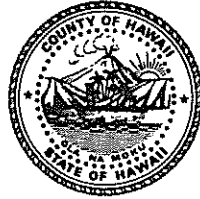


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 348

NOV 25 1997

Mr. Satoshi Yabuki
P.O. Box 784
Volcano, HI 96785

Dear Mr. Yabuki:

Use Permit Application (USE 97-18)
Applicant: Satoshi Yabuki
Request: Establishment of an Existing Four Bedroom Bed and Breakfast
Operation Within an Existing Duplex (Ohana) Dwelling
Tax Map Key: 1-9-8:31

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. 164 is hereby issued to allow the establishment of an existing four-bedroom bed and breakfast operation (Holo Holo In) within an existing single family dwelling situated on 16,200 square feet of land within the County Single Family Residential (RS-10) 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; 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.

11595

NOV 25 1997

The four (4) bedroom bed and breakfast operation within a single family dwelling will meet with 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 low density residential area, 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 in an ohana dwelling 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 1989 and is applying for a Use Permit to conform to the Zoning Code requirements. His application, however, was submitted on August 5, 1997, after the required deadline of June 30, 1997. On this basis and as a condition of approval, the applicant would be required to remove one kitchen and cancel the ohana dwelling permit, thereby, the structures would be converted from a duplex into a single family dwelling. Upon this condition and in review of the request, the existing bed and breakfast operation would be within a single family dwelling and 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. Restriction and standards continue to focus on the use remaining secondary to the principal use of the property for a residence. On Residential zoned lands within a State Land Use Urban district, impacts from the proposed use can be properly addressed and mitigated through the securance of a Use Permit.

The applicant is requesting to allow the continued operation of a four-bedroom bed and breakfast establishment. The applicant will reside within the existing two-story dwelling which is located within a residential neighborhood. The proposed activities would complement and be accessory to the use of the dwelling as a residence. The applicant plans to employ a person to assist in managing the operations. Adequate utilities and services are available at the site. The property is 14,801 square feet in size with an 1,844 square foot two-story duplex dwelling that can accommodate guests. There is also gravel parking areas available on site to accommodate parking 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 bed and breakfast operation would be operating within an existing single family dwelling, the use would 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 for guests.

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 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 property is located in Volcano Village. The surrounding uses in the area are mainly in single-family residential. The property has a duplex ohana dwelling, where upon removal of one kitchen would still accommodate the bed and breakfast operation. To accommodate guest parking, there are gravel parking areas on site for their bed and breakfast guests. The property has adequate landscaping to mitigate any possible visual or noise impacts on the neighbors. Adequate public services and utilities are available to accommodate the bed and breakfast use.

There are two approved bed and breakfast establishments within Volcano Village. One is a 6-room inn, operating like a bed and breakfast, along the Old Volcano Road. The inn is operated by Gordon and Joann Morse who secured Special Permit No. 966 (TMK: 1-9-3-10, 20 & 21) in May 1997. The other is a 4-bedroom bed and breakfast operation located along Wright Road which is owned by Brian Crawford who secured Special Permit 792 (TMK: 1-9-18:01) in December 1991. Kilauea Lodge and Restaurant is also located along the Old Volcano Road, on CV-10 and CV-20 zoned lands, and provides overnight accommodations in 12 units. Effective May 1995, Change of Zone Ordinance No. 95-101 was approved by the County Council to rezone additional land to the rear of the existing lodge to allow for expansion of an additional 12-20 lodging units. As the applicant has been in operation since 1989, it is not anticipated that the approval of the request will have a negative impact on the existing community nor change the existing character of the area.

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 accessed from Haunani Road which is a two-lane County road and is located on Kalanihonua Road, which is a single-lane private road. The applicant has not received any complaints regarding his operation and has in effect submitted letters of support from surrounding land owners. It is not anticipated that guests of the bed and breakfast establishment will substantially increase traffic on the existing roadways. The applicant shall secure required building permits to remove one kitchen and request cancellation of the ohana dwelling permit from the Planning Department upon securing Final 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 on the subject property is discharged into a cesspool. Police and fire protection are available at the site. The applicant would be required to comply with all other applicable agency requirements, including any requirements of the Department of Health. 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 four (4) 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, 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, driveway, landscaping, fire protection measures, four gravel parking stalls and exterior signs associated with the business. In conjunction with Final Plan Approval, the applicant shall submit documentation that Final Building

Inspection has been secured from the Department of Public Works for removal of one kitchen and conversion from a duplex to a single family dwelling.

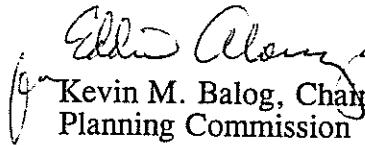
3. Upon submittal of documentation that one kitchen has been removed, the applicant shall request that the ohana dwelling permit be cancelled by the Planning Director.
4. The bed and breakfast operation shall be limited to the use of four (4) bedrooms.
5. Drinking water shall meet the Department of Health standards and only breakfast meals may be offered to guests.
6. Comply with all applicable requirements as stated in the Zoning Code, Section 25-4-7, regulating bed and breakfast establishments.
7. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works and Health Department.
8. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
9. 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.
10. 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).

Mr. Satoshi Yabuki
Page 6

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

LYabuk02.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