

PLANNING COMMISSION
COUNTY OF HAWAI`I

HEARING TRANSCRIPT
JUNE 4, 2004

A regularly advertised hearing on the application of MELANIE BOUDAR (USE 04-003) was called to order at 1:35 p.m. in the County Building, Councilroom – Room 201, 25 Aupuni Street, Hilo, Hawai`i, with First Vice-Chair Earl Fujikawa presiding.

PRESENT: Earl Fujikawa
C. Kimo Alameda
Bill Graham
Jeffrey McCall
Hannah Springer
Bill Thibadeau

ABSENT & EXCUSED: Fred Galdones
Francis Smith

Joseph Kamelamela, Deputy Corporation Counsel
Christopher J. Yuen, Planning Director
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner

And approximately 6 people from the public in attendance.

APPLICANT: MELANIE BOUDAR (USE 04-003)

Use Permit to allow the establishment of a 4-bedroom bed and breakfast operation within an existing single family dwelling situated on 20,000 square feet of land zoned Single Family Residential – 20,000 square feet (RS-20). The property is located along the south side of Tenth Street, approximately 500 feet southwest of the Tenth Street – Pearl Street intersection, Mauna Loa Estates Subdivision with the Volcano area, Keaau, Puna, Hawai`i, TMK: 1-1-10:71.

Mr. Darrow oriented the Commission and public of the subject and surrounding properties on the location map and site plan and summarized the request, noting the various correspondences submitted into the record. He then stated the Planning Director was recommending approval of the application, with conditions.

RECESSED The Chair then called a short recess at 1:40 p.m., to allow the staff to check the recording equipment.

RECONVENED The meeting reconvened at 1:47 p.m.

FUJIKAWA: We are now back, the staff had just completed their presentation. Are there any questions, Commissioners, with the staff? None? If none, will the Applicant or its representative, please step forward? Okay, would you kindly raise your right hand, please? Do you swear to tell the truth on this matter now before the Hawai'i County Planning Commission?

BOUDAR: Yes, I do.

FUJIKAWA: State your name and your address?

BOUDAR: My name is Melanie Boudar and I currently live at 11-3825 8th Street in Volcano.

FUJIKAWA: And you're the owner?

BOUDAR: I rent the property while this, my main residence is under construction.

FUJIKAWA: Okay. Very good. You may proceed.

BOUDAR: Good afternoon, everybody. Mr. Darrow did portray an accurate presentation of my request and site plan. I have chosen to make Volcano my home after living six years on Oahu, although I've owned property here for quite sometime and have made a big commitment by choosing to build a home here for my family and myself, as well as moving my businesses to the Big Island.

As a frequent visitor to the Volcano, I have been somewhat disappointed in the lodging choices that have been presented. Many of the properties are older. And, as you know, we're in an area on water catchment so there is no large-scale hotel and motel development. And the visitors that are coming to the National Park do rely on bed and breakfast operations as a lodging, especially right now we have the volcano being very active again and they anticipate up to 3,000 visitors a day when things are active, and during the summer when people are on vacations.

Prior to living in Hawai'i, I owned and operated an equestrian center in a residential community for 10 years, so I'm well aware of a business fitting into a residential situation. And I'm happy to say that I've never in those 10 years had any complaints or problems with my neighbors over my business operation in their neighborhood. I certainly understand the community's apprehension at something new in the neighborhood. And, like everyone else, I worry that the next person coming in is going to have barking dogs, or junk cars, or some of the other issues that we face in the neighborhood.

I would like to address the concerns that have been brought up by my neighbors. I have maintained with them for over a year communication regarding my intention to build, and

sent them all a letter over a year ago stating that I was going to be building and moving into the neighborhood. And I have received numerous support calls.

