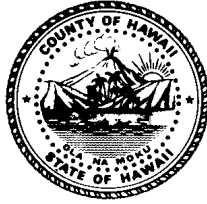


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

November 06, 2024

John Pipan, Administrator
Land Planning Hawai'i LLC
194 Wiwo'ole St.
Hilo, HI 96720
VIA EMAIL

Dear Mr. Pipan:

SUBJECT: Use Permit Application (PL-USE-2024-000027)
Applicant: Vanessa Pearson
Permitted Use: Allows to Operate of a Five (5) Bedroom Bed and Breakfast Establishment
Tax Map Key: (3) 7-5-005:040, Kona Bay Estates, North Kona, Hawai'i

The Leeward Planning Commission (Commission), at its duly held public hearing on October 17, 2024, voted to approve the above-referenced application to operate a 5-bedroom bed and breakfast establishment within a proposed dwelling on a 13,781 square foot parcel in the Single-Family Residential – 15,000 square foot (RS-15) zoning district. The subject property is located in Kona Bay Estates on the makai side of Kona Bay Drive, approximately 2,000 feet west of the intersection of Kona Bay Drive and Kaiwi Street, North Kona, 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 stated conditions of approval.
2. Construction and 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 May 28, 2024, and representations made to the Leeward Planning Commission.
3. The Applicant shall comply with all requirements of Section 25-4-7 of the Zoning Code, Hawai'i County Code Chapter 25, as amended, relating to Bed and

Breakfast Establishments.

4. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
5. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
6. The project shall connect to the existing County sewer line prior to the issuance of a Certificate of Occupancy.
7. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
8. Prior to commencement of the operation of the bed and breakfast, the Applicant shall secure and finalize any building permits for the proposed use required by the Department of Public Works Building Division.
9. Prior to commencement of the operation of the bed and breakfast, the Applicant shall secure all approvals for water use from the Department of Water Supply, and shall install all necessary water use improvements, meters, or other necessary appurtenances.
10. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
11. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, up-lights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.

John Pipan, Administrator
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12. The applicant shall comply with all applicable rules, regulations and requirements of the affected agencies for the proposed development.

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, please contact Alex Roy of this department at (808) 961-8140 or by email at Alex.Roy@hawaiicounty.gov.

Sincerely,

Barbara DeFranco
Barbara DeFranco (Nov 6, 2024 13:35 HST)

Barbara DeFranco, Chairperson
Leeward Planning Commission

PearsonPL-USE-2024-027lpc

Enclosure: Planning Commission Findings Report

cc w/enclosure via email: Vanessa Pearson
Department of Public Works
Department of Water Supply
GIS Section
Leeward Planning Commission
Suzanna Tiapula, Esq., Deputy Corporation Counsel
Jean Campbell, Esq., Deputy Corporation Counsel

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
PLANNING COMMISSION FINDINGS

VANESSA PEARSON

USE PERMIT APPLICATION(PL-USE-2024-000027

Based on the following findings **Use Permit No. PL-USE-2024-000027 is hereby approved by the Leeward Planning Commission to operate a 5-bedroom bed and breakfast establishment** within a proposed dwelling located in the Single-Family Residential – 15,000 square foot (RS-15) zoning district. This approval is based on the following findings:

The applicant wishes to develop a two-story, approximately 5,200-square foot residence with six (6) bedrooms and six (6) bathrooms. The dwelling will also have approximately 3,100 square feet of accessory space including lanais, storage and a two-car garage as well as a swimming pool and spa which will be located on the top floor. The dwelling will be connected to both County sewer and County water. On-site parking will include two parking stalls in the garage and four (4) parking stalls in the driveway for a total of up to six (6) on-site parking stalls. Figures 2a-3b show the proposed site plan, floor plans and elevations. The dwelling is proposed to be the primary residence of a live-in caretaker who will reside in one of the bedrooms while renting out the other five (5) bedrooms to guests of the bed and breakfast. The proposed bed and breakfast will provide overnight accommodation to a maximum of ten (10) guests, for compensation, for periods of less than thirty days. The applicant proposed the following elements be included as part of the Use Permit:

1. Five (5) bedrooms within the proposed dwelling on the property will be rented as overnight accommodation for up to 10 guests.
2. Breakfast may be provided only for registered guests and no other meals will be provided.
3. Guests will be required to park within the six (6) designated on-site parking stalls; Four (4) stalls are located in the driveway and two (2) stalls are located in the garage.
4. Guests will observe quiet hours from 9:00 p.m. to 8:00 a.m. and sound levels during non-quiet hours will remain at a residential level.
5. The bed and breakfast will be operated by the property caretaker who will reside on-site in the bedroom indicated on the floor plans.
6. Access will be via Kona Bay Drive, a privately owned and maintained paved roadway.

The applicants believe that alternative visitor experiences are in high demand in Hawai‘i, especially since the implementation of Bill 108 which limited short term vacation rental opportunities. They believe that many visitors to Hawai‘i are looking for accommodations and experiences outside of the typical resort environment. Bed and breakfast accommodations, like the proposed use, provide alternative lodging sites for visitors seeking a more personal experience in Hawai‘i.

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 proposed request to operate a Bed and Breakfast establishment within an existing residential dwelling 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 policies of the General Plan.

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 Open, which is intended for parks and other recreational areas, historic sites, and open shoreline areas. The Open designation represents an area that should be kept open from development of structures; however, the subject parcel was created prior to this designation being implemented and therefore a bed and breakfast within a new residence is an allowable use. The request is consistent with the Land Use and Economic elements of the General Plan. Relative to these designation, Hawai'i County Code Chapter 25-5-3 allows for the establishment of a bed and breakfast on residentially zoned lands provided a use permit is issued for the request, and that the request meet certain criteria.

