

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

JACK KRZYZANOWSKI AND MARK KRZYZANOWSKI
SPECIAL PERMIT APPLICATION NO. PL-SPP-2025-000113

Upon review of the request against the guidelines for granting a Special Permit, the Planning Director recommends that the request to **establish a 4-bedroom bed and breakfast within a proposed 5-bedroom dwelling on a 1.0-acre property within the State Land Use Agricultural District be approved** by the 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. The approval recommendation is based on the following findings:

The applicants propose to establish a 4-bedroom bed and breakfast within a proposed 5-bedroom dwelling on a 1.0-acre property. The proposed 5-bedroom dwelling will consist of a main structure with a kitchen, bathroom, one bedroom, and covered lanai, and four detached bedrooms. The on-site operator of the bed and breakfast operation will reside long-term in the main dwelling structure. Four detached guest rooms that consist of a bedroom, bathroom and covered lanai, with no individual kitchen, will be constructed in two phases, with phase one consisting of the first two guest rooms and phase two adding two additional guest rooms. The total proposed area to be developed is approximately 0.25 acres, with the remaining 0.75 acres to be maintained in its natural condition and used for low-impact agricultural activities such as honey production and propagation of native flora. The applicants state that existing native vegetation will be retained where feasible, including 'ōhi'a trees and 'ā'ali'i shrubs. The resident operator will be present full-time and there will be no events, weddings, retreats, group activities, commercial gatherings or amplified music. Additionally, the applicants note that guest parking will be provided on site and quiet hours will be enforced.

The application states that the project is intended to provide stable, affordable housing for the resident operator of the bed and breakfast. Additional

reasons for the request cited include physical characteristics of the property which make it unsuitable for agricultural production, as well as the need for small-scale economic activity in Ka'ū and upper Ocean View that does not burden County infrastructure or alter the rural character of the area.

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 request is unusual in that the proposed use is not strictly agricultural in nature and would allow the applicants to host overnight accommodations on their property. However, the proposed use is reasonable in that it would be subordinate and accessory to a dwelling, which is a permitted use, and the remainder of the property will be available for agricultural use. 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 subject property is classified by the Land Study Bureau's rating system as class "E" or "Very Poor" soil for agricultural productivity and is undesignated on the ALISH map. The proposed bed and breakfast will be located on a portion of the property and will not significantly diminish the agricultural potential of the remaining land. Based on the preceding, the proposed 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.

Surrounding properties are zoned A-1a, and range in size from 1 to 3 acres. These parcels contain a mixture of vacant land and dwellings, with the nearest dwelling sited approximately 200 feet from the permit area. The proposal notes that a resident operator will be present full-time, adequate on-site parking will be provided, quiet hours will be enforced and there will be no events, weddings, retreats, group activities, commercial gatherings or amplified music. To ensure that the use will not adversely affect surrounding properties, the preceding will be included as a condition 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 property will take access from Iwalani Parkway, a private road with an approximate 20-foot-wide pavement that is owned and maintained by HOVE Road Maintenance Association. The applicants will provide four on-site parking stalls for guests, in compliance with zoning code

parking requirements, and expect that traffic impacts from the bed and breakfast will be minimal as the operation is limited to four guest rooms.

According to comments provided by the Department of Finance, Real Property Tax and acknowledged by the applicants, the property will lose the tax benefits of homeowner classification, if applicable, if the bed and breakfast is approved and verifiable hosted activity occurs.

According to the Fire Department, sufficient fire apparatus access and fire suppression water supply shall be provided to comply with NFPA 1 Hawaii State Fire Code. The applicants have stated that they are amenable to including an all-weather access drive and turnaround, in addition to on-site fire suppression water storage, if the Fire Department determines that these are required. A condition of approval will be included requiring the applicants to provide adequate water for fire suppression purposes and to construct a Fire Department Access Road (FDAR) of a width and surface material meeting with the approval of the Fire Department.

As there is no county water available to the subject property, water for the proposed use will be provided by a catchment tank. The applicants have stated that potable water needs for guests will be provided by bottled water and/or water coolers.

The Department of Environmental Management notes that the property is about 20 miles from the nearest county sewer connection and the applicants have acknowledged that wastewater disposal will be subject to approval by the Department of Health (DOH). A condition of approval will be included requiring compliance with the DOH for wastewater disposal.

(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.

Since then, the Hawaiian Ocean View Estates subdivision has become more residential in nature; however, the property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various non-agricultural services may be allowed. The request is in line with the intent for allowing the issuance of a Special Permit. Based on the above discussion, the applicant has met this criterion.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils within the permit area site are classified as “E” or “Very Poor” for agricultural productivity by the Land Study Bureau (LSB) and are classified as “undesigned” under the Agricultural Lands of Importance to the State of Hawai‘i (ALISH) map. Based on the preceding, the subject property is unsuited for agricultural uses permitted in the State Land Use Agricultural District.