The main issues that my neighbors have been concerned with are parking. Since the house has been under construction, there have been some construction workers parking in the street. The Pearl Street, excuse me, 10th Street is a narrow street, and the construction workers have parked on the road necessitating that other cars go around them and sometimes creating some ruts on the side of the road. Knowing that this was a problem, I had installed a circular driveway to facilitate the entry and exit of guests to the property so that there is no need to go and turn around in someone else's driveway; and there are adequate, in fact, more than adequate parking spaces for the number of rooms that I've requested. So the, you know, the parking on the road is a temporary situation. And in my confirmation letter to guests, I will also be addressing that issue by informing them that there is no parking allowed on the street and that they must fully pull onto the property.

There has been some suggestion that it's going to increase traffic. With an average occupancy of 50 to 60 percent, which all B&B's would hope for, we're talking about perhaps 2 to 2.4 cars a day additional on this street; and when the whole development is filled out, of course, there'll be considerable traffic just from the owners. But right now only eight lots have been developed.

Another issue that has been brought up to me is regarding water catchment and the delivery trucks. In Volcano, when there is a drought, a lot of people are forced to buy water and delivery trucks come up. Under extreme circumstances, these deliveries have been made in the evening to some homes. Under normal circumstances, that is not the case. In speaking with the water delivery companies, they said they always try to schedule during normal business hours. They don't want to pay overtime, either.

We have installed a large tank, a 10,500 gallon capacity, after consulting with the County on water catchment needs for a family home of this size, and we also put in only one bath tub in the house. Everything else is showers. We have state-of-the-art low flow devices to conserve water, and feel that the water situation should be adequate. If there were an issue with water, we have a large enough roof area on our home to accommodate, and the resources to accommodate another tank if necessary, but we really do not foresee that.

In consulting with some other B&B's in the area, the Country Goose which is on 6th Street or 8th Street, she said that in 19 years of operation, she's had water delivered ten times, and several others had similar stories. I know a lot of neighbors have had a bad experience with a bed and breakfast, Carson's, which is actually not indicated on your map but is on 6th Street; and this is an older establishment that was grandfathered in. They have 10 or 11 units. The current law does not allow that many units, and they do not have an adequate water system. It doesn't function at the capacity, the tanks are too small, and they do have frequent water delivery. The owner is aware of the problem and trying to address that.

Other concerns were that other delivery trucks would be coming and going. I really don't feel like delivery trucks are an issue. I take my two runs to town twice a week to go do my shopping. I don't have particularly any more delivery needs than anyone else. I don't have, you know, services that require delivery, no more than another home.

There also seem to be a question that the zoning is being changed in the neighborhood. And I just wanted to clarify that, you know, we're not asking for a zoning change. We're just simply asking for a permit for the use of a bed and breakfast, which is an allowed use of this zoning.

I'm currently a member of the Big Island Bed and Breakfast Association; and one of the goals is to have bed and breakfasts that are professionally and responsibly managed and legally permitted. And what that does is it creates an experience for the visitor to Hawai'i that they can rely on to be consistent. For six years I worked with the Arizona Memorial on Oahu and I know that we are all ambassadors of the State to the visitor industry. So how we conduct ourselves is very crucial to having tourists come and spend their dollars here.

The Volcano vision for the community is also to encourage small businesses and bed and breakfasts. They realize that contributes to the economic base, that we provide jobs by hiring some staff. We spend money on food and flowers in the community. We have people come and mow our lawns and, you know, provide a good economic base for the community as a whole.

So these are the only concerns that have been brought to my attention from my neighbors; and I certainly think that I'm addressing them.

FUJIKAWA: Commissioners, any question with the Applicant? Graham?

GRAHAM: Melanie, could you wait a second.

BOUDAR: Oh, sorry.

GRAHAM: Thanks. Just trying to help myself, looking to what might become issues or whatever, you said you were sending, sent a letter to your neighbors like over a year ago and all about coming over. Were you indicating to them at that time that you would be doing a bed and breakfast operation?

BOUDAR: I did mention that I would probably be using part of my home as a bed and breakfast and maintain contact information for them to discuss it with me if they so desired.

GRAHAM: And how long ago did you, I'm thinking a little bit about we're getting an application now before us, yet the house is well along its way and all.

BOUDAR: Yes.

GRAHAM: How long ago did you send in your application to the Planning Department? Do you know roughly?

