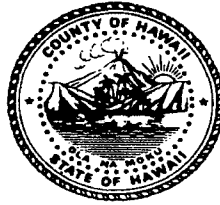


Harry Kim
Mayor



Gregory Henkel, Chair
Joseph Clarkson, Vice Chair
Donn Dela Cruz
Donald Ikeda
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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

NOV 22 2017

Donald Randal Simpson and
Alison Joy Simpson
P.O. Box 238
Hakalau, HI 96710-0238

Dear Mr. & Mrs. Simpson

SUBJECT: Special Permit No. SPP 13-000155
Applicant: Donald Randal Simpson and Alison Joy Simpson
Request: Convert the Existing Four-Bedroom Bed and Breakfast into a
Lodge Consisting of a Five-Bedroom Dwelling with Three-
Detached Bedrooms
Tax Map Key: 2-9-002: Por. 032

The Windward Planning Commission, at its duly held public hearing on November 2, 2017, voted to approve the above-referenced request to amend Special Permit No. 13-000155 to convert a 4-bedroom bed and breakfast operation into an 8-bedroom lodge consisting of a 5-bedroom single family dwelling with 3 detached bedrooms on an approximately 1.50-acre portion of an 11.525-acre property within the State Land Use Agricultural District. The project site is located at 29-3825 Pueo'ihii Road, Hakalau Homesteads, Hakalau, Hawai'i.

Approval of this amendment is subject to the following conditions:

1. The applicants, their successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The lodge use shall be conducted in a manner that is compliant with the Zoning Code, as well as substantially representative of plans and details contained within the amendment application for Special Permit and the representations made before the Windward Planning Commission. Any substantial expansion of the facility or uses beyond what is represented in the plans and details shall require an additional amendment to this permit before the Planning Commission.

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NOV 22 2017

3. The lodge shall be limited to a 5-bedroom single-family dwelling and the proposed three (3) detached bedrooms located within a reasonable distance and relationship from the main, for a total of eight (8) guest rooms or suites with a maximum of sixteen (16) people.
4. The lodge staff is limited a maximum of six (6) employees consisting of the applicants as the employee-operators, a part-time housekeeper, a farm manager and the two (2) full-time employees, as requested in this amendment.
5. A kitchen shall not be permitted in any of the bedrooms.
6. Construction of the proposed detached bedrooms and related improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicants shall secure Final Plan Approval from the Planning Director in accordance with the requirements of the Zoning Code. Plans shall identify all existing and proposed structures, signage, fire protection measures, driveway access and parking stalls, outdoor lighting (if any, lighting must be shielded with light directed downwards), landscaping and other improvements associated with the proposed development. Best Management Practices (BMPs) shall be implemented.
7. The lodge operation shall be established within one (1) year from the effective date of the final inspection granted by the Department of Public Works Building Division for the proposed three (3) detached bedrooms, as represented in this amendment application.
8. The applicants shall install a reduced pressure type backflow prevention assembly on private property within five (5) feet of any meter serving the property. The installation must be inspected and approved by the Department of Water Supply before water service can be activated.
9. Upon approval of this amended permit, the applicant shall provide a letter to the Department of Health of the list of foods and/or drinks offered or provided to guests of the proposed lodge use.
10. The method of sewage disposal shall meet the standards and requirements of the State Department of Health.

11. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
12. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, work shall cease in the immediate vicinity of the find, the find shall be protected from further disturbance and the State Historic Preservation Division shall be contacted at (808) 933-7651 or (808) 692-8015.
13. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
14. If the applicants should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission for appropriate action.

Should any of these conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate procedures to revoke this permit.

[Note: Ramseyer version available upon request.]

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

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Shancy Watanabe of the Planning Department at 961-8144.

Sincerely,



Gregory Henkel, Chairman
Windward Planning Commission

Donald Randal Simpson and
Alison Joy Simpson
Page 4

Enclosure: PC Findings Report

cc w/enclosures: All Aina Services
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources - HPD
State Land Use Commission
Department of Health
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

DONALD RANDAL and ALISON SIMPSON

AMENDMENT TO SPECIAL PERMIT APPLICATION NO. 13-000155 (SPP 13-155)

Based on the following considerations, an amendment to Special Permit No. 13-155 is hereby approved to convert a 4-bedroom bed and breakfast operation into an 8-bedroom lodge on an approximately 1.50-acre portion of an 11.525-acre property within the State Land Use Agricultural District. The property is located at 29-3825 Pueo‘ihi Road, Hakalau Homesteads, Hakalau, Hawai‘i, TMK: (3) 2-9-002:032.

