

## County of Hawai'i

### PLANNING COMMISSION

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August 2, 2005

Gary and Crissy Golding  
P.O. Box 1107  
Naalehu, HI 96772

Dear Mr. and Mrs. Golding:

Special Permit Application (SPP 05-011)

Applicant: Gary & Crissy Golding

Request: Light Industrial – Commercial Uses, Hostel w/Overnight Camping;

Gathering Places for Organizations & Community Groups

Tax Map Key: 9-2-85:24, 29, 30, 31

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The Planning Commission at its duly held public hearing on July 15, 2005, voted to *partially approve* the above-referenced application requesting the establishment of a mixed use project with residential and agricultural facilities for wholesale/retail and office rental space, a hostel with overnight camping, and gathering places for organizations and community groups on 4.07 acres situated within the State Land Use Agricultural District. The property is located along the mauka side of the Hawaii Belt Road (Highway 11), between Highway 11 and Moana Drive and approximately 790 feet west of the Highway 11 – King Kamehameha Boulevard intersection, Hawaiian Ocean View Estates Subdivision, Kahuku, Kau, Hawaii.

This decision is based on the following:

The applicants are proposing to establish a mixed-use facility, which includes workshop areas and limited retail sales areas, as well as residential and agricultural uses on approximately 4 acres within the Hawaiian Ocean View Estates Subdivision. The project will be developed on two separate 2-acre parcels, identified as Lot 5A and Lot 7A within the application, and would be developed in five phases. The complete project will become an interactive engagement park for the whole community promoting the concepts of environmentally responsible commerce, and aiding the activities, programs, and projects designed to help people achieve sustainable environmental health with nature and society.

The grounds for approving a special permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found 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) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

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, Hawaii Revised Statutes (HRS), as amended. 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, Hawaii 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. The Hawaiian Ocean View Estates Subdivision was created in January and December 1963, and May 1964. 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 Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The project site is 4.07 acres in size. It is presently vacant and not in agricultural use. Therefore, development of the subject properties will not have a significant adverse effect on the County's agricultural land inventory. It is 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 objectives of Chapter 205, HRS, as amended.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends as follows:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The applicants have met this criterion based on

the previous discussion listed above, mainly that 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. The properties are very poor for agricultural activities and should not be preserved for such.

(B) The desired use would not adversely affect surrounding properties. The surrounding properties are located within the Hawaiian Ocean View Estates Subdivision. They are approximately one (1) acre in size and zoned Agricultural (A-1a) by the County. Lands makai of Hawaii Belt Road (Highway 11) are located within the Hawaiian Ranchos Subdivision, which are approximately three (3) acres in size and zoned Agricultural (A-3a). Both subdivisions primarily consist of scattered residential uses or vacant lands. The nearest dwelling is located next to the project site on the property that borders to the northeast. There is another dwelling located across the project site on Moana Street. The applicants will be required to meet all setback and height requirements to minimize impacts to the surrounding properties. A condition of approval will be added requiring the applicants to plant landscaping to minimize impacts to the surrounding property owners. Lastly, to minimize noise impacts, a condition will be added to prohibit the use of amplification devices for speech and music. The Planning Department has not received any letters of opposition from the public or neighbors as of this writing. Based on the above discussion, the applicants have met this criterion.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the properties will be from Moana Street, which is a two-lane, private road that has a 20-foot wide asphalt pavement within a 40-foot right-of-way. Moana Street can be accessed by either King Kamehameha Boulevard or Tike Lane, which have access to Hawaii Belt Road (Highway 11). A condition of approval will be added restricting direct access to and from Hawaii Belt Road (Highway 11) from the project site and to establish a 10-foot planting screen easement abutting the highway along the makai side of the subject site.

