

County of Hawai'i

WINDWARD PLANNING COMMISSION

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

May 21, 2010

Mr. Neil Erickson
82 Ponoahawai Street
Hilo, HI 96720

Dear Mr. Erickson:

Special Permit Application (SPP 10-000100)

Applicant: Christian Sieber

Request: To Allow a 2-Bedroom Bed and Breakfast Operation Within an
Existing 3-Bedroom Dwelling

Tax Map Key: 1-8-48:62

The Windward Planning Commission at its duly held public hearing on May 7, 2010, voted to approve the above-referenced application to allow a 2-bedroom bed and breakfast operation within an existing dwelling situated on 24,010 square feet of land within the State Land Use Agricultural District. The property's address is 18-1983 16th Street and is located approximately 310 feet from the Mauna Kea Street – 16th Street intersection, Aloha Estates Subdivision, 'Ōla'a, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Special Permit to allow the establishment of a two-bedroom bed and breakfast operation within an existing three-bedroom single-family dwelling. A swimming pool and gardens will be made available to guests. The home will be listed on certain websites with the goal of attracting families to the establishment instead of individuals. Bottled water will be provided to guests. The applicant and his family will be the only employees. Two off-street parking spaces will be available for the guests. The operation will provide the applicant with an opportunity to share his residence and bring additional economic growth to the area and local businesses.

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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 District, and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i 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 the State Land Use Law and Regulations and Chapter 205, HRS, as amended. In recognizing that lands within agricultural district 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 24,010 square feet in size and situated within the County's Agricultural (A-1a) zoned district. The applicant will reside in the existing dwelling and two bedrooms will be utilized for the bed and breakfast operation. The bed and breakfast operation will be confined to the dwelling and will not diminish any agricultural activity on the property. The soil classification for the property is fair for agricultural purposes. Therefore, the subject request is considered an unusual and reasonable use of agricultural land.

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 is situated on soil characterized as Ohia silty clay loam. These soils are typically used for sugarcane, pasture and woodland. Soils on the property 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. The proposed use will not diminish the agricultural potential of the 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.

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. 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.

(B) The desired use would not adversely affect surrounding properties. The subject property is located between 15th Street and 16th Street in the Ohia Estates Subdivision. This area of the subdivision is less developed than the portion closest to Highway 11. The immediately adjacent properties are similarly zoned A-1a and are vacant. The nearest residence is located about 150 feet from the property and is visually separated by dense native forest. Therefore, it is not anticipated that the requested use will have an adverse affect on the 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. The requested use will not burden public agencies to provide additional services. Access to the property is from 15th Street, which is a private road maintained by various owners within the subdivision. Non-potable water is available from an existing 10,000-gallon water catchment system. Bottled drinking water will be provided to guests by the applicant as a condition of the permit. The applicant will utilize an existing septic system for wastewater disposal. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Electricity and telephone are available to the property. A condition of approval will be included to require the applicant to 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, 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 property is situated on soil that is unclassified by the Department of Agriculture's ALISH Map, but is classified as "C" or "Fair" by the Land Study Bureau's Overall Master Productivity Rating. Due to the property's "Fair" soil rating it has the potential to be agriculturally productive; however, the applicant does not intend to use the land for commercial agriculture purposes. The proposed request will

be conducted entirely within an existing dwelling and therefore will not diminish or foreclose future agricultural opportunities.

(F) The use will not substantially alter or change the essential character of the land and the present use. The request will be conducted entirely within an existing dwelling that was constructed in 2007. Thus, the proposed use 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, Puna Community Development Plan (CDP) 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 an area identified as Rural in the General Plan. This category 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. As the use will be conducted entirely within the proposed dwelling, the request will not be contrary to the 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

- 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.
- 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 primary land use goal of the Puna CDP is to direct urban uses towards “village centers.” The subject property is located between the Volcano and Mountain View Community Village Centers; however as the bed and breakfast establishment will occur within an existing dwelling it is considered a home occupation and will provide the applicant an additional source of income. Thus, the request is consistent with the goals and objectives of the Puna CDP.

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. Given the fact that the property has been cleared, landscaped and developed, it is unlikely that any archaeological features and threatened plant, animal or avian species are present on the property. 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 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 two-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 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 Chapter 25, Hawai‘i County Code, (Zoning Code), relating to Bed and Breakfast Establishments.
3. The bed and breakfast operation shall be limited to the use of two (2) bedrooms.
4. The applicant shall provide bottled water for the guests of the bed and breakfast operation.
5. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

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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.

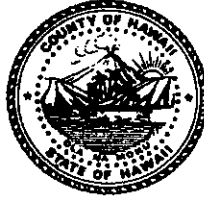
Sincerely,

A handwritten signature in cursive script that reads "Rell Woodward". The signature is written in black ink and is positioned above the typed name.

Rell Woodward, Chairman
Windward Planning Commission

Lsieberspp10-000100PC

cc: Mr. Christian Sieber
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Health
Mr. Gilbert Bailado



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MAY 13 2013

Mr. Christian Sieber
P.O. Box 1450
Kea'au, HI 96749

Dear Mr. Sieber:

Special Permit (SPP No. 10-000100)
Applicant: Christian Sieber
Tax Map Key: 1-8-048:062

The Windward Planning Commission, at its duly held public hearing on May 2, 2013, approved your request for the revocation of Special Permit No. 10-000100, which was issued by the Commission on May 7, 2010, to allow the establishment of a two-bedroom bed and breakfast operation within an existing dwelling situated on 24,010 square feet of land within the State Land Use Agricultural District. The property's address is 18-1983 16th Street and is located approximately 310 feet from the Mauna Kea Street – 16th Street intersection, Aloha Estates Subdivision, Olaa, Puna, Hawai'i.

Special Permit No. 10-000100 is hereby revoked. Should you decide to operate a bed and breakfast business on the property in the future, you will need to reapply for a special permit.

Please contact Daryn Arai of the Planning Department at (808) 961-8288 should you have questions regarding this matter.

Sincerely,


Wallace A. Ishibashi, Jr., Chairman
Windward Planning Commission

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

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MAY 13 2013