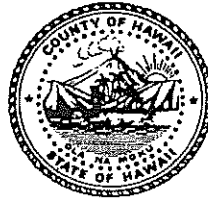


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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AUG 14 2001

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

Dear Fuke:

Special Management Area Use Permit Application (SMA 00-003)
Special Permit Application (SPP 01-006)
Applicant: Robert Watkins and Jean Sunderland
Request: Establishment of a 16-Room Hawaiian Permaculture and Wellness Retreat
Tax Map Key: 5-4-9:Portion of 1

The Planning Commission at its duly held public hearing on August 2, 2001, voted to approve the above-referenced applications. Special Management Area (SMA) Use Permit No. 417 and Special Permit No. 1117 are hereby issued to establish a 16-room Hawaiian Permaculture and Wellness Retreat on approximately 5± acres of land situated in the State Land Use Agricultural District. The property is located approximately one mile makai from Akoni Pule Highway and Kamehameha Park, Hanaula and Honopueo, North Kohala, Hawaii.

Approval of this requests are based on the following:

- Special Management Area Use Permit (SMA 00-003)

The purpose of Chapter 205-A, Hawaii Revised Statutes and Rule 9, Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves by dedication or other means.

007170

AUG 14 2001

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The proposed Hawaiian Permaculture and Wellness Retreat (hereinafter referred to as "retreat") will not have any significant adverse environmental or ecological effect. The project site, consisting of approximately 5 acres, is situated on lands formally cultivated in sugar cane, with the exception of that portion within Hanaula Gulch. With the exception of the gulch, sugar cane production essentially eliminated any habitats that could have supported endangered species of plants or animals. The applicants have conducted a botanical survey that is consistent with previous findings from an earlier survey that concluded that indigenous and endemic plants are not situated within the project site, but are located within Conservation lands situated immediately makai of the project site. The applicants have also referenced a faunal survey conducted for a similar project located approximately 1.5 miles to the east that concluded that the project site does not provide habitat for any endangered species of animals. According to the applicants, proposed structures and its related improvements will only occupy about 1 acre of land within the 5-acre project site. Another 3 acres will be cultivated for vegetables, fruits and herbs. The limited nature of proposed improvements and activities are not anticipated to impart any significant adverse impacts to the physical environment within the immediate area. Wastewater generated by the proposed retreat will be disposed of within an aerobic septic system that will comply with applicable Department of Health requirements. During construction, the applicants will abide by current construction practices to minimize any dust and runoff that may be generated.

The proposed project is consistent with the objectives, policies and guidelines of the Special Management Area. These objectives and policies were established to provide guidance for the preservation, protection and development of coastal resources of the State and County. They identify several areas of management concerns including historic, recreational, scenic resources, coastal ecosystems, economic use and coastal hazards.

The proposed retreat will not interfere with any recreational resources, natural shoreline processes or impact view planes to the coastal area. Coastal recreational resources will not be adversely impacted by the proposed retreat due to the location of the project site approximately 200 feet inland from the shoreline. Coastal recreational opportunities within this area are limited since cliffs dominate the shoreline. Visual impacts from the Akoni Pule Highway are expected to be minimal due to vegetation that exists makai of the highway that does not afford a viewplane to the coastline. The project site is situated close to a mile makai of the Akoni Pule Highway. This distance, combined with proposed structures that will not exceed 30 feet in height, will minimize adverse visual impact to adjoining properties and from the Akoni Pule Highway.

Compliance with existing governmental regulations to control runoff, drainage and erosion, especially during the project's construction phase, would mitigate any adverse impact to the area's environment or the ecology of the area's coastal waters.

Wastewater generated by the proposed retreat will be disposed of within an aerobic septic system designed and constructed in accordance with the requirements of the State Department of Health. The distance of the project site from the shoreline, about 200 feet, should provide a reasonable physical buffer between the project site and the shoreline environment to further minimize any adverse interaction that may be generated by the proposed retreat.

The project site is situated outside of the 100-year flood plain (Zone X) and well outside of the coastal portions of the subject property that are subject to coastal flooding hazards, such as coastal storm waves. The construction of all structures and facilities within the project site will be required to comply with applicable requirements of the Building Code as well as with the County's Flood Control Code.

In order to ensure the proper disposal of solid waste generated by the proposed retreat and to encourage its recycling, this approval recommendation will require the applicants to develop a solid waste management plan meeting with the approval of the Planning Director. The applicants have noted within its applications that the proposed retreat "*relies considerably on the concept of recycling.*"

An archaeological assessment of the project site was done by Haun and Associates on February 16, 2001. The assessment concluded that no historic or prehistoric artifacts or structures were observed within the proposed building sites. The applicants noted the following within their applications:

"To address potential cultural and archaeological matters, it is noted that there was no identifiable mauka/makai coastal access found on the site. Further, there appeared to be evidence of the site serving as a gathering of native plants. Notwithstanding that, the applicants are prepared, through its program of instituting Native Hawaiian plants, to collaborate with native Hawaiians with valid claims to this area in opening up access."