Although County water is not available to the site, the applicants will utilize roof catchments and water tank systems with pumps will provide non-potable water. A condition of approval will be added requiring the applicants to provide bottled water for guests. Wastewater will be disposed of into engineered septic tank systems as approved by the Department of Health. All other essential utilities and services are available to the site. Based on the above discussion, the applicants have met this criterion.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. The project site and surrounding area are designated for agricultural uses by both State and County land use laws. However, the massive

Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos Subdivisions must still provide their residents with the basic necessities of life, such as accessibility to food, personal services and other commodities typically found within an established community. Through the issuance of a Special Permit, a community may establish various “non-agricultural” services to provide its residents as well as travelers in the area with a quality of life that many of our residents in urban communities may take for granted. As a result, the trend in the area of Hawaiian Ocean View Estates and Hawaiian Ranchos Subdivision has been to issue Special Permits for urban types uses. These established uses include, but are not limited to, a general store, gas station, post office, hardware store, restaurants, and other types of commercial and industrial uses on both sides of the Hawaii Belt Road (Highway 11) within the Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos Subdivisions. Additionally, there have been several Special Permits approved in the vicinity of the proposed request. These include a baseyard, a home office and art studio, a telecommunication tower, a light industrial-commercial facility, a retail produce and gift shop, and a bed and breakfast operation. In the case of the applicants, they are requesting to allow the establishment of a mixed use light industrial-commercial project with residential and agricultural facilities for wholesale/retail and office rental space, a hostel with overnight camping, and gathering places for organizations and community groups through the Special Permit process. This request is in line with the previous requests for non-agricultural types of uses in this area. Based on the above discussion, the applicants have met this criterion.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The soil within the subject properties is classified as “E” or Very Poor for agricultural productivity and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The property primarily consists of Aa lava, which is poorly suited for cultivation. Furthermore, 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. Therefore, this criterion has been met.

(F) The proposed use will not substantially alter or change the essential character of the land and present use. Although the current zoning for this area is identified as agricultural, the essential character of the land and its present use is rural. Within rural areas, allowable uses with appropriate zoning may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The applicants are proposing to develop a type of interactive engagement park for the whole community promoting the concepts of environmentally responsible commerce, and aiding the activities, programs, and projects designed to help people achieve sustainable environmental health with nature and society. The proposed request would add workshop space and limited retail uses, along with residential and agricultural facilities for wholesale/retail and office rental space, including a hostel with

overnight camping, and gathering places for organizations and community groups. The proposed request would cover approximately 4 acres and would include ten (10) or more structures, some of which are of a substantial size for this area. If approved in its entirety, the proposed request could become a large development that would substantially alter or change the essential character of the land for this area.

Based on the above discussion, the request for the additional structures for office, shop bay rental spaces and meeting spaces (Buildings A, B and C) is **denied**. These uses should be located in an industrial or commercial zone, or located in the area set aside for urban expansion to the west of this area. If the project demonstrates that it functions as an integrated artistic/crafts center, the applicants can re-apply. To approve it at the present time leads to the possibility that these spaces will function as general purpose light industrial work areas. These should be in the area designated "Urban Expansion" in the General Plan.

The hale overnight camping area and accessory structure is also **denied**. The approval recommendation allows for the lodge/hostel facility to take care of the overnight accommodation request. At this time, the hale thatched roof structures are difficult to be permitted under the current building and fire codes. There are numerous building codes that would affect the permitting of such structures and the end result is that these structures would not be as represented by the applicants.

(G) 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 component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The area where the proposed request would be located is designated as Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The Rural designation does not necessarily mean that these areas should be further subdivided to smaller lots. Most lack the infrastructure necessary to allow further subdivision.

The approval of the subject request would support the goals and policies of the Land Use, Economic and Commercial elements of General Plan.

Land Use Element

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- 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 through economic development that enhances the County's natural and social environments.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Encourage the development of a visitor industry that is in harmony with the social, physical and economic goals of the residents of the County.

Commercial Sub-element:

- Provide for commercial developments that maximize convenience to users.
- Distribution of commercial areas shall be such as to best meet the demands of neighborhood, community and regional needs.

The proposed request would provide new employment opportunities for the residents of Kau. It will encourage visitors to come to the Big Island to experience the recreation of a unique cultural environment. The applicants have met this criterion.

