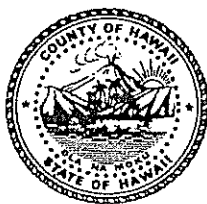


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

7000 0600 0024 2903 6571

JAN 22 2002

Ms. Kathleen Ann Porter
P.O. Box 545
Volcano, HI 96785

Dear Ms. Porter:

Use Permit Application (USE 01-004)

Applicant: Kathleen Ann Porter

Request: Establish a Wellness Center in a Single Family Dwelling

Tax Map Key: 1-9-4:15

The Planning Commission at its duly held public hearing on December 21, 2001, voted to approve the above-referenced application. Use Permit No. 187 is hereby issued to establish a Wellness Center within the existing single family dwelling situated in the County's Single Family Residential (RS-20) zoned district. The property is located in Volcano Village on the Old Volcano Road, and adjacent to the True Value Hardware Store, Oloo, 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;

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- 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.

The wellness/healing arts center known as Wellspring 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 uses devoted to the care or treatment of the aged, the sick or the infirm as long as there is a minimum building site area of ten thousand square feet, and provided that a Use Permit is obtained for the use.

The applicant is requesting to allow the establishment of a wellness/healing arts center known as Wellspring in the main dwelling of the subject 2.75-acre parcel. Use Permit No. 169 currently allows for the existing Volcano Country Cottages' bed and breakfast operation, consisting of the Artist's House and the Ohelo Berry Cottage. The applicant resides in the main dwelling on the property. One person is hired to assist in mowing and maintaining the grounds. Thus, the proposed use would complement and be accessory to the main use of the property as a residence.

The General Plan designation for this area is Medium Density Urban Development, which allows for village and neighborhood commercial and residential and related functions (3-story commercial; residential – up to 35 units per acre). In the Village and Neighborhood Commercial zones, a medical clinic is a permitted use. In addition, as the proposed use will be established in the existing main dwelling, the use should not alter the appearance or character of the residential neighborhood.

The proposed use 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 proposed use 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 parcel is located in Volcano Village along the corridor of the Old Volcano Road where there are existing commercial-zoned lands. Established in 1996, the True Value Hardware Store is adjacent to the east. The Kilauea General Store and the Kilauea Lodge and Restaurant are located further to the east. The Volcano General Store and the U.S. Post Office are situated at the Haunani/Old Volcano Road intersection. Adjoining lands to the west and north are zoned Single Family Residential (RS-20) and in single family residential use. Lands to the south (across the Old Volcano Road) are zoned Agricultural (A-20a) and Single Family Residential (RS-20) and are vacant or in single family residential use. The property is heavily forested with tsugi pines along the property boundaries and landscaped to mitigate any possible

visual or noise impacts to the neighbors. In addition, four letters of support from Volcano residents were received by the Department.

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 the Old Volcano Road which has a pavement width of approximately 20 feet. The property is located along a section of the Old Volcano Road where there is existing commercial activity. There is a parking area that will accommodate the proposed use. As the classes are limited in size, it is not anticipated that the proposed use will substantially increase traffic on the existing roadways. Wastewater is disposed of into the existing cesspool. Although water is provided by a catchment system, only bottled water will be made available on the premises for the consumption by clients. With the clarification of the outstanding building permit as it refers to the subject property, agencies reviewing the request had no objections to the establishment of the proposed use. Adequate public services and facilities are available to accommodate the existing and proposed uses. In addition, the applicant would be required to comply with all applicable agency requirements.

The proposed use does not require any new construction; therefore, there would be no disturbance to any rare or endangered species of flora or fauna or to any archaeological features. The subject property is located more than 30 miles from the nearest coastline. It is adjacent to existing mixed residential and commercial uses. Therefore, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline and mountain, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources.

Based on the above, this request to establish a wellness/healing arts center within the main dwelling is 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, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The proposed use shall be established within three (3) years from the effective date of this permit. Final Plan Approval for any improvements shall be secured in accordance with Chapter 25, Zoning Code. Plans shall identify all existing structures, interior/exterior renovations, landscaping, and parking stalls associated with the proposed use.

3. Operation of the proposed use shall be limited to the main dwelling.
4. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies.
5. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
6. 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, its 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 the 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).

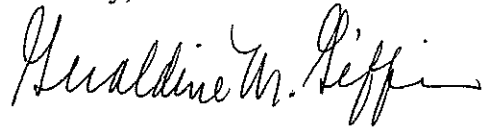
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Ms. Kathleen Ann Porter

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

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lporter01pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Brian Minaai, Director/DOT-Highways, Honolulu