BOUDAR: For the bed and breakfast?

GRAHAM: Yes, for bed and breakfast.

BOUDAR: I believe it was in April or -.

GRAHAM: Like two months ago or something like that?

BOUDAR: Yeah.

GRAHAM: Thanks.

FUJIKAWA: Are there any other questions?

ALAMEDA: Yeah, I have a question.

FUJIKAWA: Mr. Alameda?

ALAMEDA: In the application it also talks a little bit about having an internet business within that home?

BOUDAR: Actually, I don't have a -. What I do is I do, I guess you call it contract labor for companies, and I work on the internet from my home.

ALAMEDA: Oh, okay. So it's not like you would have students?

BOUDAR: No. I don't have anybody come to my home. It's just contracted work that I do at home.

ALAMEDA: Okay. Thank you.

FUJIKAWA: Any other questions? I have a question. You were saying that you are leasing the property?

BOUDAR: No, just I'm renting the home that I'm living in right now while my property is under construction.

FUJIKAWA: Oh, I understand. Okay, very good. Thank you. So if we don't have any questions to the Applicant, will you stand back. And I have six people who have signed up to testify on this. I'm going to call three at a time. Would David Rico stand up, come forward, Bill Gilmartin and Tamar Elias. You're David?

RICO: That's me.

FUJIKAWA: Is Bill in?

PUBLIC: Bill had to leave for a doctor's appointment.

FUJIKAWA: Okay. Lisa Duwall, please step forward?

PUBLIC: She also had to leave.

FUJIKAWA: She had to leave, too?

PUBLIC: Yes.

FUJIKAWA: Barbara Leonard. There's one more room for Jeff Sutton. All of you raise your right hands, please? Do you swear to tell the truth on this matter now before the Hawai'i County Planning Commission? Thank you. I would like David to first start off, give your full name and address; and then we go right down the line.

RICO: My name is Dr. David Rico and I live in the 3800 block of 8th Street in Mauna Loa Estates, Volcano, Hawai'i.

FUJIKAWA: Okay, next person?

LEONARD: My name is Dr. Barbara Leonard. I live at 240 Kaiulani Street in Hilo.

FUJIKAWA: Okay, you got your mic -?

ELIAS: My name is Tamar Elias. I live on Alii Kane Drive in Volcano.

FUJIKAWA: Jeff?

SUTTON: My name is Jeff Sutton. I live on 5th Street in Mauna Loa Estates.

FUJIKAWA: Okay, great. So let's start off with David Rico. Go ahead with your testimony.

RICO: Mr. Chairman, Mr. Director, and Mr. Counsel, and members of the Commission. Good afternoon to all of you. I'm here to just briefly support the application of Melanie Boudar because I think that this is a, it's a good situation, it's a good business for the tourist industry that is making Hawai'i their destination. I believe that Mrs., Melanie Boudar has addressed all the common complaints that are circulating in Mauna Loa Estates. These are common complaints that have been around for awhile. I've heard them before, the parking on the side, the dogs barking, people, you know, establishing their homes as salvaged yards. I mean, you name it, it's all there.

I believe that Melanie Boudar has met all of the requirements to address the concerns. And she wants to be a good neighbor with everyone, so she's very concerned. She has sent out letters, she's part of the community, she's on the committee for the road maintenance for Mauna Loa Estates. And I think that this is a growing industry that needs to be supported for Hawai'i. It's important. And I wanted to just make these brief remarks, and thank you; and I ask, Mr. Chairman, and Commission members that you make a favorable recommendation for her permit use. Thank you.

FUJIKAWA: Commissioners, any questions with the testifier? If not, Barbara, you may testify right now.

RICO: Mahalo.

LEONARD: Good afternoon, Commissioners, Director Yuen. I'm an Associate Professor of Business at the University of Hawai'i at Hilo. I've had my appointment for 2-1/2 years now. And, along with that, I'm a co-owner of a bed and breakfast here in Hilo, Waterfall's Inn, on 240 Kaiulani Street, along with my husband, George.

