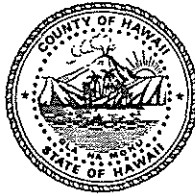


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL

SEP 9 1994

Mr. Donald Swangel
PO Box 6037
Captain Cook, HI 96704

Dear Mr. Swangel:

Special Permit Application (SPP 94-12)
Applicant: Donald and Carole Swangel
Request: Proposed 4-bedroom Bed and Breakfast business in
an existing single-family dwelling
Tax Map Key: 9-2-3:46

The Planning Commission at its duly held public hearing on August 24, 1994, voted to approve the above-referenced application. Special Permit No. 886 is hereby issued to establish a four-bedroom bed and breakfast on approximately 2 acres of land within the State Land Use Agricultural District. The project site is located on the east (Naalehu) side of Leilani Parkway midway between Coral Parkway and Luau Drive, Hawaiian Ocean View Estates, 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, Hawai'i Revised Statutes, as amended: The Agricultural district designation is intended to protect and preserve lands with a high capacity for intensive agricultural use. Permitting the establishment of a bed and breakfast business on this land will not impact potential agricultural production on this property, since the subject property has very poor suitability for agricultural cultivation. The land is composed of a`a clinkers with no measurable soil materials. The bed and breakfast facilities will be housed within an existing single-family residence, and no additional vacant land will be used. The front portion of the property will remain in ohia forest, and the rear portion will continue to serve as the applicants' personal garden and greenhouse site. This proposal is a reasonable use of this type of land, and it will not

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detract from the agricultural viability of this property or of surrounding properties.

The desired use will not adversely affect the surrounding properties: The immediately surrounding area consists primarily of single-family residential uses, with scattered vacant lots. The proposed bed and breakfast will be housed entirely within an existing single-family residence, so it should not alter the character of the neighborhood. The site has adequate infrastructure improvements to support the proposed business, and adequate landscaping to mitigate increased noise and dust which may be generated by the new use. The applicants will be required to comply with all provisions of Ordinance No. 92-104, in order to assure that the business does not adversely impact surrounding properties.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, and police and fire protection: Access to the proposed bed and breakfast is via a privately maintained chip-seal paved roadway, and then via a 10-12 foot wide concrete and chip-seal paved driveway. Provision of potable water and the wastewater disposal system for the proposed business must meet with the requirements of the Department of Health. All other essential utilities and services are available at the site.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district: The property is unsuited for intensive agricultural cultivation as there are no measurable soil materials. The applicants will maintain their personal garden and greenhouse on the rear portion of the property, and the bed and breakfast business will not interfere with cultivation of this or surrounding properties.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established: The population of this rural subdivision has doubled in the last ten years. The closest commercial lodging facility is nearly 15 miles away in Waiohinu, and there are two other bed and breakfast establishments in the Ocean View area. The applicants claim that there is a demand for additional bed and breakfast businesses in their community, to serve absentee property owners and other visitors to the area. The General Plan also supports the development of bed and breakfast visitor accommodations in this district.

The proposed use will not substantially alter or change the essential character of the land and the present use: Because of the lack of suitable soil, land in this area is utilized more

for single-family homes than for agricultural cultivation. The proposed bed and breakfast will be housed within a single-family residence, and the remainder of the parcel will not be affected by this proposal. The site is located on a paved road, and is conveniently situated with respect to the highway and the commercial center of Ocean View. The bed and breakfast will serve absentee owners and visitors to the area, and will fill a need for additional accommodations in this community. The bed and breakfast will thus complement the existing land uses.

The request will not be contrary to the General Plan: The General Plan encourages the development of bed and breakfast accommodations which blend in with the character of the area and are served by adequate infrastructure. The applicants' proposal meets these criteria, and is therefore consistent with the courses of action for the Ka`u district.

Approval of this request is subject to the following conditions:

1. The applicants, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicants, 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 applicants, their successors or assigns, officers, employees, contractors, or agents under this permit or relating to or connected with the granting of this permit.
3. The applicants, successors, or assigns shall submit a copy of their Transient Accommodations Tax License and General Excise Tax License to the Planning Director prior to the issuance of Final Plan Approval.
4. The applicants, successors, or assigns shall formally consolidate the two existing one-acre parcels on the property into one two-acre lot prior to the issuance of Final Plan Approval.
5. The applicants, 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, and paved (asphalt, concrete, or chip-seal) driveway and parking stalls associated with the bed and breakfast business.

6. The applicants, successors, or assigns shall establish the bed and breakfast business within one year from the receipt of Final Plan Approval. The applicants, successors, or assigns shall notify the Planning Department in writing of compliance with the conditions of approval prior to the establishment of the bed and breakfast business.
7. 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 length of stay for any one guest at the facility must be less than thirty (30) days.
8. The applicants, successors, or assigns must reside in the single-family dwelling which houses the bed and breakfast business in order to operate this business;
9. Provision of potable water and breakfast service for the bed and breakfast facility shall meet with the approval of the Department of Health.
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 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

Mr. Donald Swangel

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

Sincerely,



Wilton Wong, Vice Chairman
Planning Commission

RKN:jdk
LSwang01.PC

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