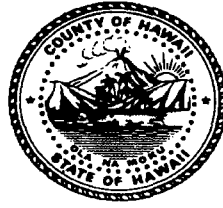


Harry Kim  
Mayor



Joseph Clarkson, Chair  
Donald Ikeda, Vice Chair  
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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

**MAY 17 2018**

Ms. Lori Mikkelson  
All Aina Services  
P.O. Box 291  
Laupāhoehoe, HI 96764

Dear Ms. Mikkelson:

**SUBJECT: Special Permit No. SPP 18-000196**  
**Applicant: Taylor Summers and Amber Mitchell**  
**Permitted Use: Establishment of a Two-Bedroom Bed & Breakfast and**  
**a Detached Community Commercial Kitchen**  
**Tax Map Key: 1-5-053:139**

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The Windward Planning Commission, at its duly held public hearing on May 3, 2018 voted to approve the above-referenced request to allow the establishment of a two-bedroom bed & breakfast and a detached community commercial kitchen. The project site is situated on the northeast (makai) side of 5<sup>th</sup> Avenue, about 1,400 feet northwest of the intersection of 5<sup>th</sup> Avenue and Kaloli Drive, Hawaiian Paradise Park subdivision, Puna, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, as well as complying with all of the stated conditions of approval.
2. The community commercial kitchen and the 2-bedroom bed and breakfast establishment 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. Completion of construction of the proposed two (2) detached one-bedroom structures, detached community commercial kitchen and related improvements shall be 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. A Plan

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**MAY 17 2018**

Approval may require a drainage plan. 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 buffer and other improvements associated with the proposed development. Best Management Practices (BMPs) shall be implemented.

4. Prior to construction, the applicants shall secure building permits required by the Department of Public Works-Building Division.
5. Construction activities shall comply with Chapter 11-46 Community Noise Control of the Hawai'i Administrative Rules (HAR) including but not limited to obtaining a noise permit, equipping on-site construction equipment and vehicles that require an exhaust of gas or air with mufflers.
6. The detached bedroom(s) shall not contain a kitchen or a bar sink.
7. The proposed bed and breakfast staff is limited a maximum of four (4) employees, including the applicants as the owner-operators. The applicants will retain their existing pool/yard maintenance services. The proposed community commercial kitchen staff is limited to one (1) employee.
8. Any expansion of the use or building of the detached commercial kitchen or the bed and breakfast operation requires an amendment to this permit.
9. The community commercial kitchen and the bed and breakfast establishment shall utilize potable water meeting the Department of Health's requirements.
10. Prior to making the pool house with full bath, bar and hot tub available to guests of the proposed bed and breakfast establishment, the applicant shall finalize Building Permit No. 960946, as well as secure and finalize any other Building Permits required by the Department of Public Works-Building Division.

11. The bed and breakfast 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 two (2) detached one-bedroom structures, as represented in this application.
12. The operation of the proposed kitchen facility shall comply with the requirements of the State of Hawai'i Department of Health Food Safety Code, Chapter 50.
13. The applicants shall comply with the requirements of the State of Hawai'i Department of Health Air Pollution Rules, Chapter 60.1, Title 11 for fugitive dust control.
14. The method of sewage disposal shall meet the standards and requirements of the State Department of Health. The applicant shall install a grease trap by the State Department of Health or the Department of Public Works, as required.
15. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. All earthwork and grading activity shall conform to the Hawai'i County Code Chapter 10, Erosion and Sedimentation Control, and Chapter 27, Flood Control.
16. All outdoor lighting shall be fully shielded so the bulb can only be seen from below bulb height and only use when necessary in order to avoid seabird disorientation, fallout, injury or mortality.
17. The applicants shall avoid nighttime construction during the seabird-fledging period (September 15 through December 15).
18. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used for fencing, and woody vegetation over 15 feet in height shall not be removed during bat breeding season of June 1<sup>st</sup> through September 15<sup>th</sup> without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service if nests are found. Surveys shall be conducted by a qualified biologist.

