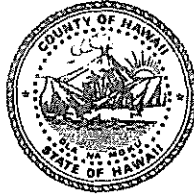


Harry Kim
Mayor



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

April 20, 2007

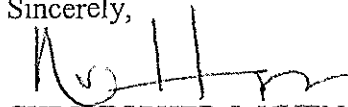
Mr. Klaus D. Conventz
P.O. Box 2308
Kailua-Kona, HI 96745-2308

Dear Mr. Conventz:

Special Permit Application (SPP 06-000039)
Applicant: Michael F. Martinage & Greg Nunn
Request: To Allow the Establishment of a Five-Guest Room Bed and Breakfast
Operation Within Existing Single Family Dwelling & Guest House in SLU Agriculture
Tax Map Key: 8-2-3:28

Enclosed is the Planning Commission's Findings of Fact, Conclusions of Law and Decision and Order regarding the above-referenced application which was approved by the Commission on February 15, 2007.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

Lmartinage02syw
Enclosure

cc/enc: Department of Public Works
Department of Water Supply
Ivan Torigoe, Esq.
Amy Self, Esq.
Real Property Tax Office – Kona
Department of Health
Department of Transportation-Honolulu
DLNR-HPD/Kona
Plan Approval Section
Mr. Bennett Mark/Planning-Kona
Mr. Michael Martinage/Mr. Greg Nunn
Mr. Brad Farwell

APR 20 2007

PLANNING COMMISSION OF THE COUNTY OF HAWAI'I

STATE OF HAWAI'I

Application of) SPP: 06-000039
)
MICHAEL F. MARTINAGE AND GREG) FINDINGS OF FACT, CONCLUSIONS
NUNN) OF LAW AND DECISION AND ORDER
)
Special Management Area Use Permit to)
allow the establishment of a 5-room Bed and)
Breakfast operation within an existing)
dwelling and a guest house situated on a 5.06-)
acre lot in the State Land Use Agricultural)
District. The property is located along the)
northeast (mauka) side of Nāpō'opo'o Road)
(82-5990 Nāpō'opo'o Road), Waipuna'ula,)
South Kona, Hawai'i, TMK: 8-2-003:028.)
_____)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER

FINDINGS OF FACT

Background

MICHAEL F. MARTINAGE AND GREG NUNN (hereinafter, "Applicants") have submitted an application for a Special Permit to allow the establishment of a 5-room Bed and Breakfast operation within an existing dwelling and a guest house situated on a 5.06-acre lot in the State Land Use Agricultural District. The property is located along the northeast (mauka) side of Nāpō'opo'o Road (82-5990 Nāpō'opo'o Road), Waipuna'ula, South Kona, Hawai'i, TMK: 8-2-003:028.

The Commission, having considered the entire record, and having heard and considered the arguments of the parties, makes the following findings of fact, conclusions of law, and order.

1. The County of Hawai'i Planning Commission (hereinafter, "Planning Commission") held its first hearing on the application on December 6, 2006 at the Hapuna Prince Hotel, Kamani Room, 62-100 Kaunaoa Drive, Kohala Coast, Hawai'i. Prior to further action, the Planning Commission reviewed a petition for

standing in a contested case hearing filed by Intervenor Brad Farwell (hereinafter, "Intervenor") on October 20, 2006. Intervenor is the owner of a neighboring property, on which he operates a working macadamia nut farm and factory. Intervenor is concerned with the potential incompatibility between the proposed bed & breakfast use and the noise of his farming and factory activity. The Planning Commission unanimously voted to grant the petition for standing.

2. At the first hearing, the parties to the contested case agreed on the record to informal contested case proceedings, using the documents available that day and no additional witnesses besides the parties. The parties also agreed to have the Chairman prepare and issue any final order, based on the record, without need for further hearings before the whole Planning Commission.
3. The Planning Commission heard evidence and testimony from Applicants, represented by Mr. Klaus Conventz, planning consultant, and Intervenor at hearings held on December 6, 2006, and February 15, 2007 at King Kamehameha Kona Beach Hotel, 75-5660 Palani Road in Kailua-Kona, Hawai'i. The matter was also scheduled for hearing on January 19, 2007, but was continued due to failure to fully notify the Intervenor. The Planning Director was also a party to the hearings pursuant to Planning Commission Rules of Practice and Procedure (hereinafter "Commission Rule") 4-7(a). All Commissioners voting on the instant SMA Use Permit have either attended all hearings and/or reviewed the entire record and files herein.
4. **Request:** The applicants, who reside on the property, are requesting a Special Permit to allow a 5-bedroom bed and breakfast operation on the subject property. The bed and breakfast operation will be conducted within an existing 2-story, 5-bedroom single-family dwelling that was constructed in 1994 and a proposed 2-bedroom guest house. The applicants are proposing to use four bedrooms within the existing 5-bedroom single family dwelling and one bedroom within the proposed 2-bedroom guest house for the bed and breakfast operation. The applicants will reside in one bedroom in the single-family dwelling and one bedroom within the proposed guest house.