When I went through this process, we had a number of neighbors complain about our requested use permit. They were worried about traffic and noise. And we've been open now for almost a year and, recently, several of the neighbors that wrote letters of concern about our use permit have come to us and said, "We want you to know that we really appreciate the fine job that you've done in running your bed and breakfast, and we don't even know you're there." That's how good a job we're doing, "We don't even know you're there." And the fact is, is that our guests leave early in the morning and they come back late at night. Sometimes we don't even see them. They don't hang around, they don't make noise. Most of our guests are in the, are highly educated. Let's say about half of them are doctors. And they, a lot of them come here on conventions and they want a little side trip, they want to come to Hilo. They don't want to stay in a big resort, they want to experience the local culture; and it's a fabulous experience for them.

As a business professor, I just want you to know that I'm, one of the things that I teach my students is to encourage them to start their own businesses because there are no jobs in Hilo. I mean, there are jobs but nothing that really excites them. And I'm encouraging them, start your own business, there's all these tourists coming here, do something that's environmentally and culturally sustainable, do something that's not going to pollute the environment and not going to leave a footprint, but do some kind of a business that's going to help enhance what we have and not destroy it. And it's my opinion that a bed and breakfast establishment does that. It brings people into the community, rather than checking them into a corporate hotel where the profits are going off-island. Our guests spend a lot of money in the community. They eat out every night, they buy local products, they're contributing to the tax base. And we have six part-time employees that work, creating jobs for people in the community. I just see it as a win-win situation. I also want to share with you that we have not received one complaint since we've opened

from a single neighbor on Kaiulani Street on Reed's Island. We've had nothing but praise and good relationships with our neighbors.

So I just want to say to any neighbors that might be here today, I believe, I've known Melanie now for about six months, I think she's going to do a great job, and you won't even know she's there.

FUJIKAWA: Okay, Commissioners, any questions with Barbara Leonard? If not, go ahead, Tamar.

ELIAS: Well, unfortunately, a number of speakers had to leave because of the change in time. These are some comments from Bill Gilmartin, who was actually representing Michael Sherwood and Jackie Gilham, and they have the house, I guess Michael Sherwood has the property across from the proposed bed and breakfast and adjacent lot, and then Jackie is adjacent to that. And a lot of the concerns do have to do with things that you've mentioned, having to do with traffic and the fact that it is a one-lane road and it's a dead-end. It's not like being in Hilo. It's a little lane and there are no turn-arounds. And some of the impacts of these other bed and breakfasts that you see are that people on those streets have had to gate their driveways because they don't want people turning around in their driveways. They don't want water trucks to try and turn around. There actually is no place to turn around on that road. So that is a concern for the residents on the road.

There are, now, I'm a little bit confused about the difference between a bed and breakfast and a vacation rental. I was under the assumption that a bed and breakfast, because they're serving breakfast, had to have County water available. Is that true? No, you can be on water catchment?

FUJIKAWA: Mr. Director, can you address that question?

YUEN: They can be on catchment but they have to provide bottled water.

ELIAS: Okay. So it's bottled water, okay.

YUEN: Yes, they can.

ELIAS: Okay.

YUEN: We've permitted other bed and breakfasts on catchment but they have to provide bottled water.

ELIAS: Okay. So, I know a lot of single-family homes in Volcano also have 10,000-gallon water tanks. So for some, I guess, I've lived and worked in Volcano for the past 19 years. I'm also a lot owner on 10th Street, above Pearl. So a lot of these concerns of these other neighbors and Bill Gilmartin are also concerns of mine. Bill Gilmartin does live on 6th Street which, as has been stated, does have a pre-existing bed

and breakfast that was grandfathered in. It's a little higher density than what you're proposing but the impacts are very large. But just even water delivery, the Waterman truck going down, these are all one-lane, I mean, maybe it's 1-1/2, 12 feet, I don't know, but you can't even pass two passenger cars on this road without one having to pull over. So having the Waterman truck come and deliver is an impact and, yes, some of that can be mitigated by delivering lots and lots of water at once. I mean, but I think that you do have to recognize that that is an impact on a small one-lane dead-end road.

