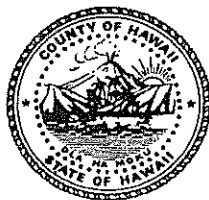


Harry Kim  
Mayor



Geraldine M. Giffin  
Chairperson

## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
#7000 0600 0024 2904 3890

JUL 7 2002

Mr. Daniel W. Boyd  
P.O. Box 828  
Honaunau, HI 96726

Dear Mr. Boyd:

Special Permit Application (SPP 02-015)

Applicant: Daniel W. Boyd

Request: Establish a 1,200 Square Foot Coffee Café Including Kitchen,  
Reception Area and Restrooms

Tax Map Key: 8-4-14:2

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The Planning Commission at its duly held public hearing on June 7, 2002, voted to approve the above-referenced application. Special Permit No. 1160 is hereby issued to establish the Kēōkea Coffee Café and coffee tasting room on approximately 0.25 acre of an 1.80-acre parcel situated in the State Land Use Agricultural District. The proposed project also includes educational guided tours of the existing coffee arm. The property is located west (makai) of Māmalahoa Highway, approximately 1,200 feet south of its intersection with the City of Refuge Road, Kēōkea, South Kona, Hawai'i.

Approval of this request is based on the following:

In considering a Special Permit for any proposed use, Rule 6 of the Planning Commission relating to Special Permits require 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, Hawai'i Revised Statutes, as amended.

021038 *hjd*

JUL 8 2002

In addition to the above, the Planning Commission must also find that the proposed use conform to the following criteria:

- (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.

Through the Special Permit process, certain uses may be allowed that are not normally permitted within the State Land Use Agricultural District. However, when the proposed use is reviewed under the required Special Permit criteria, consideration should be given as to whether the proposed use can be more appropriately established on existing State Land Use Urban lands within the appropriate zoned districts. Establishing the proposed use in an appropriate zoned district is preferable to removing existing agricultural zone lands from their present uses, and proposing changes that would affect the existing land use pattern or the character and ambiance of the existing area and surroundings. Further, the Special Permit process should be considered as an option for certain unusual and reasonable uses only if the proposed uses meet the above criteria.

The applicant proposes to construct a coffee Café, tasting room and parking area on approximately 0.25 acre of an 11.8-acre parcel. The proposed café and tasting room will be situated on the lower of two existing building pads located at the northeast corner of the parcel, and approximately 75 feet west (makai) of Māmalahoa Highway. The proposed Kēōkea Coffee Café is planned to consist of approximately 1,200 square feet, including a small kitchen, a

reception area, and two bathrooms. The seatings will be patio-wooden deck with tin roof coverage. The coffee tasting room will be an additional 300 square feet located on the northeast side of the structure. This will coincide with the approximate 1/4 acre of coffee farm portion set aside for guided tours. The upper existing building pad, approximately 60 feet from the highway, will be utilized for the parking area to accommodate approximately 14 cars and a 20-passenger tour bus.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes (HRS), as amended. In recognizing that lands within the 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. In addition, 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The subject property is situated within the State Land Use Agricultural District and County's Agricultural-5 acres zoned district. The Kēōkea Coffee Farm is the major component of the proposed project. It utilizes about 9-10 acres of the property for its coffee cultivation. The Kēōkea Coffee Café project plans to offer an educational coffee tasting/guided tour that will help expand awareness about Kona Coffee Farming as well as provide an opportunity for the Kēōkea Coffee Farm to sell its bean coffee. Along with increasing production has been the introduction of additional outlets for the coffee farmers, providing them with new marketing options. Options such as coffee tasting rooms, cafés, and guided tours continue to contribute to the growth of coffee production in the region.

The coffee café project is envisioned to harmoniously integrate the existing coffee farm with a small coffee tasting room, a café, and an educational guided tour amongst a 1/4-acre portion of the farm. The project desires to utilize an already productive coffee farm in the community to further employ local workers, while serving a need for a café in the district. The agricultural district in Kēōkea supports a great deal of people, albeit near a subsistence level of living. Farmers are constantly searching for ways to improve the income from their land.

As mentioned, the applicant's primary activity remains with the cultivation of coffee on the 9-10 acres of land. Thus, development of the proposed project will not have a significant adverse effect on the County's agricultural land inventory. It is therefore determined that the proposed use is an unusual and reasonable use of lands situated within the Agricultural District and will not be contrary to the effectiveness and objectives of Chapter 205, HRS, as amended.

