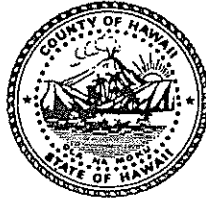


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

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JAN 08 2002

Mr. Kurt Frederick Weigelt
P.O. Box 888
Captain Cook, HI 96704

Dear Mr. Weigelt:

Special Permit Application (SPP 01-026)

Applicant: Kurt Frederick Weigelt


Request: Establishment of an Existing 3-Bedroom Bed and Breakfast
Operation Within the Main Dwelling

Tax Map Key: 8-2-9:17

The Planning Commission at its duly held public hearing on December 6, 2001, voted to approve the above-referenced application. Special Permit No. 1131 is hereby issued for the establishment of a 3-bedroom bed and breakfast operation within the existing main farm dwelling situated in the State Land Use Agricultural District. The property is located approximately 1,000 feet south (makai) of Mamalahoa Highway, east of the McCoy Plantation Subdivision, Kalamakapala, South Kona, 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 Kainaliu soils,

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which are used mostly for pasture, coffee and macadamia nuts. The owner has developed the property with a main residence, two farm dwellings, and orchard crops. The property is situated on a fairly steep slope. The two-story dwelling wherein the Bed and Breakfast operation will be conducted was finished in 1985. The proposed bed and breakfast use will be subordinate and incidental to the principal use of the residence by the applicant and the use of the property for agriculture. The use will be located within the existing farm dwelling which is situated within an area where soils are classified as "C" or Fair by the Land Study Bureau's Overall Master Productivity Rating and designated as "Unclassified" by the Department of Agriculture's ALISH Map. The three-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 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 5.0 acres in size and situated within the County's Agricultural (A-5a) zoned district. The applicant currently resides in the existing farm dwelling as the primary residence. As previously stated, the three-bedroom bed and breakfast operation will be confined to the existing farm dwelling. The remainder of the property will continue to be in coffee, macadamia nut and fruit orchard. Two bedrooms, two bathrooms on the lower level and one bedroom, one bath on the upper level of the two-story dwelling will be used for the three-bedroom bed and breakfast. Parking space sufficient for three additional cars is situated at the end of the driveway where the two-car garage is located. 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 2,520 square foot farm dwelling and carport are situated on a portion of a 5.0-acre parcel. Surrounding properties are similarly zoned A-5a or A-3a and A-1a. The closest developed property is traversed by the applicant's driveway, which is located on an easement stipulated in the original subdivision approval (SUB 4829) as the access to the subject property. Surrounding land uses are agricultural and residential. The

applicant will typically receive guests between the hours of 7:30 AM and 9:00 PM. At this time, the applicant has no employees associated with the operation of the bed and breakfast, but would like to keep that as an option. Clientele will be limited to ten guests at any given time. 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 three-bedroom bed and breakfast facility would be minimal. The property's 400-foot long cement driveway through the ten-foot easement is accessed from a 0.2-mile section of the Old Government Road, which was recently improved at the expense of the applicant and other affected neighbors. The surface on Old Government Road is asphalt for the 0.2-mile section from the applicant's driveway to the intersection with the Main Government Road. The Main Government Road is maintained by the County and was resurfaced in 1996. The distance along the Main Government Road from Mamalahoa Highway to the Old Government Road is 0.2 miles. The distance guests will need to travel from Mamalahoa Highway is approximately ½ mile. 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, although currently available to the subject site through a single meter providing water to all three lots of the original subdivision, is not being provided through an approved hookup. The Department of Water Supply recommends that the applicant install a separate water meter with backflow valve. The applicant has indicated his willingness to comply with this requirement. The Fire Department has expressed no concerns over this application. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain, but is situated 700 feet from the watercourse designated as #6 on the South Kona Flood Hazard Analysis. The applicant indicates there have been no flooding problems on the property due to the steep slope and porous soils. The applicant intends to meet all requirements regarding Bed and Breakfast establishments as stated in the County Zoning Code, as well as requirements established by the Department of Health, Department of Public Works and the Fire Department prior to the continuation of operations.

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 cement surface already adjoins the unit with an area sufficient for three more parking spaces 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. 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 Orchard. 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 three miles from the nearest coastline. It is adjacent to existing mixed agricultural, residences, orchard 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, beach erosion or gathering rights.

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.

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, 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 three (3) bedrooms.
4. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies, including the Department of Health and the Department of Water Supply, 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, 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.

Mr. Kurt Frederick Weigelt

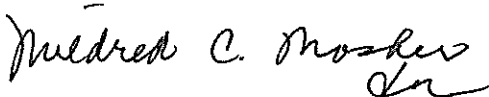
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- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

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 of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lweigelt01pc

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