I don't doubt that if these people had to have often water deliveries that they probably would put another water tank in, and maybe some of this stuff can be mitigated. But I think that there needs to be some recognition that people who live in Mauna Loa Estates, who live in areas of bed and breakfasts, are concerned and do have complaints about the bed breakfasts. For instance, if someone is looking for a lot or a house, people make sure it's not near one of the bed and breakfasts. For instance, a person wouldn't buy a lot on 6th Street because of the bed and breakfast that's there and the impacts that there are.

A lot of people in Mauna Loa Estates have had bought up adjacent lots because it is a fairly, although it's zoned half-acre -. When all those half-acre lots are built on, that's going to be pretty high density. So there's an effort in the community to try and decrease the density voluntarily. So that's an issue.

I think another issue has been that people bought and built in that neighborhood believing that it would be single-family homes, and having a four-room bed and breakfast is not a single-family home.

And, I guess, I would just then read my statement, which is, I am concerned, I didn't receive a letter. I heard about it from another neighbor. I took the day off work to come. And I agree that, and there are a number of bed and breakfasts in Volcano; and on one hand that does help the economy, and I do support that. On the other hand, it has been at the expense of neighborhood subdivisions and quality of life. And there is a difference between bed and breakfasts and vacation rentals. I mean, there are a many, many vacation rentals in Volcano, and these tend to be one car, one group, one unit; and that has a much better impact than a bed and breakfast that's going to have four rooms. It's four units and potentially could have four cars and four groups.

There has been a big issue with bed and breakfasts and leaf blowers because I think people are concerned about liability and ohia leaves on mossy sidewalks. There's a high level of noisy activity that seems to surround these businesses. And, I guess, those specific concerns, I'm sorry, it's maybe repetitive but above Pearl Street, 10th, is narrow, it's short, it dead-ends. Two passenger cars cannot pass easily, one has to pull over. And the potential impact of four extra vehicles on the road, if there was a 100 percent occupancy, is going to have an impact.

Mauna Loa Estates has private roads, you're on the road committee I think that we all pay into that road fund, you pay in per lot; and your assumption is that these are single-family dwellings and so that your impact on the roads is going to be as a single-family

dwelling and not to, you know -. And I think if you're going to have a full unit bed and breakfast, your impact is more than a single-family dwelling, and I think that that has to be considered.

The roads are challenging to maintain. It's over 100 inches of rain per year, about 120 inches of rain. So the roads are already challenging to maintain, so I don't think that that can be ignored.

I live on the end of a dead-end street currently with a bed and breakfast beyond me; and my observation is that bed and breakfast customers do not drive the same, with the same care and familiarities as residents. They're unaware of where the puddles and the potholes, and the kids, and the pets, and all those things are; and they're not familiar with driving in an area where there's very high rainfall so that you have low impact on the roads. They're not vested in the same way as residents are. I understand that since you'll be living there that that does makes some difference.

Just in closing, it's just that it's an area that's zoned single-family residential, which is appropriate because there's limitations to the roads and infrastructure, and the density of the residents in this area is increasing very rapidly, and the ultimate stresses on the area are still unknown.

And I think that as planners, there's some responsibility to the people who bought in a residential area to maintain that as a residential area and not allow things that will have an adverse impact on the neighborhood.

So as a neighbor, a long-time Volcano resident, and an observer of subdivision impacts, I feel that the use permit is inappropriate and should be denied.

FUJIKAWA: Any questions, Commissioners, to the testifier? Graham?

GRAHAM: Just a quick one, Tamar. Since I've never been there, what's the sort of settlement density now? Is it like one developed lot for every three, or roughly -?

ELIAS: Well, as maybe Melanie mentioned, it was eight developed lots above her street.

BOUDAR: On our block, there are 26 lots and 8 are not developed.

ELIAS: But there are many areas of the subdivision where there may only be one or two developments in an entire block, currently, so that density will go up.

