

CERTIFIED MAIL

July 1, 1988

Mr. Alan Okamoto
Nakamoto, Yoshioka & Okamoto
Attorneys At Law
187 Kapiolani Street
Hilo, Hawaii 96720

Dear Mr. Okamoto:

Special Permit Application (88-8)
Applicant: Jacqueline Horne
Tax Map Key: 4-6-02:8

The Planning Commission at its duly held public hearing on June 28, 1988, voted to approve your application, Special Permit No. 666, to allow the establishment of a bed and breakfast operation at Kullei 2nd, Hamakua, Hawaii.

Approval of this request is based on the following:

1. The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of agricultural districts, the intent is to preserve or keep lands of high agricultural potential in agriculture use. While the subject property has a fair potential for productive agricultural uses and has been classified "Prime" by the ALISH map system, the 1.0+ acre property contains a 50-year old home and has been heavily landscaped with a variety of trees and plants. The conversion of the home into a bed and breakfast establishment will have negligible affect on existing or potential agricultural lands surrounding the property. The active sugar cultivation is being conducted on large leasehold acreage typical of this area. It is also unlikely

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that the small parcel would ever again be planted in sugar. The applicant also understands that Hamakua Sugar Co. must continue with its planting, cultivation and harvesting operations on a cost effective basis and does not wish to interfere with these activities. The importance of Hamakua Sugar to the economy of the area has been acknowledged and no conflicts with the proposed use are foreseen.

The subject property is situated within the County's Agricultural 40-acre zone district. Private lodging facilities are a permitted use within the County's Agricultural zoned district. The bed and breakfast operation will accommodate a maximum of 8 guests at one time. No hot meals will be served to guests or the public. As such, the use as proposed has significantly lesser impacts than an already-permitted private lodging facility. Based upon the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations.

2. The desired use will not adversely affect the surrounding properties. The existing single-family dwelling consists of approximately 1,883 square feet. The present driveway access would be relocated away from the only residence in the area. The neighboring residence is located on a 2.18-acre parcel which has been heavily landscaped. It is felt that the existing conditions and the imposition of additional landscaping along the eastern boundary of the subject property would be sufficient buffer to alleviate any negative impacts generated from the proposed use.

The remaining lands that surround the property are currently in sugar. As mentioned previously, the applicant is cognizant of the importance of this industry and its priority standing in the district, county and state.

Similar to previous permits granted for this type of use, a condition of approval is being included to require that the petitioner provide this service on a reservation only basis. In addition, being a small private lodging facility, no signage will be permitted to be placed on the premises. All directions to the property shall be made via other means, such as maps, brochures, etc. This condition is being imposed to minimize the commercial-resort type atmosphere that could be projected with on-site advertisement.

3. The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. County water is available from a 5/8-inch water meter at a rate of 600 gallons per day. Comments from the Fire Department have been included as a condition of this permit. The Police Department, Real Property Tax Division and HELCO had no objections to the proposed bed and breakfast establishment. The Honokaa-Waipio Road has a 20-foot wide pavement with paved shoulders. These conditions are adequate for the proposed 5-bedroom operation provided the requirements of the State Department of Transportation-Highways Division are met.
4. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The bed and breakfast operation will be contained and confined within the existing single family dwelling on the property. Therefore, no existing or proposed areas for agricultural activities will be curtailed or diminished as a result of the new use.
5. The proposed use will not substantially alter or change the essential character of the land and the present use. The applicant will not be making major improvements to the area with the exception of providing parking and additional landscaping. These will not alter the agricultural character of the area. Potentially it could enhance that specific portion of the roadway leading to Waipio Valley.

The intensity of the use would be minimally felt given the limited number (eight) of guests who would be lodged. Further, since no restaurant or commercial kitchen facilities are proposed, which may generate increased traffic, the bed and breakfast operation does not have the potential to become a public gathering place.

6. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The bed and breakfast lodging facilities are part of a world wide trend towards providing alternative lodging sites in rural areas such as this particular location. This localized and unique lodging concept provides the visitor with an opportunity to experience Hawaii in a comfortable home setting. Within the County of Hawaii, there are unique areas and structures that can provide this type of service to the visitor and would be in keeping with the Economic Element

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policies of the General Plan which states that "The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents of the County" and "The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors."

7. The request is not contrary to the General Plan. The County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Intensive Agricultural uses. In fact, surrounding lands are being cultivated in sugar. The size and developed nature of the property does not lend itself to a viable agricultural parcel for sugar cane production. Thus, the proposal must be analyzed in context with the policies and goals set forth in other planning documents. Both the General Plan and the Northeast Hawaii Community Development Plan recognize the insufficient number of overnight accommodations for visitors. The proposal is located on the road to Waipio Valley and would be a convenient overnight rest stop for travelers. An inconspicuous bed and breakfast establishment would complement the tourist industry in this particular location. It does not have the amenities or services of a hotel or condominium, and therefore, seeks a different visitor clientele. Granting of the proposed use supports the General Plan's Resort Courses of Action for the Land Use Element which states

- *Encourage resort development which enhances rather than detracts from the natural beauty of the area.
- *Encourage the development of small family-operated hotels.

