



County of Hawai'i

LEEWARD PLANNING COMMISSION

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APR 13 2015

Mr. Sidney M. Fuke
Planning Consultant
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit (SPP 15-000177)

Applicant: Kona Castle Ranch, LLC

Request: Develop and Operate a Five-Bedroom Bed and Breakfast and Special Events Facility

Tax Map Key: 7-9-002:005 (portion)

The Leeward Planning Commission, at its duly held public hearing on March 19, 2015, voted to approve the above-referenced request to establish a 5-bedroom bed and breakfast operation within an existing dwelling and additional bedrooms and the use of portions of the dwelling and surrounding area for special events, all of which will occur on approximately 5 acres of land situated within the State Land Use Agricultural District. The project site is situated east (mauka) of Old Māmalahoa Highway approximately one (1) mile north of the intersection of the Old Māmalahoa Highway and Hawai'i Belt Road in Honalo, North Kona, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The operation of the bed and breakfast and special event facility and related improvements shall be conducted in a manner that is substantially representative of plans and details contained within the Special Use Permit Application dated January 7, 2015 (SPP 15-000177) and site plan Amendment on March 11, 2015. Any substantial expansion of the facility or uses beyond what is represented in these documents shall require an amendment to this permit.
3. 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 applicant shall secure Final Plan Approval from the Planning

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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), and other improvements associated with the proposed development.

4. Special events shall be limited to weddings, seminars, corporate retreats and other low-impact activities. Events that generate high amounts of traffic (i.e. farmers market, craft fairs) shall not be allowed, with the exception of special event functions that deal specifically with the coffee industry such as the Kona Coffee Cultural Festival.
5. Special events shall be limited to 12 per month with no more than 200 persons per event.
6. All special events shall occur between 9:00 a.m. and 10:00 p.m. The use of amplified devices outdoors shall end by 9:00 p.m.
7. The noise level during any special event shall comply with the State Department of Health noise standards for residential properties and shall not exceed 55 decibels during the day and 45 decibels during the night at any property boundary.
8. Prior to commencement of the proposed use, the applicant shall secure and finalize a change of use building permit if required from the Department of Public Works Building Division.
9. The applicant shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i for review and approval. In addition, the applicant 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 commencement of the proposed use.
10. The applicant shall submit an intersection sight distance analysis prepared by a licensed engineer for DPW for review and approval. Prior to the issuance of an occupancy permit, the applicant shall comply with all DPW requirements for sight distance, access improvements, and driveway connection to the highway.

11. The use of tour buses (larger than 15-passenger vans) to the site shall be prohibited.
12. An individual wastewater system shall be installed, meeting with the standards and requirements of the State Department of Health, prior to commencement of the special events use.
13. Applicant shall secure a food establishment permit and construct a certified kitchen meeting the requirements of the State Department of Health, prior to commencement of the proposed use.
14. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
15. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
16. Applicant shall comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.
17. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
18. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements. Any alcohol use shall be regulated by and comply with all State and County regulations and permit requirements.
19. An initial extension of time for the performance of conditions 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 Zoning Code.
- C. Granting of the time 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).
- E. If the applicant should require an additional extension of time, the Planning Department 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 fashion, the Planning Director may initiate procedures to revoke the 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

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

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,



Brandi K. Beaudet, Chairman
Leeward Planning Commission

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Enclosure: PC Findings Report

cc: Kona Castle Ranch, LLC
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources -- HPD
State Department of Health
Mr. Gilbert Bailado

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

KONA CASTLE RANCH, LLC
SPECIAL PERMIT APPLICATION (SPP 15-000177)

The applicant is requesting a Special Permit to allow the establishment of a 5-bedroom bed and breakfast operation within an existing dwelling and proposed additional bedrooms and the use of portions of the dwelling and surrounding area for special events, all of which will occur on approximately 5 acres of land situated within the State Land Use Agricultural District. The subject property is located east (mauka) of Old Māmalahoa Highway approximately one (1) mile north of the intersection of the Old Māmalahoa Highway and Hawai'i Belt Road in Honalo, North Kona, Hawai'i, TMK: 7-9-002:005 (por).

