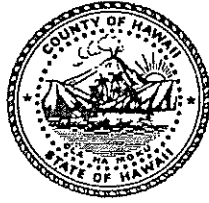


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL

7000 0600 0024 2903 6601

JAN 07 2002

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

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 01-007)
Use Permit Application (USE 01-003) ✓
Request: Establishment of a 4-Bedroom Bed and Breakfast Operation
Within an Existing Dwelling (Two Bedrooms to be Constructed)
Applicant: Punahelu Andrade
Tax Map Key: 6-9-3:31

The Planning Commission at its duly held public hearing on December 7, 2001, voted to approve the above-referenced applications. Special Management Area (SMA) Use Permit No. 419 and Use Permit No. 186 are hereby issued for the establishment of a 4-bedroom bed and breakfast operation within an existing dwelling and in extensions to be constructed, situated in the County's Single Family Residential (RS-10) zoned district. The property is located on the mauka side of Puako Drive and approximately 900 feet southwest of the Puako Beach Apartments, Puako Beach Lots, Lalamilo, South Kohala, Hawaii.

Approval of these requests are based on the following:

Special Management Area Use Permit

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore,

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special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

The proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and elimination of planning options. The applicant is proposing to operate a four-bedroom bed and breakfast establishment in the existing single-family, three-bedroom, single-story dwelling and expand the dwelling with the construction of two additional bedrooms, new septic tank, and swimming pool on the 12,754 square foot parcel. The property is located makai of Queen Kaahumanu Highway and approximately 200 feet from the nearest shoreline. It is relatively level and has been developed for 35 years. The Flood Insurance Rate Maps (FIRM) indicate that the property is located in Zone "AO," areas within the 100-year flood plain. There are no significant drainageways on the property. While there are no indications of surface water flow on-site, the applicant will abide by all applicable County guidelines for run-off generated by the development. Due to the facts that improvements will be elevated, the proposed development is not anticipated to have adverse environmental or ecological effects.

The proposed development is consistent with the objectives, policies, and guidelines of the Special Management Area as provided by Chapter 205A, HRS, and Rule No. 9 of the Planning Commission Rules of Practice and Procedure. Given the extensive clearing activities that have taken place and the existing residential uses in the area, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. According to the Planning Department's file, there is no designated public access to the mountain areas or to the shoreline over the subject property. The property is located on the makai side of Queen Kaahumanu Highway and approximately 200 feet from the nearest coastline. As previously stated, the Flood Insurance Rate Map designates the property as Zone "AO" areas determined to be within the 100-year flood plain. The applicant currently utilize a cesspool for wastewater management, which has become problematic and which will be replaced with a septic tank system. It is not anticipated that the proposed development will adversely impact any archaeological resources, recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property is not affected by any beach erosion.

The Department of Health (DOH) requires that underground injection systems that receive wastewater or storm run-offs from development need to address DOH requirements. Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site

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preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed use is not anticipated to have any substantial adverse effects on the coastal resources or environment.

Air quality in the area of the subject property is most affected by emissions from natural and vehicular sources. Volcanic haze is the dominant form of natural emissions, while windblown dust may also contribute to air pollution. The existing noise generated in the area is coming primarily from vehicular traffic. Given the minimal nature of the proposed improvements, no significant long-term air and noise quality impacts are anticipated.

Water is available to the subject property from an existing water service sufficient for the intended use. The Department of Water Supply does require that the applicant install a backflow preventer. Access to the property from Queen Kaahumanu Highway is along the Puako Beach Road.

The proposed development is consistent with the County General Plan and Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates this area for Low Density Urban development uses. The property is zoned Single Family Residential (RS-10). Both of these designations allow for the proposed use and expansion provided both a Use Permit and Special Management Area Use Permit are obtained. Given the RS-10 zoning, all improvements allowed on the 12,754 square foot parcel must meet all requirements of Chapter 25, Zoning Code, relating to minimum yards and height limitations. The lands adjacent to the north and south of the property are similarly zoned Single Family Residential (RS-10) as are the properties west or mauka of the subject property. To the east (mauka) of the subject property is a State right-of-way easement.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives, policies and guidelines of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

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 this permit.

1. The applicants, successors, or assigns shall be responsible for complying with all stated conditions of approval.

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2. Establishment of the four-bedroom bed and breakfast shall be completed within three (3) years from the effective date of this permit. Prior to securing a building permit for the addition to the dwelling, Final Plan Approval for the proposed development shall be secured in accordance with Chapter 25, Zoning Code. Plans shall identify all existing and proposed structures, landscaping, and parking stalls associated with the development.
3. A septic system shall be installed on the property that meets with the approval of the Department of Health and the Department of Environmental Management prior to the issuance of a certificate of occupancy for the proposed addition to the dwelling.
4. An emergency preparedness and response plan shall be filed with the Hawaii County Civil Defense Agency and Planning Department prior to the start of operations.
5. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
6. The bed and breakfast shall be limited to the use of four (4) bedrooms.
7. The applicant shall comply with all applicable requirements as stated in the Zoning Code regulating bed and breakfast establishments.
8. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health and the Department of Water Supply, for this use.
9. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
10. An initial extension of time for the performance of conditions 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, successors, 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).

