



Planning Commission

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

Lorraine R. Inouye
~~Bernard K. Akana~~
Mayor

CERTIFIED MAIL

January 2, 1991

Donald and Martha Nitsche
P. O. Box 6045
Capt. Cook, HI 96704

Dear Mr. and Mrs. Nitsche:

Special Permit Application
Tax Map Key: 9-2-185:10

The Planning Commission at its duly held public hearing on December 21, 1990, voted to approve your application, Special Permit No. 761, for a Special Permit to allow the establishment of a bed and breakfast operation within an existing dwelling on 3.008 acres of land situated within the State Land Use Agricultural District at Kahuku, Kau, 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 Agricultural District includes areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics. The land is located in an area of fairly recent A'a lava flow. The soil is classified as Very Poor by the Land Study Bureau's Overall Master Productivity Rating and is classified as Existing Urban Development by the Department of Agriculture's ALISH Map. While some form of agriculture may be possible on the 3-acre lot, the conversion of a dwelling into a bed and breakfast establishment is not expected to affect the agricultural potential of the property or the region.

JAN 2 1991

Donald and Martha Nitsche
January 2, 1991
Page 2

The desired use will not adversely affect the surrounding properties. The dwelling is situated centrally on a 3-acre landscaped lot. Surrounding properties are 3 acres in size. The bed and breakfast would accommodate a maximum of five parties per day. Private roads accessing the property have an oil-treated gravel surface. Similar treatment of the driveway and parking area is recommended in order to mitigate potential impact of noise and dust associated with increased traffic over residential levels. Landscaping of the parking area is recommended to mitigate potential visual impact.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police, and fire protection. The applicants will provide all necessary services. There is no County water system in the area. Therefore, the applicants must comply with Department of Health regulations in order to establish an approved water source for the bed and breakfast use. The applicants must also provide a sewage treatment system adequate to serve the proposed development. The property is accessed from Mamalahoa Highway along .4 mile of private roads with an oil-treated gravel surface. Although the private roads leading to the property are not constructed to commercial standards, access to the property is deemed to be adequate to accommodate traffic generated by the project. No objection to the granting of this permit was received from consulted public 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. The Hawaiian Ocean View Ranchos Subdivision is a remote development in the district of Ka'u. There are few visitor accommodations located between Hilo and Kona. A bed and breakfast facility could provide an appropriate scale of service in this rural area which does not offer full hotel services. 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 need for such use would have to be justified.

The use will not substantially alter or change the essential character of the land and the present use. The bed and breakfast use will be conducted within a residence occupied by the

applicants. It is recommended that the treatment of driveway and parking areas be consistent with existing roadways. 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 subject property is located mid-way between the population centers of Hilo and Kona and would be a convenient rest stop for travelers. A bed and breakfast would complement the tourist industry in this location. 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.

A Course of Action for Resort Development in the Ka'u district states:

- * The County shall encourage the development of small family or "bed and breakfast" type visitor accommodations.

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 State Land Use Law 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, signage consistent with Residential districts as set forth in Section 3-26 of the Hawaii County Code, and driveway and parking stalls associated with the bed and breakfast operation. Parking shall be maintained on the subject property. Surface treatment of driveway and parking area shall be equal to or of a higher standard than existing access roadways.

3. Construction of proposed improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter. 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 five (5) bedrooms and common areas, and shall be conducted on a reservation-only basis. 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 shall comply with all other applicable laws, rules, regulations, and requirements of State and County agencies.
7. 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.
8. 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

Donald and Martha Nitsche
January 2, 1991
Page 5

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., 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 shall initiate procedures to revoke the permit.

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,



Fred Y. Fujimoto
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
State Land Use Commission
Dept. of Commerce & Consumer Affairs (Hnl.)

bcc: Plan Approval Section