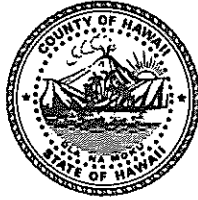


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 977

AUG 20 1997

Mr. Richard Mitchell
P.O. Box 6375
Kamuela, HI 96743

Dear Mr. Mitchell:

Special Permit Application (SPP 97-13)

Applicant: Richard Mitchell

Request: Establishment of a Two-Bedroom Bed and Breakfast Operation

Tax Map Key: 6-4-14:74

The Planning Commission at its duly held public hearing on August 8, 1997, voted to approve the above-referenced application. Special Permit No. 982 is hereby issued to allow the establishment of a two-bedroom bed and breakfast operation within an existing dwelling situated within the State Land Use Agricultural District. The property is located within the Kamuela Haven Subdivision at the end of Kalake Street at Puukapu, Waimea, South Kohala, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules 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 agricultural use. The proposed project will be located within an area whose soils are classified as "C" or "Fair" by the Land Study Bureau's Overall Master Productivity Rating and classified Prime Agricultural Land and Unique Agricultural Land by the Department of Agriculture's ALISH Map. "Prime Agricultural Land" has the soil quality, growing season and moisture supply needed to produce high sustained yields of crops economically when treated and managed according to modern farming methods. "Unique Agricultural Land" are lands that have the special combination of soil quality, location, growing season and moisture supply and which is used to produce sustained high quality and/or high yields of a specific crop when treated and managed according to modern farming methods.

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AUG 20 1997

In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district.

The subject property is situated within the County's Agricultural-1 acre zoned district. The bed and breakfast facility is situated on a 7,577 square feet of land. The application has been in operation since 1991; therefore, the continued use as a bed and breakfast establishment will not take significant lands out of the agricultural inventory for this area and will not significantly affect the agricultural resource of the area. The use will be confined within the existing single family dwelling and its immediate vicinity. The subject property is presently being used for domestic fruit crops and no active agricultural lands will be taken out of production to provide for this continued use.

The approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the above-referenced subject conditions. The use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has been in agricultural use in years.

The request is not contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Low Density Urban Development. Low Density Urban Development allows for single family residential developments, ancillary community and public uses and convenience type commercial uses. The use is consistent with the following goals and policies of the General Plan:

Land Use Element

- * Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- * The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- * Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- * The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- * 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 desired use will not adversely affect the surrounding properties. The dwelling is situated on 7,577 square feet of land. Surrounding properties are zoned A-1a, A-3a and A-40a. There are two (2) gravel parking spaces, in addition to the existing carport for the dwelling, to accommodate the bed and breakfast operation. The graveled parking area should mitigate any potential dust, erosion, mud or standing water.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage improvements and police and fire protection. The site is currently served by water, telephone and electrical utilities. The traffic to be generated by the bed and breakfast facility would be minimal. The applicant shall meet all applicable agency requirements of the Departments of Transportation, Health, Public Works and the Fire Department prior to the establishment of the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations are becoming popular type of lodging facility for visitors seeking a more personal experience in Hawaii. A bed and breakfast facility could provide an appropriate scale of service in rural areas which do not offer full hotel services. Provision of such services could satisfy a new trend in visitor demands for an encounter with the less populated areas of the island. Bed and breakfast facilities are allowed in the Agricultural zone district in the Zoning Code by Plan Approval and by Special Permit when located in the State Land Use Agricultural district which addresses similar impacts.

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 and agricultural uses. No significant improvements are anticipated. 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. Applicable agencies reviewing the request had no objections to the proposal. Chapter 25, Article 4 Division 1, Section 25-4-7 (e) of the Zoning Code states: "Any bed and breakfast establishment existing as of the date of adoption of this section, which conforms to the standards contained in section 25-4-7(b), and has not received plan approval, and, as applicable, has not been issued either a special permit or a use permit, may continue as a non-conforming use until September 30, 1997 at which time any such continued use without receipt of plan approval and, as applicable, a use permit or a special permit, shall be considered illegal under this chapter. Prior to June 30, 1997, any person may apply for plan approval and for a use permit or a special permit for any bed and breakfast establishment existing as of the date of adoption of this section conforming to the standards of section 25-4-7(b) and not otherwise permitted, and upon issuance of the required permits and approvals, the use shall be considered a permitted use." The applicant has operated the bed and breakfast since 1991 and has applied for this Special Permit to allow continuance of this use.

Based on the above considerations, the bed and breakfast 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. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special Permit.

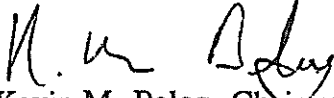
1. The applicants, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Section 25-2-72, 25-2-73 and 25-4-7, within six months of the effective date of this permit. Plans shall identify existing and proposed structures, landscaping, fire protection measures and evacuation plan, driveway and two parking stalls (gravel, asphalt or concrete) and exterior signs associated with the business.
3. The bed and breakfast business shall be limited to the use of two (2) bedrooms.
4. The applicant shall comply with all applicable requirements as stated in the Zoning Code regulating bed and breakfast establishments.
5. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
6. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, for approval of the proposed use.
7. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. 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.
 - 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).

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.

Mr. Richard Mitchell
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Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission

EFFECTIVE DATE: AUG 20 1997