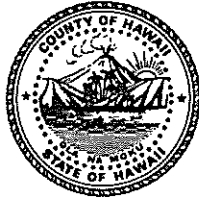


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 344

NOV 25 1997

Don and Betty Hardister
P.O. Box 629
Volcano, HI 96785

Dear Mr. and Mrs. Hardister:

Use Permit Application (USE 97-8)
Applicant: Don and Betty Hardister
Request: Establish a Three-Bedroom Bed and Breakfast Operation
Tax Map Key: 1-1-9:30

The Planning Commission at its duly held public hearing on November 12, 1997, voted to reaffirm their decision of September 26, 1997, to approve the above-referenced application. Use Permit No. 160 is hereby issued to allow the establishment of an existing three-bedroom bed and breakfast operation (Cedar II) within an existing dwelling and a guest house situated on approximately 20,000 square feet of land within the County Single Family Residential (RS-20) zoned district. The property is located within Mauna Loa Estates at the southern corner of Jade Avenue and Seventh Street intersection at Volcano-Keaau, 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, requires that such action conform to the following guidelines:

- A. The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;
- B. The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and
- C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

11588

NOV 25 1997

The three bedroom bed and breakfast operation meets the guidelines for approval of a Use Permit, for the reasons outlined below.

The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The Use Permit process provides an avenue to review and analyze a request on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses, as well as consistency with the goals and policies of the General Plan. According to the Zoning Code, Single Family Residential districts "provide for lower or low and medium density residential use, for urban and suburban family life." This includes bed and breakfast operations, which are considered accessory or subordinate to the principle use of the property as a residence. The County Zoning Code, Section 25-4-7, provides guidelines for bed and breakfast operations. This section also provides for a process in which an existing bed and breakfast operation can operate as a non-conforming use until September 1997. The operator can apply for applicable permits by June 30, 1997 and upon issuance of applicable permits, be considered a permitted use. In this particular situation, the applicant has been in operation since 1990 and is applying for a Use Permit to conform to the Zoning Code requirements. In review of the request, the applicant's bed and breakfast operation does meet with the requirements of the Zoning Code, Section 25-4-7(b), regarding bed and breakfast establishments.

Bed and breakfast accommodations are becoming increasingly popular with visitors to the island, who seek a quieter, more authentic experience of local life. Bed and breakfast operations provide an economic opportunity for County residents, who can supplement their incomes by sharing their homes with visitors. Recognizing this benefit, Ordinance No. 92-104 was originally passed by the County Council in 1992 (with recent amendments to the Zoning Code in 1996), to allow for bed and breakfast operations. Restrictions and standards continue to focus on the use remaining secondary to the principal use of the property as a residence. On Residential zoned lands within a State Land Use Urban District, impacts from bed and breakfast operations can be properly addressed and mitigated through the securance of a Use Permit.

The applicants are requesting to allow the continued operation of a three-bedroom bed and breakfast establishment. They reside within an existing three-bedroom dwelling on the subject property, of which two rooms and a separate guest house would be used for the operation. The proposed activities would complement and be accessory to the use of the property as their residence. No employees are anticipated to be hired. Adequate utilities and services are available at the site. The property is approximately 20,000 square feet in size and landscaped, with an approximate 2,200-square foot dwelling and a 242 square foot guest house that can accommodate guests. No additional structures are anticipated to be constructed. There is also a gravel driveway and a concrete area that can accommodate parking stalls for guests, which should eliminate erosion, mud and standing water.

The General Plan designation for this area is Low Density Urban Development, which allows for single-family residential uses, ancillary community and public uses and convenience-type commercial uses. As the proposed bed and breakfast operation will be established in an existing dwelling and guest house, the uses should not alter the appearance or character of the neighborhood. Although the bed and breakfast establishment would be open to the public on a daily basis, reservations will be taken

directly and through bed and breakfast booking services. Advertising would be placed in publications and the internet.

The bed and breakfast operation would complement the following goals and policies of the General Plan:

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.

Land Use Element

- * Designate and allocate land uses 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.

Therefore, the bed and breakfast establishment would operate within the parameters of being single-family residential in character, is consistent with the General Plan designation and is in keeping with the policies of the General Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The subject property is located in Mauna Loa Estates Subdivision in Volcano. The surrounding area is rural in nature and mainly in single-family residential uses. The existing dwelling and guest house and paved parking areas can accommodate the bed and breakfast operations. The property has adequate landscaping to mitigate any possible visual or noise impacts on the neighbors. Adequate public services and facilities are also available to accommodate the proposed use.

There are two other approved bed and breakfast establishments in the immediate vicinity. One is a four-bedroom operation run by Tommy and Brenda Carlson (Use Permit No. 123 for TMK: 1-1-8:112) on Sixth Street in the vicinity of Pearl Avenue which was approved in 1994. More recently approved is a two-bedroom operation for

Joan Earley (Use Permit 158 for TMK: 1-1-09:30) on the corner of Eighth Street and Ruby Avenue. As the applicants have been in operation since 1990, it is not anticipated that the approval of this bed and breakfast operation will have a major impact in the community or on other similar uses in the area.

The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure. The subject property is located on the corner of Seventh Street and Jade Avenue with adequate guest parking on site. Both are private paved roads which are maintained by Mauna Loa Estates Road Maintenance Corporation. It is not anticipated that guests of the bed and breakfast establishment will substantially increase traffic on the existing roadways. In regards to use of the guest house, the applicant shall secure Final Building Inspection from the Building Division of the Department of Public Works. Water is provided by a catchment system, however, drinking water shall meet the Department of Health standards. Wastewater is disposed of into an existing cesspool. The applicant would also be required to comply with all other applicable agency requirements. Finally, agencies reviewing the request had no objections to the establishment of the bed and breakfast operation at this location.

Based on the above, it is recommended that the request to allow the establishment of an existing three-bedroom Bed and Breakfast operation in a single-family dwelling and guest house on the subject property be approved.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

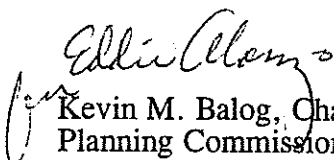
1. The applicants, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-72, 25-2-73 and 25-4-7, within six months of the effective date of this permit. Plans shall identify existing and proposed structures, driveway, landscaping, fire protection measures, three paved parking stalls (asphalt or concrete) and exterior signs associated with the business. In conjunction with Final Plan Approval, the applicant shall submit written documentation that Final Building Inspection has been secured for the guest house from the Department of Public Works.
3. The bed and breakfast operation shall be limited to the use of three bedrooms.
4. Drinking water shall meet the Department of Health standards and only breakfast meals may be served to guests.
5. Comply with all applicable requirements as stated in the Zoning Code, Section 25-4-7, regulating bed and breakfast establishments.
6. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works and the Department of Health.

7. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
8. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), 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 surrounding properties, the permit may be suspended or revoked.
9. An initial extension of time for the performance of conditions 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, 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.
 - 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).

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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,


Kevin M. Balog, Chairman
Planning Commission

Lhardi02.pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Kazu Hayashida, Director/DOT-Highways, Honolulu
Aaron Ueno/Department of Health