While the archaeological assessment concludes that the proposed retreat will not adversely impact archaeological and historic features, the applicants did disclose that there does appear to be evidence of gathering of native plants from within the project site. The applicants submitted a supplementary letter dated May 28, 2001 concerning traditional Hawaiian uses of the area. They indicate that there is no gathering of plants but that they have seen an individual going to the shoreline to pick 'opihi.

Although the coast fronting most of the subject property consists of a high sea cliff, it is possible to walk to the shoreline through Hanaula Gulch. This gulch is one of a handful of places where people can actually reach the shoreline on the North Kohala coast between the communities of Hawi and Niulii, a distance of about six miles. It

potentially provides access to shoreline natural resources for traditional Hawaiian gathering and fishing. There is also a "Lincoln Family Grave Lot" located within the subject property. This is, apparently, the location of family graves of the Lincoln Family. The access to the proposed site is presently blocked at some distance away.

The applicants have committed to collaborate with native Hawaiians with "valid claims to this area" in providing access. At this time, it is not clear exactly what evidence exists that leads the applicants to arrive at these findings nor is it clear what resource within the project site are being gathered. Nevertheless, the applicants have demonstrated its commitment to preserve native Hawaiian gathering rights within the project site should they be substantiated. A condition of this approval recommendation will provide a mechanism by which the preservation of traditional and customary native Hawaiian practices within the project site are identified and protected.

On the matter of coastal access, there are no known mauka-makai public shoreline access that will be adversely affected by the establishment of the proposed retreat. However, Chalon International of Hawaii, Inc., the current owner of the project site and surrounding lands, did propose the construction of the Kohala Coastal Trail on lands situated immediately makai of the project site within the State Land Use Conservation District. While this coastal trail was never completed or established, the Planning Department does recognize the importance and desire of preserving its alignment along the North Kohala coastline. Therefore, it is recommended that a condition of approval be included to require the applicants to work with the Planning Department to identify and establish a lateral shoreline public access on lands situated immediately makai of the project site.

The establishment of the proposed retreat within the Special Management Area is consistent with the General Plan and Zoning Code. The property is zoned A-20a by the Zoning Code, and the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map designates the area as Intensive Agriculture. The proposed retreat would complement the following goals and policies of the General Plan:

Land Use

- Designate and allocate land uses in appropriate proportions 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

- Provide residents with opportunities to improve their quality of life.
- 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 strive for an economic climate which provides its residents an opportunity for choice of occupation.

Natural Beauty

- Protect scenic vistas and view planes from becoming obstructed.

The proposed retreat, will integrate proposed agricultural activities within the project site and within its operations and programs. More specifically, the applicants will establish fruit, vegetable and herbal gardens within the project site. The overall concept of the proposed retreat is to enable guests to learn and experience the cultivation of agricultural practices and the benefits of traditional Hawaiian food and medicinal herbs, as well as spiritual wellness through a series of "hands-on" programs. The agricultural products grown on-site will be served to guests while the Hawaiian medicinal herbs would be used as part of the retreat's educational and wellness programs. Staff employed by the retreat will assist guests in the cultivation and maintenance of the gardens. Through its proposed programs, the applicants have demonstrated its commitment to conduct agricultural activities in a manner consistent with the objectives of the General Plan by blending together two distinct uses that will mutually benefit each other, yet preserve the agricultural character of the project site and the surrounding community.

The North Kohala Community Development Plan, adopted in 1984 by Planning Commission Resolution No. 2-84, "*Encourage the development of conference and retreat facilities which capitalize on North Kohala's agricultural and historical resources.*" As previously mentioned, the proposed project will incorporate various agricultural activities within the project site and in its operations. This "blending" of a retreat facility and agricultural activities is consistent with this specific recommendation of the North Kohala Community Development Plan. The vision for retreat facilities that capitalize on North Kohala's agricultural resources has been in place for at least 15 years and is slowly being realized as North Kohala further establishes itself as a "wellness community."

The proposed retreat will not, by itself, contribute significantly to the economy of North Kohala. The applicants intend to hire 3 to 4 people to assist them in the operation

and maintenance of the proposed retreat. Instead, approval of the proposed retreat will be reflected as a commitment by the County to seek new directions in the type of industries, economic opportunities, and use of its resources. The County has recognized that extensive, plantation-style agriculture is slowly becoming less of an economic factor on this island. Smaller acreages of land are being cultivated by smaller entities. Many large landowners may no longer have the resources necessary to conduct intensive agricultural activities over vast expanses of land. The County must consider various non-agricultural options that could have a secondary, beneficial effect upon a landowner's ability to cultivate their land. The project site provides an excellent case-in-point. The project site and its surrounding lands are owned by a large landowner that has allowed the project site and its surrounding area to lie in fallow; which does not assist in the County's effort to maximize the use of its important agricultural lands. The applicants, on the other hand, will establish vegetable, fruit and herb gardens within the project site that will be incorporated into the healing and wellness experiences being offered by the proposed retreat. In the final analysis, approval of the proposed retreat will promote the use of important agricultural lands within the project site rather than preserving the current fallow condition of these vital lands.

