



Planning Commission

Bernard K. Akana
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

February 20, 1990

Mr. James M. Cowan
P.O. Box 1361
Kamuela, HI 96743

Dear Mr. Cowan:

Special Permit Application (89-30)
TMK: 4-6-08:65

The Planning Commission at its duly held public hearing on February 8, 1990, voted to approve your application, Special Permit No. 727, to allow the establishment of a bed and breakfast operation within an existing single family dwelling situated on 7 acres of land within the State Land Use Agricultural District along the south (mauka) side of a Homestead Road and approximately 1,200 feet mauka of the Mamalahoa Highway and over 2 miles west (Waimea side) of Tex's Drive-Inn, Ahualoa Homesteads, 1st Series, Hamakua, Hawaii.

Approval of this request is based on the following:

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 the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agriculture use. The proposed bed and breakfast will be conducted within an existing dwelling. Therefore, the proposed use is not expected to affect existing or any potential agricultural use of the property or adjacent properties.

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The desired use will not adversely affect the surrounding properties. The dwelling is situated centrally on a 7-acre lot. Surrounding properties are 5+ acres in size. Improvement of the driveway and parking area is recommended in order to mitigate potential impact of noise, dust, and visual effect associated with increased traffic over residential levels. As in previous permits granted for bed and breakfast use, a condition of approval is being included to require that the applicant provide this service on a reservation-only basis. No signage will be permitted on the premises. All directions to the property shall be made by other means, such as maps, brochures, etc. This condition is being imposed to minimize the commercial type of atmosphere that could be projected with on- and off-site advertisement.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police, and fire protection. The Department of Water Supply has revised their estimate of water usage on the property and now determines that water is available from the County water system. Roads leading to the property are County-dedicated roads capable of serving the additional traffic generated by the proposed use. The Department of Health states that a single wastewater system may serve a total of no more than four bedrooms; therefore, additional sewage improvements may be required. This approval recommendation is conditioned upon compliance with all rules and regulations of State and County agencies.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations are becoming an increasingly popular type of lodging facility for visitors seeking a more personal experience of Hawaii. Provision of such services could satisfy the new trend of visitor demands for accommodations in the less populated areas of the island. It should be pointed out, however, that the approval of this particular request should not be construed as an automatic endorsement of future bed and breakfast establishments in this particular area.

The use will not substantially alter or change the essential character of the land and the present use. The bed and breakfast use will remain secondary to the residential use. No significant improvements other than parking and landscaping

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are proposed. Since no restaurant or commercial kitchen facilities are proposed, the bed and breakfast facility is not expected to cause impacts which would significantly alter the character of the land and the present use.

The proposed use would be in keeping with the Economic Element Policies of the General Plan which state:

- * 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.
- * The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Based on the above considerations, it is determined that the proposed bed and breakfast facility is an unusual and reasonable use of land, 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 applicant, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, driveway, and parking stalls associated with the bed and breakfast operation.
3. The bed and breakfast operation shall be established within one year of the date of receipt of Final Plan Approval. The applicant shall notify the Planning Department in writing of completion of required improvements prior to establishment of the bed and breakfast operation.

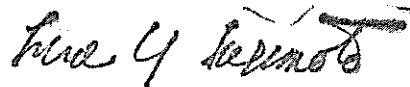
4. The bed and breakfast facility shall be limited to the use of three (3) bedrooms and common areas and shall be conducted on a reservation-only basis with no signage on the premises other than the name of the owner or ranch. This is not to preclude advertising of the facility in newspapers, books, brochures, etc.
5. The bed and breakfast facility shall be operated by the resident(s) of the affected single family dwelling.
6. The applicant is prohibited from operating a restaurant on the subject property.
7. The applicant shall comply with all other applicable laws, rules, regulations, and requirements of the Department of Health, Department of Public Works, and other relevant State and County agencies.
8. 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 remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
9. 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.

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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.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred Y. Fujimoto". The signature is written in a cursive style with some capitalization and a horizontal line through the middle of the last name.

Fred Y. Fujimoto
Chairman, Planning Commission

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

Bcc: Plan Approval Section