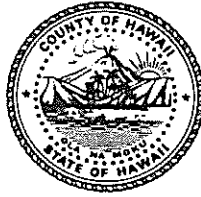


Stephen K. Yamashiro
Mayor



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

Mr. Tommy L. Carson
P. O. Box 503
Volcano, HI 96785

Dear Mr. Carson:

Use Permit Application (USE 94-2)
Applicant: Tommy and Brenda Carson
Request: Establish a Bed and Breakfast Operation
TMK: 1-1-8:112

The Planning Commission at its duly held public hearing on May 19, 1994, voted to approve the above application. Use Permit No. 123 is hereby issued to establish a bed and breakfast operation on approximately 40,000 square feet of land situated within the Single Family Residential 10,000 square foot (RS-10) zoned district. The project site is located on the northwest side of Sixth Street approximately 800 feet from its intersection with Pearl Avenue, Mauna Loa Estates, Volcano, Puna, Hawaii.

Approval of this request is based on the following:

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits, require that such action conform to the following guidelines:

- (A) The proposed use will still be consistent with the general purpose of the zoned district, the intent and purpose of this chapter, and the County General Plan;
- (B) The proposed use will not be materially detrimental to the public welfare nor cause

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substantial, adverse impact to the community's character or to surrounding properties;

- (C) The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region; and
- (D) The proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

The proposed bed and breakfast use will still be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, and the County General Plan. The establishment of a bed and breakfast and related improvements in the County's Single Family Residential (RS-20) and the State Land Use Urban District may be allowed through the granting of a Use Permit. The General Plan designates the area for Low Density Urban which is single family residential in character and may allow for ancillary community and public uses and convenience type commercial uses. Thus the proposed use will be consistent with the planning for the area which allows a range of public uses.

The bed and breakfast use will complement the following goals and policies of the Land Use Element of the General Plan which state:

- * Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- * Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities.
- * 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 granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. Adjacent properties are either vacant or in residential use and the bed and breakfast must be subordinate to and accessory to the single family

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residential use of the parcel. The neighbors have provided comments supporting the application. However, as the character of the community is residential in nature, and to ensure impacts from the bed and breakfast are adequately addressed, several conditions are being proposed to mitigate these impacts. One condition is to require that any structural expansion to the proposed bed and breakfast, shall be submitted to the Planning Commission as an amendment to the Use Permit. A second requirement would be to provide landscaping such as a hedge or fencing to buffer visual and noise impacts. A third and fourth condition is to provide adequate on-site paved parking and a widened paved driveway to minimize vehicular impacts to the neighbors.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. As defined in the Zoning Code, a bed and breakfast establishment must be accessory to and subordinate to the principal use as a residence by its owner or lessee. Further, the owner-operator must reside in the single family residence being used as the bed and breakfast. Under these conditions the single family character of the neighborhood will be maintained.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure. Sixth Street is unpaved, however, it is a private road which will be improved by the Mauna Loa Estates Community Association and will accommodate two way traffic. Pearl, Ruby and Jade Avenues are the main roads into Mauna Loa Estates from the Volcano Highway. To ensure that proper access is made available, a condition is being recommended to require that Sixth Street be paved to a width of 20 feet to allow two cars to pass, from the intersection of Jade Avenue to the bed and breakfast. Also to minimize noise and visual impacts from the bed and breakfast to adjacent residents, a condition is included to require landscaping along all property boundaries of the subject property. Existing natural vegetation could be sufficient to meet this landscaping requirement. Landscaping as well as all parking and setback requirements shall be reviewed during Plan Approval. All services and utilities except water are available to the subject property. In addition, agencies had no objections to the proposed bed and breakfast.

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Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
3. 4/13/95 Final Plan Approval (pursuant to Section 25-242 of the Zoning Code) for the bed and breakfast and related improvements shall be secured from the Planning Department. Plans shall identify existing and proposed structures, fire protection measures, paved driveway and paved parking stalls (chipseal, asphalt or asphalt-concrete), and landscaping associated with the proposed uses. The bed and breakfast establishment shall be limited to three (3) guest bedrooms.
4. 4/9 Three (3) paved parking stalls designed to meet the minimum design requirements of Chapter 25 (Zoning Code) shall be constructed on the subject parcel prior to the issuance of a certificate of occupancy.
5. 4/9 Detailed landscaping plans to mitigate visual intrusion unto neighboring parcels shall be prepared in conjunction with plans submitted for Plan Approval. Approved landscaping shall be installed prior to issuance of a certificate of occupancy and shall be maintained for the duration of the bed and breakfast operation.
6. Construction of the proposed bed and breakfast and related improvements shall be completed and a certificate of occupancy issued within five years from the effective date of the permit.
7. Any structural expansion to the proposed bed and breakfast shall be submitted to the Planning Commission as an amendment to this Use Permit.
8. 11/7/02 Access to the bed and breakfast shall meet with the approval of the Department of Public Works. The applicant, successors or assigns shall provide for a

- paved roadway surface from the intersection of Pearl Avenue to the bed and breakfast.
9. The applicant shall provide fire protection standards meeting with the approval of the Fire Department prior to the issuance of a certificate of occupancy.
 10. The applicant, successors or assigns shall not seek variances from any codes as means of relief from these conditions.
 11. Exterior signage for the bed and breakfast shall be posted and shall comply with the requirements for residential signage set forth in Chapter 3 of the Hawaii County Code.
 12. All other applicable laws, rules, regulations and requirements shall be complied with.
 13. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include the status of the development, the compliance with the conditions of approval, and a detailed listing of complaints or problems raised by the public and the disposition of these complaints or problems. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaints from the public, the Planning Director shall investigate and if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on the surrounding properties, the permit may be suspended or revoked.
 14. Upon compliance with all conditions of approval and in conjunction with the application for a certificate of occupancy, and prior to the opening of the bed and breakfast, the applicant shall submit a final status report, in writing, to the Planning Director.
 15. An extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances: 1) 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

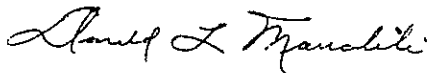
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result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or the Zoning Code; c) granting of the extension would not be contrary to the original reasons for the granting of the permit; and d) the 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.

Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:smn
LCarso02

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Fire Department
Plan Approval Section