Donald Randal and Alison Simpson are requested an amendment to Special Permit No. 13-155 to convert a 4-bedroom bed and breakfast operation into an 8-bedroom lodge consisting of a five-bedroom single-family dwelling with three (3) detached bedrooms on an approximately 1.50-acre portion of an 11.525-acre property within the State Land Use Agricultural District. The current bed and breakfast operation is called the Mahana House Country Inn. The applicants propose to build the first of the three detached bedrooms within 50 feet of the Mahana House Country Inn, then the second detached bedroom diagonally staggered 20 feet away and the third detached bedroom diagonally staggered 20 feet away. This staggered pattern will help to provide a little more privacy for each bedroom within a reasonable distance and relationship to the main 5-bedroom Mahana House Country Inn. Additionally, the applicants propose to hire two (2) full-time employees.

The applicants feel that accommodating their guests is a priority, which has proven to be successful for their business with their rooms completely booked majority of the time. The applicants have consistently made an effort to comply with the conditions of the original Special Permit. Condition No. 5 required that the applicants secure and finalize any required building permits for the addition proposed in the original Special Permit. This condition was fulfilled when the Building Permit was secured and given a final inspection in 2014. The demand for more accommodations has grown, especially from the local community, who enjoy having their own visiting family and guests stay nearby. The applicants seek to convert the 4-bedroom bed and breakfast establishment into an 8-bedroom lodge to accommodate a maximum of sixteen (16) guests and to employ two (2) additional full-time employees to support the growing business.

The grounds for approving a Special Permit and amendments are based on Rule 6-7 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, Hawai‘i Revised Statutes, as amended.

The proposed amendment 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. 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

In 2013, the original request to allow the bed and breakfast operation on the subject property was reviewed and evaluated by the Planning Director and Planning Commission, who found that the use is unusual in that a bed and breakfast is not normally considered agricultural in nature. They also found it a reasonable use for the limited nature of the bed and breakfast to be considered within the Agricultural district because the use provided the landowner with a supplemental source of income upon land that is very poorly suited for agricultural activities.

For this proposed amendment, the applicants seek to convert the 4-bedroom bed and breakfast establishment into an 8-bedroom lodge to accommodate a maximum of sixteen (16) guests and to employ two (2) additional full-time employees to support the growing business. According to Section 25-1-5(b) of the Hawai‘i County Code, Chapter 25, Zoning Code, a lodge means a building or group of buildings, under single management, containing transient lodging accommodations without individual kitchen facilities, and no more than forty guest rooms or suites, and generally located in agricultural, rural or other less populated areas. The proposed amendment is considered an unusual and reasonable use of agricultural lands that 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 recognizing that lands within the Agricultural district may 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. A lodge may be permitted in the Agricultural district, provided that a Special Permit is issued for the use.

The project site comprises an approximately 1.50-acre portion of an 11.525-acre property with a gravel driveway and gravel parking stalls for guests. The property is improved with various trees including 170 longan trees, 50 lychee trees, avocado trees, two (2) banana groves, a bamboo grove and other citrus trees. There are a total of two (2) dwellings on the subject property: the first dwelling is a permitted 5-bedroom single-family dwelling being used as the Mahana House Country Inn; the second dwelling is a permitted farm dwelling that the applicants reside in. There are also two (2) detached agricultural storage buildings, each approximately 600 square feet in size.

The subject property is situated within the State Land Use Agricultural district and County’s Agricultural (A-10a) zoning district and is located between the 495 feet to 595 feet elevation with the property gently sloping upwards. The land on which the proposed use is located is “prime” by the Agricultural Lands of Importance to the State of Hawai‘i (ALISH) Map. Additionally, the soil is classified as “C” or “Fair” soils by the Land Study Bureau’s

Detailed Land Classification System and is identified mainly as Hilo silty clay loam, 0 to 10 percent slopes by the U.S. Soil Survey.

