

## County of Hawai'i

### PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

December 18, 2006

Dan and Shannon Fisher  
P.O. Box 92  
Volcano, HI 96786

Dear Mr. and Mrs. Fisher:

Use Permit Application (USE 06-000005)  
Applicant: Dan and Shannon Fisher  
Request: Allow 5-Bedroom Bed and Breakfast Operation  
Within Two Single Family Dwellings  
Tax Map Key: 1-1-6:70

The Planning Commission at its duly held public hearing on December 1, 2006, voted to approve the above-referenced application to allow the establishment of a 5-bedroom bed and breakfast operation within an existing single-family dwelling and proposed second single-family dwelling situated on 48,743 square feet of land within the Single Family Residential – 20,000 square feet (RS-20) district. The property is located along the west side of Lanihuli Road, approximately 400 feet southeast of the Lanihuli Road-Mamalahoa Highway intersection, Mauna Loa Estates Subdivision within the Volcano area, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicants are requesting to allow the establishment of a 5-bedroom bed and breakfast operation within an existing 3-bedroom single family dwelling and a proposed 3-bedroom second single family dwelling that will be constructed in the future. The applicants will be adding two additional bedrooms downstairs within the existing 3-bedroom single-family dwelling for the bed and breakfast operation. The remaining three bedrooms for the bed and breakfast operation will be within the proposed second single family dwelling. The applicants reside upstairs in the existing single family dwelling.

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:

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DEC 18 2006

- 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.

The five-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 the applicants' representation, the 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 applicants are requesting to allow the establishment of a five-bedroom bed and breakfast establishment within an existing 2-story, 3-bedroom, single family dwelling

on a 48,743-square foot lot located within the Mauna Loa Estates Subdivision. The applicants reside within the second story of the dwelling and will be the only employees unless additional part-time help is needed. They are proposing to add two additional bedrooms on the first floor of the existing dwelling and to construct a 3-bedroom second single family dwelling, which will be the five bedrooms to be used for the bed and breakfast operation. 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, and 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, which allows for single-family residential uses, ancillary community and public uses, and neighborhood and convenience-type commercial uses. As the proposed bed and breakfast operation will be established within an existing single family dwelling and a proposed second single family dwelling, the use should not alter the appearance or character of the neighborhood, which is mainly made up of single family residential dwellings.

The proposed bed and breakfast operation will complement the following goals, policies and standards of the Economic and Land Use elements of the General Plan:

**Economic Element**

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Strive for an economic climate which provides its residents an opportunity for choice of occupation.
- Encourage the development of a visitor industry that 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.
- 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, policies and standards 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 consists of single-family residential uses. The dwellings 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 Lanihuli Road from the Volcano Highway (Highway 11). 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.

Water is provided by a catchment system, as such, the applicants will be required to provide bottled water for guests of the bed and breakfast operation. Wastewater will be disposed of into an existing cesspool. Upon construction of the proposed second single family dwelling, a septic system will be added as required by the State Department of Health. Lastly, a condition will be added requiring the applicants to comply with all applicable County, State and Federal laws, rules, regulations and requirements.

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 property.

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 and that the building is not over 50 years old, therefore not a historic property. No additional land alteration is described."

Kazamura Cave is located on the subject property. According to the Puna Regional Circulation Plan, the Kazamura Cave is internationally recognized as the world's largest lava tube cave. It is the deepest known cave in the U.S. at 3,609 feet (1100 meters). The applicants have put a fence around the perimeter of the cave to limit access.

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 are no historic properties present of the property.

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 five-bedroom Bed and Breakfast operation is approved by the Planning Commission. Approval of this request is subject to the following conditions:

1. The applicants, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicants shall comply with all applicable requirements of Section 25-4-7 of the Zoning Code, as amended by Ordinance No. 00 152, relating to Bed and Breakfast Establishments.

3. Construction of the proposed single family dwelling and the proposed additions to the first single family dwelling shall be completed within five (5) years from the effective date of this permit. Improvements to the first single family dwelling shall be completed prior to the establishment of the bed and breakfast operation.
4. The bed and breakfast operation shall be limited to the use of five (5) bedrooms.
5. The applicants shall provide bottled water for guests of the bed and breakfast operation.
6. The applicants shall fence the area around the entrance to Kazamura Cave located on the property to protect the cave.
7. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
8. An extension of time for the performance of conditions of the 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 applicants, 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 General Plan or the Zoning Code.
  - C. Granting of the extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to 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).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Use Permit.

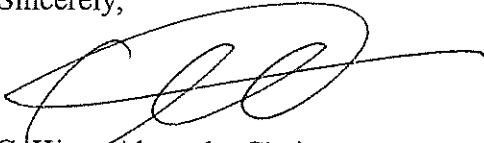
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Dan and Shannon Fisher

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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288, ext. 205.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Kimō Alameda', written in a cursive style with a long horizontal stroke extending to the right.

C. Kimō Alameda, Chairman  
Planning Commission

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