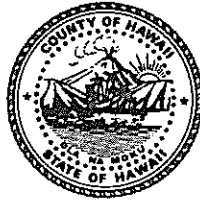


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
Z 179 517 455

APR 0 8 1998

Ms. Bonnie Goodell
P.O. Box 6
Volcano, HI 96785

Dear Ms. Goodell:

Use Permit Application (USE 97-12)

Applicant: Bonnie Goodell

Request: Establishment of an Existing One Bedroom Bed and Breakfast Operation

Tax Map Key: 1-1-60:13

The Planning Commission at its duly held public hearing on March 20, 1998, voted to approve the above-referenced application. Use Permit No. 166 is hereby issued to allow the establishment of an existing one-bedroom bed and breakfast operation within an existing dwelling situated on approximately 5.958 acres of land within the County Single Family Residential (RS-10) zoned district. The property is located within Ohia Estates on Ala 'Ohi'a Street approximately 120 feet to the east of its intersection with Liona Street 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.
- 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.

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The existing one 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 proposed project 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 operation of an existing bed and breakfast operation can apply for plan approval, a use permit or a special permit and operate as a non-conforming use until September 1997, and upon issuance of applicable permits, be considered a permitted use. In this particular situation, the applicant has been in operation since 1985 and is applying for a Use Permit to conform to the Zoning Code requirements. The applicant lives on the subject property, and in review of the request, the existing 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 businesses 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 residence as a single-family dwelling. 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 applicant's request is to allow the continued operation of a one-bedroom bed and breakfast operation within a dwelling on her property. The applicant resides in a separate dwelling on the property. The bed and breakfast use would complement and be accessory to the use of the dwelling as a residence on the building site. No employees are anticipated to be hired. Adequate utilities and services are available at the site. The property is approximately 5.958 acres in size and landscaped, with a 550-square foot dwelling that can accommodate guests. The two dwellings are permitted on this property, which is zoned RS-10 and 5.958 acres in size. Additional bedrooms in the main dwelling may be added in the future. There is a 350-foot long 9-foot wide paved asphalt driveway and two paved parking stalls for guests.

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 bed and breakfast operation will be established in an existing dwelling, the uses should not alter the appearance or character of the neighborhood.

The existing 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 improvement 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 nature, is consistent with the General Plan designation and is in keeping with the goals and 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 surrounding uses in the area are vacant or in single-family residential use and the dwelling can accommodate the bed and breakfast activity. Additional parking areas to accommodate the bed and breakfast operation are available on the property. The property is 5.958 acres in size, and 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.

The bed and breakfast operation will be accessory to the main use of the property as a single-family residence, and be in keeping with the primary residential nature of the surrounding properties. Adjacent parcels and lands surrounding the subject property are zoned RS-10 and in single family residential uses. Within close proximity to the subject property is a bed and breakfast establishment operated by Tommy and Brenda Carson who secured Use Permit No. 123 (TMK: 1-1-8-112) in 1994 for three bedrooms. The

Carson's bed and breakfast operation is located in Mauna Loa Estates on Sixth Street in the vicinity of Pearl Avenue. Another nearby bed and breakfast establishment is operated by Joan Earley, who secured Use Permit No. 158 (TMK: 1-1-9:20) in July, 1997, for two bedrooms. This bed and breakfast is located on the corner of Ruby Avenue and Eighth Street.

The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure. The subject property is located on Ala 'Ohi'a Street in Ohia Estates. Ala 'Ohi'a Street, fronting the subject property, is a County road with an approximate 16-foot wide pavement in fair to good condition, with 4-foot soft grass shoulders, all within a 40-foot right-of-way. It is not anticipated that guests of the bed and breakfast establishment will substantially increase traffic on the existing roadways. There is adequate guest parking on site. Water is provided by a catchment system, as such, the applicant would be required to comply with the Department of Health requirements in regards to water consumption for guests. It should be pointed out that according to the applicant, bottled water will be served to the guests. Wastewater is disposed of into an existing cesspool. The applicant would be required to comply with all applicable agency requirements, including any requirements of the Department of Health and Department of Public Works. Finally, agencies reviewing the request had no objections to the establishment of the bed and breakfast operation at this location.

Based on the above, the request to allow the establishment of an existing one-bedroom bed and breakfast operation in an existing dwelling on the subject property is 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, 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 (6) months of the effective date of this permit. Plans shall identify existing and proposed structures, landscaping, fire protection measures, driveway and two paved parking stalls (asphalt or concrete) and exterior signs associated with the business.
3. The bed and breakfast business shall be limited to the use of one bedroom in the two-story structure on the property.
4. Comply with all applicable requirements as stated in the Zoning Code, Section 25-4-7, regulating bed and breakfast establishments.
5. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works and the Department of Health.

6. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
7. 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, if 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.
8. 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, 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 Phyllis Fujimoto of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

LGoode03.PC

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