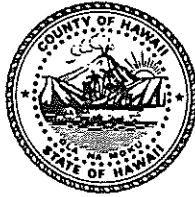


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
Z 095 324 395

DEC 07 1998

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Use Permit Application (USE 98-3)

Applicants: Ingrid Carvalho and Eleanor W. Jacobsen

Request: Establish a One-Bedroom Bed and Breakfast Operation
Within a Second Dwelling

Tax Map Key: 1-9-7:19

The Planning Commission at its duly held public hearing on November 20, 1998, voted to approve the above-referenced application. Use Permit No. 176 is hereby issued to allow the establishment of a one-bedroom bed and breakfast operation within an existing second dwelling situated on 3.00 acres of land within the County Single Family Residential (RS-20) zoned district. The property is located on the south side of Laukapu Avenue approximately 700 feet from its intersection with Haunani Road, 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.

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DEC 07 1998

The one-bedroom existing 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. In this particular situation, the applicants have been in operation since 1990 and is applying for a Use Permit to conform to the Zoning Code requirements. Although the applicants do not presently reside on the property, they intend to comply with the requirements by moving into the main dwelling. According to Real Property Division records, references are made to structures (dwelling and billet) on the property since 1947. Building Division records include permits secured for improvements on the main dwelling. The applicants stated that improvements were made to the bed and breakfast cottage in 1990; however, the applicants intend to secure an after-the-fact building permit to comply with County requirements. The applicants also secured a variance (VAR 943) from the Planning Department, effective August 17, 1998, for encroachment of the bed and breakfast cottage into the side and rear yard setbacks. In addition, the applicants have stated their intent to comply with applicable requirements of the Zoning Code, Section 25-4-7, 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 subsequent 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 one-bedroom bed and breakfast establishment in a second cottage on the subject property. They will reside in a main dwelling which has 3 bedrooms. Part-time employees may be hired for landscaping and maintenance. Adequate utilities and services are available at the site. No additional structures are anticipated to be constructed. The driveway, carport and parking areas are graveled to accommodate guest parking, which should eliminate erosion, mud and standing water. It is not anticipated that a one-bedroom bed and breakfast establishment will substantially increase traffic, anymore than its use as an existing rental, on existing roadways in the area.

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 subject property. In addition, the dwellings are not visible from Laukapu Road. The proposed 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 Volcano Village. The surrounding area is rural in nature and mainly single-family residential in use. The existing one-bedroom cottage and graveled parking areas can accommodate the bed and breakfast operation. The property is naturally landscaped to mitigate any possible visual or noise impacts on the neighbors. Adequate public services and facilities are also available to accommodate the proposed use. Although there are other bed and breakfast establishments in operation in the Volcano Village, the applicants have also been in operation since 1990 without any complaints filed with the Planning Department.

The granting of the proposed use will 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 may be accessed from Haunani or Wright Road on Laukapu Road. The subject property is approximately three lots in from Haunani Road and .8 miles from Volcano Highway. Laukapu Road is a County Road with an approximate pavement width of 9 feet. There are adequate graveled parking areas on site for guests. It is not anticipated that guests of the one bed and breakfast establishment will substantially increase traffic on existing roadways. As the subject property is located three lots from Haunani Road, the guests would not have to traverse very far onto Laukapu Road to reach their destination. Water is provided by a catchment system, as such, the applicant would be required to comply with the Department of Health requirements regarding water consumption for guests. Wastewater is disposed of into an existing cesspool. The applicants would be required to comply with all applicable agency requirements, including any requirements of the Department of Health and Department of Public Works-Building Division. 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 a second existing dwelling on the subject property is hereby 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 one year of the effective date of this permit. Plans shall identify existing and proposed structures, driveway, landscaping, fire protection measures, gravel parking stalls and exterior signs associated with the business. In conjunction with Final Plan Approval, the applicants shall submit documentation that Final Building Inspection has been secured from the Department of Public Works for previous renovations to the bed and breakfast cottage.
3. The bed and breakfast operation shall be limited to the use of the one bedroom cottage located on the subject 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-Building Division and the Department of Health regarding water and food consumption for guests.
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 that the applicants have failed to comply with the conditions of approval or have 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 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

LCarva01.PC

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