The desired use shall not adversely affect surrounding properties. According to the applicant, there are approximately 2,300 coffee trees existing on the property with 300 additional trees to be planted. The applicant proposes to construct a coffee café, tasting room and parking area on approximately 0.25 acre at the northeast portion of an 11.8-acre parcel. According to the application, the proposed café/tasting room building and parking area will be situated at approximately 75 feet west and 60 feet, respectively, (makai) of Māmalahoa Highway. The proposed hours of operation will be from 7 a.m. to 7 p.m. daily.

Surrounding lands are similar zoned Agricultural (A-5a) and include scattered residences, coffee and macadamia nut farms, fruit farms, pastures, and vacant lands. The property is one of several parcels in the immediate vicinity that is currently being cultivated as a coffee farm. The property was previously a macadamia nut farm for several years. There is an existing dwelling to the northwest of the project site on the adjoining property. This dwelling is located and partially screened amongst a growth of coconut trees. Although the proposed café and tasting room building, and parking area will be visible from the Māmalahoa Highway and may also be visible from the neighboring dwelling, a condition of approval will be included for the applicant to provide landscaping plantings in order to mitigate any potential adverse visual or noise impacts. The South Kona Fruitstand business, selling organic fruits and vegetables, is located directly across of the subject property on the east (mauka) side of Māmalahoa Highway. Large parcels of land to the south and southeast of the subject property is Keālia Ranch owned by the McCandless Family and used for grazing.

As mentioned previously, the coffee cultivation, Kēōkea Coffee Farm, is the major component of the proposed project. The tasting room and coffee tour will be integrated into the Kēōkea Coffee Farm operations. Thus, given the location, scope and nature of the proposed activities, it is not expected that the proposed project would create significant adverse impacts to surrounding properties. Finally, the Planning Department has not received to date any written objections from the community regarding the proposed project.

Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The property has approximate 400 feet frontage along Māmalahoa Highway. Access to the property is from this highway, which is a two-lane arterial with a right-of-way width of 50 feet and 26-foot wide pavement with partially graveled shoulder. This section of the highway is under the jurisdiction of the State Department of Transportation. The posted speed limit along this particular section of Māmalahoa Highway is 35 miles per hour. The existing gravel driveway entrance is approximately 24 feet wide. The applicant proposes to widen the entry/exit driveway to 40 feet to allow for the width of four vehicles to simultaneously enter/exit the property. As an alternative, the applicant proposes to construct a half-moon pull-in/pull-out area where the entrance and exit will be approximately 60 feet apart. A condition of approval shall be included that the driveway access(es) meets the requirements and approval of the State Department of Transportation or the Department of Public Works, whichever is applicable.

According to the applicant, a summary of a traffic flow study showed that during the work-week (Monday-Friday), 7:00 a.m. through 8:00 a.m. and between 4:00 p.m. and 6:00 p.m. were found to be the peak times for volume of vehicles. During the weekend (Saturday, Sunday), it was found that traffic was fairly constant after 10:00 a.m., no peak period existed. In summary, "the vehicular traffic flows during weekend hours were fairly consistent and showed a decreased volume of traffic compared to the 'business week' (Monday – Friday)."

Water is available from the 8-inch waterline situated within the Māmalahoa Highway. The Department of Water Supply has commented that the maximum water allotment for the subject parcel shall be limited to 1,200 gallons per day, unless additional allotment is approved by said agency. In addition, the applicant would be required to install a backflow preventer near the meter on the property. A condition of approval will be included to comply with the Department of Water Supply's requirements.

There is no municipal wastewater system in the area. The predominant system used by residences and commercial facilities is cesspools. The applicant has stated that he will comply and meet the requirements of the State Department of Health with regards to wastewater system and Chapter 12 (Food Establishment Sanitation) of the State Department of Health's Rules for the proposed café and coffee processing activities. A condition of approval will be included to comply with the Department of Health's requirements.

Police and fire services are available to the property. The Police and fire stations are located in Captain Cook, about 6 miles north of the property. The Police Department expressed concerns on current highway infrastructure relating to safe ingress and egress to the property. According to the Fire Department, the applicant shall meet the requirements for fire apparatus access road, including turning radius and turnarounds, and water supply. A condition of approval will be included to mitigate those concerns and comply with the Fire Department's requirements. All other essential utilities and facilities are available to support the proposed use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. In the 1960s and 1970s, the State's agricultural district boundaries and regulations were first established and subsequently amended pursuant to Chapter 205, Land Use Commission, Hawai'i Revised Statutes. The State Land Use Commission was created in 1961; the interim regulations and temporary district boundaries became effective in 1962; and subsequently the Regulations and Land Use District Boundaries became effective in August 1964.