5. **Objectives:** The applicant's objective is to provide lodging accommodations for visitors who visit the Big Island of Hawai'i for a maximum of 10 guests in no more than 5 guest bedrooms. The applicants will serve a continental breakfast to the guests.
6. **Employees:** The applicants will be the only employees, with occasional help at times of full occupancy.
7. **Parking:** Off-street parking is available for the guests of the bed and breakfast operation and for the residence and guest house.
8. **Supportive Information:** A Special Permit is required to operate a bed and breakfast operation in the State Land Use Agricultural District. The applicants, who are the owners, have submitted the attached in support of the request:
(Planning Department Exhibit 1 - Special Permit Application)

OTHER B&B OPERATIONS IN THE AREA

9. **Use Permit No. 195:** The Planning Commission approved the establishment of a 2-bedroom bed and breakfast operation on December 5, 2002 to Viviane Baker. This is located just northeast of the subject property on TMK: 8-2-003:031.
10. **Special Permit No. 924:** The Planning Commission approved the establishment of a 2-bedroom bed and breakfast operation on February 1, 1996 to Marianna and Reiner Schrepfer. This is located in the Kona Kali Farms Subdivision on TMK: 8-1-007:010.
11. **Special Permit No. 981:** The Planning Commission approved the establishment of a 5-bedroom bed and breakfast operation within an existing single-family dwelling and an ohana dwelling on August 7, 1997 to Jeanne Obert and Thomas Austin. This is located on Nāpō'opo'o Road approximately 1,500 feet east of the Nāpō'opo'o Road-Pu'u honua Road intersection on TMK: 8-2-003:011.
12. **Special Permit No. 1131:** The Planning Commission approved the establishment of an existing 3-bedroom bed and breakfast operation within an existing dwelling on December 6, 2001 to Kurt Fredrick Weigelt. This is located east of the McCoy Plantation Subdivision on TMK: 8-2-009:017.

DESCRIPTION OF STATE AND COUNTY PLANS

13. **GP LUPAG MAP:** Important Agricultural Lands.

14. **State Land Use Designation:** Agricultural.
15. **County Zoning:** Agricultural 5-acre (A-5a).
16. **Coastal Zone Management, HRS, Chapter 205A:** The entire State of Hawai'i lies within the Coastal Zone Management area. The intent of the Coastal Zone Management Program is to guide and regulate public and private uses in the coastal zone management area with respect to recreational resources, historic resources, public access to the shoreline, scenic and open space resources, coastal ecosystems, marine resources, economic uses, coastal hazards, managing development, public participation, and beach protection.
17. **Special Management Area (SMA):** The Special Management Area is a part of the Coastal Zone Management Program and regulated by the County. The property is not located within the Special Management Area and is over one mile from the nearest coastline.

DESCRIPTION OF PROPERTY AND SURROUNDING AREAS

18. **Subject Property:** The property, which is 5.06 acres in size, is located in the Captain Cook Estates Subdivision on Nāpō'opo'o Road, approximately 1.3 miles south of the Nāpō'opo'o Road-Hawai'i Belt Road intersection. There are five existing dwellings on the property, two of which are unpermitted as dwellings. The applicants are in the process of legalizing all structures through variances, building permits and demolition. If approved, the applicants will demolish the two unpermitted dwellings, which were originally approved as a workshop and utility shed, and construct the 2-bedroom guest house on the foot print of the workshop.
19. **Building Permits:** According to records on file with the Building Division, the following building permits have been issued for the property:
 - **Building Permit No. K03458:** Issued on March 16, 1979 for a 1-story workshop. The permit was finalized on July 3, 1980.
 - **Building Permit No. K04423:** Issued on July 16, 1980 for a farm dwelling. The permit was finalized on September 16, 1980.
 - **Building Permit No. K04644:** Issued on November 28, 1980 for a storage shed. The permit was finalized on January 25, 1985.