There is a non-perennial stream, called the Hakalau'iki (literally, little Hakalau) Stream. The stream, which is a significant distance from the proposed permit area, runs in a slight diagonal from the southwest to northeast direction through the subject property and continues down towards the ocean. According to the applicants, there is no anticipated impact to the stream as the proposed use and/or staging of materials will not take place near the Hakalau'iki Stream.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b) (5) (A) through (6). In considering the criteria, the Planning Director recommends the following:

(A) The granting of this amendment request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. As evaluated above, the proposed amendment request is considered an unusual and reasonable use of agricultural land that will not adversely affect the preservation and agricultural use of the County's agricultural lands.

(B) The desired use would not adversely affect surrounding properties. Access to the property is from the Hawai'i Belt Highway to Chin Chuck Road to Pueo'ihl Road, which is classified as a "road-in-limbo." Both Chin Chuck Road and Pueo'ihl Road are approximately 40 feet wide. The gravel driveway is approximately between 15-20 feet wide with gravel parking stalls available onsite. Existing landscaping helps to provide a buffer from the road. Although the proposed lodge will operate 24 hours a day and 7 days a week, traffic impacts are expected to be minimal due to the limited nature of the proposed use. Noise impacts from the proposed construction can be mitigated with conditions complying with Health Department standards. Surrounding properties are zoned A-10a and A-20a and are in residential uses and/or in agricultural uses. The closest dwellings are located adjacent to the site on TMK: (3)2-9-002:031 and TMK: (3)2-9-002:033 to the southwest and east, respectively. As of this writing, the Planning Department has not received any complaints or violations occurring on the subject property. Based on the above discussions, the proposed amendment use is not anticipated to have a substantial adverse impact on the surrounding properties, but any possible impacts can be minimized through conditions of approval.

(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 proposed amendment will not burden public agencies to provide additional services. Access to the property is from the Hawai'i Belt Highway to Chin Chuck Road to Pueo'ihl Road, which is classified as a "road-in-limbo." Both Chin Chuck Road and Pueo'ihl Road are approximately 40 feet wide. The gravel driveway is approximately between 15-20 feet wide with gravel parking stalls available onsite. All essential utilities are available to the site. County police and fire facilities are located in Hilo. The Hilo Medical Center is the closest medical facility from the site. According to the Department of Public Works Engineering Division, the subject parcel is in an area designated as Zone X on the

Flood Insurance Rate Map (FIRM), an area determined by FEMA to be outside the 500-year flood plain.

The proposed use will have minimal impacts on traffic conditions due to the limited nature of the proposed use. The Police Department does not anticipate any significant impact to traffic and/or public safety concerns. The Fire Department requires compliance with the Fire code and regulations. The applicants provide fruit and coffee. The existing bed and breakfast has a residential kitchen that the guests may use to prepare their meals. The Department of Health (DOH) commented that if the Bed and Breakfast meal consists of commercial cereal, pastries (except custards or cream filled), breads, fruits, coffee, tea and juice, a food establishment permit will not be required at this time. This limited menu must be documented in a letter to the Department of Health. The guests shall be informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Department of Health. For Bed and Breakfast operations that provide meals which include potentially hazardous foods, a food establishment permit will be required to operate. County land use approval for operating a food establishment may also be required. A kitchen used to prepare foods for individual family consumption will not be allowed to be permitted. A separate commercial kitchen will need to be constructed, which will also require an amendment to this Special Permit before the Planning Commission. The applicants are working with an engineer to replace the existing cesspool that services the 5-bedroom single-family dwelling with a new septic system. In addition, a new septic system will service the proposed three (3) detached bedrooms. Both septic systems will meet the requirements of the State Department of Health. Conditions to address the agency comments will be included.

(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 use by both State and County land use laws. Through the issuance of a Special Permit, various "non-agricultural" services may be allowed, including a lodge. The demand for more accommodations has grown, especially from the local community, who enjoy having their own visiting family and friends stay nearby.

(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 Hilo silty clay loam, classified as "C" or "Fair" soils by the Land Study Bureau's Detailed Land Classification and is "prime" by the Department of Agriculture's ALISH Map. The applicants propose to increase the existing Special Permit area from one acre to 1.5-acres from the total 11.525-acre parcel. The larger remainder of the land is being used for orchard agriculture.