I guess my only other thing that I forgot to mention was only just a question about the process and how this happens. And since I didn't get a letter, just sort of -. The building is already being built, it's well, well along the way to being built. And I don't really understand how it is that you can design and plan for a business without getting the

permit first. That's all; and I think there's a history of that in Volcano. It has been a problem.

FUJIKAWA: Okay. Being that there's no, are there questions? You have, Springer?

SPRINGER: I wonder if the Director could respond to the testifier's questions?

FUJIKAWA: Go ahead, Director, respond.

YUEN: I think the building is being built as a single-family home. And the only difference between a single-family -. There is no actual difference in design between a single-family home and a bed and breakfast in that you can have a single-family home with 28 bedrooms if you so wish. You can have exterior, you can have parts of the home have their own entrances. So if the permit were, for example, denied, the structure could still be occupied as a single-family home. It's just that they could not bring in guests as a bed and breakfast. And the other thing that makes a single-family home is one kitchen. That's the biggest thing you look at.

FUJIKAWA: Okay. Any other questions? If not, let's go to Jeff Sutton.

SUTTON: Yes, I'm going to read this statement. First, thank you for the opportunity to speak. My name is Jeff Sutton, I've lived and worked in the Volcano community for the past 11 years, and I've lived in Mauna Loa Estates for the past nine. During this time I've watched the character and the feel of this small community change from that of warm and residential to a progressively business-like warehouse to store National Park visitors who are staying in the area for more than one day.

In the name of compatible, sustainable economic development, much house building has gone on supporting what has become an explosion of B&B's and vacation rentals. These businesses, to me, place a burden on the privately-supported infrastructure, roads especially, that is disproportionately large as compared to what they add to the community.

My concern is that by adding yet another of these businesses, we're going to further tax the already strained resources and add little other than few dollars to food and service workers. In this case, to speculatively cut trees, scrape the ground and build a new house in a residential neighborhood and then ask for permit to operate this as a B&B business is, in my opinion, disingenuous, contrary to the very notion of what a B&B is and circumvents lawful planning.

I currently live directly behind another such business located on 6th Street, which was mentioned earlier, and near two others on 5th Street. The impact of these businesses certainly has changed the character of our residential neighborhood. Visitors and B&B workers are not stakeholders in the community and, therefore, don't care for the area as such. The neighborhood does not have sidewalks familiar to visitors and so visitors tend

to stay in their cars, as was noted earlier. Besides, they're really here, they're interested in the National Park and the volcano, not so much in a residential neighborhood. Again, I think contrary to what a B&B is.

My family owns property across the road from that of the Applicant; and when we bought this property years ago, we thought we were moving into a residential area. As it is currently difficult to buy a home in the Volcano area, forcing a lot of people to commute from farther and farther away, to add more businesses, simply because hotels can't be built, is unfairly and inappropriately burdensome on the local residential community and, again, it appears to circumvent the planning process.

I recognize that it would be irresponsible to just complain and, so, an alternative really needs to be proposed. And so what I would rather see that the owner abide the neighbor, although I'd rather see the owner abide by the neighborhood spirit and use and keep the neighborhood as a neighborhood, I would reluctantly suggest this property be considered for the lower impact status of a vacation rental. And I thank you again for listening to these heartfelt concerns.

FUJIKAWA: Are there any questions, Commissioners, with Mr. Sutton? If not, okay, would you people go ahead back to your seat and I'll have -. The Applicant, please come forward. You have heard the testifiers. You have any questions?

BOUDAR: I don't have any questions.

FUJIKAWA: Commissioners, do you have any questions with the Applicant? If not, is there any other persons in the audience who wants to testify who have not yet signed up? No one?

ALAMEDA: I have one question, Commissioner.

FUJIKAWA: Go ahead.

ALAMEDA: You mentioned, I see the picture here, there's kind of like a driveway in your area.

BOUDAR: Correct. It's a circular driveway on the front third of my property.

ALAMEDA: Right. Seems like that's a way to kind of prevent the backlog on the regular street.

BOUDAR: Absolutely.

