

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

August 23, 2006

Ms. Lotus Sanderson
200 Kanoelehua Avenue, # 380
Hilo, HI 96720

Dear Ms. Sanderson:

Special Permit Application (SPP 06-000029)

Applicant: Lotus Sanderson

Request: Five-Bedroom Bed and Breakfast Operation

Tax Map Key: 2-9-4:portion 14

The Planning Commission at its duly held public hearing on August 4, 2006, voted to approve the above-referenced application to allow the establishment of a 5-bedroom bed and breakfast operation within an existing single family dwelling situated on 3 acres of land in the State Land Use Agricultural District. The property is located on the southeast side of the Kaiwiki Homestead Road-Old Mamalahoa Highway intersection, Kaiwiki 3rd Homesteads, South Hilo, Hawaii.

Approval of this request is based on the following:

The applicant is requesting a Special Permit to allow a 5-bedroom bed and breakfast operation in an existing 6-bedroom dwelling on 3 acres of a 38.7-acre parcel. Although there is another dwelling on-site, only the main dwelling is being proposed for the bed and breakfast operation. The bed and breakfast operation will operate 7 days a week, 24 hours a day with the property manager(s) intending to be the only employee(s) for the operation. Off-street parking is available for the guests of the bed and breakfast operation and for the residence. The remainder of the property will continue in agricultural uses, which includes landscaping with various fruit trees and approximately 500 macadamia nut trees.

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,

Ms. Lotus Sanderson

Page 2

the intent is to preserve or keep lands of high agricultural potential in agricultural use. The requested use will be located within an existing single family dwelling which is situated in an area where soils are classified as "D" or Poor by the Land Study Bureau's Overall Master Productivity Rating and designated as "Prime Agricultural Land" by the Department of Agriculture's ALISH Map. The proposed bed and breakfast use will be subordinate and incidental to the principal use of the residence by the applicant. The five-bedroom bed and breakfast operation will be confined to the existing single-family dwelling with a majority of the remaining property continuing in agricultural activity with macadamia nut trees and fruit trees. 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 38.7 acres in size and situated within the County's Agricultural (A-10a) zoned district. The applicant currently resides in the existing dwelling. As previously stated, the five-bedroom bed and breakfast operation will be confined to the existing dwelling. Additionally, there is continuing agricultural activity being conducted on much of the remaining property. 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 single family dwelling is situated on a portion of a 38.7-acre parcel. Surrounding properties are larger parcels similarly zoned A-10a, with the adjacent property to the south being zoned Forest Reserve. Currently, the nearest residences are located to the east over 1,000 feet from the proposed bed and breakfast operation. There is an additional dwelling located in the Conservation portion of the property that received a Conservation District Use Permit. A condition of the CDUP stated that "Existing vegetation along the property line facing Akaka Falls State Park shall remain undisturbed. Cutting or clearing of this vegetation, other than for maintenance purposes, is prohibited. Additionally, the applicants have the responsibility in maintaining a buffer to screen the property from Akaka Falls State Park." A condition of approval will be added stating that the single-family dwelling cannot be visible from the Akaka Falls trail to minimize visual impacts from the State Park area. There will be no employees other than the applicant and spouse associated with the bed and breakfast operation. Lastly, the existing structure has met all setback and height requirements to minimize impacts to the surrounding

properties. 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 five-bedroom bed and breakfast facility would be minimal. Access to the project site is from Kaiwiki Homestead Road that was recently paved by the County. The Department of Public Works did not express any concerns regarding the proposed use. There is no municipal sewer system to the property. The applicant currently utilizes an existing cesspool. County water is not available to the subject site. The applicant will utilize and an existing 30,000 gallon water catchment system to supply water to the residence. As a condition of approval, bottled drinking water will be made available 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. Additionally, a condition of approval will include that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

The proposed use will not substantially alter or change the essential character of the land and the present use. The proposed request of a five-bedroom bed and breakfast operation will be conducted within the existing single-family dwelling located on-site. The character of the surrounding lands is predominantly vacant with scattered single-family residential uses. The applicant currently resides within the existing dwelling on the property. The proposed use is considered accessory to the single-family dwelling. Therefore, the proposed request is considered an unusual and reasonable use of the agricultural land and will not substantially change the essential character of the land and the present use.

The request is not contrary to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map that defines the subject property and immediately surrounding area for Rural. The request is not contrary to the goals, policies and standards of the General Plan. 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 project site where the proposed request would be located is designated as Important Agricultural Land. The proposed request is consistent with the General Plan designation for this area. The approval of the subject request would support the goals and policies of the Land Use and Economic elements of 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 request will allow the applicant an opportunity to improve their quality of life, provide an economic environment which allows this new, economic opportunity and increase the development of the visitor industry for Hawaii. Thus, the proposed request is consistent with the Land Use and Economic goals and policies of the General Plan.

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 fact that the property has been developed with an existing residence and agricultural uses, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. The Department of Land and Natural Resources-State Historic Preservation Division issued a "no-effect" letter stating that DLNR-SHPD believes that there are no historic properties present because previous grubbing/grading has altered the land. Thus, DLNR-SHPD believes that "no historic properties will be affected" by this undertaking. There is no designated public access to the mountain areas over the property. The subject property is located approximately 3

miles from the nearest coastline. 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 single family 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:

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 operation shall be limited to the use of five (5) bedrooms and no more than 10 guests at any given time.
4. The applicant shall provide bottled water for guests of the bed and breakfast operation.
5. A description of the 3-acre permit area in map and written form by metes and bounds as certified by a registered surveyor shall be submitted to the Planning Department within 1 year from the effective date of this permit.
6. The applicant shall create and maintain a vegetated buffer to screen the residence from the Akaka Falls trail and Akaka Falls State Park. The residence shall not be visible from Akaka Falls State Park.
7. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

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.

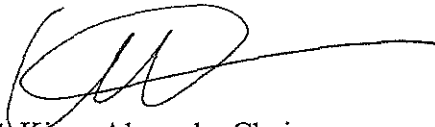
Ms. Lotus Sanderson

Page 6

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,

A handwritten signature in black ink, appearing to be 'C. Kimo Alameda', with a long horizontal line extending to the right.

C. Kimo Alameda, Chairman
Planning Commission

Lsanderson01PC

cc: Mr. Peter Emmons
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
Department of Health