Lastly, the proposed use is consistent with the objectives, policies, and guidelines of the Special Management Area as provided by Chapter 205A, HRS, and Rule No. 9 of the Planning Commission Rules of Practice and Procedure. No known or commissioned floral or faunal studies have been done for the site. Indigenous Hawaiian plants observed on site include the ohia trees as well as introduced guava, lantana and grasses. Also observed were luma trees, and some ferns, mosses and moa in the crevices of lava. The Hawaiian Hawk and Owl, as well as bats, have been known to frequent the general area.

The Department of Land and Natural Resources-Historic Preservation Division believes there are no historic properties present because previous grubbing/grading has altered the land. This project has already gone through the historic preservation review process and mitigation has been completed. Thus, DLNR-SHPD believes that "no historic properties will be affected" by this undertaking. Therefore, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. The applicants are unaware of any traditional and customary Native Hawaiian rights that are practiced on the property. Therefore, no action is necessary to protect these rights.

There is no designated public access to the mountain areas or to the shoreline traversing the subject property. The property is located approximately 6 miles from the coastline. It is anticipated that the proposed use will not adversely impact any archaeological resources, gathering rights, recreational resources, scenic resources, open space, coastal ecosystems, and marine and coastal resources. Further, the properties are not affected by any coastal hazards or beach erosion.

Based on these considerations, the approval of the Special Permit request 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:

1. The applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The type and scale of the activities, and the physical improvements to the properties shall be in substantial conformance to the description in the application. In Buildings S and M, the applicants can establish offices, meeting spaces, and workshop spaces for craft persons and artists. Architectural details of the buildings may differ from the application.
3. Phase I shall be constructed first. Other phases can be constructed in any chronological order.
4. The structures shall be limited in size to the following square footage: Building S shall be no larger than 5,000 square feet. Building M shall be no larger than 7,500 square feet. Building L1 shall be no larger than 8,000 square feet and will be limited to four (4) suites and twenty (20) beds within the hostel. The total amount of rented beds on site shall not exceed forty (40).
5. Commencement of the proposed development shall begin within five (5) years and be completed within ten (10) years from the effective date of this permit. Prior to the start of each phase of the project, the applicants, successors or assigns shall secure Final Plan Approval from the Planning Director in accordance with

Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Landscaping shall follow the standards applicable to commercial zones that abut residential zones, including the portions of the properties fronting Moana Street and Hawaii Belt Road (Highway 11). In the alternative, the applicants shall submit a master landscaping plan for approval by the Planning Director prior to the construction of any of the improvements.

6. No commercial retail store is permitted other than the sale of items produced on the premises, sale of second hand furniture, second hand household goods and collectibles as represented in the application and arts and crafts produced in the Ka'u District.
7. The applicants shall provide bottled water for guests.
8. The applicants will be limited to one sign along Moana Street and one sign along Hawaii Belt Road (Highway 11). The signage must conform to Chapter 3-27(a)(2) or (3) of the sign code and shall meet with the approval of the Department of Public Works.
9. Access to the subject property shall be restricted to Moana Street. Access from the Hawaii Belt Road (Highway 11) shall be prohibited. The applicants shall establish a 10-foot wide planting screen easement along the portion of the project site that abuts Hawaii Belt Road (Highway 11). This shall be shown on plans submitted for Plan Approval.
10. The hours of operation shall be limited to the hours between 7:00 a.m. to 8:00 p.m. for business activities and up to 10:00 p.m. for administrative activities. Public events shall be allowed to 10:00 p.m. not exceeding once a week.
11. Noise levels shall not exceed 55 dba days (sunrise to sunset) and 45 dba nights (sunset to sunrise) at the property line.
12. The applicants shall comply with all applicable laws, rules and regulations of the State and County agencies for this proposed use.



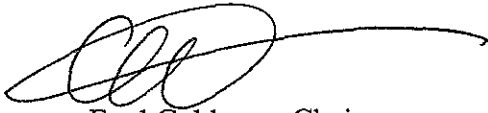
13. Upon compliance with all conditions of approval and prior to the start of the operation, the applicants shall provide, in writing, a final status report to the Planning Director.
14. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director 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).
15. 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.

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.

Gary and Crissy Golding  
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman  
Planning Commission

Lgolding01syw

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources-HPD/Kona  
Rodney Haraga, Director/DOT-Highways, Honolulu  
Mr. Ralph Roland