Moreover, the County General Plan promotes economic diversification, environmental stewardship, and sustainable development, all of which are reflected in the proposed project. The plan encourages small-scale accommodations that complement the island's natural and cultural resources, in contrast to large resorts. The bed and breakfast will provide an alternative visitor experience while preserving the essential character of the neighborhood. Additionally, the General Plan supports economic opportunities that improve residents' quality of life, and the proposed bed and breakfast aligns with this goal by contributing to local economic activity without significantly altering the surrounding residential environment.

The property is in the vicinity of a number of residential type properties and therefore this project aligns with the Land Use policy which encourages the development and maintenance of communities to meet the needs of its residents in balance with the physical and social environment. The Kona Bay Estates subdivision is predominately

developed with residential structures and single-family dwellings; the proposed use is for a bed and breakfast establishment in a proposed residence that will be constructed to accommodate the use. Furthermore, the General Plan also encourages the development of small-scale accommodations which enables 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 development aligns with the Kona Community Development Plan (KCDP) by supporting its goals of managing growth in a sustainable, community-centered manner. The project is located within the Kona Urban Area, which is designated for higher-density growth and development in line with transit-oriented development (TOD) principles. According to Objective LU-1 of the KCDP, the plan seeks to direct higher-intensity growth to appropriate areas while preserving the rural character and open space along the shoreline. The development is consistent with this objective, as it introduces a small-scale bed and breakfast within an already urbanized and residential zone, thus concentrating growth where infrastructure is already in place, while protecting the natural shoreline access and open space.

Additionally, the project complies with Policy LU-1.1, which promotes growth within the Kona Urban Area as outlined on the Official Kona Land Use Map. The development is within this designated growth area, making it an ideal location for visitor accommodations, in harmony with the surrounding residential and short-term rental uses. Furthermore, Objective LU-2 encourages compact, transit-oriented development to reduce the environmental footprint and foster community connectivity. The project, by utilizing existing utilities and minimizing its impact on traffic, aligns with this policy of promoting efficient land use while offering economic benefits through alternative lodging options.

Overall, the proposed bed and breakfast is well-positioned within the framework of the KCDP, supporting balanced growth, economic diversification, and the preservation of the local community's character.

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 within a Residential (RS-15) zoning district, where bed and breakfast operations are allowed with the appropriate use permit under Hawaii County Code Section 25-5-3(b)(1). The proposed development maintains the residential character of the area, as the primary use will remain a single-family residence, with the bed and breakfast being a subordinate and incidental use. The presence of an on-site caretaker ensures that the property will be well-managed, and guests will adhere to quiet hours and other community-friendly policies, such as limited noise during non-quiet hours and designated on-site parking for all guests.

Furthermore, the proposed development will not introduce significant traffic, noise, or visual impacts to the surrounding area. The surrounding properties are similarly residential, with some already operating as short-term rentals, making the proposed use compatible with existing land uses in the Kona Bay Estates Subdivision. Landscaping will be utilized to screen views from neighboring properties, and the development conforms to height and setback requirements as specified by the zoning code, ensuring that it fits within the physical and aesthetic character of the neighborhood. Additionally,

by adhering to parking and noise restrictions, the proposed project minimizes any potential impact, ensuring that it does not negatively affect the public welfare or alter the peaceful character of the community. Therefore, based on the preceding, 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 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 proposed bed and breakfast is located within the Kona Bay Estates Subdivision, which already has access to existing infrastructure, including private roads, public water, and sewer services. Hawaii County Code Section 25-2-72 emphasizes that any proposed development should be supported by adequate infrastructure without requiring significant public expenditure. The project complies with this requirement, as it will connect to the County's sewer system and water supply, both of which are already available on-site.

The existing road network, particularly Kona Bay Drive, which is privately owned and maintained, is sufficient to handle the minimal increase in traffic generated by the bed and breakfast. Hawaii County Code Chapter 23 addresses the adequacy of roads and infrastructure for new developments, and the proposed use adheres to this by ensuring no new roads or street extensions are required. Furthermore, drainage requirements will be met through the proper implementation of on-site drainage systems, reducing any potential impact on public infrastructure.

Additionally, the property is in proximity to essential services, including the Kailua-Kona Fire Station and the Hawaii County Police Department, both of which are located within two (2) miles of the site. The project does not require any expansion of these services, as the increase in population due to guest occupancy will be temporary and minor. Therefore, the proposed use will not place an undue burden on public agencies to provide or expand infrastructure and services, as outlined in Hawaii County Code Section 23-29. **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 subject property is located adjacent to the shoreline and is therefore a shoreline parcel within the Special Management Area (SMA). No proposed activities will occur outside of the parcel's boundaries or within the 40-foot shoreline setback area. Additionally, the use of the property will not impact coastal processes or shoreline activities since there is an existing public access pathway on the makai side of the parcel, and the shoreline fronting the subject property is already heavily used and accessed daily. Typical coastal recreational resources, coastal scenic and open space resources, coastal ecosystems, and beach or marine resources will be preserved at their current level with no changes or modifications. Thus, the proposed request will not adversely impact coastal resources.

Construction will be limited to areas within the existing parcel setback boundaries, therefore archeological resources are not anticipated to be encountered. While the subject parcel is adjacent to the shoreline, no changes to shoreline access will occur. Therefore, it is not anticipated that the proposed use as a bed and breakfast will have any negative impact on archaeological, historic or cultural resources.

Finally, 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.