

COUNTY OF HAWAII PLANNING DEPARTMENT
RECOMMENDATION

PUAKEA RANCH DBA: KAPUNAKANE RANCH LLC
SPECIAL PERMIT APPLICATION SPP-20-000219

Upon review of the request against the guidelines for granting a Special Permit, the Planning Director is recommending that this request to allow the establishment of a full-service Guest Ranch be approved with stated conditions by the Leeward Planning Commission. Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This approval recommendation is based on the following findings:

The applicant is requesting a Special Permit to allow for the expansion of the existing property to a full-service Guest Ranch on a 14.9-acre portion of the 32.411-acre subject parcel. The remaining area would continue to be used as grazing pastures, orchards, animal corrals, and open space. All new structures will be constructed in a 2.14-acre site (“construction area”) *within* the larger 14.9-acre Special Permit project area; several existing structures within the Special Permit project area will also be converted and/or upgraded as part of the Guest Ranch. All new construction will undergo review by the State Historic Preservation Division (SHPD) to ensure consistency with the appropriate Secretary of the Interior's Standards for Treatment of Historic Properties due to the historic nature of the Ranch. The following lists the proposed uses and development outlined in the Special Permit Application:

- Seven (7) Guest Ranch guesthouses for a total of 38 overnight guests per day.
- Conversion of “Ohana House” (currently storage) to guesthouse for overnight accommodations.
- Conversion of “Former Cottage Site” (currently foundation only) to guesthouse.
- Conversion of “Tool Shed” to ADA compliant restroom facilities for “special events” and guests.
- Construction of a new enclosed event space/pavilion within the 2.14-acre construction area.

- Development of a parking area for events.
- Demolition of the “Tree House” and construction of additional guesthouse for overnight accommodations – support only with full DPW permitting.
- Demolition of the existing pavilion.
- Guest Ranch to host private events for up to 100 “non-guests” on Friday or Saturday only, one (1) special event per weekend (up to 48 “special events” per year).
- Guest Ranch to grow and sell food, along with utilizing the certified kitchen for catering for guests, special events, and large events.
- Guest Ranch will offer horseback riding and other similar Ranch activities.
- Guest Ranch will offer equine therapy, cooking, art, and yoga classes.
- Guest Ranch will host two (2) “community events” per year with up to 350 people.
- Guest Ranch will utilize portable toilets until more permanent restroom facilities can be constructed for guests and special events. Use of portable toilets for large events (>350 people) will continue.

The Planning Department is supportive of the continued use of the Guest Ranch, including the expansion of that use, however, the applicant will be required to upgrade the existing infrastructure (e.g., restrooms, parking, water) necessary to handle large events of 350 people. Additionally, the existing “Tree House” will not be utilized as a dwelling or rental unit until significant upgrades or reconstruction are implemented to bring the building up to current building code.

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, Hawaii Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In

recognizing that lands within the 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. In addition, 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 Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The land on which the proposed use will be located is classified as “C” or “Fair” for agricultural productivity by the Land Study Bureau, however, historically the property has been used for ranching activities which is common in the Kohala Region. The Special Permit site is 14.9 acres in size and is part of SIHP Site No. 9071, which includes the Guest Ranch (and associated structures) and uses such as animal husbandry, and agriculture. Within the more refined 2.14-acre “construction area” of the Special Permit there are remnant historic structures, however only one (1) (Wall section) will be retained, the other two (2) (foundations for ranching structures) will be removed for future development and ADA improvements. The proposed use as a Guest Ranch will be a continuation of characteristic Ranch activities which have been occurring on this property for a century.

Although the granting of the Special Permit would permit the continuation of some non-agricultural uses on the property (i.e., weddings, community events, vacation rentals), the existing and proposed uses include traditional farming components which are far more relatable to the agricultural district than farm dwellings constructed on large agriculture parcels where no agriculture is being conducted. The proposed function of the Guest Ranch will meet the needs of the existing community by providing community support and opportunities for gathering as well as cultural opportunities for the area relating to the long history of ranching in Kohala.

Therefore, the approval of the proposed request will not have a significant adverse effect on the County's agricultural land inventory. It is determined that the proposed use

is an unusual and reasonable use of land situated within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

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 as follows:

Such use 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 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 varied uses of the Special Permit area, which include animal husbandry and agriculture, are in line with the intended use of the Agricultural District of North Kohala and therefore the approval to establish a Guest Ranch on the property is not anticipated to have a significant adverse effect on the County's agricultural land inventory.

