



County of Hawai'i

LEEWARD PLANNING COMMISSION

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

JUL 31 2015

Mr. Clemens Classen
P.O. Box 957
Hōnaunau, HI 96726

Dear Mr. Classen:

SUBJECT: Special Permit (SPP 15-000180)
Applicant: Clemens Classen
Request: To Allow the Establishment of a 3-Bedroom Bed and Breakfast
Operation Within an Existing 5-Bedroom Dwelling
Tax Map Key: 8-6-001:013

The Leeward Planning Commission, at its duly held public hearing on July 16, 2015, voted to approve the above-referenced request to allow the establishment of a 3-bedroom bed and breakfast operation within an existing 5-bedroom dwelling on approximately 20.97 acres of land situated within the State Land Use Agricultural District. The property is located east (mauka) of Hawai'i Belt Road at the 100 mile marker approximately 1.1 miles south of the intersection of Ho'okena Beach Road and Hawai'i Belt Road in Waiea ahupua'a, South Kona, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of Section 25-4-7 of Chapter 25, Hawai'i County Code, (Zoning Code), relating to Bed and Breakfast Establishments.
3. The number of guests staying at the bed and breakfast operation shall not exceed six (6) at any one time.

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Mr. Clemens Classen

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4. The applicant shall provide proper documentation to the Department of Water Supply to correct the assignment of water services to the subject parcel.
5. The applicant shall implement water conservation measures to reduce current water use and install a reduced pressure type backflow assembly for any water meter serving the property as required by the Department of Water Supply.
6. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.

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 Daryn Arai of the Planning Department at 961-8142.

Sincerely,



Brandi K. Beaudet, Chairman
Leeward Planning Commission

LClassenSPP15-180wpc

Enclosure: PC Findings

cc: McCandless Land & Cattle Company
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Mr. Gilbert Bailado
State Department of Health
West Hawaii Division, Planning Department

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

CLEMENS CLASSEN

SPECIAL PERMIT APPLICATION NO. 15-000180 (SPP 15-180)

The Applicant is requesting a Special Permit to allow the establishment of a 3-bedroom bed and breakfast operation within an existing 5-bedroom dwelling on approximately 20.97 acres of land situated within the State Land Use Agricultural District. The property is located east (mauka) of Hawai'i Belt Road at the 100 mile marker approximately 1.1 miles south of the intersection of Ho'okena Beach Road and Hawai'i Belt Road in Waiea ahupua'a, South Kona, Hawai'i, TMK: 8-6-001:013. The dwelling consists of a main structure containing the living area, kitchen and one bedroom and an attached "wing" containing four bedrooms. Three of the bedrooms in the "wing" portion of the house will be used for the proposed use. The total number of rentable guest rooms will not exceed three (3), the maximum number of bed and breakfast guests will be capped at six (6), and guests will only be offered breakfast meals meeting Department of Health requirements. On-site parking will be available for guests. It should be noted that the applicant originally intended to utilize all 4 bedrooms in the "wing" portion of the house but has revised the request to three bedrooms due to Department of Health rules which require a food establishment permit and certified kitchen for bed and breakfast operations accommodating over 6 guests.

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 20.97 acres in size and is used for pasturing goats, horses, cattle, and donkeys. Additionally, the applicant resides in a farm dwelling which he is proposing to use for the bed and breakfast operation. The proposed bed and breakfast operation will be subordinate and incidental to the principal use of the residence and will not diminish the potential for any existing or future agricultural activity on the property. In their letter dated June 9, 2015, the State Land Use Commission indicated that the proposed use is contrary to HRS, Chapter 205 because agricultural tourism activities that include overnight accommodations are only permitted in Maui County. The Planning Director believes that Maui County is the only county where agricultural tourism activities with overnight accommodations are permitted outright without needing a Special Permit, and that in Hawai'i County landowners proposing this use (such as a bed and breakfast operation) require a Special Permit. Thus, the applicant is applying for a Special

Permit for the proposed use which is a reasonable and unusual use of land 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 property is not designated as Important Agricultural Land by the General Plan LUPAG Map and its soils are classified by the Land Study Bureau's rating system as class "E" or "Very Poor" for agricultural productivity. Because the proposed bed and breakfast operation will be conducted in an area that has already been improved and established for non-cultivable activities (the existing farm 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 zoned A-20a and A-5a and consist of lot sizes ranging from 10 acres to 50+ acres. Surrounding properties are used as grazing/pasture land, and coffee and macadamia nut orchards. The nearest dwelling is located across the highway approximately 2,000 feet from the proposed bed and breakfast. Bed and breakfast activities will take place within the existing dwelling 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.

(C) Such 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 Road, which is a two-lane paved State roadway. Access from the highway to the site is via a 10-foot wide concrete-paved driveway within an easement over the subject property and adjacent four properties to the north. A significant increase in traffic is not anticipated. According to the Department of Water Supply (DWS), the property previously had a water service lateral assigned to it which is currently inactive. Instead the property and dwelling receive County water via two 5/8-inch water meters situated on adjacent land owned by McCandless Ranch (TMK's 8-6-001:010 & 011). The water usage through these two meters already exceeds their capacity; therefore, the DWS cannot provide additional water for the proposed use. The DWS recommends the applicant implement water conservation measures and install a reduced pressure type backflow assembly for any water meter serving the property, which will be included as conditions of the permit. There is no public sewer in the area. Wastewater generated from the existing dwelling is currently disposed of into a cesspool. All solid waste generated requires private disposal at the Waiea Transfer Station or West Hawai'i Sanitary Landfill. All other essential utilities and services are available to the site.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. Major changes have not been made to the State Land Use district boundaries since the boundaries and regulations were established in the 1970's. The

property and surrounding areas are designated for agricultural uses by both State and County land use laws. The proposed bed and breakfast operation is part of a worldwide trend towards providing alternative lodging sites in rural and agricultural areas such as this particular location. A localized and unique lodging facility provides the visitor an opportunity to experience Hawai'i in a home-type setting as well as contribute to the economic structure of the County.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils within the property are classified as "E" or "Very Poor" for agricultural productivity, and are classified as "Other" Important Agricultural Lands and "unclassified" under the ALISH map. These soils are not suitable for cultivation, although the property is being used for pasturing goats, horses, cattle, and donkeys. In addition, the proposed use will be conducted within an existing dwelling on a portion of the parcel that has already been improved and established for non-cultivable activities 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 an existing dwelling on a 20.97-acre property for the proposed use. 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 Extensive Agriculture, which are lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine till ability and climate. These lands are typically used for less intensive agricultural uses such as grazing and pasture. The property is currently being used to pasture livestock. Thus, 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 Economic element of General Plan.

Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Encourage the development of a visitor industry that is consistent with the social, physical, and economic goals of the residents of the County.

The primary land use goal of the Kona CDP is to direct urban uses to the Kona Urban Area defined in the Kona Land Use Map. The subject property is located outside of the Kona Urban Area. According to the Kona CDP, outside of the Urban Area, the character of the rural areas should prevail by directing future growth to the existing rural towns and villages in order to protect important agricultural land from urban development. The proposed use will occur within the existing dwelling on property within the rural area. Thus, the request is consistent with the goals and objectives of the Kona CDP.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The property is located about 1 mile 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. 15-000180 is approved to allow a 3-bedroom bed and breakfast operation within an existing dwelling on 20.97 acres of land within the State Land Use Agricultural District on TMK: 8-6-001:013.