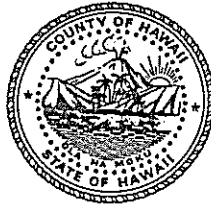


Harry Kim  
Mayor



**County of Hawaii**  
**PLANNING COMMISSION**

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

June 28, 2004

Ms. Melanie Boudar  
P.O. Box 205  
Hawaii National Park, HI 96718-0205

Dear Ms. Boudar:

Use Permit Application (USE 04-003)  
Applicant: Melanie Boudar  
Request: 4-Bedroom Bed and Breakfast Operation  
Tax Map Key: 1-1-10:71

The Planning Commission at its duly held public hearing on June 4, 2004, voted to approve the above-referenced application. Use Permit No. 201 is hereby issued to allow the establishment of a 4-bedroom bed and breakfast operation within an existing single family dwelling situated on 20,000 square feet of land zoned Single Family Residential – 20,000 square feet (RS-20). The property is located along the south side of Tenth Street, approximately 500 feet southwest of the Tenth Street – Pearl Street intersection, Mauna Loa Estates Subdivision within the Volcano area, Keaau, 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

W.P.  
105.5313

JUN 28 2004

- 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 four-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 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. The County Zoning Code, Section 25-4-7, provides guidelines for bed and breakfast operations. Based upon this representation, the applicant's bed and breakfast operation will 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 amendments to the Zoning Code in 1996 and 2000), 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 approval of a Use Permit.

The applicant is requesting to allow the establishment of a four-bedroom bed and breakfast establishment within a newly constructed 2-story, 5-bedroom, 5 ½ bath single family dwelling on a 20,000 square foot lot located within the Mauna Loa Estates Subdivision. The applicant will reside within the dwelling and be the only employee unless additional part-time help is needed. A continental breakfast will be served to guests, which will not exceed 10 at any given time. The driveway and parking areas will be graveled to accommodate guest parking, which should eliminate erosion, mud and standing water. Adequate utilities and services are available at the site. Thus, the bed and breakfast activities would complement and be accessory to the use of the property as their residence.

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 a newly constructed single family dwelling, the uses should not alter the appearance or character of the neighborhood. Advertising would be placed in publications and on the internet.

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 the Mauna Loa Estates Subdivision. The surrounding area is rural in nature and mainly single-family residential in use. The dwelling 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.

There are several other approved bed and breakfast establishments in the subdivision. It is not anticipated that the approval of this bed and breakfast operation will have a major impact in the community or on other similar uses in the area.

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 is accessed on Tenth Street from Pearl Avenue. All roads within the subdivision are private, paved roads which are maintained by Mauna Loa Road Maintenance Corporation. There is adequate guest parking located on site. It is not anticipated that guests of the bed and breakfast establishment will substantially increase traffic on the existing roadways.

In regards to the permit process for the dwelling, a condition will be added to require that Final Building Inspection be secured from the Building Division, Department of Public Works prior to the establishment of the bed and breakfast operation. 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 a septic system. 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 Building Division.

The proposed request will not have a significant adverse impact to traditional and customary Hawaiian Rights. The property is not adjacent and/or proximate to the shoreline. As such, gathering of marine life and coastal access is not an issue. The applicants state that there are no known established valued cultural rights being exercised on the properties.

Investigation of valued resources: No archaeological assessment or inventory survey was conducted for the property.

The valuable cultural, historical, and natural resources found in the project area: The likelihood of any rare or endangered species, habitat of flora or fauna or any archaeological features is remote in this area based on urbanization and residential

development that has occurred. The Department of Land and Natural Resources-State Historic Preservation Division has issued a “no-effect” letter stating that they believe that there are no historic properties present because residential development/urbanization has altered the land. Thus, they believe that “no historic properties will be affected by this undertaking.”

Possible adverse effect or impairment of valued resources: As stated by the State Department of Land and Natural Resources Historic Preservation Division, “they believe that no historic properties will be affected by this undertaking.”

Feasible actions to protect native Hawaiian rights: There are no known established valued cultural rights being exercised on the property, and as such, there is no action needed to protect these rights.

Based on the above, the request to allow the establishment of a four-bedroom Bed and Breakfast operation in a single-family dwelling is 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. Plans shall identify existing and proposed structures, driveway, landscaping, fire protection measures, 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 the structure to be used as the bed and breakfast operation.
3. The bed and breakfast operation shall be limited to the use of four bedrooms located within the five-bedroom single family dwelling.
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 and the Department of Health regarding water consumption for guests.

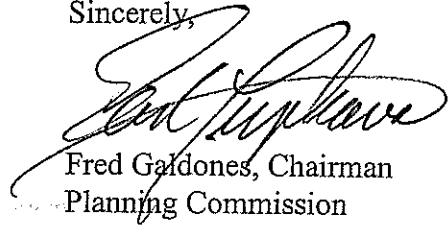
6. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
7. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, 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 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.
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.

Ms. Melanie Boudar  
Page 7

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

Sincerely,



Fred Galdones, Chairman  
Planning Commission

Lboudar01PC

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