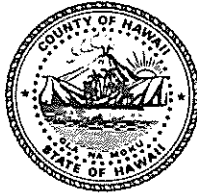


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

June 3, 1994

Ms. Jane Chao
P. O. Box 963
Kurtistown, HI 96760

Dear Ms. Chao:

Special Permit Application (SPP 94-5)
Applicant: Jane Chao
Request: Establish a Four (4) Bedroom Bed and Breakfast Business
TMK: 1-8-86:1; Ola`a, Puna, Hawai`i

We apologize that our letter of May 25, 1994, informing you of the Planning Commission's approval of your request to establish a bed and breakfast business contained an error. The following passage in Item No. 2 on page 2 of the letter (**see enclosed copy of May 25, 1994 letter**) should not have been included in this letter:

"In the past, the Planning Commission has required Special Permit applicants who wish to operate a bed and breakfast business to pave the driveway access to their residence... Therefore, no provision for a paved driveway has been included in this recommendation."

This passage reflects the Planning Director's recommendation to the Planning Commission. However, the Planning Commission did not concur with the Planning Director on this point. The Commission felt that the driveway access to the residence should be paved with asphalt, concrete, or chipseal prior to the establishment of the bed and breakfast business. Condition No. 3 on page 4 of the letter correctly conveyed the Commission's decision: "Plans should indicate structures, landscaping, exterior signs, a 27-foot wide future road widening setback along South Kulani Road, and **paved (asphalt, concrete, or chipseal) driveway and parking stalls associated with the bed and breakfast business.**"

Please accept our apology for any confusion our May 25, 1994 letter may have created. You are required to pave your driveway prior to the establishment of the bed and breakfast business.

JUN 07 1994

Ms. Jane Chao
June 3, 1994
Page 2

Please contact Linda Copman or Rodney Nakano at 961-8288 if you have any further questions.

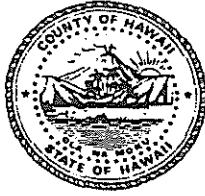
Sincerely,

A handwritten signature in cursive script, appearing to read "Donald L. Manalili".

Donald L. Manalili
Planning Commission

LC:
Enclosure
File: rchao02.lcs

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

May 25, 1994

Ms. Jane Chao
P. O. Box 963
Kurtistown, HI 96760

Dear Ms. Chao:

Special Permit Application (SPP 94-5)
Applicant: Jane Chao
Request: Establish a Four (4) Bedroom Bed and Breakfast
Operation
TMK: 1-8-86:001

The Planning Commission at its duly held public hearing on May 9, 1994, voted to approve your application. Special Permit No. 871 is hereby issued to establish a four bedroom bed and breakfast on approximately 4 acres of land within the State Land Use Agricultural district. The project site is located on the south side of South Kulani Road approximately 4500 feet from its intersection with the Volcano Highway, Olaa Reservation Lots, Olaa, Puna, 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, Hawai'i Revised Statutes, as amended: The applicant contends that the primary use of this parcel will remain agricultural. According to Chapter 205, "agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry." The applicant plans to establish a flower nursery on this parcel; one acre of land has already been prepared for planting flowers. Although the Land Study Bureau's productivity rating for soils in this area is "E"

or "very poor," the applicant is pursuing an intensive agricultural use of the land. The proposed bed and breakfast business will not require the utilization of any additional vacant land, since it will be located within the applicant's existing single-family residence. The business is intended to supplement the flower nursery by providing additional income to the applicant while she develops the nursery. The applicant hopes that the two businesses will compliment each other, since overnight guests will have the opportunity to see the unusual and endangered species of flowers being cultivated at the nursery.

- 2) **The desired use will not adversely affect the surrounding properties:** Immediately surrounding properties are vacant land. The property is surrounded by an approximately 60-foot buffer of trees on three sides, and the applicant's residence is not visible from either South Kulani Road or the Old Volcano Trail roadway. The nearest residences are located approximately three-tenths (.3) of a mile away on South Kulani Road and on #1 Road in the Hawaiian Acres subdivision. In the past, the Planning Commission has required Special Permit applicants who wish to operate a bed and breakfast business to pave the driveway access to their residence. The reason for this requirement was to reduce noise and dust generated by increased traffic in the neighborhood. In this instance, however, the applicant's residence is located over 1,500 feet from the nearest neighbor, and is screened from view by a dense buffer of trees. Therefore, any increased traffic generated by this bed and breakfast business should not disturb surrounding property owners. Exterior signs must comply with the requirements for residential signs established by Chapter 3 of the County Code. These measures will ensure that the rural character of the neighborhood is maintained. The applicant states that she would like to "keep the entire yard and garden as close to its natural forest look without {as possible} without modernizing the approach" (see Exhibit G). In this situation, a well-kept gravel driveway fits with the aesthetic desires of the applicant, without creating a hardship on the applicant's neighbors. Therefore, no provision for a paved driveway has been included in this recommendation.
- 3) **The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, and police and fire protection:** South Kulani Road is a County-maintained, two-lane, paved road. The Department of Public Works has no objections regarding increased traffic which

could be generated by this business. The applicant is required to provide a 27-foot wide future road widening strip along the property's South Kulani Road frontage, to accommodate a planned expansion of the road to 60 feet. Water and wastewater systems for the bed and breakfast establishment must comply with Department of Health regulations for this type of use. All development-related runoff must be disposed of on the property. Drainage improvements, including any drywells, must meet with the approval of the Department of Public Works and the Department of Health.

