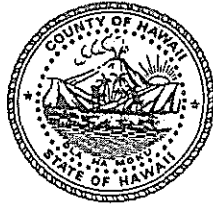


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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

July 28, 2004

Ms. Cindy Griffey
75-5789 Alii Drive
Kailua-Kona, HI 96740

Dear Ms. Griffey:

Special Permit Application (SPP 04-007)
Applicant: Cindy Griffey
Request: 5-Bedroom Bed and Breakfast Operation
Tax Map Key: 8-6-11:10

The Planning Commission at its duly held public hearing on July 16, 2004, voted to approve the above-referenced application. Special Permit No. 1239 is hereby issued to allow the establishment of a 5-bedroom bed and breakfast operation within the main dwelling and a bunk house situated on 5.6 acres of land within the State Land Use Agricultural District. The property is located along the makai side of Mamalahoa Highway (Highway 11), approximately 1,600 feet from the Mamalahoa Highway – Government Road (road leading to Hookena Village), Kalahiki, South Kona, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. 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 for agricultural use. The proposed project will be located within an area whose soils are classified as "E" or "Very Poor" and "D" of "Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified and Other Important Agricultural Land by the Department of Agriculture's ALISH Map.

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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 situated within the County's Agricultural-5 acre zoned district. The proposed bed and breakfast would be situated on a 5.6 acre parcel of land. The proposed use will not take significant lands out of the agricultural inventory for this area and will not significantly affect the agricultural resource of the area. The proposed use will be confined within the existing dwellings and its immediate vicinity. The subject property is presently being used for pasture purposes and no active agricultural lands will be taken out of production to provide the area necessary to establish this use.

The approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the above-referenced circumstances. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has been in agricultural use in years.

The request is not contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Agricultural uses. The proposed use is consistent with the following goals, policies, standards and courses of action 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.

Ms. Cindy Griffey

Page 3

The desired use will not adversely affect the surrounding properties. The dwellings are situated on a 5.6-acre parcel. Surrounding properties are used mainly for ranch purposes situated within land zoned Agricultural 5-acre and Agricultural 20-acre. There are two residential dwellings located nearby. There is adequate space to provide the needed on-site parking for the two dwellings and the bed and breakfast operation (nine parking spaces) to mitigate any potential off-site parking impacts.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. The site is currently served by water, telephone and electrical utilities. The traffic to be generated by the proposed bed and breakfast use is minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated by the use accessory to the dwelling. The applicant will be required to meet all applicable agency requirements including, but not limited to, the Departments of Health, Water and Fire Department prior to the establishment of the proposed use. The applicants will be required to install an additional individual wastewater system prior to the establishment of the bed and breakfast operation as a condition of approval to comply with the requirement of the Department of Health.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations are becoming popular type of lodging facility for visitors seeking a more personal experience in Hawaii. A bed and breakfast facility could provide an appropriate scale of service in rural areas which do not offer full hotel services. Provision of such services could satisfy a new trend in visitor demands for an encounter with the less populated areas of the island. Bed and breakfast facilities are allowed in the zoning code by Use Permit which addresses similar impacts.

The use will not substantially alter or change the essential character of the land and the present use. The bed and breakfast use will remain secondary to the residential and agricultural uses. No significant improvements are anticipated. Since no restaurant or commercial kitchen facilities are proposed, the bed and breakfast facility is not expected to cause impacts which would significantly alter the character of the land and the present use. Applicable agencies reviewing the request had no objections to the proposal.

Based on the above considerations, the proposed bed and breakfast 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.

Ms. Cindy Griffey
Page 4

Approval of this request is subject to the following conditions. 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 applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall submit engineered plans for an additional individual wastewater system to the Department of Health. The additional wastewater system shall be installed prior to the establishment of the bed and breakfast operation.
3. Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-72, 25-2-73 and 25-4-7. Plans shall identify existing and proposed structures, driveway, landscaping, fire protection measures, parking stalls and exterior signs associated with the business. In conjunction with Final Plan Approval, the applicant shall submit documentation of approved building permits from the Department of Public Works for the structures to be used for the bed and breakfast operation and documentation that an additional individual wastewater system has been approved and installed in compliance with the Department of Health requirements.
4. The bed and breakfast operation shall be limited to the use of five (5) bedrooms located within the two single family dwellings and limited to no more than ten (10) guests.
5. Provide bottled water for guests of the bed and breakfast operation.
6. Comply with all applicable requirements as stated in the Zoning Code, Section 25-4-7, regulating bed and breakfast establishments.
7. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works and the Department of Health regarding water consumption for guests.
8. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
9. 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

Ms. Cindy Griffey

Page 5

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.

10. An initial extension of time for the performance of conditions within this 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, successor, 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 original reasons for granting of the permit.
 - C. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - D. The time extension granted does not 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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

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