(F) The use will not substantially alter or change the essential character of the land and the present use. The essential character of the area is a mix of residential and agricultural uses. Residential uses were established on the subject property in 2007 with the operation of the Mahana House Country Inn and further established with the construction of a Farm Dwelling in 2015. The applicants, successors or assigns are still responsible to comply with the stated conditions of approval in the Additional Farm Dwelling Agreement No. 13-000344. The proposed addition of three (3) detached bedrooms, are accessory to the existing single-family dwelling and will be established within a reasonable distance from the main structure. The whole operation will be situated in the 1.50-acre Special Permit area. As such, there will be no further changes to the character of the land and 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 Important Agricultural Lands (ial) in the General Plan. These are lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. Important Agricultural Lands are determined by the following: lands identified as "Intensive Agriculture" on the 1989 General Plan Land Use Pattern Allocation Guide maps, lands identified in the Agricultural Lands of Importance to the State of Hawai'i (ALISH) classification system as "Prime" or "Unique", lands classified by the Land Study Bureau's Soil Survey Report as Class B "Good" soils, lands classified as at least "fair for two or more crops, on an irrigated basis, by the USDA Natural Resource Conservation Service's study of suitability for various crops, and State agricultural parks. As the use will be conducted within the existing 5-bedroom Mahana House Country Inn and in the three (3) proposed detached bedrooms, the request will not be contrary to the LUPAG Map designation for this area. In addition, the 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 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 situated within an area identified in the proposed Hāmākua Community Development Plan (CDP), which is currently in the drafting stages by the Planning Department. The Draft CDP reiterates existing General Plan Policies:

- Encourage the development of a visitor industry that promotes small business development in harmony with the character of Hāmākua and with the environmental and social goals of residents.
- Protect and restore viable agricultural lands and resources. Protect and enhance viewsapes and open spaces that exemplify Hāmākua’s rural character.

The Draft CDP encourages the Planning Commission to include in any Special Permit approval appropriate performance conditions to achieve CDP objectives and implement CDP policies, which may include conditions to ensure the stream that runs through the property (Hakalau‘iki Stream) is protected from development and negative impacts and to require the submittal of a farm plan with a continual reporting schedule to ensure that the primary use of the land remains agricultural.

The proposed amendment 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 mauka (mountain side) of the Hawai‘i Belt Highway, outside of the Special Management Area (SMA) and tsunami evacuation zone. There is no designated public access to the mountain or shoreline areas over the property. Therefore, the proposed amendment 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. Due to the property’s distance from the ocean, the property will not be affected by any coastal hazards or beach erosion. As such, the proposed amendment is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

Finally, this recommendation is presented with the understanding that the applicants remain responsible for complying with all other applicable governmental requirements for 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, and 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, the approval of the request to amend Special Permit No. 13-000155 to convert the 4-bedroom bed and breakfast establishment into an 8-bedroom lodge to accommodate a maximum of sixteen (16) people and to employ two (2) additional full-time employees supports the objectives sought to be accomplished by the State Land Use Law and Regulations.



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

FEB 19 2014

Donald Randal and Alison Simpson
252 Albert Street
Stratford, Ontario, Canada

Dear Mr. and Mrs. Simpson:

Special Permit Application (SPP 13-000155)

Applicant: Donald Randal and Alison Simpson

Request: Establishment of a Four-Bedroom Bed and Breakfast Operation

Within an Addition to an Existing Two-Bedroom Single Family Dwelling

Tax Map Key: 2-9-002:032

The Windward Planning Commission, at its duly held public hearing on February 6, 2014, voted to approve the above-referenced request to allow the establishment of a 4-bedroom bed and breakfast operation within an addition to an existing two-bedroom single-family dwelling on approximately one (1) acre of land situated within the State Land Use Agricultural District. The property is located at 29-3825 Pueohi Road, Hakalau Homesteads, Hakalau, Hawai'i.

