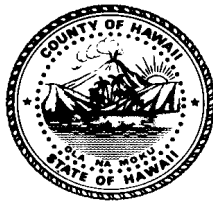


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

January 06, 2022

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

Dear Mr. Fuke:

SUBJECT: Special Permit Application (PL-SPP-2021-000003)
Applicant: Rachelle Onaka
Request: To Establish a Three-Bedroom Bed and Breakfast Establishment
Within an Existing Single-Family Dwelling and an Existing
Detached Guest House
Tax Map Key: (3) 7-6-005:017

The Leeward Planning Commission, at its duly held public hearing on December 16, 2021, voted to approve the above-referenced request to establish a three-bedroom bed and breakfast establishment within an existing single-family dwelling and an existing detached guest house on 1.312 acres of land situated within the State Land Use Agricultural District. The subject property is located at 76-3724 Duarte Road, approximately 410 feet from its intersection with Māmalahoa Highway, Hōlualoa 1st & 2nd Partition Lots Mauka, Hōlualoa, North Kona, Hawai'i.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns ("Applicant") shall be responsible for complying with all stated conditions of approval.
2. The operation of the bed and breakfast establishment and related improvements shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit application dated September 23, 2021 and representations made to the Leeward Planning Commission. Any substantial expansion of the facility or uses beyond what is represented in these documents shall require an amendment to this permit.

3. The Applicant shall comply with all requirements of Section 25-4-7 of the Zoning Code, Hawai'i County Code Chapter 25, as amended, relating to Bed and Breakfast Establishments.
4. Prior to commencement of the proposed bed and breakfast use within the existing farm dwelling and guest house, the Applicant shall secure and finalize all required building permits from the Department of Public Works Building Division.
5. The Applicant shall comply with all Fire Department requirements as set forth in Section 18.3.8 of the Hawai'i County Fire Code for firefighting water purposes for the proposed development.
6. The Applicant shall provide potable water to the bed and breakfast establishment by securing one 5/8-inch water meter, which is limited to 400 gallons per day, from the Department of Water Supply (DWS). Additional potable water may be provided by onsite storage tanks or bottled water. Multiple dwellings shall not share any DWS water meter, and the water system plumbing between the dwellings shall not be interconnected in any way. Additionally, the Applicant shall enter into and comply with all conditions of an out of bounds agreement with the Department of Water Supply to establish a water connection for one (1) unit of water to a single dwelling.
7. The Applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the newly installed water meter on private property, which must be inspected and approved by the Department of Water Supply.
8. The bed and breakfast operation shall be limited to the use of three (3) bedrooms.
9. The method of sewage disposal shall meet with the requirements of the State Department of Health.
10. The 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 meal service to guests if the Applicant opts to serve meals consisting of "potentially hazardous foods" as defined by the Department of Health. A copy of the permit shall be provided to the Planning Department prior to commencement of the proposed use.
11. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.

12. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
13. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
14. 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 Eric Cook of the Planning Department at (808) 961-8169 or by email at Eric.Cook@hawaiicounty.gov.

Sincerely,

Michael Vitousek

Michael Vitousek (Jan 6, 2022 20:34 HST)

Michael Vitousek, Chairman
Leeward Planning Commission

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Attachment: Planning Commission Findings

cc w/att. via email: Rachelle Onaka
Department of Public Works
Department of Water Supply
Fire Department
State Department of Health
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

RACHELLE ONAKA

SPECIAL PERMIT APPLICATION NO. PL-SPP-2021-000003

Based on the following findings, the requested Special Permit to establish a three-bedroom bed and breakfast establishment within an existing single-family dwelling and an adjoining guest house on 1.312 acres of land situated within the State Land Use Agricultural District is hereby **approved by the Leeward Planning Commission**. The subject property is located at 76-3724 Duarte Road, approximately 410 feet from its intersection with Māmalahoa Highway, Holualoa 1st & 2nd Partition Lots Mauka, Holualoa, Hawai‘i, TMK: (3) 7-6-005:017.