The applicant is requesting a Special Permit to establish a 5-room bed and breakfast facility, using two of the three bedrooms within the existing 14,000 square foot main dwelling and proposing the construction of three (3) new detached bedroom suites, to be built proximate to the main dwelling, and consisting of approximately 720 to 1,000 square feet each with a bathroom, bedroom, and sitting area but no kitchen. The total number of rentable guest rooms will not exceed five (5), the maximum number of bed and breakfast guests will be capped at ten (10), and guests will only be offered breakfast meals in the main dwelling. On-site parking stalls will be available for guests and the applicants will reside in the third bedroom of the main dwelling. In addition, the applicant proposes to establish a special events facility in the main dwelling and immediate surrounding grounds for events such as weddings, seminars, and other low-impact activities. The special events facility is not anticipated to include activities that generate a large amount of traffic over an extended period of time such as a farmers market or craft fair. However, the special events component that deals specifically with the coffee industry (e.g. annual coffee picking festival and Kona Coffee Cultural Festival) will generate sporadically heavy traffic. Special event activities would begin no earlier than 9:00 a.m. and end no later than 10:00 p.m. Use of amplified devices outdoors would end no later than 9:00 p.m. and would not exceed the State noise standards for residential uses at the boundaries of the approximately 600-acre parcel. While not expected to be the norm, it is possible that up to 4 smaller events per day (i.e. seminars, etc.) could take place at the facility. The applicant does not anticipate more than 100 participants on average for larger events, however they could accommodate up to 200 for the aforementioned coffee festival or a large wedding. The applicant indicated that they would not allow tour buses, but can accommodate passenger vans and personal vehicles with all parking requirements to be met on-site. Food service is proposed in conjunction with special events and includes on-site catering and food preparation. The applicant notes that the bed and breakfast would operate independently of the special events activities, however the two would be coordinated closely to avoid conflicts. The area of the proposed bed and breakfast and special events facility, inclusive of the main dwelling, its immediate surrounding grounds and the parking area would consist of no more than 5 acres.

The grounds for approving a Special Permit are based on Rule 6-6 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 use is an unusual and reasonable use of land situated within the Agricultural District that would not be contrary to the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, 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. The subject property is 596.65 acres in size and is situated within the County's Agricultural (A-20a) zoning district. The mauka portion of this parcel is being used for cattle grazing, and the applicant is developing a milking goat operation as well as reviving and expanding coffee groves and planting avocado orchards. The request is unusual in that the proposed uses are not strictly agricultural in nature, however the proposed bed and breakfast operation and special events activities will only take place on a 5-acre portion within the larger parcel that has already been improved and established for non-cultivable activities and thus will not diminish the potential for any agricultural activity on the property. Therefore, it is reasonable that this use be allowed in the Agricultural district.

In addition to the above listed criteria, the Planning Commission shall also consider the following criteria listed under Section 6-3(b)(5) (A) through (G) of its rules of practice and procedure:

(A) Such uses shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. 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 5-acre permit area is designated as Important Agricultural Land by the General Plan LUPAG Map, but its soils are classified by the Land Study Bureau's rating system as class "D" or "Poor" soils for agricultural productivity. The proposed request involves approximately 5 acres within a larger 600-acre parcel for the bed and breakfast operation and special events facility utilizing an existing three-bedroom dwelling and the development of three (3) detached bedrooms. Because the proposed bed and breakfast operation and special events will be conducted in an area that has already been improved and established for non-cultivable activities (the existing single-family dwelling and its immediate surrounding grounds), it will not displace any existing agricultural activity or diminish the agricultural potential of the property. Therefore, the use will not adversely affect the preservation and agricultural use of the County's agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties.

Surrounding properties are primarily zoned A-20a, A-5a, and A-1a and lot sizes ranging from 20+ acres to less than 1 acre. Within the surrounding lots are a mix of vacant, agricultural, and scattered single-family residential uses. The proposed uses are expected to occur in the 5-acre permit area is located generally in the center of the subject parcel nearly 3,000 feet from the highway and 770 feet from the nearest dwelling (located south of the permit area. There is

also extensive landscaping and/or agricultural improvements bordering and within the subject parcel.

Bed and breakfast activities will take place within the existing dwelling and proposed detached bedrooms and will be consistent with bed and breakfast requirements of the zoning code (i.e. limitations on number of guests, rentable rooms, etc.) and as such is not anticipated to have an adverse impact on surrounding properties.

The special events facility will operate separately from the bed and breakfast operation and will take place in portions of the main dwelling and immediate surrounding grounds for events such as weddings, seminars, and other low-impact activities. The facility is not anticipated to include activities that generate a large amount of traffic over an extended period of time such as a farmers market or craft fair, with the exception of special events that deal specifically with the coffee industry (e.g. annual coffee picking festival and Kona Coffee Cultural Festival). Special event activities are anticipated 1-2 times a week, with an average of 100 guests per event (with up to 200 for the aforementioned coffee festival or a large wedding). Special events would begin no earlier than 9:00 a.m. and end no later than 10:00 p.m. and use of amplified devices outdoors would end no later than 9:00 p.m. and would not exceed the State noise standards for residential uses. The applicant indicated that they would not allow tour busses, but can accommodate passenger vans and personal vehicles and all parking requirements for the bed and breakfast and special events operations will be met on-site. Food service is proposed in conjunction with special events and includes catering and on-site food preparation, which will require a certified kitchen. Conditions of approval will align with these representations and should further minimize the possibility of adverse impacts to the surrounding area.

(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 property is accessed via a 12-foot wide paved driveway with 2 to 3-foot shoulders within an easement over the subject and adjoining parcel up to the dwelling from Old Māmalahoa Highway/Hawai'i Belt Road. Where it fronts the property, the County-maintained Old Māmalahoa Highway/Hawai'i Belt Road has approximately 20-foot wide pavement within a 50-foot wide right-of-way. According to the Department of Public Works (DPW), this roadway is substandard based on width, alignment and roadside hazard clearances. DPW also stated that two approaches currently serving the common access easement on Old Māmalahoa Highway have apparent intersection site distance inadequacies, can only accommodate one-way traffic, and intersect the highway pavement at an angle. DPW is concerned that the proposed special events would add considerable traffic volume to the existing approaches and anticipate conflicts, confusion and safety issues with the existing configuration. To mitigate these concerns, a condition of approval will require the applicant to conduct a sight distance study to submit to DPW for review and approval and that all DPW requirements for sight distance, access improvements, and driveway connection to the highway be complied with prior to the issuance of an occupancy permit.