Based on the above, the proposed retreat will not have any substantial adverse impacts to the project site or its surrounding area; and therefore will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, the General Plan and Zoning Code of the County of Hawaii.

Approval of this request is subject to the following conditions. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The construction of the retreat and the operation of all of its related facilities and activities shall be conducted in a manner that is substantially representative of plans and details as contained with the Applications for Special Management Area Use Permit and Special Use Permit, Proposed Hawaiian Permaculture and Wellness Retreat dated March 2001.
3. The proposed retreat shall be established within five (5) years from the effective date of this permit. Prior to establishing this use, the applicants shall secure Final Plan Approval from the Planning Director in accordance with the Zoning Code, Sections 25-2-71(f), 25-2-72, 25-2-76 and 25-2-77. Plans shall identify all proposed structures, parking area(s), access driveway(s) and landscaping

4. associated with the proposed use. The applicants shall notify the Planning Department, in writing, of the completion of required improvements prior to commencing operation of the proposed retreat.
5. The applicants shall develop a public access plan for the subject property that provides, at a minimum, a continuous traversable lateral public access along the coastal portion of the subject property, and access through Hanaula Gulch to the shoreline. "Subject property" means the approximately 40-acre area proposed to be subdivided from the larger 689-acre parcel. The applicants shall also allow vehicular access across the subject property and parking for a minimum of two vehicles for members of the public to use the shoreline access. This public access plan shall be submitted to the Planning Director for approval not more than one year after the granting of this permit.
6. In conjunction with the public access plan, the applicants shall submit an updated certified Conservation District Boundary Interpretation Map, showing the location of the proposed buildings and access path through Hanaula Gulch in relation to the Conservation District Boundary.
7. The applicants shall submit photographs of the site from cliff-top locations east and west of the subject property. After review of the photographs, the Planning Director may require that the main buildings be located up to 100 feet mauka of the pali and the haies up to 50 feet from the pali, in order to preserve the vista of open undeveloped coastline that presently exists in the general area. The existing grove of ironwood trees near the proposed main building shall be retained as a landscaping buffer.
8. The applicants shall permit native Hawaiians to exercise any gathering rights within the subject property and to cross the subject property to reach the shoreline through Hanaula Gulch. The applicants shall also permit Lincoln family members to visit the family graves.
9. A Solid Waste Management Plan shall be submitted for review and approval by the Department of Public Works prior to the issuance of a certificate of occupancy for any portion of the proposed retreat.
10. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures

have been taken.

11. Comply with all applicable laws, rules, regulations and requirements of the affected agencies including those of the Department of Public Works, Department of Health, and the Fire Department, including a water tank with adequate capacity for fire-fighting purposes.
12. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
13. 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. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, 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 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).

Special Use Permit (SPP 01-006)

In considering a Special Permit for any proposed use, Rule 6 of the Planning Commission relating to Special Permits require that such action *conform to the following guidelines*:

- a. Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- b. The desired use shall not adversely affect surrounding properties;
- c. Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;

- d. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- e. The land upon which the proposed use is sought is unsuited for the uses permitted within the district;
- f. The proposed use will not substantially alter or change the essential character of the land and the present use; and
- g. The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.

In addition to the guidelines detailed above, the Planning Commission must also find that the proposed use:

- a. Is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and
- b. Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

While a proposed use must meet all of these criteria for approval by the Planning Commission, a denial may be made upon a finding of conflict with any of those criteria.

It is felt that the granting of this particular request at this particular location would be consistent with the objectives sought to be accomplished by the Land Use Law and Regulations, the County General Plan and Community Development Plans. The granting of this request will 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. In recognizing that lands within the Agricultural Districts may not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses may 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. Goals specified within the General Plan states that the County shall "*Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments*" and "*Identify, protect and maintain important agriculture lands on the island of Hawaii.*" Based on the site plan provided within the applicants' submittal and the Planning Department's assessment of soil