The applicant, who currently resides on the property, is requesting a Special Permit to establish a three-bedroom bed and breakfast operation in an existing, two-bedroom single-family dwelling and an existing, one bedroom guest house. The bed and breakfast will operate within the existing footprint of the single-family dwelling and guest house, with the intention to provide accommodations for under ten (10) adults. The applicant’s objective is to provide alternative accommodations for visitors to the Big Island of Hawai‘i. The applicants intend to employ a family member as both the operator of the bed and breakfast as well as the manager for the existing coffee farm on site. The applicant is proposing to schedule guest check-in and check-out after the AM/PM peak hours for traffic.

The grounds for approving a Special Permit are based on Rule 6-7 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai‘i Revised Statutes, as amended.

The proposed 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 1.312 acres in size and is situated within the County’s Agricultural (A-1a) zoning district. There is an existing, single story, two-bedroom/two-bathroom single-family dwelling, a single story one-bedroom/one-bathroom permitted guest house, and a single story two-bedroom/one-bathroom second farm dwelling. The property currently has an operational coffee farm that will remain in operation in conjunction with the proposed bed and breakfast operation. The request is unusual in that the proposed uses are not strictly agricultural in nature. However, the proposed bed and breakfast uses and activities will occur in existing structures and will not require any further clearing of the parcel, thus the proposed use will not diminish the potential for 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 soils on the property are classified by the Land Study Bureau’s rating system as class “C” or “Fair” soils for agricultural productivity and designated “Unclassified” on the Agricultural Land of Importance to the State of Hawai‘i (ALISH) map. As the proposed use will be conducted within the existing structures, 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 of high agricultural potential 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.

Uses in the surrounding area are a mix of agricultural and residential. There is a cluster of commercial uses within parcels zoned Village Commercial (CV) approximately 630 feet north of the subject site. The subject property is bordered by dwellings in all directions, with the closest dwellings being approximately 85 feet from the structures for the bed and breakfast operation to the north and south. Noise and visual impacts are not anticipated to adversely affect the surrounding properties. TMK 7-6-005:057, located approximately 900 feet southwest of the subject property, was approved for Use Permit No. 159, to establish a 2-bedroom bed and breakfast operation. The proposed use will abide by the rules and regulations for bed and breakfast operations as stated in Hawai‘i County Code Chapter 25. No traffic impacts are anticipated due to the limited number of rooms for rent (3) and the limitation on number of guests allowed at any one time (10). Approximately 5 peak hour guest vehicle trips are estimated per day. Given the low traffic levels anticipated by the proposed use, the applicant does not propose any road improvements, thus the proposed use should not 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. The subject property is accessible via Duarte Road, a privately owned approximately 9-foot wide paved roadway over a 50-foot wide access and utility easement that bisects the subject property and connects to Māmalahoa Highway. The portion of Māmalahoa Highway fronting the subject property’s driveway entry is County maintained and has a right-of-way width of 50 feet with an approximate pavement width of 20 feet. There is good visibility both entering and exiting the driveway connection to the subject site. To minimize conflicts with school and commuter traffic, the applicant intends to schedule guest check-in and check-out after the AM/PM peak hours.

The Fire Department did not provide comments on the proposed development; however, the applicant will be required to implement any improvements required by the Fire Department and the Department of Water Supply to ensure that fire protection requirements can be met for the proposed bed and breakfast operation. Conditions reflecting these requirements will be added to this approval.

According to DWS the subject property is considered out-of-bounds. Parcels that are out-of-bounds are limited to just one (1) unit of water. DWS reports that one (1) unit of water can be made available to the subject parcel to service just one (1) of the dwelling units. Two (2) or more

dwellings may not share a 5/8-inch water meter, thus the other two dwellings must be serviced by a private water catchment system as additional DWS meters are not available. DWS recommends the applicant enter into an out of bounds agreement with DWS, remit the payment of the necessary facilities charge as well as cost of the service lateral installation, and install a 5/8-inch water meter. A water supply capable of supplying the required fire flow for fire protection will need to be installed per the standards set forth in section 18.3.8 of the County Fire Code. Conditions reflecting these requirements will be added to this approval.

