



County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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AUG 20 2013

Garvin and Laura Goode
P.O. Box 552
Pāpa'ikou, HI 96781

Dear Mr. and Mrs. Goode:

Special Permit Application (SPP 13-000151)

Applicant: Garvin and Laura Goode

Request: To Allow the Establishment of a Three-Bedroom Bed and
Breakfast Operation Within an Existing Single-Family Dwelling

Tax Map Key: 2-7-008:130

The Windward Planning Commission, at its duly held public hearing on August 1, 2013, voted to approve the above-referenced request to allow the establishment of a three (3) unit bed and breakfast operation and a certified kitchen within an existing single family dwelling located on a portion of a 7.684-acre parcel of land situated within the State Land Use Agricultural District. The property is located at the northwest corner of State Highway 19 and Kalaoa Camp Road, adjacent to and south of Auku'u Stream, Kalaoa, South Hilo, Hawai'i.

Approval of the request is based on the following:

The applicants, Garvin and Laura Goode, are requesting a Special Permit to establish a three (3) unit bed and breakfast operation and a certified kitchen within an existing 5-bedroom/5-bath single family dwelling on a portion of a 7.684-acre parcel of land. Each of the three (3) bedroom units has its own entry door and bathroom. The certified kitchen will be for providing a hot breakfast solely to the guests of the bed and breakfast, such as scrambled eggs, French toast, muffins, pancakes and breads. The business will be operated mainly by family members, but additional employees may be hired to include one to two part-time employees in the future.

Hawai'i County is an Equal Opportunity Provider and Employer

A majority of the property is used for active agricultural purposes, such as growing fruits and vegetables. There are also animals raised on the property including chickens, a pig, several donkeys, as well as tilapia fish.

The criteria for approving a Special Permit are based on Rule 6-7 in 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 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 Agricultural district. The subject property is 7.684 acres in size and is situated within the County's Agricultural (A-20a) zoned district. A majority of the property is used for active agricultural purposes, such as growing fruits and vegetables, and raising animals. The proposed bed and breakfast operation will be within an existing dwelling located on the 7-acre property and will be subordinate and incidental to the principal use of the existing residence and will not diminish the potential for any agricultural activity on the property. Therefore, the subject request is considered an unusual and reasonable use of agricultural land.

The land on which the proposed use is located is classified as Prime Agricultural Land by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map and identified as Important Agricultural Land on the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map. Additionally, the soil is classified as "C" or "Fair" for the subject by the Land Study Bureau's Detailed Land Classification System. The soil is identified as Hilo silty clay loam, 10 to 20 percent slopes (HoD), by the U.S. Soil Survey. This soil is used for sugarcane. As the use will be conducted entirely within an existing dwelling, 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. Surrounding properties are similarly zoned A-20a and consists of larger properties with scattered dwellings, agricultural uses, and pastureland. The nearest dwelling is located approximately 300 feet to the south, which is separated by large trees and a gulch. As the proposed use will occur within an existing dwelling, it is not anticipated to have an adverse affect on the surrounding properties. The Planning Department has received several letters of support for the proposed request.

(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 project site is from the Hawai'i Belt Road (Highway 19), a State-owned and maintained road with a 22-foot pavement and paved shoulders within an 100-foot right-of-way onto Kalaoa Camp Road, which has a 13-foot gravel road within a 30-foot access easement over private property. Traffic in the area would not substantially increase as a result of the proposed use. County water is available to the property. Wastewater is disposed of into existing approved individual wastewater systems. 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 and police and fire services are available in Hilo. A condition of approval will be included to require the applicant 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. 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.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Although the land is suited for agricultural uses as permitted within the district, the proposed request will be conducted entirely within an existing dwelling, and therefore will not diminish or foreclose agricultural opportunities. Additionally, a majority of the property is currently being utilized for agricultural activities.

(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 entirely within an existing dwelling and will not diminish the present agricultural use of the property. 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 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 an area identified as Low Density Urban and Important Agricultural Lands on the General Plan LUPAG Map. The upper two-thirds of the property where the proposed request is located within the area identified as Important Agricultural Lands. Important Agricultural Lands are 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 existing dwelling and structures, 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 property is not affected by any design plans. The Northeast Hawai'i Community Development Plan, which was adopted by Ordinance No. 445 on June 26, 1979, supports and encourages visitor industries for the plan area.

Therefore, the proposed request will not be contrary to the General Plan and the official Community Development Plan and other documents such as Design Plans.

The proposed project is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawai'i, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options. In reviewing the proposed development, it has been determined that it is consistent with the objectives and policies listed under Chapter 205A, HRS, which includes protecting and preserving recreational resources, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, beach protection, and marine resources.

There are identified recreational resources along the Hilo Coast. These include surfing, fishing, boating, and other similar types of activities. There are identified public access areas to the shoreline near the subject property. The proposed development will not affect public shoreline accesses to the mountains or the shoreline.

The proposed development will not substantially affect scenic vistas or viewplanes. The project will not have an adverse impact on coastal recreational resources

to the shoreline and coastal ecosystems. The project will not restrict access to coastal recreational resources along the shoreline.

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources on the property.

The subject property is located approximately a half mile from the closest shoreline and is not located within the Special Management Area. Given the fact that the property has been used for agricultural activities, and has been developed with a dwelling in which the proposed use will occur and an additional farm dwelling, it is unlikely that any archaeological features and threatened plant, animal or avian species will be adversely affected.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above considerations, the proposed three (3) unit 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, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The bed and breakfast operation shall be conducted in a manner that is substantially representative of plans and details contained within the Application for Special Permit and the representations made before the Windward Planning Commission.
3. The bed and breakfast operation shall be limited to the use of three (3) bedrooms within the existing 5-bedroom dwelling.

4. The certified kitchen shall be operated for the sole benefit of the guests of the bed and breakfast operation and in direct support of agricultural uses on the property.
5. Weddings, concerts, conventions and other types of special events and activities shall be prohibited.
6. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
7. 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 Daryn Arai of the Planning Department at 961-8288.

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
State Department of Health
Mr. Gilbert Bailado, GIS Analyst ✓