classification data, the majority of the project site is situated on lands that maintain an overall master productivity rating of "C" or "Fair" according to the Land Study Bureau's Detailed Land Classification-Island of Hawaii (1965). The Agricultural Lands of Importance to the State of Hawaii (ALISH) Maps also identify the majority of lands within the project site as "Prime" agricultural lands with the remaining balance of the project site within the Hanaula Gulch, Unclassified. The location of "Prime" agricultural lands correlates with the location of Class "C" lands. The proposed Hawaiian permaculture and wellness retreat (hereinafter referred to as "retreat"), if approved, will integrate proposed agricultural activities within the project site and within its operations and programs. More specifically, the applicants will establish fruit, vegetable and herbal gardens within the project site. The overall concept of the proposed retreat is to enable guests to learn and experience the cultivation of agricultural practices and the benefits of traditional Hawaiian food and medicinal herbs, as well as spiritual wellness through a series of "hands-on" programs. The agricultural products grown on-site will be served to guests while the Hawaiian medicinal herbs would be used as part of the retreat's educational and wellness programs. Staff employed by the retreat will assist guest in the cultivation and maintenance of the gardens. Through its proposed programs, the applicants have demonstrated its commitment to conduct agricultural activities in a manner consistent with the objectives of the State Land Use Law and General Plan by blending together two distinct uses that will mutually benefit each other.

The project site is currently vacant of any agricultural uses, although it has been historically used for sugar cane cultivation. While approval of this Special Permit will introduce non-agricultural uses into the area, the integration of agricultural activities as part of its operations and programs will, in the end, place these important agricultural lands into active agricultural use versus its current fallow condition. The landowners, Chalon International of Hawaii, Inc., has a pending subdivision application that would create a 40-acre parcel where this proposed development would be located. Most of this 40-acre parcel is actually within Hanaula Gulch and is not suitable for agriculture.

To ensure that the level of agricultural activity occurring within the project site is consistent with the objectives to be accomplished by the State Land Use Law and the General Plan, the applicants will be required to prepare an agricultural plan that incorporates, at a minimum, the cultivation of at least one-half of the less steep lands on the project site as represented by the applicants.

The North Kohala Community Development Plan, adopted in 1984 by Planning Commission Resolution No. 2-84, "*Encourage the development of conference and retreat facilities which capitalize on North Kohala's agricultural and historical resources.*" As previously mentioned, the proposed project will incorporate various agricultural activities within the project site and in its operations. This "blending" of a retreat facility and agricultural activities is consistent with this specific recommendation of the North Kohala

Community Development Plan.

Finally, approval of the subject request will be consistent with the following goals and policies of the Land Use and Economic Elements of the General Plan:

Land Use Element

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- Protect and encourage the intensive utilization of the County's important agricultural lands.

Economic Element

- The County shall assist the expansion of the agricultural industry, especially diversified agriculture, through the protection of important agricultural lands, capital improvements and other programs, and continued cooperation with appropriate State and Federal agencies.
- The County shall strive for diversity and stability in its economic system.
- The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The desired use will not adversely affect the surrounding properties. The project site, consisting of 5 acres, is situated within a larger parcel consisting of approximately 689 acres. Structures that will house the various activities associated with the proposed retreat will be situated about three-quarters of a mile from the nearest residence. We feel that this distance is adequate to minimize any adverse noise impacts that may be generated by the proposed use. Short-term construction activities during the development phase of the proposed project may result in noise, dust and other construction-related impacts, but these are expected to be short-lived and minimized with the application of standard construction practices.

Visual impacts from the Akoni Pule Highway are also expected to be minimal due to the heavy vegetation that exists makai of the highway that does not afford a viewplane to the coastline. The project site is situated close to a mile makai of the Akoni Pule Highway. This distance, combined with proposed structures that will not exceed 30 feet in height, will minimize adverse visual impact to adjoining properties and the Akoni Pule Highway.

This approval recommendation also includes a condition of approval that will allow the Planning Director to suspend activities permitted by the Special Permit should the applicants fail to comply with conditions of this approval or is unable to resolve any complaint relating to interference or nuisance upon the surrounding community. Should the applicants fail to comply with the conditions of approval or has caused any unreasonable interference or nuisance on the surrounding community, the permit may be revoked by the Planning Commission.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, police and fire protection. According to the application, access to the project site from the Akoni Pule Highway will be accommodated by Union Mill Road (for a distance of 2,500± feet), Pratt Road (for a distance of 2,000± feet) and a former cane haul road (for a distance of 3,800± feet), all of which are privately owned and maintained. Union Mill Road has a pavement width of 18 to 20 feet. Pratt Road has a gravel surface approximately 14 to 16 feet wide. Finally, the former cane haul road has a gravel surface approximately 12 to 14 feet wide. In response to concerns expressed by some residents along Union Mill Road, the applicants have agreed to a condition of this approval that would prohibit access to the project site via Union Mill Road. As represented by the applicants to the Planning Commission during its August 2, 2001 meeting, alternative access could be provided by either one of two existing access easements to the Akoni Pule Highway. These access easements, one through the Kamehameha Park and the other near Union Market, could each provide the proposed use with satisfactory access to the Akoni Pule Highway, provided that they are improved with a minimum 20-foot wide compacted gravel surface and that its intersection with the highway meet the requirements of the State Department of Transportation. The proposed retreat will accommodate guests with an anticipated length of stay ranging from 5 to 14 days. Shuttles provided by the applicants will transport guests to and from the site as necessary. Finally, most activities associated with the retreat will be conducted on-site. These operational characteristics lead the applicants to conclude that the proposed retreat will not have a significant adverse impact to traffic within the affected area. The Police Department did express some concerns regarding the potential impact upon traffic and roadways within the area. With recommended improvements to portions of Pratt Road and the former cane haul road and the limited amount of traffic anticipated to be generated by the proposed retreat, we feel that the roadway concerns of the Police Department have been adequately addressed by the applicants. The Police Department did note drainage concerns within the area of Union Mill Road and Pratt Road. However, these drainage concerns are not limited to the applicants or the proposed retreat. The drainage concerns in this area of North Kohala are part of a larger, community-wide concern that must be addressed through the collaboration of affected landowners and County and State governments.

