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## 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

July 12, 2023

Leland Traylor  
P. O. Box 1396  
Volcano, HI 96785  
VIA EMAIL

Dear Mr. Traylor:

**SUBJECT: Use Permit (PL-USE-2023-000009)**  
**Applicant: Leland Traylor**  
**Permitted Use: Allows the Operation of a Three-Bedroom Bed and Breakfast**  
**Within an Existing Single-Family Dwelling and a Proposed**  
**'Ohana Dwelling**  
**Tax Map Key: (3) 1-1-012:037; Volcano, Puna, Hawai'i**

The Windward Planning Commission, at its duly held public hearing on July 7, 2023, voted to approve the above-referenced request to allow the operation of a three-bedroom bed and breakfast establishment within a three-bedroom dwelling and a proposed two-bedroom 'ohana dwelling. The project site is located at 11-3789 Pearl Avenue, on the south corner of its intersection with 12<sup>th</sup> Street, Mauna Loa Estates, Volcano, Puna, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant(s), its successor(s) or assign(s) ("Applicant") shall be responsible for complying with all of the stated conditions of approval.
2. The operation of the bed and breakfast shall be conducted in a manner that is substantially representative of plans and details as contained within the Use Permit application received by the Planning Department and representations made to the Windward Planning Commission. Any substantial expansion or uses beyond what is represented in these documents shall require an amendment to this permit.

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3. The Applicant shall comply with all requirements of Section 25-4-7 of the County of Hawai'i Zoning Code, as amended, relating to bed and breakfast establishments.
4. The bed and breakfast operation shall be limited to the use of three (3) bedrooms.
5. The Applicant shall consult with Hawai'i County Real Property Tax regarding potential modification of the subject property's tax rates and/or tax exemptions which may change as a result of establishing the bed and breakfast operation.
6. The applicant shall comply with Hawai'i Administrative Rules, Department of Health, Chapter 11-50 (Food Safety Code) related to food service for bed and breakfast establishments.
7. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
8. 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.

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.

Approval of this request is based on the reasons given in the enclosed Findings Report.

Should you have any questions regarding the above, please contact Clinton Mercado of the Planning Department at (808) 961-8038 or by email at [clinton.mercado@hawaiicounty.gov](mailto:clinton.mercado@hawaiicounty.gov)

Sincerely,



July 12, 2023: 11:07 AM

Dennis Lin, Chairman  
Windward Planning Commission

P:\wp60\PC\PCC2023-3\LTraylorPL-USE-2022-009wpc

Enclosure: Planning Commission Findings Report

cc via email w/enclosure: County Real Property Tax Division  
GIS Section

**COUNTY OF HAWAII**  
**PLANNING COMMISSION FINDINGS**

**LELAND TRAYLOR**  
**USE PERMIT APPLICATION (PL-USE-2023-000009)**

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Based on the following findings, Use Permit No. PL-USE-2023-000009 is hereby approved to operate a 3-bedroom bed and breakfast establishment within an existing 3-bedroom dwelling and an existing 2-bedroom ‘ohana dwelling situated on approximately 33,006 square feet of land within the Single-Family Residential-20,000 square feet (RS-20) zoning district. The subject property is located at 11-3789 Pearl Avenue, on the southwest corner of its intersection with 12th Street, Mauna Loa Estates, Volcano, Puna, Hawai‘i TMK: (3) 1-1-012:037.

The applicant is requesting a Use Permit to establish a 3-bedroom bed and breakfast operation within a single-family dwelling and an existing 2-bedroom ‘ohana dwelling on the subject property. The main dwelling has 3 bedrooms and 3 bathrooms, of which one will be used by guests of the bed and breakfast, and 2 will be used by the applicant who will also be the onsite caretaker. The detached ‘ohana dwelling has 2 bedrooms and 2 bathrooms, which will be used entirely by guests. The bed and breakfast will provide overnight accommodation for a maximum of 8 guests for less than 30 days. Breakfast will be provided to registered guests only and no other meals will be provided. No exterior signage for the bed and breakfast establishment is being proposed.

The applicant currently operates a hosted rental. However, in anticipation of the proposed new regulations for hosted rentals, the applicant decided to apply for a Use Permit to establish a permanent bed and breakfast operation.

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permit, 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 zoning 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 proposed use meets the guidelines for approval of a Use Permit, for the reasons listed below:

**The granting of the proposed use shall be consistent with the general purpose of the zoning 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 polices 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. The County Zoning Code, Section 25-4-7, provides standards for bed and breakfast operations.

Based upon the applicant's representation, the proposed bed and breakfast operation will meet with the requirements of the Zoning Code, Section 25-4-7, regarding bed and breakfast establishments.

Bed and breakfast establishments are becoming increasingly popular with visitors to the island, who seek a quieter, more authentic experience of local life. Bed and breakfast establishments provide an economic opportunity for residents of Hawai'i County, who can supplement their incomes by sharing their homes with visitors. On residential zoned lands, impacts from bed and breakfast operations can be properly addressed and mitigated through the approval of a Use Permit.