ALAMEDA: How big is that driveway?

BOUDAR: It's about a 12-foot wide; and then it goes from one edge of the property, I mean, there's a small buffer from the property line. The property line is 100 feet in the front, so it comes in and curves all the way -.

ALAMEDA: Goes right around.

BOUDARD: I left a forested buffer there to set back the property.

ALAMEDA: And that wouldn't be also the parking then, right, the driveway -? Parking will be someplace else?

BOUDAR: No.

ALAMEDA: The parking will be someplace else?

BOUDAR: The parking is adjacent to that on either side of the garage.

ALAMEDA: Okay. Okay.

BOUDAR: So the parking does not obstruct the circular driveway.

ALAMENDA: Okay. Thank you.

FUJIKAWA: Springer?

SPRINGER: Is there a community association in Mauna Loa Estates?

BOUDAR: Just a road maintenance association.

SPRINGER: I see. So there is no place that a potential entrepreneur, like yourself, to go to for guidance on matters such as are being brought to us today?

BOUDAR: We're under the general provision of the Volcano Community Association. We're considered the Volcano neighborhood which encompasses about four different subdivision areas.

SPRINGER: I see. And do matters such as this come up before the Volcano Community Association, to your knowledge?

BOUDAR: Well, yes, they have in the past; and, as I stated, the Volcano Community Association's policy, they did a long-range plan and it's called the Vision 2020, I believe, and, the Volcano Vision 2020. And it outlines their feel for the community's growth; and it talks about the cultural resources, the economic interests, the environment, transportation, public safety. It addresses all those. But it's specifically in their vision for the area. They state that they, well-planned enterprises such as small

cottage home businesses which would have minimum impact upon the appearance of the area, ag operations, bed and breakfast businesses and eco-tourism should be encouraged.

SPRINGER: And the issue of planning was brought up by the testifiers. And sitting in the seat so often we're hearing after-the-fact applications to legitimize existing businesses that, from where we're sitting, this is rather refreshing that we're hearing of an application for B&B even as it's being coming onto line. So in terms of timing and the planning process, this is a better circumstance than we often have to deal with.

BOUDAR: Right. If I might interject here that originally I planned on just living in Volcano like everybody else. However, I decided that the economic climate was better here for my business than on Oahu. And I also have the, like many do, the possibility of taking care of aged family members down the road. So, you know, I wanted to be able to build a residence that I could support that for the future and, you know, in the meantime I do need the economic assistance that a bed and breakfast operation would provide to make that a reality.

FUJIKAWA: Okay. Any other questions, Commissioners? Graham?

GRAHAM: I think your last comment addresses it a little bit, but I just want to let you know, for me, this isn't a real quick and easy decision one way or the other. And, so, in that sort of situation, one might tend to think, well, maybe some sort of middle ground is a good thing, you know, like maybe a smaller B&B. But because of what's going on, feels like I'm in a, like we're in a tough spot on that. If you had been already living in a house for a number of years and you wanted to have some B&B activities in your house, then it kind of shows that the house is perfectly fine for it without it because you've been living there for awhile. Or, if you hadn't built it yet and you were coming in, or weren't in the process, then we could sort of say, well, why don't you build it a little smaller and have it be for two. But it's kind of like in a situation you're already building it for four. So if we say, well, you should only build it for two and that doesn't work too good because then, you know, who's going to go out there and say, oh, you got three in tonight or something, nobody's going to do that. So I, somehow I do feel like the timing of, you know, when you're building it, when you're applying for it, and all, that leaves me in a little bind about any kind of a middle ground response to it. So I just want to put out that, what my feelings was. If you have any comments on that -.

BOUDAR: Well, my only comment would be is that I could have moved into the property and then applied in the manner that you're requesting. However, I thought it was a courtesy to my neighbors to state my intention upfront that I'm building a residence, I plan on living there for a very long time, I have family that I need to address in the future, and I see this as an economically-viable way to do it. The other way would have, you know, I could have kept my mouth shut, so to speak, to comply with, well, I really don't see the difference -. So I'm trying to go about it the legal way, the correct way and keep it upfront with everybody so that there's not a question -.