It is anticipated that that traffic will increase along Old Māmalahoa Highway due to the proposed uses, however, to minimize this impact, the bed and breakfast and special events facility will open after 9:00 a.m. and on weekends and holidays (during off-peak hours) to minimize conflicts with school and commuter traffic.

According to the Department of Water Supply (DWS), there is an 8" County water line fronting Old Māmalahoa Highway and county water is currently provided to the subject property via a 1-inch meter. DWS indicated that the existing 8" water line is capable of providing required water flow for fire protection and requires estimated daily water usage calculations and the installation of a reduced pressure backflow assembly, which will be conditions of this approval.

There is no public sewer in the area. Wastewater generated from the existing dwelling is currently disposed of into a cesspool, which is not adequate to handle wastewater for the proposed land use according to the Department of Health (DOH). A condition of approval will require that the applicant provide an individual wastewater system meeting with DOH approval to accommodate the proposed use.

All essential utilities and services are available to the site. Fire stations are located in Keauhou, Kailua, and Kealahou, all within 5 miles from the subject parcel. Police service is available from either Kealahou or Honokōhau, less than 5 miles and 8 miles away, respectively. The nearest available health facility is the Kona Community Hospital in Kealahou.

(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, a community may establish various non-agricultural services that may not be available or allowed by zoning for its residents. Since the district boundaries were established, demand has increased for alternative eco-tourism, edu-tourism, and agri-tourism experiences for more independent and adventurous visitors as an alternative to resort venues. The proposed uses would meet this demand by providing visitors an opportunity to experience a working farm/ranch which in turn creates interest and support in the Island's agricultural products. In addition, the historic venue provides a unique architectural/historical experience of staying or attending an event in the "Kona Castle."

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils within the permit area site are classified as "D" or "Poor" for agricultural productivity, and are classified as "Other" Important Agricultural Lands and "unclassified" under the ALISH map. These soils are most suitable for pasture use, and are unsuited for large-scale agricultural uses permitted within the Agricultural District. That said, the mauka portion of the subject parcel is being used for cattle grazing, and the applicant is developing a milking goat operation as well as reviving and expanding coffee groves and planting avocado orchards. In addition, the proposed uses will be conducted within an existing dwelling and proposed detached bedrooms on a portion of the parcel that has already been improved and established for non-cultivable activities and therefore will not diminish or agricultural opportunities and thus will not adversely impact the agricultural potential of the land.

(F) The use will not substantially alter or change the essential character of the land and the present use. The essential character of the property and surrounding area is agricultural. The applicant plans to utilize only 5 acres of a nearly 600-acre parcel for the

proposed uses. Most of the needed improvements associated with the requested uses already exist (i.e. existing dwelling), the proposed detached bedrooms will be proximate and subordinate to the existing dwelling use, and special events will take place within portions of the existing dwelling and immediately surrounding grounds. Therefore it is not anticipated that the proposed use will substantially alter the essential character of the area.

(G) The request will not be contrary to the General Plan and Community Development Plan (CDP). 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 project site is identified by the LUPAG map as Important Agricultural Lands, which are lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. The proposed uses will be conducted within an existing dwelling and proposed detached bedrooms on a portion of the parcel that has already been improved and established for non-cultivable activities. Therefore, it will not diminish the existing use of the property and will indirectly promote agriculture by allowing visitors to spend time on an active farm/ranch. The subject property does not fall within the designated Kona CDP Urban Area or Rural Town Transit Oriented Development (TOD) area, or any concurrency zones. The Economic Development section of the Kona CDP identifies objectives, policies, and actions that focus on supporting important foundations of Kona's economy as well as key opportunities for economic development. Two of the economic foundations of Kona are tourism and agriculture. The CDP specifically supports programs and events designed to promote and support agriculture in Kona such as the proposed request to hold special events on the applicant's farm/ranch.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The property is located more than 3 miles away from the nearest shoreline and will not be impacted by coastal hazards or affect beach erosion, coastal ecosystems and marine resources. Additionally, it is not located in the Special Management Area. There is no record of a designated public access to the shoreline or mountain areas that traverses the property. According to the applicant, no valued cultural or natural resources exist on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced at the site. No formal archaeological study was conducted of the property due to past and current agricultural use of the land and because no ground disturbing activities are proposed. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

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, Special Permit No. 15-000177 is approved to establish a 5-bedroom bed and breakfast operation within an existing dwelling and proposed additional bedrooms and the use of portions of the dwelling and surrounding area for special events, all of which will occur on approximately 5 acres of land situated within the State Land Use Agricultural District on TMK: 7-9-002:005 (por).