



County of Hawai'i

WINDWARD PLANNING COMMISSION

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

AUG 15 2012

Mr. Kurt MacCarley
4470 Sunset Boulevard, # 794
Los Angeles, CA 90027

Dear Mr. MacCarley:

Use Permit Application (USE 12-000035)
Applicant: Kurt MacCarley
Request: 4-Bedroom Bed & Breakfast Operation Within Existing
5-Bedroom Single Family Dwelling
Tax Map Key: 1-9-005:005

The Windward Planning Commission, at its duly held public hearing on August 2, 2012, voted to approve the above-referenced request to allow the establishment of a four-bedroom bed and breakfast operation within an existing 5-bedroom dwelling situated on approximately 4.9 acres of land within the County's Single Family Residential (RS-20) zoned district. The property is located within the Ola'a Summer Lots Subdivision on Old Volcano Road adjacent to and west of the Volcano Post Office at Volcano, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant requests a Use Permit to allow the establishment of a 4-bedroom bed and breakfast operation within an existing 5-bedroom two-story single-family dwelling. The four (4) guest bedrooms are located downstairs, and one master bedroom is upstairs. The bed and breakfast is currently in operation, and the applicant has filed this request to legitimize the operation. Although not clearly stated in the request, the applicant, who resides off-island, has indicated that the upper master bedroom is, and will continue to be, utilized by two operators during his absence. Parking is available on-site. As allowed under the code, only breakfast will be served to guests.

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.

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 Zoning Code and 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 principal use of the property as a residence. Section 25-4-7 of the Zoning Code provides guidelines for bed and breakfast operations. Based upon the applicant’s representation, the bed and breakfast operation meets the requirements of the Zoning Code, Section 25-4-7(b), regarding bed and breakfast establishments.

Bed and breakfast accommodations provide an attractive alternative to hotels, and are 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 income by sharing their homes with visitors. Recognizing this benefit, Ordinance No. 92 104 was originally passed by the County Council in 1992, requiring bed and breakfast operations to remain 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 General Plan designation for this area is Low Density Urban, which allows residential, with ancillary community and public uses and neighborhood and convenience-type uses. Only a small portion of the property near the Old Volcano Road is designated Medium Density Urban. This reflects the commercial use (post office) adjacent to the site. As the proposed bed and breakfast operation will be established within an existing single family dwelling, the use will not alter the appearance or character of the neighborhood. Furthermore, the proposed use complements the following goals, policies and standards of the Economic and Land Use elements 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 property is located in the Olaa Summer Lots Subdivision. Properties in the vicinity are zoned RS-20, improved with single-family dwellings, with the exception of the property immediately adjacent to the east zoned CV-10, site of the Volcano Post Office. The closest permitted B&B is located north of the property on parcel 15 on Olapalapa Road. As such, it is not anticipated that the approval of this bed and breakfast operation will have any adverse 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. Access to the subject property is from Old Volcano Road, a County roadway with a right-of-way of 50 feet. The paved driveway is approximately 18 feet wide and there is adequate on-site parking for guests.

Water is available from a catchment system. However, bottled water will be served to guests. Wastewater will be disposed of into an existing cesspool. Based on the above, it is not anticipated that the granting of the proposed request will unreasonably burden public agencies to provide additional improvements or infrastructure.

Based on the above, the subject request to allow the establishment of a four-bedroom bed and breakfast operation is approved by the Windward Planning Commission. Approval of this request is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of Section 25-4-7 of Chapter 25, Hawai'i County Code, (Zoning Code), relating to Bed and breakfast establishments.

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3. The bed and breakfast operation shall be limited to the use of four (4) bedrooms and a maximum of 10 guests.
4. The applicant shall provide bottled water for the guests of the bed and breakfast operation.
5. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
6. 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.

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

Sincerely,



Zendo Kern, Chairman
Windward Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Department of Health
Mr. Gilbert Bailado ✓