- 4) **The land upon which the proposed use is sought is unsuited for the uses permitted within the district:** Although the property is, at best, marginal agricultural land, the applicant is establishing a flower nursery there. The proposed bed and breakfast will operate entirely within the applicant's existing residence, and it will not interfere with her plans to cultivate flowers on this land. She hopes to share the beauty of the flowers she grows with the overnight guests, and with the general public through the paintings she creates.
- 5) **Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established:** Bed and breakfast accommodations have become increasingly popular with visitors who seek a more authentic experience of rural Hawai'i. Such small-scale development is consistent with the social and physical character of the Puna district, and with the economic goals of residents of this district. The applicant has hosted many cultural and educational programs in her career as an artist, and she is familiar with the desires of visitors to the island. She hopes to offer her guests an opportunity to view some of more exotic species of flowers grown on the island, and thus help to foster an appreciation of the island's flower industry.
- 6) **The proposed use will not substantially alter or change the essential character of the land and the present use:** According to the applicant, the bed and breakfast business will remain secondary to the principal agricultural use of the property for a flower nursery. The business will be conducted in the applicant's existing residence, and should not interfere with the agricultural use of this parcel or surrounding parcels. The applicant does not plan to hire any employees, and she has not proposed to construct any commercial kitchen facilities. Therefore, the bed and

Ms. Jane Chao
May 25, 1994
Page 4

breakfast should not alter the rural character of the area or affect the existing use of land in the area.

- 7) The request will not be contrary to the General Plan: Courses of action for the Puna district include the following: "There is potential for limited visitor facilities in the form of small accommodations and support facilities, such as natural areas, botanical gardens, and limited commercial facilities" and "Consider the development of small family or 'bed and breakfast' type visitor accommodations and small-scale retreat resort development." The proposed bed and breakfast business, in conjunction with the applicant's flower nursery, are certainly in keeping with the General Plan's stated goals for this district.

Approval of this request is subject to the following conditions:

- 1) The applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
- 2) The applicant, successors, or assigns shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors, or agents under this permit or relating to or connected with the granting of this permit.
- 3) The applicant, successors, or assigns shall secure Final Plan Approval from the Planning Department, as specified in Section 25-242 of the Zoning Code, within one year from the effective date of this Special Permit. Plans should indicate structures, landscaping, exterior signs, a 27-foot wide future road widening setback along South Kulani Road, and paved (asphalt, concrete, or chipseal) driveway and parking stalls associated with the bed and breakfast business.
- 4) The applicant, successors, or assigns shall establish the bed and breakfast business within one year from the receipt of Final Plan Approval. The applicant, successors, or assigns shall notify the Planning Department in writing of the completion of required improvements prior to the establishment of the bed and breakfast business.
- 5) The bed and breakfast business shall be limited to the use of four (4) bedrooms. No more than ten (10) guests are permitted at the facility at one time, and the maximum

Ms. Jane Chao
May 25, 1994
Page 5

length of stay for any one guest at the facility must be less than thirty (30) days.

- 6) The applicant, successors, or assigns must reside in the single-family dwelling which houses the bed and breakfast business in order to operate this business.
- 7) Provision of potable water for the bed and breakfast facility shall meet with the approval of the Department of Health. Proof of compliance with this condition shall be submitted to the Planning Department prior to the establishment of the bed and breakfast business.
- 8) Breakfast service shall meet with the requirements of the Department of Health. Proof of compliance with this condition shall be submitted to the Planning Department prior to the establishment of the bed and breakfast business.
- 9) The applicant, successors, or assigns shall provide a 27-foot wide future road widening setback along South Kulani Road for the planned expansion of this road to a 60-foot width. The applicant, successors, or assigns shall have this setback recorded on the deed to the property by the Bureau of Conveyances within two years of the effective date of this permit.
- 10) Drainage improvements to the property, if any, shall meet with the approval of the Department of Health and the Department of Public Works. Such approval shall be secured prior to the establishment of the bed and breakfast business.
- 11) Exterior signs must comply with Section 3-26 of the Hawai'i County Code, regarding signs permitted in residential districts.
- 12) The applicant, successors, or assigns shall comply with all other applicable County, State, and Federal regulations.
- 13) An extension of time for the performance of conditions may be granted by the Planning Director only when a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successor, 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 original reasons for granting of the permit; c) granting of the time extension would not be

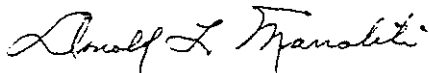
Ms. Jane Chao
May 25, 1994
Page 6

contrary to the General Plan or Zoning Code; and d) the time extension granted does not 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). If any of the conditions are not met or substantially complied with in a timely fashion after the Planning Director has given the permittee notice, this permit may be voided by the Planning Commission.

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 Linda Sebesta or Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:smn

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