



County of Hawai'i

LEEWARD PLANNING COMMISSION

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JUN 18 2013

Mr. David Cox
Mr. Michael Corbitt
P.O. Box 619
Hōnaunau, HI 96726-0619

Dear Mr. Cox and Mr. Corbitt:

Special Permit Application (SPP 13-000148)
Applicant: David Cox and Michael Corbitt
Request: Establishment of a 4-Bedroom Bed and Breakfast Within
An Existing 6-Bedroom Single-Family Dwelling
Tax Map Key: 8-4-005:033

The Leeward Planning Commission, at its duly held public hearing on May 16, 2013, voted to approve the above-referenced request to allow the establishment of a four (4) unit bed and breakfast operation within an existing 6-bedroom single family residence, situated on approximately 8.49 acres of land within the State Land Use Agricultural District. The property is located along Telephone Exchange Road, approximately 1,200 feet mauka (east) of its intersection with the Hawai'i Belt Road in Hōnaunau, South Kona, Hawai'i.

Approval of the request is based on the following:

The applicants are requesting a Special Permit to allow the establishment of a four-bedroom bed and breakfast operation, in the form of four guest units or suites accommodating a maximum of 8 guests within the existing single family dwelling and adjoining accessory structures.

Mr. David Cox
Mr. Michael Corbitt
Page 2

The criteria for approving a Special Permit are set forth in Rule 6-7 of the Planning Commission Rules. Rule 6-7 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 State Land Use 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 the 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 State Agricultural district. The subject 8.49-acre site is situated within the County's Agricultural (A-5a) zoning district, and is currently being used for agricultural purposes. The proposed bed and breakfast operation will be subordinate and incidental to the principal use of the applicants' residence. Being limited to portions of existing dwelling complex, the bed and breakfast operation will not increase the extent of residential activities on the subject property nor will it diminish the potential for any future agricultural activity on the property or surrounding lands. 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 subject property is currently planted with Sharwil avocado and macadamia trees and they are planning to increase the plantings. According to the applicants, the avocado trees yielded 15,000 pounds of fruit in 2011-2012.

The State classifieds the property as Important Agricultural Land, that classification "Prime" or "Unique" agricultural land classifications. The soil type identified by the U.S.D.A. Soil Survey (1973), Kaimu Series consists of well-drained, thin organic soils over Aa lava. These are gently sloping too moderately steep soils on uplands and are is for lands which have one or more significant deficiencies which exclude them form the used for pasture, macadamia nuts, papaya and citrus fruits.

Annual rainfall is from 30-60 inches per year. The County General Plan designates these lands for "Orchards" uses.

Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime or unique 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 finds 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 or unique agricultural lands.

(B) The desired use would not adversely affect surrounding properties. The proposed establishment of a 4-unit bed and breakfast operation accommodating a maximum of 8 guests, will not subordinate the existing residential or agricultural nature of the property, which is reflective of the residential and agricultural character of the surrounding properties in the immediate vicinity of the property that maintain Agricultural land use designations by both the State and County. Therefore, approval of this request is not anticipated to 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 Telephone Exchange Road, which is private and one lane roadway connected to the Hawai'i Belt Road south of mile marker 105. Traffic anticipated to be generated by the proposed bed and breakfast operation is not anticipated to exceed levels typically associated with single family residential activities. With maximum accommodations for eight (8) guests in four (4) bedrooms, the bed and breakfast operation will have limited impact, especially when consideration is given to the fact that this bed and breakfast unit could also be utilized by a family or offered as a long term rental.

The existing residence is served by two (2) 10,000 gallon rainwater collection tanks and is also connected to the County of Hawai'i water supply to service the water

needs of the homeowner and their guests. The County water system is intended to provide a supplemental water source if needed during extended periods of dry weather. While the Department of Water Supply has expressed concerns about current usage that exceeds the water allocation through the existing water meter, the applicant indicated that such use was made during dry periods to assist with irrigation of their orchard. Based on this disclosure, the Department of Water Supply will not be asking for water demand calculations and has accepted the explanation. This approval recommendation will, however, require the installation of a backflow preventer at the water meter to protect the integrity of the County's water system.