Approval of the request is based on the following:

The applicants request a Special Permit to establish a 4-bedroom bed and breakfast operation within an existing two-bedroom single-family dwelling and proposed addition. The bed and breakfast will operate 24 hours 7 days a week with the two applicants as employee/operators. If necessary, an additional employee will be hired. The applicants state that the average number of guests will be eight (8). Parking will be available on-site. Real Property Tax Records indicate that the single-family dwelling was permitted and constructed in 2007 as a 3-bedroom, 2-bathroom dwelling with a carport. Subsequently, one bedroom was converted into an office and another bedroom was converted into a laundry room. The proposed 4-bedroom bed and breakfast (B&B)

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operation will be accommodated by assigning one (1) bedroom in the existing dwelling for B&B use with the other three (3) units to be provided by modifying and expanding the existing carport. The applicants will reside in an additional farm dwelling to be constructed on another portion of the 11.5-acre property.

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 Chapter 205, Hawai'i Revised Statutes (HRS), as amended. 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. In recognizing that lands within the Agricultural district may 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 proposed use is considered unusual since it is not agricultural in nature, but it is a reasonable use as it will provide the landowner with a supplemental source of income upon land that is very poorly suited for agricultural activities. The limited nature of the proposed use for a four-bedroom bed and breakfast operation conveys the reasonableness of the applicants' request, as the property is approximately eleven acres in size and improved with a dwelling. As such, the proposed use is considered an unusual and reasonable use of agricultural land that will not adversely affect the preservation and agricultural use of the County's agricultural lands.

Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. Although the property is identified as Prime Agricultural Land by the ALISH system, the Land Study Bureau's soil classification is "C" or "Fair" soils which do not have a high potential for sustained agricultural yields. The requested use will be contained within an addition to an existing dwelling. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District. Although the property is improved with a dwelling, there are various agricultural uses on the site, including forty papaya trees, two banana groves, a bamboo grove and a pineapple garden. Longan trees are proposed to be planted in the future. Thus, the applicants will continue to use the property for agricultural purposes while operating the bed and breakfast establishment.

The desired use would not adversely affect surrounding properties. Surrounding properties are zoned A-10a and A-20a and are vacant or in residential uses.

The closest dwellings are located adjacent to the site on TMK: 2-9-002: 031 and TMK: 2-9-002: 033 to the southwest and east, respectively. The applicants will be expected to comply with all applicable requirements of affected agencies, including the State Department of Health. It is not anticipated that the use of a small portion of the property for the proposed non-agricultural use will have an adverse impact upon surrounding properties as the bed and breakfast operation will be solely contained in an existing dwelling and proposed addition. The proposed use will be subordinate to the existing residential and small scale agricultural uses. With the exception of the addition for the operation, no significant improvements will be required to establish the use. As no restaurant or commercial kitchen facilities are proposed, the bed and breakfast operation would not significantly alter the characteristics of the property or surrounding area.

The proposed 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 from the Hawai'i Belt Highway to Chin Chuck Road to Pueohi Road. Both Chin Chuck Road and Pueohi Road are approximately 40-foot wide. Although the public has a right of access through this right-of-way, Pueohi Road has not been maintained by any government entity in years, and future maintenance of the road remains uncertain. According to the Department of Public Works, Pueohi Road is a "road in limbo", defined as a road constructed or planned by the State or the Territorial government. These roads are classified as either existing or paper roads. Typically, existing roads are referred to as "government roads" or "homestead roads." On the Island of Hawai'i, there are 408.9 miles of Roads in Limbo of which 122.6 miles are recognized as government or homestead roads. There are also 286.3 miles of paper roads; rights of way identified on tax maps, but have yet to be constructed. Maintenance of these roads remains uncertain between the State and County governments.

The subject parcel is not within the Department of Water Supply's service zone and is considered out-of-bounds. Where possible, parcels that are out-of-bounds can receive one unit of water. Currently, an existing 5/8" meter services the property and is adequate for only one dwelling unit at an average rate of up to 400 gallons per day. In a memo dated December 24, 2013, the Department of Water Supply (DWS) has indicated that two separate dwellings may not share a single 5/8" meter, and water usage is limited to an average 400 gallons per day and up to a maximum of 600 gallons per day. The subject parcel is not within the Department of Water Supply's service zone and is considered out-of-bounds. Where possible, parcels that are out-of-bounds can receive one unit of water. Currently, an existing 5/8" meter services the property and is adequate for only one dwelling unit at an average rate of up to 400 gallons per day. In a memo dated December 24, 2013, the Department of Water Supply (DWS) has indicated that two

separate dwellings may not share a single 5/8" meter, and water usage is limited to an average 400 gallons per day and up to a maximum of 600 gallons per day.