The County's water system does not extend to the project site. Potable water will be provided by the applicants through the construction of on-site storage tanks as well as by bottled water. Water catchment systems or a well will provide for non-potable water to service the project's irrigation and wastewater systems and needs. The applicants anticipate that the proposed project would use approximately 3,200 gallons of potable and non-potable water per day. The applicants have indicated that they will comply with the requirements of the Department of Health and the Fire Department. Compliance with the requirements of these agencies will be made a condition of this approval recommendation to ensure that the safety of potable water for its guests and the availability of adequate fire protection. The Department of Water Supply had no comments regarding the proposed development.

The applicants will utilize an aerobic septic systems and leach fields to accommodate wastewater generated by the proposed retreat in accordance with Department of Health requirements. All other essential public utilities and facilities are or will be made available to support the proposed retreat.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The State and the County, through its land use laws, have the fiduciary responsibility of protecting its important agricultural lands located in limited quantities throughout the state. However, the protection of these lands cannot be accomplished without consideration of non-agricultural uses that, when combined, creates a mutually beneficial relationship that enhances the ability of an entity to utilize these important agricultural lands in a feasible manner. Extensive, plantation-style agriculture is slowly becoming less of an economic factor on this island. Smaller acreages of land are being cultivated by smaller entities. Many large landowners may no longer have the resources necessary to conduct intensive agricultural activities over vast expanses of land. The County must consider various non-agricultural options that could have a secondary, beneficial effect upon a landowner's ability to cultivate their land. The project site provides an excellent case-in-point. The project site and its surrounding lands are owned by a large landowner that has allowed the project site and its surrounding area to lie in fallow; which does not assist in the County's effort to maximize the use of its important agricultural lands. The applicants, on the other hand, will establish vegetable, fruit and herb gardens within the project site that will be incorporated into the healing and wellness experiences being offered by the proposed retreat. In the final analysis, approval of the proposed retreat will promote the use of important agricultural lands within the project site rather than preserving the current fallow condition of these vital lands.

The land on which the proposed use is sought is unsuited for the uses permitted within the district. While this particular criteria for approval of a Special Permit seeks to utilize "unsuitable" agricultural lands for non-agricultural types of uses, the Planning Department feels that certain non-agricultural uses may be appropriate on lands suitable

for agriculture. As discussed in the previous paragraph, the department is seeking a balance of co-existing agricultural and non-agricultural uses that are mutually beneficial to each other. The current economic climate within the agriculture industry emphasizes the importance of seeking innovative means to sustain itself. The applicants' proposal is one such innovative approach to enhancing the cultivation and productivity of the lands upon which it will be established.

The use will not substantially alter or change the essential character of the land and the present use. With the integration of agricultural activities within its operations, the proposed retreat will not significantly change the fundamental agricultural character of the project site or the surrounding area. The maximum height of structures proposed within the retreat is 30 feet, less than the maximum allowable 45 feet height permitted within the Agricultural-zoned district. The various structures will be distributed throughout the 5-acre project site in a manner that will promote to "open space ambiance" being sought by the applicants. To ensure the preservation of the agricultural character of the project site and surrounding area, it is recommended that the proposed retreat be constructed and operated in a manner that is substantially representative of plans and details contained within the Special Permit application.

In response to the concerns of some area residents regarding the manner in which this proposed project will be developed and implemented within the North Kohala community, the applicants have agreed to a condition of this approval that will require the applicants to consult with area kupuna, prior to the issuance of a certificate of occupancy for the proposed use. This consultation process will foster dialogue between the community and the applicants to shape a Hawaiian Permaculture and Wellness Retreat that will become an asset to the community of North Kohala.

Based on the above considerations, it is determined that the establishment of the Hawaiian Permaculture and Wellness Retreat within the project site would promote the effectiveness and objectives of the State Land Use Law.

