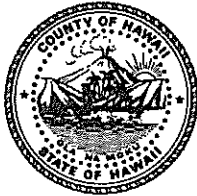


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
P 101 317 839

OCT 15 1999

Ms. Nancy Matthews
P.O. Box 803
Holualoa, HI 96725

Dear Ms. Matthews:

Special Permit Application (SPP 99-005)

Applicant: Nancy Matthews

Request: To Establish a Two-Room Bed and Breakfast Operation, With One Room
in the Main Dwelling and One Room in a 500-Square Foot Proposed Guest House

Tax Map Key: 7-3-24:115

The Planning Commission at its duly held public hearing on October 1, 1999, voted to approve the above-referenced application. Special Permit No. 1033 is hereby issued to allow the construction of a proposed guest house and the establishment of a two-bedroom bed and breakfast operation, one bedroom in the proposed guest house and the other in the main dwelling, situated in the State Land Use Agricultural district. The property is located in the Kaloko Mauka Subdivision at approximately 2,100 foot elevation and south of Hao Street, Kaloko, North Kona, 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 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 Unique Agricultural land by the Department of Agriculture's ALISH Map.

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

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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-3 acre zoned district. The proposed bed and breakfast facility is situated on a 3.00 acre parcel of land. The proposed use 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 proposed use will be confined within the main dwelling, the proposed guest house and its immediate vicinity. The main dwelling and garage are presently under construction on the subject property. The applicant also proposes to construct a guest house of approximately 500 square feet in floor area. This area occupies approximately .25 acres. The remaining area will be retained as forest including the 30 foot wide "Forest Reserve Easement." No active agricultural lands will be taken out of production to provide the area necessary to establish this 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 proposed 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 applicant proposes agricultural plantings of fruit trees and tropical flowers.

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 as Orchards which allows for agricultural uses. The proposed 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

- * Provide residents with opportunities to improve their quality of life.
- * 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 strive for an economic climate which provides its residents an opportunity for choice of occupation.

- * 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 a 3.00 acre parcel. Surrounding the property are lands zoned A-3a and A-20a. The driveway to the property is paved asphalt. There will be two (2) paved parking spaces in addition to the other parking stalls for the existing main dwelling, to mitigate any potential noise and dust associated with traffic. There will be one guest room in the main dwelling and one located in the guest house. Chapter 25, Section 25-4-7 establishes guidelines and restrictions for the establishment of a Bed and Breakfast operation. These guidelines state: (1) The bed and breakfast establishment shall be accessory and subordinate to the principal use as a residence by its owners or lessee. (2) The owner-operator or lessee-operator of the bed and breakfast establishment shall reside on the same building site as that being used for the bed and breakfast establishment. (3) The bed and breakfast establishment may be located within a single-family dwelling unit and a guest house, pursuant to section 25-4-9, on a building site. The applicant's proposed Bed and breakfast establishment which includes the main dwelling and single guest house are consistent with the objectives to be accomplished by the land use law and regulations.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. The site is currently served by water, telephone and electrical utilities. The traffic to be generated by the proposed bed and breakfast facility would be minimal. The applicant shall meet all applicable agency requirements of the Departments of Transportation, Departments of Water Supply, 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 a 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 zoning code by Use Permit 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 existing 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. All applicable agencies reviewing the request had no objections to the proposal. The Department of Transportation has recommended that no additional development or use of the area be approved until improvements are made to the Kaloko Drive/Mamalahoa Highway intersection. The applicant's response is that at full occupancy there would be only three vehicles accessing the property.

Based on the above considerations, the proposed 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 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 applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The bed and breakfast business shall be established within two (2) years from the effective date of this permit. Prior to the establishment of the bed and breakfast business, Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-72, 25-2-73 and 25-4-7. Plans shall identify existing and proposed structures, driveway, landscaping, fire protection measures, two paved parking stalls (asphalt or concrete) and exterior sign(s) associated with the business. The applicants, 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.
3. The bed and breakfast business shall be limited to the use of two (2) bedrooms.
4. The applicant shall apply and receive approvals for all applicable building, plumbing and electrical permits prior to the establishment of the bed and breakfast business.
5. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed development.
6. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
7. Comply with all applicable laws, rules, regulations, and requirements of other affected agencies, for approval of the proposed use.
8. If the applicant fails to comply with the conditions of approval or causes complaint(s) relating to any interference, nuisance or added off-site parking and is unable to resolve them with the surrounding community, the Planning Director shall investigate and, if necessary, suspend the permit. The Planning Director shall then refer the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the applicants fail to comply with the conditions of approval or has caused any unreasonable interference, nuisance, or added off-street parking on the surrounding community, the permit may be revoked.

9. 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 applicants, 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.

Should you have any questions, please contact Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

LMatth01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu

sent West Hawaii Office 10/15/99
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