- **Building Permit No. 945440:** Issued on June 20, 1994 for a 2-story (main) dwelling. The permit was finalized on June 21, 1995.
 - **Building Permit No. 955031:** Issued on January 18, 1995 for a detached garage. The permit does not appear to have been finalized.
 - **Building Permit No. 955436:** Issued on May 17, 1995 for an addition to the main dwelling. The permit does not appear to have been finalized.
20. **Setback Variance:** Variance No. 06-072 was approved for the subject property to allow portions of the farm dwelling (dwelling 4 of 4) constructed by BP No. K04423 to remain on the property “as built” within the rear yard setback.
(Planning Department Exhibit 2 – Variance No. 06-072)
21. **Surrounding Zoning/Land Uses:** Surrounding properties are similarly zoned Agricultural (A-5a). The properties to the south across Nāpō‘opo‘o Road are located within the Special Management Area. Properties further east are zoned A-1a within the McCoy Plantation Subdivision. Properties further north along the Hawai‘i Belt Road above Kealakekua are zoned RS-7.5, A-1a, RA-1a and CN-7.5. Properties further northwest and west are zoned RS-7.5, RS-10 and RA-2a.
22. **Land Study Bureau's Detailed Land Classification System:** Soil within the property is classified as “C” or “Fair” for agricultural productivity.
23. **Soil Survey:** Soil is classified as Kainaliu extremely stony silty clay loam, 12 to 20 percent slopes.
24. **ALISH:** Unclassified.
25. **Archaeological Resources:** The property has been developed with several dwellings, landscaped and is being utilized for agricultural purposes. The Department of Land and Natural Resources-State Historic Preservation Division has issued a “no-effect” letter dated September 20, 2006 stating that they believe that there are no historic properties present because residential development/urbanization has altered the land and that this proposed activity will not affect any historic properties.
26. **Flora/Fauna Resources:** No formal flora/fauna study was submitted with the application. The property has been developed with several dwellings. According

to the applicants, no rare or endangered species, floral or fauna, are evident on the property, and were unknown to longtime residents in the area. There are large bushes and trees on the property, such as Jacaranda, African Tulips, Ficus Benjamina, Monkeypod Trees, and Royal Poincianas. Additionally, there are coffee trees, pineapple, papaya trees, banana trees, mango trees, avocado trees and citrus trees. The applicants are proposing to plant a considerable amount of coffee and fruit trees to increase the agricultural activity on the property.

27. **Cultural Resources:** The owners are unaware of any traditional or customary native rights exercised on or in close proximity of the property.
28. **Public Access:** There is no public access to the mountains or the shoreline that runs through the property.
29. **FIRM:** The property is located within Zone X, an area outside the 500-year flood plain.

PUBLIC UTILITIES AND SERVICES

30. **Access:** Access to the property is from Nāpō'opo'o Road, which is a County-owned and maintained roadway that has an approximate 24-foot pavement within a 50-foot right-of-way.
31. **Water:** The property is serviced by one 5/8" County water meter, which currently connected to all the dwellings. The applicants are requesting for two additional meters for the additional dwellings. If the meters are not available, the main dwelling will be connected to the available meter and the applicants will disconnect the additional dwellings from the meter and construct several private water catchment systems.
32. **Wastewater System:** Wastewater is presently disposed of into existing cesspools.
33. **Police and Fire Services:** Police and fire facilities are available in Captain Cook. There is a fire hydrant on Nāpō'opo'o Road fronting the property on the southeast corner.
34. **Utilities:** Electrical and telephone services are available to the property.

AGENCIES' COMMENTS

35. Department of Public Works: (Planning Department Exhibit 3 - November 14, 2006)
36. Department of Water Supply: (Planning Department Exhibit 4 - November 15, 2006)
37. Department of Environmental Management: – (Planning Department Exhibit 5 - October 18, 2006 Memo)
38. Police Department: (Planning Department Exhibit 6 – October 25, 2006 Memo)
39. Fire Department: (Planning Department Exhibit 7 – November 3, 2006 Memo)
40. Department of Health: (Planning Department Exhibit 8 – November 13, 2006 Memo)
41. Land Use Commission: (Planning Department Exhibit 9 – November 13, 2006 Memo)
42. Kona Traffic Safety Committee: (Planning Department Exhibit 10 – November 11, 2006 Memo)

AGENCIES - NO RESPONSE

43. Department of Public Works, Department of Water Supply, Department of Land and Natural Resources –Land Division and State Historic Preservation Division, Department of Health, Department of Transportation, NRCS and the Nāpō'opo'o-Kei-Honaunau Community Association.