Wastewater is currently disposed into an existing cesspool for 6 bathrooms, which is considered a large capacity cesspool that should have been abandoned by April 5, 2005. A condition of approval will require a proper wastewater disposal system, approved by the State Department of Health, prior to commencing the bed and breakfast operations.

The property is situated outside of the 500-year floodway. Fire and Police services are located approximately five (5) miles from the property.

(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. Since then updates to the State Land Use district boundaries have not kept pace with development on the island. Although 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. In fact, due to this area's proximity to Kailua-Kona, Special Permits have been issued for bed and breakfast operations in other single-family and farm dwellings in near-by subdivisions.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property includes two categories: "Unclassified", which identifies most of the property while a small portion of the northwest corner is classified "Other Lands", which includes additional farmlands of Statewide and local importance. Soil quality for agricultural uses is classified as "E", or "very poorly suited" for agricultural use by the Land Study Bureau's Overall Master Productivity Rating. The property's soil type is in the Kaimu series which is typically used for native woodlands, with limited use as pasture and orchards, and is expressly

deemed to be not suitable for cultivation. As evidenced by the orchards maintained on the property by the applicants, the property is agriculturally productive. The proposed bed and breakfast operation will not compromise this productivity due to its establishment within existing residential structures.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed use will be conducted within an existing dwelling and is residential in nature. A slight increase in traffic will occur, versus the unlikely alternative of the subject existing bedrooms being left vacant and unoccupied by others, but is not expected to change the character of the land over that of the existing six-bedroom residential complex. 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, Kona 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 Orchards in the General Plan. Orchards are those agricultural lands which though rocky in character and content support productive macadamia nuts, papaya, citrus and other similar agricultural products. As the use is essentially residential in nature, the request will not be contrary to the LUPAG Map designation for this area. Additionally, approval of the subject request would support the goals and policies of the Land Use and Economic elements of the 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 developments 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.

Section 25-4-7 of the Zoning Code sets forth the permissibility of bed and breakfast operations by zoning district, along with standards applicable to all uses permissible under County zoning law. Section 25-4-7(b)(2) of the Zoning Code states, "The operator of the bed and breakfast establishment shall reside on the same building site (lot) as that being used for the bed and breakfast establishment." The applicants propose to reside on the same building site as the bed & breakfast.

Kona Community Development Plan (CDP): The overall purpose of the Kona CDP is intended to direct growth to appropriate areas in conjunction with necessary infrastructure and public facilities,, while preserving valued natural and historic assets. The primary land use goal of the Kona CDP is to direct urban uses to the Kona Urban Area defined in the Kona Land Use Map. The subject property is *not* located within the Kona Urban Area. Thus, the request does not conflict with the goals and objectives of the Kona 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. The subject property is located approximately 2.9 miles from the closest shoreline and is not located within the Special Management Area. Given the fact that the property has been developed with a single family dwelling complex in which the proposed use will occur, it is unlikely that any archaeological features and threatened plant, animal or avian species will be adversely affected. Telephone Exchange Road will continue to provide public access to the mountain areas over and adjacent to the property. The proposed use will not adversely impact any recreational resources, including access to and along the shoreline and mountains, scenic and open space resources, coastal ecosystems and marine and coastal resources. Further, the property will not be affected by any coastal hazards of beach erosion.

Based on the above considerations, the proposed four-unit 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, successors or assigns shall comply with all applicable requirements of Chapter 25, Hawai'i County Code, (Zoning Code), including without limitation, Article 2, Division 3 (Violations, Penalties, Enforcement) and Section 25-4-7 of Article 4, Division 1 (Use Regulations) thereof, relating to Bed and Breakfast Establishments.
2. The existing wastewater disposal system servicing the existing single family dwelling complex and accessory structures shall comply the applicable requirements of the State Department of Health, prior to the establishment of the bed and breakfast operation.
3. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter on private property, which must be inspected and approved by the Department of Water Supply prior to the establishment of the bed & breakfast operation.
4. Prior to commencing the bed and breakfast operation, the applicants shall secure all required building permits and complete all required improvements necessary to accommodate the 4-unit bed and breakfast operation within the single family dwelling complex.
5. The applicants, successors or assigns 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.

Mr. David Cox
Mr. Michael Corbitt
Page 8

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Geraldine Giffin, Chairman
Leeward Planning Commission

Lcoxcorbitt011pc

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