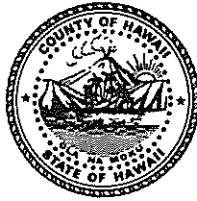


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
Z 095 323 345

NOV 25 1997

Maurice and Jiranan Thomas
P.O. Box 28
Volcano, HI 96785

Dear Mr. and Mrs. Thomas:

Use Permit Application (USE 97-16)
Applicant: Maurice and Jiranan Thomas
Request: Allow the Establishment of An Existing Five Bedroom Bed and
Breakfast Operation (Hale Kilauea) Within An Existing Dwelling
Tax Map Key: 1-9-6:8

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 application. Use Permit No. 162 is hereby issued to allow the establishment of an existing five-bedroom bed and breakfast operation (Hale Kilauea) within an existing dwelling situated on 3.00 acres of land within the County Single Family Residential (RS-20) zoned district. The property is located on Kilauea Road approximately 141 feet to the east from its intersection with Haunani Road at 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, 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 proposed five-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 will 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 1989 and is applying for a Use Permit to conform to the Zoning Code requirements.

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 securing of a Use Permit.

The applicants are requesting that they be allowed to continue to operate a five-bedroom bed and breakfast operation within an existing dwelling on their property. The applicants reside within the existing eight-bedroom dwelling. There is another existing one-story single family dwelling on the subject property. This second dwelling is permitted under the Hawaii County Zoning Code, but the applicants propose to establish the Bed and Breakfast operation within the eight-bedroom, two-story single family dwelling. The proposed activities would complement and be accessory to the use of the dwelling as a residence. No employees are anticipated to be hired. Adequate utilities and services are available at the site. The property is approximately 3 acres in size and landscaped, with an approximate 4,000-square foot dwelling that can accommodate guests. No additional structures are anticipated to be constructed. According to the site plan submitted by the applicants, there are five (5) gravel parking spaces for the guests, and two (2) gravel parking spaces for the residents.

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, the use should not alter the appearance or character of the neighborhood. The bed and breakfast establishment would be open to the public on a

daily basis, reservations will be accepted via direct calls or through advertising in local and out of state publications and referrals.

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

Economic Element

- * 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 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

- * 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 development of commercial facilities should be designed to fit into the locale with minimal intrusion while providing the desired services.

Therefore, the proposed uses would operate within the parameters of being a single-family residence, is consistent with the General Plan designation and is in keeping with the policies of the General Plan.

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. The surrounding uses in the area are in single-family residential use, or are vacant. The existing dwelling can accommodate the proposed activity. Additional parking areas to accommodate the bed and breakfast operation are available on the site. The property is 3 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 proposed use 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. There are several approved bed and breakfast type establishments in the immediate vicinity. Close by is a Bed and Breakfast establishment operated by Brian Crawford, who secured Special Permit No. 792 (TMK: 1-9-18:1) in December 1991 for four bedrooms. This Bed and Breakfast is located in Volcano on the corner of Wright Road and Laikapu Avenue. Also in the vicinity is an inn operated by Gordon and Joann Morse who secured Special Permit No. 966 (TMK: 1-9-3:10, 20, 21)

in May, 1997 for six bedrooms. The Morse's inn is located in Volcano Village approximately 300 feet north of the Volcano Road-Lanihuli Road intersection.

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. The subject property is located on Kilauea Road from Haunani Road, with adequate guest parking on site. Both Kilauea Road and Haunani Road are paved County roads. It is not anticipated that guests of the bed and breakfast establishment will substantially increase traffic on the existing roadways. Water is provided by a catchment system, however, drinking water shall meet the Department of Health standards. Wastewater will be disposed of into two existing cesspools. 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, it is determined that the request to allow the establishment of an existing five-bedroom Bed and Breakfast operation in a single family dwelling 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, 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, Section 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, landscaping, fire protection measures, driveway and five parking stalls (gravel, asphalt or concrete) and exterior signs associated with the business.
3. The bed and breakfast business shall be limited to the use of five (5) 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

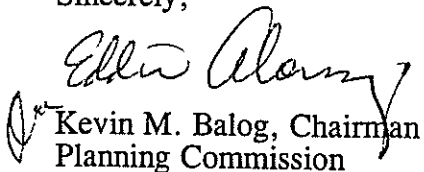
necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission, if the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.

9. An initial extension of time for the performance of conditions within this 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 Susan Gagorik of the Planning Department at 961-8288.

Sincerely,


Kevin M. Balog, Chairman
Planning Commission

Lthoma02.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