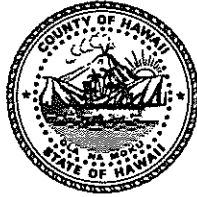


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
P 101 317 802

JUN 03 1999

Ms. Jacqueline Brittain
1923 Kalaniana'ole Street
Hilo, HI 96720

Dear Ms. Brittain:

Use Permit Application (USE 97-11)
Applicant: Jacqueline Brittain
Request: Establishment of a Four Bedroom Bed and Breakfast Operation,
Two Within an Existing Dwelling and Proposed Two Additional Bedrooms
Tax Map Key: 2-1-17:25

The Planning Commission at a duly advertised public hearing on May 21, 1999, considered the above-referenced request for a Use Permit in accordance to Chapter 25, (Zoning Code), Hawaii County Code 1983, as amended, and Rule 7 of the Planning Commission Rules of Practice and Procedure, to allow the establishment of a four-bedroom bed and breakfast operation (Hilo Oceanfront), two within an existing dwelling and proposed two additional bedrooms, situated on approximately 17,900 square feet of land within the County Single Family Residential (RS-10) zoned district. The property is located on the makai side of Kalaniana'ole Street, approximately 179 feet to the west of its intersection with Akepa Street at Keaukaha, South Hilo, Hawaii.

The Commission voted to deny Use Permit No. 177 based on the following findings:

The applicant originally applied for the Use Permit on June 26, 1997 to conform to standards of the Hawaii County Code Section 25-4-7(e), which allows existing bed and breakfast operations similar to the applicant's, to operate as a non-conforming use until September 30, 1997. The initial public hearing on the application was held on September 26, 1997. At that time, the Planning Director issued a background report and recommendation of approval based on the fact that the request had conformed to the guidelines for the granting of a Use Permit. However, upon discovery of outstanding issues and violations with the Building Division, the Planning Commission voted to continue the hearing to allow the applicant to comply with Building Code requirements. More specifically, there were three kitchens in the existing dwelling, several building permits were not closed, the jacuzzi wiring was not in compliance with Building Code requirements and mechanical permits were outstanding. The applicant was instructed to cease and desist. At the November 12, 1997 meeting, as the issues and violations were still unresolved, the Planning Commission voted to again continue the hearing to allow

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the applicant to resolve Code violations with the Department of Public Works Building Division, and called for a site inspection of the property at the next public hearing.

On April 27, 1999, an after-the-fact building permit was pulled for the existing wetbar/sink in one of the bedrooms proposed for the bed and breakfast use. To date, final inspection is pending. There is another existing wetbar/sink in the second bedroom proposed for the bed and breakfast use which still needs a building permit. The applicant has indicated that the two kitchens have been removed (i.e., ranges have been removed). The applicant stated that electrical work as well as work to finalize the mechanical permit have been completed, and final inspection for the electrical and mechanical (plumbing) work is anticipated to be completed by April 23, 1999. According to the Building Division, to date, no request for inspection has been received and final inspection is pending on all outstanding permits.

The applicant has had adequate time to correct the violations with the Building Department. Over 20 months have passed since the Planning Commission issued the cease and desist order at its September 26, 1997 meeting and requested that the applicant comply with Building Department requirements. Since that time, minimal progress has been made in securing the appropriate permits and the applicant continues to operate the establishment. The bed and breakfast operation is advertised on the Internet as "Hilo Oceanfront Bed and Breakfast." The applicant has had 20 months to comply with Code requirements, and it is not feasible to continue monitoring outstanding violations.

The granting of the proposed request would unnecessarily burden public agencies. Wastewater is disposed of in an existing cesspool, and the Department of Public Works requires a connection to the County sewer line prior to the establishment of the bed and breakfast operation. The applicant has continued to operate the bed and breakfast establishment despite the Department of Public Works' requirement that the subject property connect to the existing sewer line. The applicant has not adequately addressed the violations with the Building Division, as permits are still outstanding and final inspection has not been completed for any of the outstanding violations. Although the applicant has removed the two kitchens (removed the ranges) and left the bar sinks intact, the permits for the bar sinks have yet to receive final inspection. Further, the applicant is not in compliance with the Planning Commission's request to discontinue the business until violations are corrected, as the bed and breakfast is still in operation since the cease and desist order issued on September 26, 1997. Finally, the applicant has had more than adequate time to correct the outstanding violations. No substantial progress has been made to date and it is not feasible for the County to continue monitoring the applicant's progress.

Based on the above, the request to allow a four (4) bedroom Bed and Breakfast establishment, two within an existing dwelling and proposed two additional bedrooms on the subject property, would not be consistent with the guidelines for approving a Use Permit, would unnecessarily burden the County, and is, therefore, denied.

Should you be aggrieved by the Commission's decision, you may appeal said decision to the Third Circuit Court pursuant to Chapter 91 of the Hawaii Revised Statutes within thirty (30) days after the date of the Commission's written decision.

Ms. Jacqueline Brittain
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Should you have any questions on this matter, please feel free to contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

LBritt02.PC

cc: Department of Public Works
Department of Water Supply
Corporation Counsel
Virginia Goldstein, Planning Director
Francis Saiki, Zoning Inspector