19. To protect any Hawaiian hawk in the vicinity of the property, clearing and grubbing activities shall not occur in the permit area during hawk breeding season of March to September without first conducting surveys for hawk and coordinating with US Fish and Wildlife Service if nests are found. If nests are found, surveys shall be conducted by a qualified biologist.
20. In the unlikely event that any surface or subsurface historic properties and/or resources, such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and immediately contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
21. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. The 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).

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.

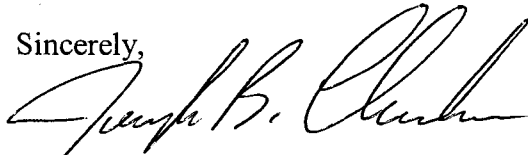
Ms. Lori Mikkelson  
All Aina Services  
Page 4

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 Shancy Watanabe of the Planning Department at 961-8144.

Sincerely,



Joseph Clarkson, Chairman  
Windward Planning Commission

LSummersSPP18-196wpc  
Enclosure: PC Findings Report

cc: Taylor Summers & Amber Mitchell  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
State Land Use Commission  
US Fish and Wildlife Service  
Mr. Gilbert Bailado

**COUNTY OF HAWAI'I**  
**PLANNING COMMISSION FINDINGS**

**TAYLOR SUMMERS and AMBER MITCHELL**  
**SPECIAL PERMIT APPLICATION NO. 18-000196 (SPP 18-196)**

The applicants are requesting a Special Permit for two separate uses that will provide sources of income: a detached community commercial kitchen and a detached 2-bedroom bed and breakfast operation on approximately one-acre of land situated within the State Land Use Agricultural District.

The applicants are proposing a detached 10'x16' (160-square foot) community commercial kitchen that Scott Walter, a self-employed chef who went to culinary school, will primarily use and manage. Mr. Walter will provide breakfast service for the proposed bed and breakfast, and offer gourmet catering for off-site local benefits and/or community events.

The applicants stated that they have no plans for special events and/or benefits to occur on the subject property. In addition, Mr. Walter will manage the proposed community commercial kitchen schedule, which will be made available for rent by means of a co-op membership. The proposed site plan shows two (2) ADA-accessible parking spaces for each use and four (4) "food grade" sealed water tanks that will serve the request. The applicants will contract regular water deliveries from a licensed water delivery company. For firefighting purposes, the applicants intend to use the existing water catchment and install additional water catchment tanks as needed. The applicants stated that the proposed community commercial kitchen would be a shared-use kitchen certified for food production. Renters or co-op members can use the kitchen by the hour or day to produce food while fulfilling regulatory compliance. Food entrepreneurs (ranging from chefs, caterers, food truck proprietors, bakers and value-added producers) would benefit from the shared-use kitchen instead of spending the capital to build or lease their own facility. Mr. Walter plans on personally using the commercial kitchen approximately three (3) to four (4) hours a day, between 7:30 am to 5:00 pm on the days when the bed and breakfast operation is in use. As manager of the co-op, Mr. Walter will oversee the schedule and collection of start-up and hourly kitchen rental fees. Hours for the commercial kitchen co-op membership would be between 8:00 am and 5:00 pm daily. The applicants stated that there will be no other employees working in the commercial kitchen and that a maximum of two (2) people may use the commercial kitchen at any given time. The applicants propose to move forward with the permitting and construction of the community commercial kitchen within one year of receiving Final Plan Approval for the design concept from the Planning Department, and after the bed and breakfast operation is fully underway.