(F) The use will not substantially alter or change the essential character of the land and the present use. The subject property is currently vacant and undeveloped. Given that the proposed use will be contained within a dwelling, development will be contained to 0.25 acres of the 1.0-acre property, and that existing land uses in the surrounding area consist of residential and agricultural uses, with numerous vacant properties, the proposed use should not significantly detract from the land’s current character.

(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, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. 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 previously mentioned, the proposed use will be contained within a dwelling and will not preclude agricultural use of the remainder of the subject property.

The proposed request is also consistent with the following goals and policies of the Economic elements of the General Plan:

2.2 Goals:

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- (b) Economic development and improvement shall be in balance with the physical, social, and cultural environments of the island of Hawaii.

The Ka'ū Community Development Plan (CDP) is generally supportive of Special Permits for bed and breakfast establishments, and the proposed use is also consistent with the following CDP economic elements:

- Policy 41: Special Permits of any kind in the "Rural" Land Use Policy Map category should not be permitted in the Kau CDP planning area, except for the following uses: Cottage Industry: Bed and breakfast establishments, Home occupations, Commercial or personal service uses, on a small scale.
- Policy 147: Encourage the development of a visitor industry that is in harmony with the character of the area and environmental and social goals of residents. (GP 2.3(c), 14.7.5.9.2(a))

Based on the preceding, the proposed use will not be contrary to the General Plan, CDP nor the Zoning Code.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The property is located approximately 10.5 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 and there is no record of a designated public access to the shoreline or mountain areas that traverses the property. Based on the preceding, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes relating to Coastal Zone Management.

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: Records from the United States Geological Survey (USGS) indicate that the subject property and much of the surrounding area was most recently inundated by a 1907 lava flow. According to the applicants, there are no known endangered species or critical habitat in the permit area, nor are there known traditional or customary Native Hawaiian cultural practices, gathering areas or access rights located on the property, which is undeveloped. Existing vegetation includes 'ā'ali'i shrubs and low groundcover in addition to small 'ōhi'a trees,

which, while not a listed or endangered species, are considered a valued natural and cultural resource.

No archaeological studies were conducted for the project area. A request for review was sent to the Department of Land and Natural Resources, State Historic Preservation Division (SHPD), however, no response has been received at the time of this writing. According to the Department's records, there are no known archeological, cultural or historic resources on the subject property.

Possible adverse effect or impairment of valued resources: The applicants propose to develop approximately 0.25 acres of the 1.0-acre property, with the remaining 0.75 acres to be maintained in its natural condition and used for low-impact agricultural activities such as honey production and propagation of native flora. The applicants state that existing native vegetation will be retained where feasible, including 'ōhi'a trees and 'ā'ali'i shrubs. The Director notes that while some native plants may be destroyed during construction, the impact is consistent with similar residential development on comparable, nearby parcels, and that there will likely not be significant adverse effects given that 75% of the property will remain undeveloped.

Feasible actions to protect native Hawaiian rights: According to the Department's records, it is not known whether the subject site or immediate area was ever used for traditional and customary rights by native Hawaiians. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action should not affect traditional Hawaiian rights. However, the applicants note the project will not restrict access to cultural sites or interfere with traditional practices and that if cultural resources are discovered, appropriate notification and protection measures will be implemented. Should historic or cultural resources be inadvertently discovered during construction work, a condition of the permit will require the Applicant to cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division to determine and implement appropriate mitigation measures.

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 preceding considerations, approval of the request to establish a 4-bedroom bed and breakfast within a proposed 5-bedroom dwelling on a 1.0-acre property within the State Land Use Agricultural District 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(s), its successor(s), or assign(s) ("Applicant") shall be responsible for complying with all stated conditions of approval.
2. The operation of the proposed use shall be conducted in a manner that is substantially representative of plans and details as contained within the Special Permit Application received by the Planning Department, dated February 8, 2026, and representations made to the Windward Planning Commission. Any expansion of uses beyond what is represented in these documents shall require an amendment to this permit.
3. Prior to establishing the proposed use, the Applicant shall install, construct, and maintain improvements for Fire Department Access Road (FDAR) access to the permit area and fire suppression improvements, including, but not limited to, on-site water storage, as required by the Fire Department.

4. The Applicant shall comply with all requirements of Section 25-4-7 of the County of Hawai'i Zoning Code, as amended, relating to bed and breakfast establishments.
5. The bed and breakfast operation shall be limited to the use of four (4) bedrooms for rent.
6. At no time shall the permitted use on the subject property include events, weddings, retreats, group activities, commercial gatherings or amplified music.
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. 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 Department of Land and Natural Resources-State Historic Preservation Division (SHPD) at (808) 933-7651. Subsequent work shall proceed upon archaeological clearance from SHPD when it finds that sufficient mitigation measures have been taken.
9. 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 or establishment upon the subject property.
10. 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.