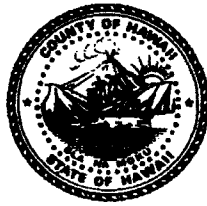


William P. Kenoi
Mayor



Charles Heaukulani, Chair
Gregory Henkel, Vice Chair
Joseph Clarkson
Donn Dela Cruz
Donald Ikeda
Myles Miyasato
Raylene Moses

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

JUN 28 2016

Mr. Steven Lund
Mile Marker 12, LLC
P. O. Box 1222
Pāhoa, HI 96778

Dear Mr. Lund:

SUBJECT: Special Permit No. SPP-16-000189
Applicant: Mile Marker 12, LLC
Permitted Use: Establishment and Operation of a Center for Well-Being
Tax Map Key: 1-3-009:018

The Windward Planning Commission, at its duly held public hearing on June 2, 2016 voted to approve the above-referenced request to allow the establishment and operation of a retreat center for health and well-being identified as a "Hawaiian Sanctuary," to be located on an 11.33-acre portion of a larger 43.57-acre property situated within the State Land Use Agricultural District. The project components include the conversion of an existing dwelling into a health and wellness center; construction of 4 bungalows for overnight accommodations, group educational activities and social events. The project site is situated along the mauka (west) side of the Pāhoa-Kalapana Road (Highway 130) at the 12-mile marker, Puna, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The construction and operation of the retreat facility and all of its related uses and activities shall be conducted in a manner that is substantially representative of plans and details as contained within the revised Special Permit application received on March 3, 2016.

Hawai'i County is an Equal Opportunity Provider and Employer

JUN 28 2016

3. **Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, gravel driveway access and gravel parking stalls associated with the approved uses.**
4. **The applicant shall secure and finalize any open building permits for all existing structures, and submit the required change of use (building) permit for the wellness center to the Building Division-Department of Public Works within one (1) year from the effective date of this permit.**
5. **The applicant shall comply with the requirements of the Department of Transportation as listed within their November 6, 2015 letter, which includes paving the driveway access to Pāhoa-Kalapana Road within the State right-of-way, providing street lighting and preparing a traffic control plan for special event days. These requirements shall be submitted to and approved by the Department of Transportation.**
6. **The applicant shall comply with the requirements of the State Department of Health for compliance with the wastewater system(s), the provision of potable water, and the certified kitchen. The applicant shall have an engineer submit revised wastewater plans for the new wastewater system and comply with Chapter 50 (Food Safety Code) for the certified kitchen and potable water requirements within one year from the effective date of this permit.**
7. **All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study of the subject property, if required, shall be prepared and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.**

8. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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 the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
9. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Health and the Department of Transportation.
10. The applicant shall submit a final status report to the Planning Department once all conditions of approval have been met. The report shall include, but not be limited to, information proving compliance with the conditions of approval.
11. An 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).

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.

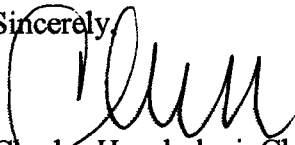
Mr. Steven Lund
Mile Marker 12, LLC
Page 4

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 Jeff Darrow of the Planning Department at 961-8158.

Sincerely,



Charles Heaukulani, Chairman
Windward Planning Commission

LMilemarker12SPP15-186wpc
Enclosure: PC Findings Report

cc: Lori Mikkelson, All Aina Services
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources – HPD
State Department of Transportation
State Land Use Commission
State Department of Health
Mr. Gilbert Bailado

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

MILE MARKER 12, LLC

SPECIAL PERMIT APPLICATION NO. 16-000189 (SPP 16-189)

Based on the following, Special Permit No. 16-000189 is hereby approved by the Planning Commission to allow the establishment and operation of a retreat center for health and well-being identified as a "Hawaiian Sanctuary," to be located on an 11.33-acre portion of a larger 43.57-acre property, which includes the conversion of an existing dwelling into a health and wellness center; construction of 4 bungalows for overnight accommodations, group educational activities and social events.

The property located along the mauka (west) side of the Pāhoa-Kalapana Road (Highway 130) at the 12-mile marker, Puna, Hawaii, TMK: 1-3-009: Portion of 018.

The applicant, Mile Marker 12, LLC, is requesting a Special Permit to allow the establishment and operation of a retreat center for health and well-being identified as a "Hawaiian Sanctuary," to be located on an 11.33-acre portion of a larger 43.57-acre property situated within the State Land Use Agricultural District. The retreat center will be part of a sustainable organic farm that produces organic fruits and vegetables, medicinal herbs, and promotes holistic medical techniques, remedies, which will be a site for agricultural tourism. The proposed project will include the following components:

- The conversion of an existing dwelling into a health and wellness center: The center would include 4 bedrooms, an office, bathroom and bathing facilities, a colonic treatment room, and a sauna and spa room.
- Construction of 4 bungalows for overnight accommodations: Plans show each bungalow having one bedroom, one bathroom, closet and lanai.
- Educational/agricultural workshops and classes for individuals and groups: These include activities for individuals or groups such as companies, church groups, schools, etc. of approximately 10 to 15 people. The group instruction would be once or twice a week. There are also agricultural and educational classes, as well as treatments and cleanses, that require it necessary to provide overnight accommodations to complete the curriculum and treatment. The application provides more detailed information of the different programs.
- Social events: Once or twice a month there may be larger groups of approximately 50 to 80 persons for interaction and sharing of information, guest spiritual speakers, guest horticultural speakers, guest wellness specialists, occasionally followed with contra dancing, hula, or music (at times amplified).
- All parking will be provided on-site.