In addition, the applicants propose the construction of two (2) 20'x24' (480-square feet) detached ADA-compliant one-bedroom structures (no kitchen in either proposed bedroom) for the establishment of a 2-bedroom bed and breakfast operation located approximately 53-feet away from the existing pool and about 100-feet away from the existing dwelling. Guests may use the existing pool, proposed sauna, steam room, hot tub and fire pit. Each proposed bedroom will contain a full bathroom, closet and an attached 8'x20' (160-square feet) covered lanai. The applicants propose to serve guests coffee, tea or

individual container juices, seasonal fruit and pastries (made onsite in the proposed commercial kitchen or purchased at a local bakery). The bed and breakfast establishment will offer accommodations for tourists in the Puna area, as well as family and friends of local area residents. The proposed bed and breakfast operation will operate year round, seven (7) days a week. Check-in would be by 4:00 pm, check-out by 11:00 am. The applicants anticipate up to two (2) guests per detached bedroom. The length of stay would be a minimum of two (2) days up to a maximum of seven (7) days. The applicants will hire one (1) part-time housekeeping employee who will work about four (4) hours per day, five (5) days a week. The applicants intend to hire one (1) additional employee while retaining the existing pool/yard maintenance staff services. The applicants will start construction within four (4) months of receiving a Building Permit.

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 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.** 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 bed and breakfast establishment and a certified kitchen may be permitted in the Agricultural district, provided that a Special Permit is issued for the use. The subject property is one-acre in size and situated within the county and state agricultural districts. The applicant currently resides in the existing dwelling. The 2-bedroom bed and breakfast operation will consist of two (2) detached one-bedroom structures and will be subordinate to the primary use of the existing single-family dwelling. The detached 10’x16’ community commercial kitchen will also be subordinate to the single-family dwelling. Therefore, the proposed request is considered an unusual and reasonable use of the agricultural land.

**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. The property is situated on land characterized as ‘Opihikāō highly decomposed plant material, 2 to 20 percent slopes (rOPE). This soil is in the Puna District. In a representative profile the surface layer is very dark brown muck about three (3) inches thick. It is underlain by pahoehoe lava bedrock. The muck is strongly acidic and rapidly permeable. The lava is very slowly permeable, but water moves rapidly through the cracks. Runoff is slow, and the erosion hazard is slight. ‘Opihikāō soils are in

native forest or in pasture use. Soils within the project site are classified as “E” or “Very Poor” for agricultural productivity and as unclassified by the Department of Agriculture’s Agricultural Lands of Importance to the State of Hawai‘i (ALISH). There are no known streams that traverse the subject property. Existing noise levels are from traffic and incidental human activity, wind and foliage. As the project will generate construction traffic and equipment noise, construction activities must comply with the provisions of the Hawai‘i Administrative Rules (HAR), Chapter 11-46, Community Noise Control. The Planning Commission recommends a condition to address noise impacts. Air quality in the subject area is mostly affected by emissions from natural and vehicular sources, as well as the volcanic haze from the Kīlauea Volcano. According to the State Department of Health, the applicant would need to meet the requirements of our Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawai‘i for fugitive dust control. The Planning Commission recommends a condition to address air impacts. The nearest stream is the non-perennial ‘Ōla‘a Stream, which is over two (2) miles to the northwest of the subject property. Any project and its potential impacts to State waters must meet State and Federal rules and regulations. The Planning Commission recommends a condition to address impacts to state waters.

As the proposed use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property. Therefore, the proposed request will not adversely affect the preservation and agricultural use of the County’s prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

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

**(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 proposed 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.**

The subject one-acre property is rectangular in shape and gently slopes between the 85-foot through 92-foot elevation. The applicants reside in the existing one-story, 3-bedroom, 2-bathroom dwelling. Accessory structures include a water tank, in-ground swimming pool and a pool house. Trees and shrubs screens the subject property from neighboring properties. The surrounding properties are similarly zoned A-1a and are either vacant or in residential use. The adjacent property to the east contains a single-family dwelling with accessory structures.

