



# Planning Commission

Lorraine R. Inouye  
Mayor

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

CERTIFIED MAIL

December 19, 1991

Mark and Malia Nelson  
P. O. Box 429  
Paauilo, HI 96776

Dear Mr. and Mrs. Nelson:

Special Permit Application (91-11)  
Applicant: Mark and Malia Nelson  
Bed and Breakfast Operation  
Tax Map Key: 4-3-13:30

The Planning Commission at its duly held public hearing on December 12, 1991, voted to approve your application, Special Permit No. 791, to allow the establishment of a bed and breakfast operation on approximately 2.0 acres of land within the State Land Use Agricultural District. The property is located on the west side of Pohakea Mauka Road approximately 2.7 miles from Mamalahoa Highway (Highway 19)-Pohakea Road intersection, Paauilo Homesteads 2nd 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. The area under consideration is classified as Agricultural by the State Land Use Commission. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. Soils within the parcel are not classified by the State Department of Agriculture's ALISH map. The Land Study Bureau's Overall Master Productivity Rating for soils within the area is "D" or "Poor". In addition, the proposed bed and breakfast will be conducted within an existing dwelling and proposed three-bedroom addition. The three-bedroom addition will utilize an area already improved for use as a housesite. Therefore, the

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proposed use is not expected to affect existing or any potential agricultural use of the property or adjacent properties.

The desired use will not adversely affect the surrounding properties, provided landscaping is imposed as a condition of approval. Surrounding properties are in residential and/or agricultural use. The nearest residences are located adjacent to the north and northwest of the subject property. The existing dwelling and proposed improvements will be located a minimum of 34 feet from property boundaries. Eucalyptus trees, located along the entire perimeter of the subject property, will further reduce any adverse visual and noise impacts to surrounding properties. Improvement of the driveway and parking areas 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 pavement width of Pohakea Mauka Road narrows down from 20 to 11 feet as it approaches the subject property. To further reduce any traffic impacts generated by the proposed development along this narrow portion of roadway, it is recommended that the applicant increase the pavement width of Pohakea Mauka Road to 14 feet from that point northeast (makai) of the subject property where the pavement width is less than 14 feet, to and including the subject property's driveway access. The remainder of the road leading to the property are County-dedicated and 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 will be required. The applicant shall also provide a water supply for fire fighting purposes meeting with the approval of the Fire Department. This approval recommendation is conditioned upon compliance with all rules and regulations of State and County agencies.

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The request is not contrary to the goals, standards and policies of the General Plan. Approval of this request supports the goals and policies of the Land Use Element of the General Plan to "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and that "The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." The General Plan also recommends that "The County shall provide an economic environment which allow new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment."

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. 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 its present use.

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.

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 for the proposed bed and breakfast facility 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, fire protection measures and paved (asphalt-concrete or concrete) driveway and parking stalls associated with the proposed 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. 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 provide fire protection measures meeting with the approval of the Fire Department prior to the establishment of the bed and breakfast operation.
8. The applicant shall work with the Department of Public Works to provide a minimum 14-foot wide pavement within Pohakea Mauka Road from a point northeast (makai) of the subject property where the pavement width is less than 14 feet, to and including the driveway access to the proposed development, prior to the establishment of the bed and breakfast operation.
9. The applicant shall comply with all other applicable laws, rules, regulations and requirements of the Department of Health and the Department of Public Works.
10. 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.

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

11. 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 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,



Mike Luce, Chairman  
Planning Commission

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jdk

xc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Department of Commerce-Regulatory

Department of Health  
State Land Use Commission  
Plan Approval Section  
Planning Director  
Mayor