



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

DEC 13 2011

Ms. Judy Rogers
P.O. Box 190601
Hawi, HI 96719

Dear Ms. Rogers:

Use Permit Application (USE 11-000029)

Applicant: James Sargent

Request: To Allow a Bed and Breakfast Operation Utilizing Five Bedrooms
Within a 6-Bedroom Single Family Dwelling

Tax Map Key: 5-5-015:041

The Leeward Planning Commission, at its duly held public hearing on November 17, 2011, voted to approve the above-referenced request to allow the establishment of a 5-bedroom bed and breakfast operation within an existing 6-bedroom single family dwelling on 2.27 acres of land within the Single Family Residential – 15,000 square foot (RS-15) zoned district. The property is located at 55-3456 Akoni-Pule Highway (Highway 270), which is on the south side of Akoni-Pule Highway approximately 700 feet east of the Akoni-Pule Highway (Highway 270) and Hāwi Road intersection, Hāwi, North Kohala, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Use Permit to allow the establishment of a 5-bedroom bed and breakfast operation (Plantation House B&B) within an existing 5-bedroom single-family dwelling 3.438 acres of land within the Single-Family Residential-15,000 square foot (RS-15) zoned district. The applicant would like to open his house to guests to take them back in time and allow them to experience the beauty and grandeur of plantation style living. The house was originally constructed in 1910 and has been listed on the Hawai'i Register of Historic Places since 1996. The operator of the bed and breakfast operation will live in the guest house.

Hawai'i County is an Equal Opportunity Provider and Employer

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 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 applicant's 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 dwelling 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 five-bedroom bed and breakfast establishment within an existing 2-story, 5-bedroom, single-family dwelling on a portion of a 3.438-acre parcel located in Hawi town. The operator(s) will reside within the existing guest house. The bed and breakfast operation will be open 7 days a week and will serve a maximum of 10 guests per day. Employees will include a Director of Guest Services, and personnel that will be needed for cleaning, gardening and maintenance, which will be on an "as-needed" basis. A continental breakfast will be served to guests. Adequate utilities and services are available at the site. Thus, the bed and breakfast activities would be consistent with the general purpose of the zoned district and the intent and purpose of the Zoning Code.

The General Plan designation for this area is mainly 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, 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 improvement shall be in balance with the physical, social, and cultural environments of the island of Hawai'i.
- 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.

Lastly, the request is consistent with the North Kohala Community Development Plan, which directs North Kohala's growth to areas within and near existing town centers in order to preserve the district's open space and cultural resources, and to promote agriculture.

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 3.438 acres (149,745 square feet) in size and is irregular in shape. It is located at 55-3456 Akoni-Pule Highway (Highway 270) in Hawi. The property is a condominium property regime (CPR) with five separate units on the property. The applicant has interest in two of the CPR units (Unit 1-98,889 square feet in size and Unit 5-15,976 square feet in size). On Unit 1, there is a plantation dwelling, a guest house, green house, 3-car garage, lighted tennis court, swimming pool and exercise room. There are other dwellings and structures on the property associated with Units 2, 3 & 4. The surrounding area is urban and rural in nature and consists mainly of single-family residential uses. The dwelling and 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. 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. Access to the property is from Akoni-Pule Highway, which is a State highway that has a 22-foot pavement with

paved shoulders within an 80-foot right-of-way. 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.

The property is serviced by County water. Wastewater will be disposed of by an individual wastewater treatment system meeting with the approval of the Department of Health. All other essential utilities are available to the property. Fire and police services are available in Kapaau. Lastly, a condition will be added requiring the applicant to comply with all applicable County, State and Federal laws, rules, regulations and requirements. 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 1.5 miles 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. Lastly, the Department of Natural Resources-State Historic Preservation Division (DLNR-SHPD) issued a "no-effect" letter dated July 1, 2001 regarding a request for a change of use for the Hawi Plantation Manager's House, stating that they believe the change of use will not affect historic property.

Based on the above, the request to allow the establishment of a five-bedroom Bed and Breakfast operation is approved by the Leeward 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 the Zoning Code, as amended by Ordinance No. 00 152, relating to Bed and Breakfast Establishments.
3. The bed and breakfast operation shall be limited to the use of five (5) bedrooms and a maximum of 10 guests per day.
4. Weddings, concerts, conventions and other types of special events and activities shall be prohibited.

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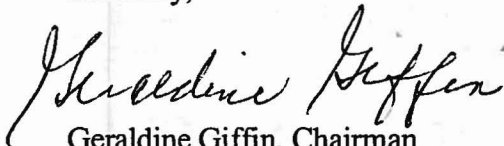
5. The applicant shall submit plans to DLNR-SHPD and secure a letter of final clearance prior to the commencement of any construction, alteration, renovation, or any other improvements of the Plantation Manager's Residence.
6. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

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,



Geraldine Giffin, Chairman
Leeward Planning Commission

Lsargentuse11-000029

cc: Mr. James Sargent
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Department of Health
Planning Department - Kona
Mr. Gilbert Bailado
DLNR-HPD