The proposed request will generate minimal traffic in the area. 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 uses are not anticipated to have a substantial adverse impact on the surrounding properties. However, 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 request will not burden public agencies to provide additional services. Access to the property is from Kaloli Drive, then onto 5<sup>th</sup> Avenue. Kaloli Drive is a two-lane paved roadway with grass shoulders. 5<sup>th</sup> Avenue is an approximately 16-foot to 17-foot wide gravel road within a 40-foot right-of-way. All roads within the subdivision are privately owned and maintained. Electrical and telephone services are available to the site. The nearest Police and Fire facilities are located in nearby Pāhoa town. The Fire Department requires compliance with the Fire code and regulations.

The applicant anticipates four (4) additional vehicles per day total for the proposed commercial kitchen and detached 2-bedroom bed and breakfast establishment. The applicants indicated that 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.

According to the Department of Water Supply (DWS), the subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system. Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service. The applicant indicated that they will utilize a private rainwater catchment system, which the DWS does not object to the use of rainwater catchment systems. However, the DWS cannot approve or comment as to the adequacy of those systems as they do not meet the requirements of the Department's Water System Standards. DWS recommends that the owner(s) consult with the County of Hawai'i's Planning Department, Department of Public Works and/or the State Department of Health to determine any other guidelines, recommendations or regulations regarding the use of rainwater catchment systems.

In their memo, the State Department of Health (DOH) indicated that they do not support the use of private rain water catchment systems for drinking purposes since the quality may not meet potable water standards. Projects that propose development of new sources of potable water serving or proposed to serve a public water system must comply with the terms of Hawai'i Administrative Rules (HAR) 11-20-29 regulated by the DOH's Safe Drinking Water Branch. The DOH recommends that the subdivision lots connect to an existing public water system. All projects which propose the use of dual water systems or the use of a non-potable water system in proximity to an existing potable water system to meet irrigation or other needs must be carefully designed and operate these systems to prevent the cross-connection of these systems and prevent the possibility of backflow of water from the non-potable system to the potable system. The two (2) systems must be clearly labeled and physically separated by air gaps or reduced pressure principle backflow prevention devices to avoid contaminating the potable water supply. In addition, backflow devices must be tested periodically to assure their proper operation. Further, all non-potable spigots and irrigated areas should be clearly labeled with warning signs to prevent the

inadvertent consumption of non-potable water. Compliance with HAR Chapter 11-21, titled Cross-Connection and Backflow Control is also required. DOH encourages the applicants to contact their office should questions arise.

According to the Department of Public Works Engineering Division, the subject property is in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain. All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage plan may be required by the Plan Approval process in accordance with Section 25-2-72 (3) of the Hawai'i County Code.

The applicants stated that the proposed detached bedrooms and the proposed commercial kitchen will connect to the "food grade" sealed water tanks and not to the existing water catchment, which will continue to service the existing dwelling where the applicants reside.

The existing single-family dwelling on the subject property is currently served by a cesspool which was approved by the State Department of Health (DOH) in 1991, when cesspools were still permissible. The applicants propose the installation of a septic system with a required grease trap meeting DOH requirements for the bed and breakfast operation and for the commercial kitchen, as well as obtaining a licensed engineer to help with the proposed septic system plans. In their memo dated March 5, 2018, the DOH indicated that the (existing) wastewater system is inadequate for the proposed project and requires an engineer submit plans for review and approval to the Department of Health for an additional individual wastewater system and/or plans to upgrade current cesspool to a septic system.

According a memo from the Department of Health, the proposed kitchen facility operation would need to meet the requirements of Chapter 50, Food Safety Code.