In view of the foregoing, it is determined that the proposed bed and breakfast lodging facility and related improvements is an unusual and reasonable use, which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The petitioner shall be responsible for complying with all stated conditions of approval.
2. Plans for the establishment, including landscaping and paved parking, shall be submitted to the Planning Department for

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plan approval review within one year from the effective date of this permit. The east boundary of the property shall be landscaped to provide a buffer between the proposed use and the adjacent property to the east. Parking shall be provided in accordance with Chapter 25 - Hawaii County Zoning Code. No variance from parking requirements shall be applied for or granted.

3. The bed and breakfast operation shall be established within one year from the date of receipt of final plan approval.
4. The operation of the bed and breakfast operation shall be limited to 5 bedrooms and shall be conducted on a reservation-only basis with no signage on the premises. However, this is not to preclude advertising of the facility in newspapers, books, brochures, etc.
5. The applicant is prohibited from operating a restaurant on the subject property.
6. All illegal structures shall be legitimized or demolished prior to final plan approval.
7. Access shall meet with the approval of the Department of Transportation-Highways Division.
8. The bed and breakfast operation shall not interfere with the cultivation of sugar on adjacent and surrounding properties. Should a conflict arise, which cannot be mitigated or mediated, the bed and breakfast operation shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding agricultural properties.
9. Comply with the requirements of the Fire Department, the State Department of Transportation, State Department of Health and the Department of Water Supply.
10. Comply with all other applicable laws, rules, regulations and requirements.
11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall

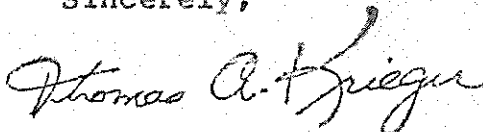
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remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

12. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

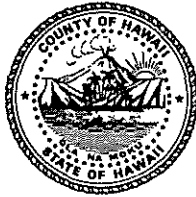


Thomas A. Krieger
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission

bcc: Plan Approval Section

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

March 21, 1995

Ms. Jacqueline Horne
P.O. Box 840
Honokaa, HI 96727

Dear Ms. Horne:

Special Permit No. 666 (88-8)
Applicant: Jacqueline Horne
Request: Amend Condition No. 4
Tax Map Key: 4-6-2:8

The Planning Commission at its duly held public hearing on March 9, 1995, voted to approve the above-referenced amendment request. Special Permit No. 666 originally allowed the establishment of a bed and breakfast operation within an existing dwelling on approximately 48,139 square feet of land situated within the State Land Use Agricultural District. The approved amendment request allows exterior signage for said bed and breakfast operation.

Approval of this request is based on the following:

The original request to establish a bed and breakfast operation was one of the first to be considered by the Planning Commission. At that time, a "no-signage" stipulation was added as a condition of approval to create a non-commercial atmosphere when this type of use is introduced into an agricultural setting. Over time, this policy changed through the special permit review and was codified with an amendment to the Zoning Code in 1992, which set forth the land use permitting parameters of a bed and breakfast establishment in the County. The Code amendment allowed a bed and breakfast establishment to have exterior signage that complies with the residential signage requirements of Chapter 3, Hawaii County Code; that is, the sign cannot exceed six square feet in area.

The applicant has complied with all other conditions of Special Permit No. 666 and the files show no complaints or problems have arisen since its approval in 1988. Therefore, it is recommended that the removal of the "no-signage" stipulation should be

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replaced by the standard condition placed in other special permits for bed and breakfast establishments as follows (material to be deleted is bracketed and material to be added is underlined):

- "4. The operation of the bed and breakfast operation shall be limited to 5 bedrooms [and shall be conducted on a reservation-only basis with no signage on the premises. However, this is not to preclude advertising of the facility in newspapers, book, brochures, etc] Exterior signs shall comply with Section 3-26 of the Hawaii County Code, regarding signs permitted in residential districts."


This amendment would promote the fair and equitable treatment of the applicant's use with similar uses.

Finally, the granting of this request will not change the original reasons for approving the original permit, which was found to promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, and was an "unusual and reasonable" use of land within the State Land Use Agricultural District.

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.

Should you have any questions, please feel free to contact Connie Kiriu or Daryn Arai of the Planning Department at 961-8288.

Sincerely,


Wilton K. Wong, Chairman
Planning Commission

CRK:syw
LHorne01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Plan Approval Section
Department of Transportation - Highways, Hilo