



County of Hawai'i

LEEWARD PLANNING COMMISSION

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

March 30, 2010

Ms. Alleen Texiera
73-1717 Hao Street
Kailua-Kona, HI 96740-8692

Dear Ms. Texiera:

Special Permit Application (SPP 09-000097)

Applicant: Alleen Texiera

Request: To Manufacture and Sell Coffee Liqueur in an Existing Dwelling

Tax Map Key: 7-3-25:52

The Leeward Planning Commission at its duly held public hearing on March 19, 2010, voted to approve the above-referenced application to allow the manufacture and sale of coffee liqueur within an existing dwelling on approximately 3 acres of land in the State Land Use Agricultural District. The property is located on the north side of Hao Street, approximately 900 feet north of the Hao Street – Ho'okele Street intersection, Kaloko Mauka Subdivision, Kaloko, North Kona, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Special Permit to manufacture and sell 100% Kona coffee liqueur using the coffee beans grown on the subject property. The liqueur will consist of 100% Kona coffee from the applicant's farm, raw Hawaiian produced sugar or Hawaiian cane syrup, vanilla extract produced from Hawaiian grown vanilla bean plants, and spirits from the Maui based company, Oceans Vodka. Manufacturing will take place in a kitchen certified by the State Department of Health, within the existing dwelling. No fermentation or distillation will be required to create the liqueur. The product will be distributed to local restaurants/bars, grocery stores, boutique wine stores, and gift shops that currently retail alcoholic beverages. The applicant anticipates drawing visitors traveling to and from the nearby Mountain Thunder coffee farm/eco-tourism business to the subject property for on-site "tastings" and retail purchases. Production, marketing,

distribution and sales of the liqueur product will be handled by the applicant and her husband. Hours of operation will be from 8:00 a.m. to 5:00 p.m., Monday through Saturday.

The criteria for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. Rule 6-6 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, Hawai'i Revised Statutes (HRS), 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 the State Land Use Law and Regulations and Chapter 205, HRS, as amended. 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.

State land use law and the county zoning code both allow agricultural activities related to the processing of products grown on the property as a permitted use in the State Land Use Agricultural district and A-3a zoning district. "Processing" typically means the cleaning, drying, and roasting of raw agricultural products such as coffee. However, the proposed use to produce coffee liqueur by mixing various ingredients with processed coffee beans is considered "food manufacturing", which is not a permitted use within the State Land Use Agricultural district without a special permit.

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. The property's soils are characterized as Kīloa extremely stony muck, 6 to 20 percent slopes. This soil type is normally used for woodland and pasture. In addition, soils on the property are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and as "Other Important Agricultural Land" by the Department of Agriculture's ALISH Map. The lands in this ALISH classification are important to agriculture in Hawai'i yet they exhibit properties, such as seasonal wetness, erodibility, limited rooting zone, slope, flooding, or droughtiness, that exclude them from the "Prime" or "Unique Agricultural Land" classifications. The proposed request is accessory to the principal use of the property as a coffee farm. This use will not

displace any existing agricultural activity or diminish the agricultural potential of the land, as the manufacturing and sales activity will occur within an existing dwelling. Therefore, the proposed use is considered unusual and reasonable and will not adversely affect the preservation of the County's prime agricultural lands.

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 the following:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. This criterion is met based on the previous discussion 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 Hawai'i. The property is classified as Other Important Agricultural Land and is actively being cultivated for coffee.

(B) The desired use would not adversely affect surrounding properties. The three-acre property is located in the Kaloko Mauka subdivision at an elevation of about 2,600 feet above sea level. Surrounding properties are approximately three or more acres in size and consist of coffee farms, ranches, nurseries, vacant parcels, and residences. The proposed manufacturing and sales activities will take place within an existing dwelling and traffic to the site for "tastings" will be minimal, thus the proposed use will not have an adverse affect on 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. Access to the property is via a paved access and utility easement that runs along the south side of the property which leads to Hao Street, a two-lane paved County roadway. A negligible increase in traffic to the site is anticipated. County water, telephone, electrical services are currently available to the site and wastewater is disposed of in an existing septic system. Therefore, the requested use will not burden public agencies to provide additional services.

(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, various “non-agricultural” services may be allowed.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The land upon which the proposed use is sought is suited for agricultural uses and is actively being farmed to produce coffee. Soils on the property are classified as “E” or “Very Poor” by the Land Study Bureau’s Overall Master Productivity Rating and is classified as “Other Important Agricultural Land” by the Department of Agriculture’s ALISH Map. Approval of the applicant’s request will directly support the continued agricultural use of the property by allowing the applicant to create a value-added product from the coffee beans that are grown on the property.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed use will take place within an existing dwelling and will not substantially alter or change the essential character of the land or its present use.

(G) The request will not be contrary to the General Plan, Kona 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 Lands in the General Plan. As the use directly promotes agriculture, 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 following goals and policies of the Land Use and Economic elements of General Plan:

Land Use-Agriculture Element

- Encourage, where appropriate, the establishment of visitor-related uses and facilities that directly promote the agriculture industry.

Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Strive for an economic climate which provides its residents an opportunity for choice of occupation.

The proposed request will support the economic viability of the applicant's coffee farm through the creation of a value-added product using the farms coffee beans.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program. The property is located over five miles from the shoreline on the west slope of Hualālai volcano. There is no designated public access to the mountain areas over the property. 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.

Based on the above considerations, proposed use 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. Prior to commencement of the proposed use, the applicant shall secure and finalize a change of use permit from the Department of Public Works, Building Division.
3. All manufacturing and sales activities shall be conducted within the existing dwelling.
4. Hours of operation for "tastings" shall be limited to between 8:00 a.m. and 5:00 p.m., Monday through Saturday.

Ms. Alleen Texiera

Page 6

5. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
6. 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.

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 the Planning Department at 961-8288.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frederic Housel".

Frederic Housel, Chairman
Leeward Planning Commission

Ltexeiraspp09-000097PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Mr. Gilbert Bailado