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 Special Permit.

1. The applicants, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The proposed retreat shall be established within five (5) years from the effective date of this permit. Prior to establishing this use, the applicants shall secure Final Plan Approval from the Planning Director in accordance with the Zoning Code, Sections 25-2-71(f), 25-2-72, 25-2-76 and 25-2-77. Plans shall identify all

proposed structures, parking area(s), access driveway(s) and landscaping associated with the proposed use. The applicants shall notify the Planning Department, in writing, of the completion of required improvements prior to commencing operation of the proposed retreat.

3. As represented by the applicants, the applicants shall consult with area kupuna and a cross-section of the community in the development and implementation of their project. This consultation process may be in the form of an advisory board. The advisory process shall include, but not be limited to, the Kohala Hawaiian Civic Club, Na Kupuna o'Kohala, Kaha'i Kupuna, and the Kohala Historic Preservation Counsel. Further, a written report of this consultation process shall be submitted to the Planning Department prior to the issuance of occupancy permit for the project and one year thereafter.
4. The construction of the retreat and the operation of all of its related facilities and activities shall be conducted in a manner that is substantially representative of plans and details as contained with the Applications for Special Management Area Use Permit and Special Use Permit, Proposed Hawaiian Permaculture and Wellness Retreat dated March 2001.
5. The applicants shall prepare an agricultural plan for the project site, meeting with the approval of the Planning Director, prior to the issuance of a certificate of occupancy for any portion of the proposed retreat. The agricultural plan shall include, at a minimum, the cultivation of a minimum of three (3) acres of land within the 5-acre project site.
6. Access for the project from the Akoni Pule Highway shall be other than Union Mill Road. Access shall be via an access easement through either the Kamehameha Park or near Union Market. Said drive access shall be improved, meeting with the approval of the State Department of Transportation. The applicants shall improve those portions of Pratt Road and the former cane haul road that provide access to the project site from the Akoni Pule Highway with a minimum 20-foot wide compacted gravel surface, prior to the establishment of the proposed retreat.
7. The applicants, in consultation with the Fire Department, shall provide for the fire-flow needs of the proposed retreat.
8. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of

and Natural Resources-State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.


9. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed use, including those of the Department of Health and the Fire Department.
10. If the applicants fail to comply with the conditions of approval or cause complaints relating to any interference or nuisance 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 or nuisance on the surrounding community, the permit may be revoked.
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 applicants, 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.

Mr. Sidney Fuke
Page 17

Should you have any questions, please contact Esther Imamura or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,

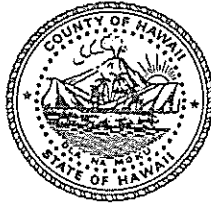

Geraldine M. Giffin, Chairman
Planning Commission

SunderlandWatkins

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Brian Minaai, Director/DOT-Highways, Honolulu
Mr. Jeffrey Darrow

66411

Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

February 18, 2004

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

Dear Mr. Fuke:

Amendments to SMA Use Permit No. 417 and Special Permit No. 1117
Applicants: Robert Watkins and Jean Sunderland
Tax Map Key: 5-4-9:Portion of 1

The Planning Commission at its duly held public hearing on January 30, 2004, voted to approve the above-referenced requests for an amendment to Special Management Area Use Permit No. 417 and Special Permit No. 1117 to allow the use of septic tanks and soil absorption systems field in lieu of an aerobic septic system with leach field for a 16-room Hawaiian Permaculture and Wellness Retreat for approximately 5 acres of land. The property is located approximately one mile makai of Akoni Pule Highway and Kamehameha Park, Hanaula and Honopueo, North Kohala, Hawaii.

Approval of these requests are based on the following:

The applicants are requesting to amend Special Management Area (SMA) Use Permit No. 417 and Special Permit No. 1117 to allow the use of septic tanks and soil absorption systems field in lieu of an aerobic septic system with leach field for a 16-room Hawaiian Permaculture and Wellness Retreat within the State Land Use Agricultural District.

Condition No. 2 of SMA Use Permit No. 417 and Condition No. 4 of Special Use Permit No. 1117 state "the construction of the retreat and the operation of all of its related facilities and activities shall be conducted in a manner that is substantially representative of plans and details as contained with the Applications for Special Management Area Use Permit and Special Use Permit, Proposed Hawaiian Permaculture and Wellness Retreat

#48578 *[Signature]*
FEB 18 2004

Mr. Sidney Fuke

Page 2

dated March 2001. According to the information provided by the applicants and contained within the applications on page 7 under the heading V. INFRASTRUCTURAL CONSIDERATIONS: and subheading B. Wastewater, it stated "there is no County wastewater collection and treatment system in this area. As such, the conventional means has been cesspools. In this instance, the applicants do not intend to use cesspools. Instead, they would construct an aerobic septic system with a leach field. This system would be designed in accordance with State Department of Health's standards for wastewater in areas proximate to the ocean." The applicant is requesting an amendment to allow septic tanks and soil absorption systems field in lieu of the initial representation of an aerobic septic system with leach field.

