County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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AUG 2 0 2013

Ms. Dawn Lambert Garlich
P.O. Box 1307
Volcano, HI 96785

Dear Ms. Garlich:

Use Permit Application (USE 13-000041)
Applicant: Edward Staak
Request: To Establish a 2-Bedroom Bed and Breakfast Operation
Tax Map Key: 1-1-011:002

The Windward Planning Commission, at its duly held public hearing on August 1, 2013, voted to approve the above-referenced request to allow the establishment of a two-bedroom bed and breakfast operation within an existing three-bedroom dwelling situated on approximately 20,000 square feet of land within the Single Family Residential (RS-20) zoning district. The property is located within the Mauna Loa Estates Subdivision on the northwest (mauka) side of 12th Street about 100 feet west of the 12th Street – Jade Avenue intersection, Volcano, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant requests a Use Permit for a 2-bedroom bed and breakfast operation within an existing 3-bedroom one-story single-family dwelling. The existing dwelling is 3,392 square feet in size and consists of two building wings connected by a covered lanai. One wing contains a kitchen, living room, dining room, one bedroom and one bathroom. The owner/operator of the bed and breakfast will reside in this wing. The other wing includes two bedrooms and two bathrooms, each with its own entrance, which will be used to accommodate guests. The business will be managed by onsite operators. Laundry services will be provided onsite and outside caretaking services, such as housekeeping and maintenance, will be employed as needed. Parking will be provided onsite for guests. As allowed under the code, only breakfast will be served to guests.

Rule 7 (Use Permits), Section 7-6, of the Planning Commission's Rules of Practice and Procedure states that the Planning Commission may approve a Use Permit upon finding that:

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 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 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. Based upon the applicant's representation, the proposed 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. On residential zoned lands within the State Land Use Urban District, impacts from bed and breakfast operations can be properly addressed and mitigated through the issuance 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 commercial uses. 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. Additionally, the subject property is located outside the

Volcano Community Village Center identified in the Puna Community Development Plan (PCDP). The PCDP is silent regarding the permitting of bed and breakfast operations but encourages the creation of jobs in Puna. The proposed use will provide the applicant the opportunity to operate a business from home.

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 Mauna Loa Estates Subdivision. Properties in the vicinity are zoned RS-20 and are improved with single-family dwellings. The nearest dwellings are located about 130 feet to the south and west. Since 1994, the Planning Commission has issued at least eight use permits for bed and breakfast operations in the Mauna Loa Estates Subdivision. The dwelling and property have recently been operated as a vacation rental. As such, it is not anticipated that the proposed bed and breakfast operation will have an 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 property from the Volcano Highway is via Jade Avenue to Twelfth Street. All roads within the subdivision are private, paved roads which are maintained by Mauna Loa Estates Road Maintenance Corporation. Adequate on-site parking for guests will be provided. Water is available from a catchment tank system. However, the Department of Health does not support the use of private rain catchment systems for drinking purposes since the quality may not meet potable water standards. Therefore, a condition of the permit will require the applicant to provide bottled potable water to guests. Wastewater will be disposed of into an existing septic system. All other essential utilities and services are available to serve the property. 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 request to allow the establishment of a two-bedroom bed and breakfast operation is hereby approved by the 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. For the subject property the Zoning Code requires a minimum 25-foot rear yard and 15-foot side yard setback from the property lines. Within one (1) year from the effective date of this permit, the applicant shall remedy the yard encroachment by removing the spa pavilion from the rear and side yard setback.

3. 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.

4. The bed and breakfast operation shall be limited to the use of two (2) bedrooms.

5. The applicant shall provide bottled potable water for the guests of the bed and breakfast operation.

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,

Wallace A. Ishibashi, Jr., Chairman
Windward Planning Commission

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