The subject property is not currently serviced by the County sewer system. According to the applicant, wastewater disposal is currently through an existing cesspool for the second farm dwelling (proposed housing for farm manager/rental host) and the guest house. The first farm dwelling is serviced by an existing septic system. A condition of approval will require that the individual wastewater system(s) continue to meet with Department of Health regulations.

All essential utilities and services are available to the site. Based on the discussion above, the proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, or police and fire protection.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. Since the State Land Use district boundaries were established in the 1960's, demand has increased for alternative overnight accommodations for guests who seek a more peaceful, remote environment as an alternative to resort venues. The proposed use would meet this demand by providing visitors an opportunity to have a more remote and peaceful stay on the island as well as the opportunity to experience an operational coffee farm in the unique region of the island identified as the Kona Coffee Belt.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The subject property is located within the region defined as the "Kona Coffee Belt". The property currently has an operational coffee farm that will remain in operation in conjunction with the proposed bed and breakfast operation. Based on the discussion above, the proposed uses will not diminish agricultural opportunities on the subject property 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 and residential. The applicant will continue to operate and maintain the existing coffee farm on site in conjunction with the proposed bed and breakfast operation. The proposed bed and breakfast establishment will operate within existing structures on the property and will not require any major construction to establish this use. Therefore, it is not anticipated that the proposed use will substantially alter the essential character of the land and its present use.

(G) The request will not be contrary to the General Plan and Community Development Plan (CDP) and Zoning Code. 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 Low Density Urban, which includes residential uses with ancillary community and public uses, and neighborhood and convenience-type commercial uses. 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 Island in a manner that is compatible with the County's cultural, natural, and social environment.

According to Section 25-1-5(b) of the Zoning Code, a "bed and breakfast establishment" means any single-family dwellings and/or guest houses (pursuant to section 25-4-9), which have been permitted on a building site, in which overnight accommodations and only breakfast meals are provided to a maximum of ten guests, for compensation, for periods of less than thirty days. The proposed use meets this definition of a "bed and breakfast establishment" as the bed and breakfast will operate out of a single-family dwelling and guest house, the three (3) rooms will be rented out to under ten (10) guests at any one time for periods of less than 30 days, and only breakfast meals will be provided. The proposed operation is located on land with the State Land Use designation of Agricultural, which allows for the establishment of bed and breakfast operations via a Special Permit. Accordingly, the proposed operation will not be contrary to Zoning Code.

The Kona Community Development Plan (CDP) supports the current strengths in agriculture and tourism for the region. Section 4.8.2 identifies the importance of enhancing agricultural tourism as well as maintaining Kona coffee as a specialty crop. Section 4.8.3 supports opportunities to enhance Kona's agricultural industry. The proposed operation of a bed and breakfast establishment, in conjunction with the existing coffee farm, is in agreement with the desired agricultural industry growth prescribed within the plan, therefore the proposed operation will not be contrary to the Kona Community Development Plan.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The property is located approximately two 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 archeological or historical features are known to exist on the subject property nor is the property listed as a historic site on the State or National Register of Historic Places. There are no known traditional or customary Native Hawaiian cultural rights being practiced within the subject property or any known cultural or historic resources existing on the property. The applicant reports that they believe it is unlikely to find and significant archeological features on the site as it has previously been fully developed for residential and agricultural uses.

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 Building Code and 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, approval of the Special Permit request to establish a three-bedroom bed and breakfast operation within an existing single-family dwelling and an adjoining guest house on 1.312 acres of land situated within the State Land Use Agricultural District would support the objectives sought to be accomplished by the Land Use Law and Regulations.