Use Permit

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 proposed use will still be consistent with the general purpose of the zoned district, the intent and purpose of this chapter, and the County General Plan;
- (B) 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;
- (C) 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 proposed 4-bedroom bed and breakfast operation would meet 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. According to the Zoning Code, Single Family Residential districts "provide for low density residential area, for urban and suburban family life." Single-family dwellings, family care homes, neighborhood parks, and "buildings and uses normally considered directly accessory to the above permitted uses" are permitted in this district. The applicant proposes to have a four-bedroom bed and breakfast establishment in the existing dwelling.

Bed and breakfast accommodations are 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 passed by the County Council, effective September 28, 1992, to ensure that bed and breakfast businesses remain secondary to the principal use of the residence as a single family dwelling. Subsequently, Ordinance No. 00 152, adopted by the Hawaii County Council and effective on December 26, 2000, amended Section 25-4-7 to no longer require plan approval for the establishment of a bed and breakfast in the RS district within the State Land Use Urban District provided that a Use Permit is obtained. Any impacts from the proposed use can be properly addressed and mitigated through securing a Use Permit. The applicant proposes a 4-bedroom bed and breakfast establishment within an existing single family dwelling.

The applicant will reside in the dwelling. The subject property is located within a single family residential neighborhood; as such, the proposed activity would complement and be accessory to the dwelling being used as a residence. The applicant and/or other family member will be the only employee. Adequate utilities and services are available at the site. The property is approximately 12,754 square feet in size. There is adequate space along the existing driveway to accommodate their bed and breakfast guests parking. Thus, the proposed four (4) bedroom bed and breakfast establishment will not substantially alter the character of the surrounding neighborhood, and it will be consistent with the intent of the Zoning Code for this district.

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. The bed and breakfast establishment will be accessory to the single family dwelling. As such, the use will 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, requests will be by reservations.

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 designated to fit into the locale with minimal intrusion while providing the desired services.

Therefore, the proposed use 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 will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The existing dwelling is located in a section of Puako zoned for single family residential use. Should the request be approved, the applicant has an existing grassy area available for the 4 guest parking stalls, which will be cleared and covered in gravel. The property has adequate landscaping to mitigate any possible visual impacts on the neighbors and adequate public services and utilities area available to accommodate the expanded uses. The applicant has obtained the written support of the closest neighbor who supported the request. The proposed use will be accessory to the main use of the property as a single-family residence, in keeping with the primarily use of surrounding properties. There are no other approved bed and breakfast establishments in this area. It is not anticipated that the establishment of this bed and breakfast will affect other similar uses in the area. The subject property is within 200 feet of the ocean, and the area has a natural setting that is attractive to tourists.

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. Puako Beach Drive is a County-maintained road with an approximate 21-foot pavement width. The bed and breakfast establishment is looked upon as a use that is accessory and subordinate to the use of a residence by the owners and therefore not anticipated to generate any more traffic than that expected from single family dwelling uses. Wastewater will be disposed of in the existing cesspool until a new septic system is constructed. Police and fire protection are available at the site, as is County water. The applicant has agreed to install the backflow preventer required by the Department of Water Supply and to abide by the Department of Health standards on

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guidelines for Bed and Breakfast operations. The applicant would be required to comply with applicable agencies' requirements prior to establishing the use at this location.

Based on the above, this request is hereby approved subject to the following conditions. However, 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 applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Establishment of the four-bedroom bed and breakfast shall be completed within three (3) years from the effective date of this permit. Prior to securing a building permit for the addition to the dwelling, Final Plan Approval for the proposed development shall be secured in accordance with Chapter 25, Zoning Code. Plans shall identify all existing and proposed structures, landscaping, and parking stalls associated with the development.
3. A septic system shall be installed on the property that meets with the approval of the Department of Health and the Department of Environmental Management prior to the issuance of a certificate of occupancy for the proposed addition to the dwelling.
4. An emergency preparedness and response plan shall be filed with the Hawaii County Civil Defense Agency and Planning Department prior to the start of operations.
5. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
6. The bed and breakfast shall be limited to the use of four (4) bedrooms.
7. The applicant shall comply with all applicable requirements as stated in the Zoning Code regulating bed and breakfast establishments.
8. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health and the Department of Water Supply, for this use.

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9. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
10. An initial extension of time for the performance of conditions 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, successors, 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.

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Should you have any questions, please contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,

Mildred C. Mosher

for
Geraldine M. Giffin, Chairman
Planning Commission

Landradesma&use01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Brian Minaai, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Plan Approval Section