

**COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION**

**MELISSA MARTINEZ
SPECIAL PERMIT APPLICATION (PL-SPP-2025-000095)**

Upon review of the request against the guidelines for granting a Special Permit, the **Planning Director recommends this request be approved by the Planning Commission**. Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this recommendation 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 the establishment of a 1-bedroom bed and breakfast (B&B) operation within a proposed 2-bedroom single family dwelling on an approximately 1-acre parcel of land in the State Land Use Agricultural District. The applicant resides part of the year (approximately two months) on the subject property and the remainder in Utah. The proposed B&B will operate within an existing 512-square foot, 1-bedroom dwelling. The existing one bedroom on the lower level (ground floor) will be converted into two bedrooms, one to accommodate the applicant/on-site operator and the other to accommodate a maximum of three guests. The upper-level living area, kitchen and bathroom will be a shared space for both guests and the operator.

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 proposed bed and breakfast uses and activities will occur within an existing structure and will not require any further clearing of the parcel, and the remainder of the property will continue to be used for growing fruit trees and ornamental plants, thus the proposed use will not diminish the potential for agricultural activity on the property. 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 "E" or "Very Poor" soils for agricultural productivity and "undesignated" on the Agricultural Land of Importance to the State of Hawai'i (ALISH) map. Based on the preceding, the lands are not considered to have high agricultural potential. Furthermore, as the proposed use will be conducted within the existing dwelling, 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 proposed use would not adversely affect surrounding properties.

Lands surrounding the subject parcel are zoned Agricultural-1 acre (A-1a), with uses consisting of agriculture, farm dwellings and vacant lots. The subject property is bordered by vacant lots, with the closest dwelling approximately 250

feet from the proposed bed and breakfast structure to the northeast of the subject dwelling. There are no known B&B operations nearby.

The proposed use will abide by the rules and regulations for bed and breakfast operations as stated in Hawai'i County Code Chapter 25 (Zoning). No traffic impacts are anticipated due to the limited number of rooms for rent (1) and the applicant's limit on the number of guests allowed at any one time (3). As such, the proposed use should not generate significant noise and traffic impacts on surrounding properties.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The subject property is accessible from Volcano Highway (state owned) via South Kopua Road (county owned) to Kahiopele Road to Ohia Avenue which intersects Naia Street, which are privately owned roadways. No improvements to the roadway system will be needed to support the proposed use.

The single-family dwelling is serviced by a septic wastewater system. However, DOH provided that the septic system designed to serve 3 bedrooms has not yet been finalized. The applicant will need to finalize the septic system as required by DOH. Water is provided to this property by a 10,000-gallon water catchment tank system and bottled water will be provided to guests.

All essential utilities and services are available to the site, thus 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 with an opportunity to have a more remote and peaceful stay on the island.

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

The land is suitable for agriculture and is currently being used for a variety of crops and cultivation of native plants. However, the proposed use will take place within an existing dwelling on a small portion of the larger property. Based on the discussion above, the proposed use 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 characteristic of the property and surrounding area is primarily native forest with some agriculture and residences. The proposed bed and breakfast establishment will operate within an existing dwelling on the property and will require construction (split the existing one bedroom into two to establish this use. Therefore, the proposed use will not 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 Rural (RUR) which classifies the subject property and all of Eden Rock Estates as Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts within this particular section of Puna that have a significant residential component. Typical lot sizes vary from 9,000 square feet to two acres.

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.

Economic Element

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawai'i.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

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.

The proposed use is consistent with the zoning code criteria for a "bed and breakfast establishment" as the bed and breakfast will operate out of a single-family dwelling with an onsite host/operator, one (1) bedrooms will be rented out to a maximum of three (3) guests at any one time for periods of less than 30 days, and only breakfast meals will be provided. The applicant proposes to secure a building permit to alter the existing one bedroom into two bedrooms to accommodate the host and guest. The Director is recommending a condition of approval to require that the building permit for adding a second bedroom be finalized prior to operation of the B&B in order to meet the Zoning Code definition

of a B&B, which requires an onsite operator/owner. If the structure is rented out on a short-term basis without an onsite operator, it will be considered a short-term vacation rental (unhosted) which is not permitted in the Agricultural zoning district.

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 Puna Community Development Plan (PCDP) identifies the preferred land use pattern for the Puna districts and supports the current strengths in agriculture and tourism for the region. Although the PCDP does not provide guidance on Special Permit applications, Section 3.2 identifies the importance of enhancing agricultural tourism. As the bed and breakfast operation will host visitors within an existing dwelling, the request is consistent with the goals and objectives of the PCDP.

Based on the preceding, the proposed use will not be contrary to the General Plan, Community Development Plan, and the Zoning Code.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The property is not situated in the Special Management Area as it is located approximately 11 miles away from the nearest shoreline and will not be impacted by coastal hazards or affect beach erosion, coastal ecosystems, and marine resources.

There is no record of a designated public access to the shoreline or mountain areas that traverses the property. 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. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawai'i 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: No formal archaeological reconnaissance survey, oral history of kama‘āina accounts of the area, historical survey of documentary records, or botanical study was included in the application.

The valued cultural, historical, and natural resources found in the special permit area: 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.

The subject property has been partially cleared for construction of a dwelling and driveway. The remainder of the property is used for growing a variety of crops and cultivation of native plants. There are no known endangered or listed plant species on the property.

No professional surveys were conducted of the flora/fauna resources on the property. According to the applicant, they are unaware of any endangered flora/fauna.

Possible adverse effect or impairment of valued resources: Native plants and/or endangered species are unlikely to be impacted by the proposed development due to the already impacted property as mentioned above and continued cultivation of native plants.

Feasible actions to protect native Hawaiian rights: According to the applicant, 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. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

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, the proposed one-bedroom bed and breakfast establishment is an unusual and reasonable use of land which would support the objectives sought to be accomplished by the Land Use Law and Regulations. 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 one-bedroom 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 January 28, 2026 and representations made to the Windward 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 not operate the bed and breakfast use until: 1) the building permit for the second bedroom is completed and finalized, 2) the septic system is approved by the Department of Health, 3) the unpermitted uncovered detached deck and roof-mounted solar system is demolished or permitted by the Building Division, and 4) written evidence is provided to the Planning Department verifying these approvals.

4. The applicant shall submit a quarterly status report to the Planning Department until the building permit for the second bedroom is completed. The report shall include, but not be limited to, information proving compliance with the conditions of approval.
5. 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.
6. The bed and breakfast operation shall be limited to the use of one (1) bedroom.
7. The Applicant shall comply with food service operations notification and permit requirements in the State Department of Health's Administrative Rules, Title 11, Chapter 50, Food Safety Code, as it pertains to bed and breakfast operations.
8. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements in connection with the approved use, prior to its commencement upon the subject property.
9. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this Special Permit.