Agricultural tourism activities have become part of a growing movement in Hawai'i that provide additional attractions to draw visitors to this island, and supplement the farmers' income to further perpetuate active agricultural uses. Such tourism activities are incidental on a working farm or agricultural processing facility for the enjoyment, education, and/or active involvement of the visitor. Such use is consistent with the social and physical character of a rural-agricultural area and will contribute to the economic development of the County.

There are several coffee farms in the South Kona region that provide educational tour attractions and are in close proximity to each other. Existing cafés, stores and shopping towns are within a mile or short distances from each other between the subject property and Honalo. The Ke'ei Café is the nearest café, located about 2 miles north of the subject property. In addition, the Higashi Store is less than 1/2 mile north of the subject property; and the Fujihara Store is about 3/4 mile south of the property. Several of those existing businesses are located within the State Land Use Agricultural District as some type of commercial uses were probably established in the area prior to the adoption of the State Land Use Law. Therefore, those uses are considered nonconforming or grandfathered.

The "Strategic Directions for Hawai'i's Visitor Industry" or Tourism Strategic Plan (TSP) prepared by the Hawai'i Tourism Authority (June, 1999), forms the basis or foundation upon which Hawai'i's future as a visitor destination

will be built. This document is a fulfillment of one of the primary responsibilities of the Hawai'i 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.
- "Bundle" agricultural experiences with health, adventure, culture, eco, and edu tourism.

Thus, the request is consistent with the State's strategic directions for Hawai'i's visitor industry.

As previously mentioned, the Kēōkea Coffee Farm is the major component of the proposed project while the café, tasting room and coffee tour will be integrated into the farm operations.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The subject property is situated within the State Land Use Agricultural District and County's Agricultural zoned district. The project site will be situated on 0.25 acre with soils classified as "C" (Fair) and "D" (Poor) for agricultural productivity by the Land Study Bureau and "Other Important Agricultural Land" by the Agricultural Land of Importance to the State of Hawai'i (ALISH) Map. The soils are of the Kaimu and Punaluu series that are used for pasture, macadamia nuts, papaya, and citrus fruits. The property was previously in macadamia nut orchard but presently, the applicant has been cultivating coffee on a major portion of the 11.8-acre parcel. Therefore, the Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

The proposed use will not substantially alter or change the essential character of the land and the present use. As previously mentioned, a major portion of the property has already been improved with the existing 2,300 coffee trees, and an additional 300 trees will be planted. The project site, approximately 0.25 acre, has been previously cleared with two building pads prepared initially for a coffee processing plant. As represented in the application, the applicant proposes to construct an approximate 1,200 square foot café and 300 square foot coffee tasting room. The total size of the building would essentially be equal to the size of a 1,500 square foot dwelling, which is permitted in the Agricultural

district. Therefore, from a physical standpoint, there will be no major alteration to the character of the land and present use.

The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map designates the area as Orchard, which allow for agricultural type of uses. The proposed use is consistent with the following goals and policies of the General Plan:

*Economic Element*

- 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 Hawai'i shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

*Land Use Element*

- Designate and allocate land uses in appropriate proportions and mix 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.

*Agricultural Sub-element*

- Agricultural land shall be used as one form of open space or as green belt.
- The compatibility of agricultural and non-agricultural uses should be carefully reviewed and where appropriate, buffers required.



*Commercial Sub-element*

- Provide for commercial developments that maximize convenience to users.
- The development of commercial facilities should be designed to fit into the locale with minimal intrusion while providing the desired services. Appropriate infrastructure and design concerns shall be incorporated into the review of such developments.

The Kona Regional Plan was adopted by Planning Commission Resolution No. 1 84, effective in April 1984. The Land Use Concept Map depicts the property to remain for agricultural uses.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Program. Given the fact that the property has been previously utilized for macadamia nut orchard and presently the existing coffee farm, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. There is no designated public access to the mountain areas nor to the shoreline traversing the property. The property is located more than 4 miles from the nearest shoreline and is in close proximity to mix uses of agricultural, rural-residential and vacant lands. The proposed project will not impact any recreational resources, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Therefore, the approval of the subject request shall not be contrary to the objectives and policies of the Coastal Zone Management Program.