There are 2 full-time caretakers and 4 to 6 agricultural interns, who intern on a rotating basis. Additionally, there will be a medical or naturopathic physician available on-site for observation of clients and for insurance purposes, only for the needs of the retreat. The retreat center will operate between 7:00 a.m. to 7:00 p.m. daily.

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 granting of the proposed request would be consistent with the objectives sought to be accomplished by the Land Use Law and Regulations, and is an unusual and reasonable use of land situated within the State Land Use Agricultural District. The granting of this request will promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, 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 Districts may not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses may 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 property is situated on land characterized Ola'a extremely stony silty clay loam, 0 - 20% slopes. The use will be located within the wellness center, detached bedrooms (bungalows), green houses and agricultural structures and which is situated within an area where soils are classified as "D" or "Poor" and "E" or "Very Poor" for agricultural productivity by the Land Study Bureau's Overall Master Productivity Rating and is classified as Other Important Agricultural Land with a portion unclassified by the Department of Agriculture's ALISH Map.

While approval of this amendment will introduce non-agricultural uses on the subject property, the applicant is also introducing new agricultural uses that were previously not occurring on the subject property. Through its proposed programs, the applicant has expressed its desire to enhance agricultural as well as cultural uses in a manner consistent with the objectives of the State Land Use Law and the General Plan by blending together several distinct uses that will mutually benefit each other.

There will be agricultural and educational classes, treatments and cleanses, as well as Hawaiian Spiritual retreats, that make it necessary to provide overnight accommodations to complete the curriculum and treatments. The applicant will be utilizing fruits, vegetables and herbs that are grown on their property for the health and wellness programs, including juices, foods and fasting aids. Additionally, the applicant will be conducting gardening and farming classes to help people continue on with an organic and healthy lifestyle.

As stated by the applicant, "Hawaiian Sanctuary is committed to community enrichment through education of our Keiki, Makua and our Kupuna." The applicant will provide education and experiences in organic gardening, healthy food preparation, wellness techniques, and interaction between individuals and organized groups. The applicant believes the Hawaiian Sanctuary will be a perfect example of agriculture & eco-tourism and an important addition to Pāhoa and the Hawai'i Island community.

The proposed use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property. 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.

Therefore, the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended, and is considered an unusual and reasonable use of land situated within the Agricultural District.

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. Based on the previous discussion listed above, 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 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.

The property is 43.57 acres in size and roughly rectangular in shape. There is an existing dwelling, which is proposed to be converted to the wellness center, green houses and agricultural structures on the subject property. The portion of the property to be used for the Center consists of 11.33 acres and the remainder of the property will remain in its natural state. The property is heavily wooded around the perimeter with albezia and strawberry guava, which will greatly minimize any visual or noise impacts to surrounding property owners.

The surrounding properties are similarly zoned A-5a and consists mainly of vacant lots. Pāhoa town is located just to the north of the subject property. The nearest dwelling is located over 1,000 feet away on the adjacent property to the north, which is also heavily forested to further minimize any visual or noise impacts.

In addition, there have been no objections or concerns received from the surrounding property owners regarding this request. Based on the above discussion, it is not anticipated that the proposed use will adversely affect 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 Pāhoa-Kalapana Road (Highway 130), which is a State Highway with 22-foot wide pavement and 4-foot paved shoulders within a 50-foot wide right-of-way. There is a shared access easement with Parcel 17 to the north to minimize accesses to the State Highway. Electricity and telephone are available to the property. There is no municipal sewer system in the subdivision. The applicant currently utilizes existing cesspool systems. County water is not available to the subject site. Water will be provided possibly by a drilled well and supplemented by two (2) catchment systems (30,000 gallons and 2,500 gallons). The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Additionally, a condition of approval will include that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

The dwelling has been permitted in the past. The current structure that is being proposed as the wellness center is currently permitted as a dwelling. The applicant will be required to submit a change of use permit changing from a dwelling to a wellness center. As such a condition of approval will be added requiring the applicant to finalize the change of use building permit within one year from the effective date of this approval.

Based on the above, the requested use will not burden public agencies to provide additional services.

(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. The request to allow a retreat center for health and well-being in this area is in line with the intent for allowing the issuance of a Special Permit.

(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 Ola'a extremely stony silty clay loam, classified as "D" or "Poor" and "E" or "Very Poor" for agricultural productivity by the Land Study Bureau's Overall Master Productivity Rating and is classified as Other Important Agricultural Land with a portion unclassified by the Department of Agriculture's ALISH Map. Although the soil is poor for uses permitted within the Agricultural district, the applicant will be utilizing fruits, vegetables and herbs that are grown on their property for the proposed use. Additionally, the proposed use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property and will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed request will be conducted on an 11.33-acre portion of a larger 43.57-acre property and the remainder of the property will remain in its natural state. Based on The proposed request 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 area mainly identified as Important Agricultural Lands, which are those lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. Additionally, two portions of the property are identified as Extensive Agricultural, which are lands not classified as Important Agricultural Land and includes 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 tillability and climate. As previously mentioned, the proposed request will not displace any active or potential agricultural activity on the property. The proposed request is consistent with the following goals and policies of the Land Use and Economic elements of General Plan.

Land Use Element

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- 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.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawai'i.
- Provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- 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 proposed request will allow the applicant an opportunity to improve their quality of life, provide an economic environment that allows this new, economic opportunity and increase the development of the visitor industry for Hawai'i.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program. Given the fact that the project site has been developed with a residential dwelling, green houses, and agricultural structures, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There is no designated public access to the mountain areas over the property. The property is not located within the Special Management Area and is over 4 miles from the nearest coastline. 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. Further, the property will not be affected by any coastal hazards or beach erosion.

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 properties. 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.