At a recent site visit, the applicants stated that they will look into hiring a professional waste and recycling pick-up for the proposed uses. Otherwise, the hired housekeeper(s) and commercial kitchen manager will be responsible for waste disposal. The applicant is in the process of obtaining a final inspection to close the building permit for the pool house, which is still open from 1996. As such, a condition of approval will require the applicant to finalize the open building permit. Based on the above, the proposed request 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 subject 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 permitted outright by zoning for its residents. The proposed request to allow a 2-bedroom detached bed and breakfast establishment and a detached community commercial kitchen 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 land characterized as ‘Opihikāō highly decomposed plant material, classified as “E” or “Very Poor” for agricultural productivity by the Land Study Bureau’s Overall Master Productivity Rating and is unclassified by the Department of Agriculture’s ALISH Map. Although the soil is suited for uses permitted within the Agricultural district, the applicants were not actively pursuing any agricultural activities in the location of the proposed request. Thus, the proposed uses will not displace any active or potential agricultural activity on the property.

**(F) The proposed use will not substantially alter or change the essential character of the land and the present use.** The proposed request consists of a detached 160-square foot detached commercial kitchen and two (2) detached one-bedroom structures. According to the applicant’s site plan, the proposed detached commercial kitchen will be between the existing dwelling and the pool area, while each of the detached bedrooms will be towards the back of the subject property. Proposed landscaping will help to buffer the proposed uses from adjacent properties. Furthermore, the applicants indicated that there will be no special events and/or benefits held on the subject property. Therefore, 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, and designates the subject property as Rural. This designation includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two (2) acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. As mentioned previously, the proposed request will not displace any active or potential agricultural activity on the property. The approval of the 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.

According to the Puna Community Development Plan, the subject property is located near the proposed Hawaiian Paradise Park (HPP) neighborhood village center along Kaloli Drive between 4<sup>th</sup> and 5<sup>th</sup> Avenues, which is a little over 1,400 feet away. The Puna CDP does not specifically discuss Bed and Breakfast establishments nor commercial kitchens within the Hawaiian Paradise Park. The Puna CDP identifies the HPP as a location where a Regional Town Center should provide a wide range of services for the Puna district.

**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 Special Management Area (SMA) is part of the Coastal Zone Management Program regulated by the County. The subject property is located outside of the Special Management Area and tsunami evacuation zone, and is a little over one (1) mile away from the nearest shoreline. The proposed special permit is not anticipated to change the visual attributes of the existing views of the ocean from 5<sup>th</sup> Avenue or from Kaloli Drive. The applicants indicate that there are no views of the ocean from the subject property. The views of Mauna Kea and Mauna Loa from Kaloli Drive will not be affected. The property is not listed as a distinctive and identifiable landmark as identified in the Hawai'i County General Plan. There is no designated public access to the mountain or shoreline areas over the subject property. Therefore, the proposed uses 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 subject property's distance from the ocean, the property will not be affected by any coastal hazards or beach erosion.

No formal floral or faunal study or archaeological study was submitted with this application. The applicants observed mongooses and the following birds on the subject property: doves, cardinals, mynah, finches and Japanese white-eyes. As the property has been previously cleared, landscaped and developed with a single-family dwelling since 1990 and related accessory structures, it is unlikely that any threatened or endangered floral or faunal species are present on the subject property. The State Historic Preservation Division's (SHPD) List of Designated Historic Places state or national registries does not include the subject property. The Planning Commission will include a condition in the unlikely event of discovering historic properties during construction activities. As of this writing, there has been no response from the SHPD nor from the U.S. Fish and Wildlife Service (USFWS) regarding this Special Permit application. However, in other projects in the vicinity,<sup>8</sup> the USFWS indicated that the following endangered species have been observed in the area or may transit the project area: Hawaiian Hawk, Hawaiian Hoary Bat, Hawaiian Petrel, the threatened Newell's shearwater and the band-rumped storm petrel. The Planning Commission recommends conditions to address minimizing impacts to endangered species.

Therefore, the proposed uses are 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), health code compliance, drainage plan, 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 considerations, Special Permit No. 18-000196 is approved to allow the establishment of a 2-bedroom bed and breakfast operation and a community commercial kitchen on an one-acre of land situated within the State Land Use Agricultural District on TMK: (3)1-5-053:139.