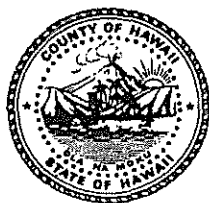


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
7000 0600 0024 2903 7219

AUG 14 2001

Terrence and Meredith Neumann
74-4969 Kealakaa Street
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Neumann:

Special Permit Application (SPP 01-011)

Applicant: Terrence and Meredith Neumann

Request: Establishment of a Five-Bedroom Bed and Breakfast Operation

Tax Map Key: 7-4-7:72

The Planning Commission at its duly held public hearing on August 3, 2001, voted to approve the above-referenced application. Special Permit No. 1116 is hereby issued to allow the establishment of a five-bedroom bed and breakfast operation within the existing farm dwelling and ohana dwelling situated in the State Land Use Agricultural District. The property is a flag lot located on the east side of Kealakaa Street, adjacent to the Paniolo Country Subdivision and in the vicinity of the Hualalai Academy, Papaakoko, North Kona, Hawaii.

Approval of this request is based on the following:

The 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 1.196 acres in size. The existing bed and breakfast operation is confined to the existing two-story dwelling, ohana dwelling, and its immediate vicinity.

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

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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 State's Land Use Agricultural District and County's Agricultural-1 acre zoned district. Bed and breakfast establishments are a permitted use within the Agricultural district provided a Special Permit is secured. As previously mentioned, the bed and breakfast operation is confined to the existing two-story dwelling and ohana dwelling. 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 use shall not adversely affect the surrounding properties. The two-story dwelling and ohana dwelling are situated on a 1.196 acre parcel. The surrounding area consists of a mixture of incidental agricultural activities, single-family residences, church, school, and vacant lands. The zoning pattern in the vicinity is Agricultural-1 acre (A-1a). A 9-foot 9-inch wide concrete driveway runs down half of the pole and widens to a 12-foot wide asphalt driveway down toward the road. It widens again at the entrance of the access pole to 25 feet. Guest parking consists of three parking stalls in front of the two-story residence and two stalls in front of the ohana dwelling. Along the perimeter of the property there is vegetative growth that would screen many of the activities that occur on the property from neighbors. The only portion of the property that does not have a vegetative screen is between the makai side of the ohana dwelling and the neighboring property. However, the distance between the ohana dwelling and the next residential structure is such that there should be little to no visual impact.

The 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 continuance of the existing 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 bed and breakfast accommodations which have become part of a worldwide trend towards providing alternative lodging sites in residential areas such as this particular

location. Bed and breakfast operations 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 and contributes to the economic structure of the County.

The land upon which the existing bed and breakfast is situated 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 an existing four-bedroom, two-story dwelling of which, three bedrooms will be used and a one-story ohana that is completely used for the bed and breakfast operation.

Current agricultural activities are marginal at best. There are some pineapple and other fruit trees however, the trees appear to be used as part of the landscaping rather than a commercial enterprise. They may or may not be harvested at some time to assist in the operation of the bed and breakfast. No existing agricultural plantings will be removed. 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 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.

The existing bed and breakfast operation use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to coastal

zone management program. Given the extensive clearing activities that have taken place and the existing residential uses, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There is no designated public access to the mountain areas over the property. The property is roughly 2.75 miles away from the nearest shoreline. It is adjacent to existing residences and vacant lands. Therefore the bed and breakfast use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property is not affected by any coastal hazards or beach erosion.

Based on the above considerations, the approval of the existing 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.

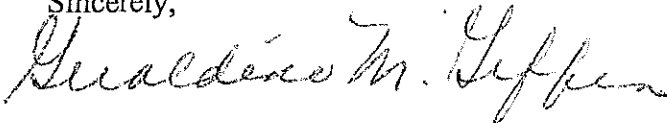
1. The applicants, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicants shall comply with all applicable requirements of Section 25-4-7 of the Zoning Code, as amended by Ordinance No. 00 152, relating to Bed and Breakfast Establishments.
3. The bed and breakfast business shall be limited to the use of five (5) bedrooms.
4. The applicants shall comply with the requirements of the Department of Water Supply prior to the effective date of this permit.
5. A written final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
6. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health, for approval of the proposed use.
7. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the 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.

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

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

NeumannAppltr

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Kona Planning Office
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu
Department of Health