APPLICANT'S SUBMITTAL

44. The applicants have submitted several letters regarding the comments received from governmental agencies for the application. **(Planning Department Exhibit 11 – Letters dated November 1, 16 & 21, 2006)**
45. Intervenor raised concerns due to his having had three prior incidents of other neighbors complaining about leaf blowing noise from his property. He has grown macadamia nuts for 30 years, and processing nuts for five years. Intervenor is concerned that bed and breakfast guests would be incompatible with noise from his necessary farming and processing activities such as leaf blowing, weed wacking and mac nut cracking, resulting in complaints and restrictions on such activities.

46. The applicants have increased agricultural use on the property from a half-acre pasture to 4 and $\frac{3}{4}$ acres in use. Applicants' farming also includes noisy activity such as leaf blowing, weed wacking, chipping and production of coffee and macadamia nut products.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission makes the following Conclusions of Law, including mixed conclusions of fact and law.

1. The Commission has jurisdiction over this Special Permit application pursuant to Hawai'i Revised Statutes (hereinafter "HRS") Section 205-6.
2. Pursuant to HRS Section 205-6, and Planning Commission Rule 6.6., the 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. Would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.
3. In considering the Special Permit application, the Commission shall also consider the criteria listed under Commission Rules Section 6.3(b)(5)(A) through (G), which are:
 - 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.
- 4. The applicants, who reside on the property, are requesting a Special Permit to allow a 5-bedroom bed and breakfast operation on the subject property. The bed and breakfast operation will be conducted within an existing 2-story, 5-bedroom single-family dwelling that was constructed in 1994 and a proposed 2-bedroom guest house. The applicants are proposing to use four bedrooms within the existing 5-bedroom single family dwelling and one bedroom within the proposed 2-bedroom guest house for the bed and breakfast operation. The applicants will serve a continental breakfast to the guests. The applicants will reside in one bedroom in the main dwelling and one bedroom within the proposed guest house.
- 5. 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, HRS, as amended.
- 6. The proposed use is an unusual and reasonable use of land situated within the 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.
- 7. The subject property is 5.06 acres in size and situated within the County's Agricultural (A-5a) zoned district. The applicants will reside in one bedroom in the existing main dwelling and one bedroom within the proposed guest house. The 5-bedroom bed and breakfast operation will be confined to the existing main dwelling and proposed guest house and will not diminish any agricultural activity occurring on the property. The soil type for the property is fair and the applicants

are proposing to increase the amount of coffee trees and fruit trees that already exist on the property.

8. The proposed use will provide a supplemental income stream to help support the substantial income-producing agricultural activity existing and planned. It will not adversely affect any neighboring property's agricultural character or activity. There are noisy activities typical to orchard and nut cultivation and processing both on the subject property as well as on Intervenor's property. There are also tourist accommodations on the neighboring property as well. Visitors to both properties will be choosing to come to a working farm setting, and should assume typical farming noise. Based on all the foregoing findings, the subject request is considered an unusual and reasonable use of the agricultural land.
9. The granting of this request would promote the effectiveness and objectives of Chapter 205, HRS, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public 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.
10. The property is situated on soil characterized as Kainaliu extremely stony silty clay loam, 12 to 20 percent slopes. The use will be located within the existing main dwelling and proposed guest house, 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 is unclassified 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 applicants. The proposed use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property.
11. Additionally, the applicants are proposing to increase the agricultural activity being conducted by adding additional income producing coffee trees and fruit trees to the existing inventory. 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. 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 Commission concludes:

- (A) **Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** This criterion has been met based on the previous discussion listed above, mainly because the subject request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands. Therefore, the use is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.
- (B) **The desired use would not adversely affect surrounding properties.** The property, which is 5.06 acres in size, is located in the Captain Cook Estates Subdivision on Nāpō'opo'o Road, approximately 1.3 miles south of the Nāpō'opo'o Road-Hawai'i Belt Road intersection. Currently, there are five dwellings constructed on the property, which consist of one main dwelling, two farm worker dwellings and two dwellings that were built without proper permits. The applicants are in the process of legalizing all structures through demolition, building permits and a variance. If the Special Permit is approved, the applicants will demolish the two unpermitted dwellings, which were originally approved as a workshop and utility shed, and construct the 2 bedroom guest house on the foot print of the workshop. The 5 bedroom bed and breakfast operation will be conducted within the existing main dwelling and the proposed guest house. The remainder of the property will consist of the farm worker dwellings and agricultural activity consisting mainly of coffee trees and fruit trees. The surrounding area is zoned A-5a and consists of