The desired use would not adversely affect surrounding properties. The project site is located off Akoni Pule Highway in North Kohala, south of Hāwī town. The property is listed with a SIHP designation that includes ranch buildings and historic ranch uses. The surrounding properties are similarly zoned A-20a or A-10a and consist mainly of larger lots with farm dwelling structures. Some ranching and minor agriculture is present in the area, however residential is the primary use surrounding the applicant's parcel. To that end, noise impacts from large gatherings have been a concern of neighbors, however, the project site is sufficient size for adequate setbacks and buffers that will minimize any noise impacts. Additional mitigation methods to minimize noise, such as time constraints on events, consolidation/removal of event structures, new development contained to the center of the subject parcel, and extensive landscaping to block both views and noise to surrounding properties will be implemented as part of the approval. The proposed use should not generate noise in excess of levels that would be expected from normal agricultural and ranching operations that would otherwise occur on the property. The Planning Department has received several comment letters regarding the Special Permit application, both in support and against the proposed use.

Based on the above discussion, the approval to establish a Guest Ranch on the subject property is not anticipated to adversely affect the surrounding properties and uses.

Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. There is one access point to the parcel off the mauka side of Akoni Pule Highway which consists of a gated paved driveway. The Puakea Ranch access includes an easement to allow for shared access to the two (2) parcels mauka of the project parcel. Currently those two lots are undeveloped. A Traffic Analysis (TA) report was prepared for the project which indicated that an increase of the Guest Ranch to seven (7) guesthouses is expected to approximately increase traffic by five (5) additional round trips per day. The employee traffic would increase to be approximately ten (10) round trips per day. This combined impact represents less than 1% of the current traffic load on Akoni Pule Highway. The large community and wedding events represent a greater expected impact, these one day events are expected to host up to eight vendor vehicles and approximately 88 attendee vehicles, however this would represent 3.5% of the current traffic load on Akoni Pule Highway. No roadway or entrance improvements have been *required* at this time; however, it was recommended by the DPW – Traffic Division that the applicant install a streetlight at the property entrance with Akoni Pule Highway to ensure safe ingress/egress. If traffic issues attributable to the site operation are identified, the applicant will mitigate the impact to the satisfaction of HDOT, Hawai`i District Engineer.

There is only one (1) master meter for the nine (9) lots within the Puakea Ranch subdivision (of which Puakea Ranch is just one lot), which has averaged 5,550 gallons per day. Department of Water Supply (DWS) stated that it *cannot* provide additional water at this time for any development requiring additional water within the subdivision. Improvements to the system's source, booster pump, storage, distribution and/or transmission facilities would be required for DWS to agree to supply additional water. Based upon preliminary calculations, a conservative estimate for the average potable water demand for the Puakea Ranch subdivision is 5,700 gallons per day (gpd). Accordingly, to accommodate additional water demand from the Guest Ranch, the owners tentatively propose to construct a water well for domestic uses. This well is

expected to incorporate an approximately 5hp submersible pump with a capacity of 35 gallons per minute. The applicant anticipates that the well will be permitted to draw up to 20,000 gpd. Fire supply would be provided in a reserve tank with an approximate storage volume of 10,000 gallons. To accommodate additional water demand from the Guest Ranch, the owners propose to expand the rainwater catchment capacities. The current system can collect an annual average of approximately 100 gpd. This is generated mainly from roof catchment on Yoshi's House, stored in a 20,000-gallon tank. There is also a rain barrel used to store water collected from each of the four cottages' bath houses. Additional roofs can be included in the catchment system and designed to match the low-water demand of the natural/xerophytic landscaping and the farm garden needs. With expansion, the catchment capacity could reach 400 gpd. This additional catchment supply would be provided in a reserve tank with an approximate storage volume of 10,000 gallons.

The owners propose to construct a septic or enhanced septic system to address most of the wastewater requirements of the project. The primary wastewater needs will be for the proposed restrooms and new event center. The system will be designed and constructed in accordance with the requirements of the State Department of Health. In addition, portable toilets have been used and will continue to be used for infrequent, large events and until such time that permanent facilities can be constructed.

Water for Fire suppression would be provided in a reserve water tank with an approximate storage volume of 10,000 gallons. The applicant will conform to Fire Department recommendations relative to the retention of adequate water storage on the property to meet firefighting requirements.

Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. The property and surrounding areas are designated for agricultural use 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 predominant use of most of the agriculturally zoned properties in Hāwī and Puakea are more residential in nature and surrounding agricultural properties consist of low intensity pasture or small orchard uses. From an agricultural perspective, the proposed use is not significantly different from

what surrounds it. The request to allow a Guest Ranch in this area is in line with the intent for allowing the issuance of a Special Permit. The approval of this request will also preserve an area in North Kohala known for its historical, cultural, and architectural significance.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The subject parcel and surrounding area have a long history of ranch and ranch-type activities, including guest houses. The property contains historically significant structures that relate to the culture and history of North Kohala. While the introduction of overnight guests is not a new practice on the property, there is an emphasis on history and local cultural education that promotes the agricultural and ranching significance of the parcel. The proposed use of the property will continue to support animal husbandry and agricultural activities for the Guest Ranch and periodic events held on the subject parcel. Because of the long history of ranching and guest ranch uses that have occurred on the property, and the predominant residential developments on adjacent parcels, the proposed Special Permit activities are suited for the permitted uses within the Agricultural District.

The use will not substantially alter or change the essential character of the land and the present use. The proposed Special Permit activities will result in little change to the existing character, use, and style of the subject property other than a slight increase in the number of overnight guests and additional periodic events. Existing historic structures will be retained and/or repurposed, with all new construction conforming to the appropriate Secretary of the Interior's Standards for Treatment of Historic Properties (U.S. Department of the Interior). The predominant residential character of the area is built on the ranching and farming uses that were pervasive throughout the North Kohala region. While single family residential development is located adjacent to this parcel, the character of Kohala is predominately towards ranching and farming uses, not single-family homes on large agricultural lots. To minimize impacts associated with events to the neighboring properties the applicant will consolidate events to the center of the parcel, more specially the 2.14 acre "construction area" that will include the permanent event building and ADA facilities. As a condition of approval, the Planning Department will request that the existing pavilion, which is

unpermitted, be demolished/removed and that events for groups larger than 38 (number of overnight guests) will only be held in the 2.14-acre “construction area” designated in the Special Permit application.

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 nonurban form for areas within the County. The area where the proposed request would be located is designated as Important Agricultural Land, which includes lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. The proposed request will be preserving and utilizing the existing historical structures within the Puakea Ranch State Inventory of Historic Places (SIHP) Site No. 9071.

The proposed request would complement the following goals, polices, and standards of the following elements of the General Plan (GP):

Economic Goals:

Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments. This project aims to expand a Guest Ranch that incorporates education and history into guest experiences. The use of the site as a ranch and farm will continue which supports this goal.

Provide and economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural, and social environments. This use of the property as a Guest Ranch has been ongoing for decades; the increase to the number of guests and periodic events will not alter the historic character of the site, and therefore represents an opportunity to improve economic opportunities that are compatible with this goal. This is in line with one of the Economic Policies of the GP that aims to *encourage the development of a visitor industry that is in harmony with the social physical, and economic goals of the residents of the County.*

Strive for an economic climate that provides its residents an opportunity for choice of occupation. This Guest Ranch is intrinsically an alternative to the large, well developed resorts and hotels that dominate the Kona Coast. The Guest Ranch will provide an alternative that not only is a different experience than a resort but promotes the history and culture of the Kohala Region.

Historic Sites Goals:

Protect, restore, and enhance the sites, buildings, and objects of significant historical and cultural importance to Hawai'i. The Guest Ranch includes a number of historic buildings and uses and has received designation within the State Inventory of Historic Places (SIHP) as the Ranch captures the long history of ranching and farming in North Kohala and the Puakea Ranch in particular. This follows a policy of the Historic Sites section of the GP which states the County *should encourage the restoration of significant sites on private lands.*

Natural Resources Goals:

Provide opportunities for recreational, economic, and educational needs without despoiling or endangering natural resources. The proposed Guest Ranch is existing and will only be expanded to accommodate up to 38 guests, with periodic events for the community and residents. The only land disturbance will be contained within a 2.14-acre “construction area” that has already been developed and disturbed from decades of ranching activities.

Land Use Goals:

The property is primarily designate with the Agricultural district label, “Important Agricultural Land”. These are lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. The first goal of the Land Use element of the GP is to *designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.* The proposed request aims to provide a mix of uses that not only fall in line with the agricultural district designation but providing community and visitor opportunities on the same parcel. The historic structures will be maintained and preserved by the Guest Ranch as part of the overall character of the site.

One of the main assets of the proposed request will be to preserve, enhance, and restore the historic nature of the Puakea Ranch which includes historic structures and uses. It will provide visitor opportunities to experience a historic ranch in operation and enjoy what Hawai'i has to offer while keeping with the social, cultural, and physical environments of this area of the County. Thus, the proposed request is consistent with the Economic, Historic Sites, natural Resources and Land Use elements of the General Plan.

