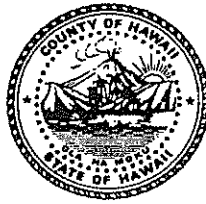


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL

7000 0600 0024 2903 6694

DEC 17 2001

Ms. Lori A. Campbell
HCR1 Box 5655
Keaau, HI 96749

Dear Mr. Campbell:

Special Permit Application (SPP 01-025)

Applicant: Lori A. Campbell

Request: Establishment of an Existing 1-Bedroom Bed and Breakfast
Operation Within a Single Family Dwelling

Tax Map Key: 1-6-8:289

The Planning Commission at its duly held public hearing on November 16, 2001, voted to approve the above-referenced application. Special Permit No. 1127 is hereby issued to allow the existing one-bedroom bed and breakfast operation (Rainforest Retreat) within the existing dwelling situated in the State Land Use Agricultural District. The property is located in Orchidland Estates Subdivision on 36th Avenue, approximately ½ mile west of the Keaau-Pahoia Road and 750 feet southwest of the Aulii Street-36th Avenue intersection, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

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. This property is situated on land characterized as Pahoehoe lava. The

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owner has developed the property with a residence area, horse barn, arena, pasture, and orchard crops. The property has been bulldozed, thus the topography is level with a slight slope. Both the two-story dwelling and the single story 24'x 24' barn were constructed in 1988. The proposed bed and breakfast use will be subordinate and incidental to the principal use of the residence by the applicant. The use will be located within the existing farm dwelling which is situated within an area where soils are classified as "E" or Very Poor by the Land Study Bureau's Overall Master Productivity Rating and designated as "Unclassified" by the Department of Agriculture's ALISH Map. The one-bedroom bed and breakfast operation will be confined to the existing single-family farm dwelling and the remainder of the property will continue to be used as pasture for horses and as orchard. The proposed use will not displace existing agricultural activity or diminish the agricultural potential of the subject property. Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

The proposed 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 approximately 2.0 acres in size and situated within the County's Agricultural (A-1a) zoned district. The applicant currently resides in the existing farm dwelling as the primary residence. As previously stated, the one-bedroom bed and breakfast operation will be confined to the existing farm dwelling. The remainder of the property will continue to be in pasture for horses and planted with orchard trees. Only the lower level of the two-story dwelling will be used for the one-bedroom bed and breakfast, which has a private entrance and separate bathroom. A covered carport with asphalt surface adjoins the unit. Further, the applicant states that development of the bed and breakfast supports eco-tourism and the General Plan for this area. Therefore, the subject request is considered an unusual and reasonable use of the agricultural land.

The desired use shall not adversely affect the surrounding properties. The existing 850 square foot farm dwelling and carport are situated on a portion of a 2.0-acre parcel. Surrounding properties are similarly zoned A-1a and are also 2.0-acre parcels. Currently, there is no development on most of the properties immediately adjacent to the subject property. The only developed property adjacent to the subject property is an orchid nursery and according to the applicant, the owner of the orchid nursery supports this application. Surrounding land uses are agricultural and residential

and there are currently three other homes on 36th Avenue between the applicant's property and Aulii Street. The applicant will typically receive guests between the hours of 3:00 PM and 8:00 PM. Check out time will be at noon. There will be no employees associated with the operation of the bed and breakfast. Clientele will be limited to individuals and small family groups of up to three people. Due to the minimal size of the operation, it is not anticipated that the proposed use will adversely affect the surrounding properties.

Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. It is anticipated that traffic to be generated by the proposed one-bedroom bed and breakfast facility would be minimal. The property is located on 36th Avenue, a privately maintained subdivision roadway with a 40' right-of-way. The surface on 36th Avenue is cinder and gravel. The distance guests will need to travel on 36th Avenue from the intersection with Aulii Street to the subject property is approximately 750 feet. Aulii Street has a chip sealed surface from its intersection with the Keaau-Pahoa Highway to 36th Avenue. The condition and width of this roadway is deemed adequate to accommodate the anticipated traffic to be generated. The Department of Public Works did not express any concerns regarding the proposed use. There is no municipal sewer system in the subdivision. The applicant currently utilizes an existing cesspool. County water is not available to the subject site. The applicant relies on water catchment in conjunction with the residence and the Fire Department has expressed no concerns over this application. According to the applicant, bottled drinking water will be provided to the guests. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. The applicant shall meet all applicable agency requirements of the Department of Health, 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 have 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 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 "Strategic Directions for Hawaii's Visitor Industry" or Tourism Strategic Plan (TSP) prepared by the Hawaii Tourism Authority (June 1999), forms the basis or foundation upon which Hawaii's future as a visitor destination will be built. This document is a fulfillment of one of the primary responsibilities of the Hawaii Tourism Authority (HTA) established by Act 156 SLH 1998. The TSP contains strategic directions in

seven areas, one of which is Product Development. Under Agri Tourism, a subset of Product Development, strategic directions to promote Agri Tourism include:

- Create menus of experiences to make it easier for visitors to purchase agri tourism experiences and products.
- Advocate “Bed & Breakfasts (B&B’s) and “Country Inns” on agriculture lands, farms, and ranches.
- “Bundle” agricultural experiences with health, adventure, culture, eco, and edu tourism.

Thus, the request for a bed and breakfast use is consistent with the State’s strategic directions for Hawaii’s visitor industry.

The land upon which the proposed use is sought is suited for some type of agricultural uses permitted within the district. The proposed bed and breakfast use will be confined to an existing farm dwelling and will not substantially alter or change the essential character of the land and the present use. The bed and breakfast use will remain subordinate and incidental to the existing use of the dwelling as the applicant's primary residence. A two-car carport with asphalt surface already adjoins the unit and one stall will be dedicated to the bed and breakfast operation. No additional construction is proposed and the bed and breakfast facility is not expected to cause impacts, which would significantly alter the character of the land and the present use. As previously stated, the applicant will continue the existing orchard use and agriculture pasture use for horses. Therefore, only a limited portion of the property will be dedicated for bed and breakfast use with the remainder of the property to be used for the existing agricultural use.

The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan objectives and policies or the Land Use Pattern Allocation Guide (LUPAG) Map, which designates the property as Unclassified. 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

- * Provide residents with opportunities to improve their quality of life.
- * 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 County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.
- * The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.

The proposed 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 residence and agricultural uses, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There are no designated public access to the mountain areas over the property. The subject property is located approximately five miles from the nearest coastline. It is adjacent to existing mixed agricultural, residences, pasture uses, and vacant lands. Therefore, the proposed 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 will not be affected by any coastal hazards or beach erosion.

Based on the above considerations, the proposed bed and breakfast establishment within the existing farm dwelling 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.

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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 applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant 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 one (1) bedroom.
4. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies, including the Department of Health, for the proposed use.
5. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval and prior to opening of the bed and breakfast operation.
6. 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, its 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).

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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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lcampbell01PC

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