agricultural and residential uses. The nearest dwellings are located on all adjoining parcels except on parcel 10 to the northeast. These consist of agricultural properties that are approximately 5 acres in size. The adjoining neighbor to the east has concerns that their working macadamia nut and coffee farm will cause tension and disrupt the guests of the bed and breakfast operation. Although the neighbor is concerned about disrupting the guests and possible complaints regarding the use of noisy farm equipment, farming is a permitted use in the agricultural district. It is not anticipated that the requested use will have an adverse affect on the surrounding properties, including the neighbor to the east. Based on the above information, 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.** The applicants have met this criterion. The requested use will not burden public agencies to provide additional services. Access to the property is from Nāpō‘opo‘o Road, which is a County-owned and maintained roadway that has an approximate 24-foot pavement within a 50-foot right-of-way. Electricity and telephone are available to the property. There is no municipal sewer system in the subdivision. The applicants currently utilize several existing cesspool systems. The property is serviced by one 5/8" County water meter, which currently connected to all the dwellings. The applicants are requesting for two additional meters for the additional dwellings. If the meters are not available, the main dwelling will be connected to the available meter and the applicants will disconnect the additional dwellings from the meter and construct several private water catchment systems. The Police and Fire Departments have no comments or objections regarding 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. As a condition of approval, bottled drinking water will be made available to the guests. Additionally, a condition of approval will include that the applicants meet all applicable County, State and Federal laws, rules, regulations and requirements.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. The property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services that may not be available or allowed by zoning for its residents. The request to allow a 5-bedroom bed and breakfast operation in this area is in line with the intent for allowing the issuance of a Special Permit. 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 property is situated on soil identified as Kainaliu extremely stony silty clay loam, classified as "C" or "Fair" by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. The applicants will be conducting income producing agricultural activity on-site by adding numerous coffee trees and fruit trees to their existing inventory. Additionally, the proposed request will be conducted entirely within the existing main dwelling and proposed guest house, and

will not adversely affect the preservation and agricultural use being conducted on-site. Based on the above information, the applicants have met this criterion.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed request will be conducted entirely within an existing dwelling land proposed guest house located on the 5.06-acre parcel. The proposed request will not substantially alter or change the essential character of the land or its present use. The applicants have met this criterion.

(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 property is located in area identified as Important Agricultural Land in the General Plan. Important Agricultural Land is defined as those lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. As the use will be conducted entirely within the dwelling and guest house, the request will not be contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area. Additionally, 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.

- 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 which allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Strive for an economic climate which provides its residents an opportunity for choice of occupation.
- Encourage the development of a visitor industry that is consistent with the social, physical and economic goals of the residents of the County.

The proposed request will allow the applicants an opportunity to improve their quality of life, provide an economic environment that allows this new, economic opportunity and increase the development of the visitor industry for Hawai'i.

12. The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, HRS, relating to coastal zone management program. Given the fact that the property has been developed with a several residential dwellings, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There is no designated public access to the mountain areas over the property. It is adjacent to existing residences and vacant lands. The property is not located within the Special Management Area. 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.

13. Based on the above considerations, the proposed 5-bedroom bed and breakfast operation 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 applicants, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicants shall comply with all applicable requirements of Section 25-4-7 of Chapter 25, Hawai'i County Code, (Zoning Code), relating to Bed and Breakfast Establishments.
3. Improvements of the property shall be completed within five (5) years from the effective date of this permit. Improvements shall be completed prior to the establishment of the bed and breakfast operation. Improvements include, but are not limited to, demolition of the unpermitted dwellings, construction of the proposed guest house, finalizing all outstanding building permits, and disconnecting the water meter from all but one dwelling and constructing private water catchment systems for the remaining dwellings.
4. The bed and breakfast operation shall be limited to the use of five (5) bedrooms.
5. The applicants shall provide bottled water for guests of the bed and breakfast operation.
6. The applicants shall submit a Solid Waste Management Plan to the Department of Environmental Management for review and approval prior to the establishment of the bed and breakfast operation.
7. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

8. An extension of time for the performance of conditions of 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 the Zoning Code.
 - C. Granting of the 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).

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.

DECISION AND ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Planning Commission decides and orders that the application for Special Permit Application SPP 06-000003 is hereby GRANTED.

DATED: Hilo, Hawai'i, April 20, 2007

By



Planning Commission