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The General Plan designation for this property is Low Density Urban, which allows for residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses; overall residential density may be up to 6 units per acre.

Goals within the Economic element of the General Plan state a project should provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments, and that those developments shall be in balance with the social, physical, and cultural environments of the island of Hawai'i. Additionally, the project should strive for diversification of the economy by strengthening existing industries and attracting new endeavors.

The property is in the vicinity of a number of residential properties and therefore this project aligns with the Land Use policy which encourages the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment. The General Plan encourages the development of small-scale accommodations which enable visitors to take advantage of natural and cultural resources throughout the County versus large resorts that often focus on coastal or resort-type recreational activities.

The proposed request will allow the applicant an opportunity to improve their quality of life, provide an economic environment which allows this new opportunity and increase the development of the visitor industry for Hawai'i. Based on the preceding, the proposed request is consistent with the Land Use and Economic goals and 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 immediate surrounding area consists of urban single-family residential use and forest. The subject property is improved with an existing 2-story single-family dwelling built in 2018, and a new 'ohana dwelling currently under construction. The remainder of the property consists of ohia, 'ōlapa, mamaki, and koa trees, hāpu'u, palapalai, and uluhe ferns. It also contains several invasive species such as strawberry guava, himalayan raspberry, and ginger. As the proposed bed and breakfast operation will be established within an existing single-family dwelling and within an 'ohana dwelling, the use will not alter the appearance or character of the neighborhood. According to the Hawai'i County Zoning Code Section 25-4-51(a)(2), a bed and breakfast establishment must provide one parking stall for each guest bedroom, as well as one stall for the dwelling. The property has two driveways that can accommodate five off-street parking stalls that will be available to guests. The parking area of

the subject dwelling meets the minimum Zoning Code requirements. Thus, it is not anticipated that the proposed use will have a detrimental impact on the community character or surrounding properties.

**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.** Traffic impacts on the subject property are not anticipated to be significant, given the small scale of the proposed 3-bedroom bed and breakfast establishment. The subject property has two access points, one driveway to the single-family dwelling from Pearl Street and the other driveway from 12th Street to the 'ohana dwelling under construction. Both Pearl Street and 12th Street are privately owned and maintained roadways. The County Police Department does not anticipate any significant impact on traffic and/or public safety concerns. The property is not within the service limits of the Department of Water Supply facilities and is currently being serviced by an existing water catchment tank. There is no public sewer available in the area. The single-family dwelling and 'ohana dwelling are currently being serviced by one septic individual wastewater system. The applicant utilizes a private waste disposal service for their solid waste. Electrical, telephone, Police, and Fire services are available to the subject property. The nearest Police station is approximately 20 miles northeast of the subject property, and the nearest volunteer Fire station is 2 miles northwest.

Therefore based on the above discussion, the granting of the request will not unreasonably burden public agencies to provide needed services and infrastructure.

**In addition to the criteria for granting a Use Permit, the request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area.** The property is not located within the Special Management Area and is approximately 11 mile from the nearest coastline. There is no record of a designated public access to the shoreline or mountain areas traversing the property. Due to the project site's distance from the shoreline, the property will not impact any recreational resources, scenic and open space or visual resources, coastal ecosystems and marine coastal resources.

**The request will not have a significant adverse impact to traditional and customary Hawaiian Rights.** In view of the Hawai'i State Supreme Court's "PASH" and "Ka Pa'akai O Ka'Aina" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kama'āina accounts of the area, historical survey of documentary records, or botanical study was included in the application because the property has been developed for residential use since 2018 and the proposed use will occur within existing structures.

The valued cultural, historical, and natural resources found in the area: According to the applicant, no archeological or historical features are known to exist on the subject property. The subject property has been previously impacted by ground-disturbing activities associated with residential development. The remainder of the property consists of ohia, ōlapa, mamaki, and koa trees, hāpu'u, palapalai, and uluhe ferns. It also contains several invasive species such as strawberry guava, himalayan raspberry, and ginger. There are no known endangered species of plants or animals on the subject property.

According to the applicant, it is not known whether the subject property or immediate surrounding area has been used in the recent past for the gathering of plants by Native

Hawaiians. Furthermore, the applicant has not observed any Native Hawaiians gathering plants or conducting any other customary and traditional practices on the site or the adjoining properties.

No professional surveys were conducted of the flora/fauna resources on the property. According to the applicant, the likelihood of any rare or endangered species, habitat or flora on the property is remote given the developed nature of the property and surrounding area.

Possible adverse effect or impairment of valued resources: Native plants and/or endangered species are unlikely to be impacted by the proposed use since activities will primarily occur within existing dwellings.

Feasible actions to protect native Hawaiian rights: No gathering is taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved water systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.