North Kohala Community Development Plan (NKCDP):

North Kohala has a long agricultural and ranching history, and the North Kohala Community was largely self-sufficient until recent decades. The North Kohala CDP encourages small scale agriculture to embolden the tradition of self-sufficiency. One strategy of the Kohala CDP (Strategy 1.6) is to establish community cultural programs. Additionally, one of the key policies for North Kohala is the cultural and historical preservation to promote the heritage and cultural significance of Kohala. The Puakea Ranch has incorporated agriculture, animal husbandry, and Ranch activities into the existing Guest Ranch that has a significant historic value. In addition, the availability for the community to gather to promote North Kohala is being provided by the proposed use of the Puakea Guest Ranch.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. There is no record of a designated public access to the shoreline or mountain areas traversing the property. Due to the project site's distance from the shoreline, the property will not impact any recreational resources, scenic and open space or visual resources, coastal ecosystems, and marine coastal resources.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka' Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: The applicant has presented the following information from which the Planning Commission can determine the valued cultural, historical, and natural resources within the Special Permit area.

A biological survey of the property was conducted in 2018; no threatened or endangered plant or animal species are present or would be expected to be present.

An archeological inventory survey (AIS) of the property was conducted in 2019 and determined that sites in the parcel would likely be limited to historic remains associated with Puakea Ranch.

A Cultural Impact Assessment (CIA) of the property was conducted in January 2019 to identify any culturally significant resources or traditional cultural practices. The CIA determined that there are no traditional cultural practices or properties identified within the project area, and the proposed project will not have a negative impact on any potential traditional cultural practices or properties.

The valuable cultural, historical, and natural resources found on the subject parcel: State Inventory of Historic Places (SIHP) Site No. 9071 includes the existing Guest Ranch and associated structures.

Possible adverse effect or impairment of valued resources: One of the main goals of the proposed project is to maintain, restore, and promote the historic ranch structures and use of the property for both visitors and the community.

Feasible actions to protect native Hawaiian Rights: To the extent to which traditional and customary native Hawaiian Rights are exercised, the proposed request will not affect traditional Hawaiian Rights. The proposed request will not restrict the use of natural resources, as none are present or have been historically found on the parcel. A condition of approval will serve to protect any unidentified cultural, historical, and natural resources in the event they are encountered during construction activities.

Based on the above consideration, the request to establish a full service Guest Ranch on the subject parcel would be an unusual and reasonable use of the land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant(s), its successor(s) or assign(s) shall be responsible for complying with all the stated conditions of approval.

2. The applicant(s), successor(s) or assign(s) shall be responsible for complying with all requirements of Chapter 205, Hawai`i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
3. The applicant shall construct necessary water system improvements to provide an adequate amount of water for the proposed project as outlined in the application, which may include, but not be limited to: private rainwater catchment system and a private drill well.
4. The applicant shall completely demolish the existing pavilion or relocate the entire pavilion structure within the 2.14 acre "construction area".
5. The Puakea Guest Ranch may utilize portable toilets for events until the required time that permanent facilities shall be constructed.
6. Portable toilets shall be permitted for the two (2) large events (with up to 350 people) per year.
7. The applicant shall install a streetlight at the property driveway entrance to Akoni Pule Highway (SR 270) meeting with the approval of the DPW-Traffic Division.
8. Construction and demolition shall be completed within three (3) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) 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 structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai`i County Code.
9. Access to the project site from the Akoni Pule Highway shall meet with the approval of the State Department of Transportation.
10. All driveway connections to Akoni Pule Highway shall conform to Chapter 22, County Streets, of the Hawai`i County Code.

11. A drainage study shall be prepared by professional civil engineer licensed in the State of Hawai`i and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
12. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sediment Control of the Hawai`i County Code.
13. The method of sewage disposal shall meet with the requirements of the Department of Health for all proposed septic system improvements.
14. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
15. In the unlikely 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, 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.
16. The applicant shall submit a report to the Planning Director every year before the anniversary date of when this approval is granted. The report should describe the status of development and explain to what extent each condition of approval has been satisfied. The applicant should provide letters from the various agencies that verify compliance with a specific condition as an exhibit, such as a Certificate of Occupancy from the Building Division. This condition shall remain in effect until all of the conditions of approval have been completed and the Planning Director informs the applicant that further reports are not required.
17. Any complaints received by the applicant shall be forwarded to the Planning Director. The Planning Director shall investigate and, if necessary, suspend the permit. If the complaint(s) is not resolved, the Planning Director shall then refer

the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the applicants fail to comply with the conditions of approval or has caused any unreasonable interference or nuisance on the surrounding community, the permit may be revoked.

18. 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.
19. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances: 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.
 - a. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - b. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 - c. The time extension 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).
 - d. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission for appropriate action.

20. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.