The applicants have submitted several letters in support of their request. One from Edward Britton of A'ala Waste Engineers and one from the State Department of Health. Edward Britton of A'ala Waste Engineers submitted information regarding the difference between an aerobic tank versus a septic tank. In his opinion, the proposed engineered designed septic tank system for the subject property is very adequate for treating the wastewater generated by the proposed project. He stated that it was his opinion that an aerobic tank system is overkill, and creates an unnecessary financial burden. The Department of Health (DOH) sent a letter stating that it has no objection to use septic tanks and soil absorption systems field as a means of treating domestic wastewater generated from the subject property provided all applicable provision of Hawaii Administrative Rules, Chapter 11-62 are met.

The initial criteria for the granting of the original request has not changed since the approval of Special Management Area Use Permit No. 417 and Special Permit No. 1117.

Based on the above, the amendment request to allow the use of septic tanks and soil absorption systems field in lieu of an aerobic septic system with leach field for a 16-room Hawaiian Permaculture and Wellness Retreat within the Special Management Area will not have any substantial adverse impacts to the project site or its surrounding area; and therefore will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, the General Plan and Zoning Code of the County of Hawaii and would promote the effectiveness and objectives of the State Land Use Law.

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.

Mr. Sidney Fuke
Page 3

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

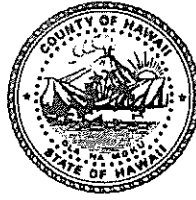


Fred Galdones, Chairman
Planning Commission

LsunderlandPC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Office of Planning, CZM Program (w/Background)
Rodney Haraga, Director/DOT-Highways, Honolulu
Plan Approval Section
Long Range Planning Division
Robert Watkins/Jean Sunderland

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

April 12, 2006

Robert Watkins and Jean Sunderland
Ahu Pohaku Ho'omaluhia
P.O. Box 63
Hawi, Hawaii 96719

Dear Mr. Watkins and Mrs. Sunderland:

Special Management Area Use Permit No. 417

✓ Special Permit No. 1117

Applicants: Robert Watkins and Jean Sunderland

Request: Establishment of a 16-Room Hawaiian Permaculture and Wellness Center

Subject: Time Extension Request

Tax Map Key: 5-4-009:001

This is to acknowledge receipt of your letter dated March 21, 2006 requesting a time extension to comply with Condition No. 3 of SMA Use Permit No. 417 and Condition No 2 of Special Permit No. 1117, which states that the proposed retreat shall be established within five (5) years from the effective date of this permit (August 2, 2001).

Based on the request and the submitted reasons, the Planning Director has determined that non-performance is beyond the control of the applicants and that the granting of a time extension would not be contrary to the General Plan, Zoning Code or original reasons for granting the request. The Planning Director hereby grants a 5-year time extension until **August 2, 2011** to comply with Condition No. 3 of SMA Use Permit No. 417 and Condition No 2 of Special Permit No. 1117.

Please be informed that should you need an additional extension of time, your request with reasons, 20 copies of that request, along with the \$250 and \$100.00 filing fees, shall be submitted to this office for a public hearing with the Planning Commission.

APR 13 2006

Robert Watkins and Jean Sunderland
Ahu Pohaku Ho'omaluhia
Page 2
April 12, 2006

If you have any questions, please feel free to contact Jeff Darrow at 961-8288, ext. 259.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JWD:smn

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cc w/copy of letter: Planning Commission
Planning Department-Kona

Robert Watkins & Jean Sunderland

P.O. Box 63
Hawi, Hawaii 96719

Email:

2006 APR 3 PM 1 04

PLANNING DEPARTMENT
COUNTY OF HAWAII

March 21, 2006

CHRISTOPHER J. YUEN, Planning Director
PLANNING DEPARTMENT
101 Aupuni Street, Suite 3
Hilo, Hawaii 96720-3043

Dear Mr. Yuen;

Special Management Area (SMA) Permit No. 417
Special Permit (SPP) No. 117
Request for time extension
Applicant: Robert Watkins and Jean Sunderland
Tax Map Key: 5-4-9:14, 1 & 20 (formerly 5-4-9:portion 1)

We are requesting a time extension of 5 years for completion of compliance with the conditions of our Special Use Permit #117 and Special Management Area Permit # 417. Condition 3 of SMA permit #417 and condition 2 of SPP permit #117 state that the proposed retreat shall be established within 5 years from the date of this permit granted August 14, 2001.

Although we have diligently attended to all conditions, we are unable to meet the 5 year deadline. Please find a Progress Report on all conditions attached to this letter. Due to conditions beyond our control, we were unable to begin building the main lodge until February of 2005.

