

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
RECOMMENDATION

ROGER JENSEN
USE PERMIT APPLICATION (PL-USE-2024-000025)

Upon review of the request against the guidelines for granting a Use Permit, the Planning Director recommends that this **request to allow the operation of a four (4)-bedroom bed and breakfast establishment within an existing five (5)-bedroom dwelling situated on approximately 7,501 square feet of land within the Agricultural – 5 acres (A-5a) zoning district be approved by the Planning Commission.** Since this recommendation is made without benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. The recommendation for approval is based on the following findings:

The applicant is requesting a Use Permit to establish a four (4)-bedroom bed and breakfast operation within a five (5)-bedroom, six and a half (6.5)-bathroom, single-family dwelling on the subject property. The bed and breakfast will provide overnight accommodation in four (4) rentable rooms for a maximum of 10 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. Parking will be provided onsite, and the operator will reside in one of the bedrooms.

The applicant would like to enhance economic opportunities for himself and his employees, while also encouraging a harmonious visitor experience that is in keeping with the surrounding residential uses.

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 Community Development Plan (CDP) 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, Agricultural districts "provide for agricultural and very low density agriculturally-based residential use..." 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 urban designated 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 Medium Density Urban, which allows for village and neighborhood commercial and single family and multiple family residential and related functions; overall residential density may be up to 35 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 Kona Community Development Plan (KCDP) identifies the preferred land use pattern for the Kona districts and supports the current strengths in agriculture and tourism for the region. Although the KCDP does not provide guidance on Use Permit applications, Section 3.2 identifies the importance of enhancing ecotourism and the need for sustainable industries. As the bed and breakfast operation will host visitors within an existing dwelling the request is consistent with the goals and objectives of the KCDP.

Based on the preceding, the proposed use will not be contrary to the General Plan, Community Development Plan, or the Zoning Code.

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 single-family residential uses within the Aloha Kona Subdivision. The subject property is improved with an existing 3-story single-family dwelling built in 2012. The remainder of the property consists of landscaping plants typical of the area, including areca and fan palms, hibiscus, and ti. 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. 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 one driveway 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 4-bedroom bed and breakfast establishment. The subject property has one driveway to the single-family dwelling from Aloha Kona Drive, a County owned and maintained roadway. The County Police Department does not anticipate any significant impact on traffic and/or public safety concerns. The property is currently being serviced by the Department of Water Supply facilities. and by one septic individual wastewater system. The applicant will collect and dispose of their solid waste at the nearby transfer stations. Electrical and telephone are available to the subject property and the nearest Fire and Police stations are approximately 2.5 miles northwest of the subject property. 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 0.47 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.

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 2012 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 landscaping plants typical of the area, including areca and fan palms, hibiscus, and ti. 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.

Based on the preceding findings, it is recommended that the request for a Use Permit to allow the establishment of a 4-bedroom bed and breakfast operation be approved by the Leeward Planning Commission. Approval of this request 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 on April 22, 2024 and

representations made to the Leeward Planning Commission. Any substantial expansion or uses beyond what is represented in these documents shall require an amendment to this permit.

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 four (4) bedrooms.
5. 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.
6. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
7. 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.