According to the applicant, the lands of Kēōkea were heavily settled and farmed by the early Hawaiians. However, at present there is no evidence of traditional and customary Native Hawaiian rights being practiced on the property. Therefore, no feasible action is necessary to protect these rights.

Based on the above considerations, the approval of the Special Permit request to establish the Kēōkea Coffee Café and coffee tasting room, and educational guided tours of the coffee farm would be supportive of 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 applicant shall be responsible for complying with all of the stated conditions of approval.
2. The proposed development shall be conducted in substantial conformance with representations made in the application.
3. The construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to the start of construction, Final Plan Approval for the proposed building and related improvements shall be secured from the Planning Director in accordance with the Zoning Code pertaining to Plan Approval and Planning Department's Rule 17 (Landscaping Requirements). Plans shall identify existing and/or proposed structures, signage, fire protection measures, proposed paved parking area and driveway(s), lighting and other improvements associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. Native species appropriate to the area shall be incorporated into the landscaping where possible.
4. The hours of operation shall be limited to the hours between 7:00 a.m. to 7:00 p.m. daily.
5. Any exterior signs shall meet with the approval of the Department of Public Works.
6. Access(es) for egress and ingress to the subject property from Māmalahoa Highway shall meet the requirements and approval of the State Department of Transportation or the Department of Public Works, whichever is applicable. If required, the applicant shall provide the necessary roadway improvements within the Māmalahoa Highway, at no cost to and meeting with the approval of the State Department of Transportation.
7. Any vehicular parking shall be prohibited within the Māmalahoa Highway right-of-way fronting the subject property.

8. The applicant shall comply with the requirements and approval of the Department of Water Supply relating to the installation of a backflow preventer, and the maximum water allotment available for the subject parcel.
9. The applicant shall meet the requirements of the Fire Department relating to fire apparatus access road, including turning radius and turnarounds, and water supply.
10. The applicant shall meet the requirements of the State Department of Health relating to wastewater disposal system, and Chapter 12 (Food Establishment Sanitation) for the proposed café and coffee processing activities.
11. The applicant shall prepare and submit a Solid Waste Management Plan to the Department of Environmental Management for review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of a certificate of occupancy.
12. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
13. The applicant shall comply with all other applicable laws, rules and regulations of the State and County agencies for the proposed project.
14. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.
15. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

Mr. Daniel W. Boyd  
Page 12


- A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence.
- B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

We have enclosed comments from the State Department of Transportation and Kona Soil and Water Conservation District for your information. Those comments were received by the Planning Department after the hearing.

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

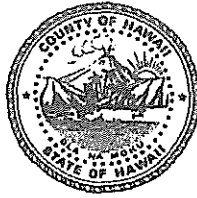
Sincerely,

  
Geraldine M. Giffin, Chairman  
Planning Commission

Lboyd01PC  
Enclosures

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

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

May 17, 2007

Mr. Bob Butlar  
P.O. 884  
Honaunau, HI 96726-0884

Dear Mr. Butlar:

Special Permit No. 1160

Applicant: Robert D. Butlar (formerly Daniel W. Boyd)

Request: Establish a 1,200 Square Foot Coffee Café Including Kitchen,  
Reception Area and Restrooms

Subject: Administrative Time Extension To Comply With Condition No. 3

Tax Map Key: 8-4-14: 2

Thank you for your letter dated May 14, 2007 requesting an administrative time extension to comply with Condition No. 3 (construction timetable and secure Final Plan Approval) of Special Permit No. 1160. Condition No. 15 allows for an administrative time extension for a period not to exceed the period originally granted. Therefore, based on the reasons in your letter we will grant a 5-year time extension to **June 7, 2012** to comply with Condition No. 3.

Please be informed, however, should you need an additional extension of time to comply with Condition No. 3 of Special Permit No. 1160, your request and reasons, along with 20 copies of that request shall be forwarded to the Planning Department with a \$100 filing fee. The request will be transmitted to the Planning Commission for appropriate action.

Lastly, we acknowledge that you are the new owner of the property and will be responsible for compliance with the conditions of Special Permit No. 1160. As such, we will be changing the applicant's name from Daniel W. Boyd to Robert D. Butlar.

MAY 22 2007

Mr. Bob Butlar  
Page 2  
May 17, 2007

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

Sincerely,



CHRISTOPHER M. YUEN  
Planning Director

JWD:smn

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cc w/copy of letter: Planning Commission  
West Hawaii Office