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 uses may be permitted which may not be allowed by zoning. Over the years, bed and breakfast operations have become a popular alternative to traditional accommodations, including hotels and inns. Bed and breakfast operations provide comfortable lodging in areas outside of designated urban areas. Unfortunately, the State Land Use Commission has not designated new urban lands where these uses can be established and therefore a Special Permit is the only alternative to provide these services to the community. Approval of this Special Permit will provide a homeowner with an occupational opportunity of a limited scale in an area that does not accommodate these types of services.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils on the property are classified as "C" or "Fair" for agricultural productivity by the Land Study Bureau and identified as Prime Soils by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. No active agricultural lands will be taken out of production to provide the area necessary to establish the bed and breakfast operation. The property is currently being used for residential purposes and due to its soil qualities is not ideal for producing sustained high agricultural yields. The property is improved with various trees and plants. The property is designated "Prime Soils/Prime Forest" under the Forest Legacy Program (FLP), a Federal program in partnership with various States to support each State's efforts to protect environmentally sensitive forest lands. The program is designed to encourage the protection of privately owned forest lands. It should be noted that the State Department of Land and Natural Resources, Natural Resources Conservation Service, and the U.S. Fish and Wildlife Service provided no comments relative to the FLP.

The use will not substantially alter or change the essential character of the land and the present use. The essential character of the area is a mix of residential and agricultural uses. Residential uses were established on the property when a farm dwelling was constructed in 2007. The proposed four-bedroom bed and breakfast operation will be

established on a one-acre portion of an 11.53-acre property. As such, there will be no change to the character of the land and its present use. The only change would be the addition of another farm dwelling on the property in the future.

The request will not be contrary to the goals, policies, objectives and actions of the General Plan, existing Community Development Plans 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 designated Important Agricultural Land, which are 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 an addition to an existing dwelling, the request will not be contrary to the LUPAG Map designation for this area. In addition, 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 falls within an area identified in the proposed Hamakua Community Development Plan (CDP), which is currently being drafted by this department. As such, no comments and suggestions are applicable as of this writing.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to the Coastal Zone Management Program. The property is located mauka of the Hawai'i Belt Highway, outside of the Special Management Area (SMA) and tsunami evacuation zone. There is no designated public access to the mountain or shoreline areas over the property. 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. Due to the property's distance from the ocean, the property will not be affected by any coastal hazards or beach erosion. As such, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes. The applicants will be required to comply with all agency requirements and stated conditions of approval.

Finally, this recommendation is presented with the understanding that the applicants remain responsible for complying with all other applicable governmental requirements for 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, and 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, the approval of the request to allow the establishment of a four-bedroom bed and breakfast operation within an existing two-bedroom single-family dwelling and proposed addition supports the objectives sought to be accomplished by the State 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 of the 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 four (4) bedrooms within the existing single-family dwelling and addition to the single-family dwelling.
4. If the existing 5/8-inch meter is proposed to serve the dwelling used for the bed and breakfast establishment, the applicants shall submit water demand calculations from an engineer registered with the State of Hawai'i for review and approval by the Department of Water Supply.
5. The bed and breakfast operation shall be established within two (2) years from the effective date of this permit. Within one (1) year from the effective date of this permit, the applicants shall secure and finalize any building permits that may be required by the Department of Public Works - Building Division for the addition to the existing dwelling to accommodate the proposed use.
6. The method of sewage disposal shall meet the standards and requirements of the State Department of Health.
7. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
8. An initial 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 applicant, 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).

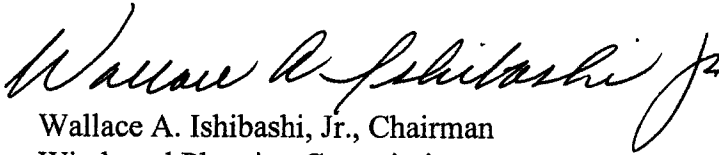
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9. Should any of these conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate procedures to revoke this permit.

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 961-8142.

Sincerely,



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

lsimpsonspp13-155wpc

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