Here is a list of circumstances that delayed our progress:

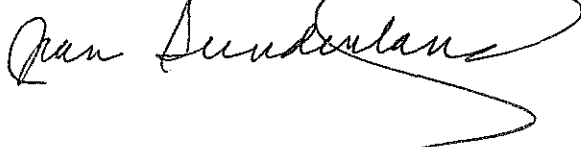
- Permits were challenged in District Court and Superior Court. The date of the Notice and Judgment on Appeal was not until November 5, 2003.
- Due to inappropriate wording in our original Special Use Permit application, we were required to submit an amendment to our Permits to clarify appropriate waste management to use an aerobic septic system and leach field. This amendment was granted January 30, 2004.
- We submitted our plans for our lodge in February 2004. Due to heavy workloads at the building department in Kona, our building permit was only granted in January of 2005.
- Due to the increased construction activity in West Hawaii, it is common to wait months for various sub-contractors to get to ones job.

Thank you for your consideration of our circumstances.

Respectfully,



Jean Sunderland & Robert Watkins



012871

Robert Watkins & Jean Sunderland
P.O. Box 63
Hawi, Hawaii 96719
Email:

March 21, 2006

CHRISTOPHER J. YUEN, Planning Director
PLANNING DEPARTMENT
101 Aupuni Street, Suite 3
Hilo, Hawaii 96720-3043

Dear Mr. Yuen;

PROGRESS REPORT FOR Special Use Permit # 1117 and SMA Use Permit # 417
Applicant: Robert Watkins and Jean Sunderland
Tax Map Key: 5-4-9:14, 1 & 20 (formerly 5-4-9:portion 1)

SMA USE PERMIT # 417

1. We are personally taking responsibility for compliance with all conditions of approval
2. All development has substantially proceeded as represented in our application
3. We understand the requirement for the retreat to be established within 5 years of the effective date of permit and that we may request an extension.
4. We will notify the Planning Department in writing prior to commencement of operations when we complete each structure.
5. Public Access plan was submitted and approved by the Planning Department
6. A certified Conservatin District Boundary Interpretation map was submitted to the Planning Department with the public access plan
7. The existing grove of ironwood trees is being preserved. The lodge is more than 100 ft from the pali and future Hales will be at least 50 ft back from the pali.
8. Our Public Access plan provides for members of the public, including Lincoln family members, to access the shoreline and family graves.
9. A Solid Waste management Plan has been written to submit to the Department of Public Works for review and approval. As well as recycling most of our own waste, we are also recycling waste from other businesses in Hawi.
10. Upon excavation for our lodge and auxiliary projects, we hired Hann & Associates archeologists to monitor our work. As reported by Mr. Alan Hann, no artifacts of any kind were found.
11. We have and continue to comply with all laws, rules, and regulations.
12. A status report shall be submitted prior to occupancy.

SPECIAL USE PERMIT #1117

1. Same as above
2. Same as (3) above
3. We have established an advisory board including representatives of all organizations mentioned in this condition plus others interested in the well being of our youth. We have had three meetings to date and will submit minutes of our meetings with the status report submitted prior to occupancy.
4. Same as (2) above
5. Our initial agricultural plan with greater than 3 acres of cultivation was submitted and approved by the Planning Department concurrently with the Public Access Plan. An updated plan will be submitted with the status report prior to occupancy.
6. Our access is other than Union Mill road for our retreat. We are complying with that requirement. Until we receive necessary permits to add improvements to the cane road adjacent to Union Mill road, we continue to use Kamehameha Park road from Akoni Pule Highway to Pratt road. Pratt road is a 20 ft wide road that served as a primary cane road during the sugar cane days. We improved the cane road from Pratt road to our property with a 20 ft wide graveled surface. It was brought to my attention that one or another resident on Union Mill road complained about building materials being hauled along that road. Those are not our deliveries. In a letter sent to Mr. Robert Usagawa on November 19, 2005, we explained that neighbors are using that road for access for their building projects.
7. We are providing a stand pipe for fire close to the Lodge
8. Same as (10) above
9. Same as (11) above

The status of our building projects is as follows: The energy building and main lodge are 70% complete with electrical, plumbing and framing inspections passed. Our solar electrical system has been installed. Plans for our spa buildings were submitted to the building department in January, and the individual hailes are now being designed by our architect.

We are required to use at least 3 of the 5 acres of the Special Use Permitted area for Agricultural purposes. We have planted orchards of fruit trees, plumeria, ti, and vegetable gardens. In addition we have incorporated multiple farming projects on the remaining 55+ acres outside the Special Use Permitted area. We have cattle, sheep, milk goats, chickens as well as a number of crops such as kukui nuts that we harvest for oil; organic gardens, bananas, mangos, and pineapples.