GRAHAM: So the implication I'm hearing from you then is that it's perfectly acceptable just to be a residence for you without the B&B?

BOUDAR: Well, in a way it's not. Because with the family that I want to take care of and moving my business to the Big Island, I really do need that as an economic support; and I see it as a low impact way to create business on the island. And, you know, I'm a great neighbor, I really am. I'm a responsible person. Right now I live across the street from the Country Goose, and I have to say that she's an exemplary person to have in the neighborhood. She doesn't, there's very little traffic going in and out, I don't hear anything. But I have a neighbor with eight barking dogs and another one with junk piled up in the street and, my God, I mean, who wants those kind of neighbors. At least, you know, with her, she's maintaining her property, it's nice, it's attractive and, you know, I know what to expect.

GRAHAM: Thanks. I understand.

FUJIKAWA: Any other questions, Commissioners? If not, we're on Application No. 5, Melanie Boudar (USE 04-003). What is your decision?

SPRINGER: Mr. Chair, in discussion, I think that the semi-circular driveway mitigates some of the concerns that have been raised about the use of neighboring driveways. But will there be any sort of signage or indications on the exterior of your property that clearly identifies your bed and breakfast so that other people's homes' driveways are not entered?

BOUDAR: Yes, absolutely, in compliance with the signage.

ALAMEDA: Mr. Chair, also, there was a talk on the delivery trucks. Would those fit in that circular driveway?

BOUDAR: Yes, they will.

ALAMEDA: Okay.

BOUDAR: The reason the delivery trucks have not fit in there right now is because they deposited a bunch of building materials in the driveway so you can't drive through all the way, but that's a temporary situation.

ALAMEDA: Okay. Thank you.

FUJIKAWA: Are there any other questions?

SPRINGER: No? Any comments? I, like Commissioner Graham, this is not, as so many applications come before us, it's, you know, not always as easy as one think it might, one would think it might be. But with regard to this, having heard the discussion, with regard to this application by Melanie Boudar, for Use Permit Application

No. 04-003, taking into consideration the background report, the findings and the conditions presented by the Planning Director, I move that the Use Permit to allow the establishment of a 4-bedroom bed and breakfast operation in a single-family dwelling be approved with the specified conditions.

FUJIKAWA: Any second?

MCCALL: Second.

FUJIKAWA: It has been moved by Commissioner Springer, seconded by Commissioner McCall, that Melanie Boudar's Use Permit 04-003 be approved. Any discussion? Questions? Graham?

GRAHAM: Just on the kind of legal basis what I was concerned about, when I looked at the Zoning Code for Bed and Breakfast Establishments, 25-4-7 and then (b)(1), it says that "Bed and Breakfast Establishments shall be accessory and subordinate to the principle use as a residence by its owners or lessee." And so from looking from the plans and all and, you know, how much it's going to be used for what and all, it sure doesn't look like it's going to be subordinate to the principle use, seeing that the great bulk of the floor spaces is used for the bed and breakfast. And the only counter feeling thing I have to that is it does make a lot of sense to me if she's really building this place to bring her family over as they get older, and this is sort of an interim situation which allows her to support herself and do that. So those are the concerns that are up in my head on this.

FUJIKAWA: Any other questions of, or comments?

YUEN: You know, I would comment on that -.

FUJIKAWA: Go ahead.

YUEN That the Code does permit you to have a five-room bedroom bed and breakfast and for one person, the owner, to operate that. So I think when it talks about subordinate to its use, it just means, it doesn't mean that the square footage devoted to the bed and breakfast has to be less than the square footage used by the owner. It doesn't mean that you'd have to have at least five kids in five bedrooms if you're going to have a five-bedroom bed and breakfast.

GRAHAM: But you're also not asserting that only means that the owner needs to also live there. I don't think that makes it subordinate, does it?

YUEN: No, it doesn't. But I don't think it's a matter of a square footage or the number of bedrooms.

GRAHAM: Okay.

FUJIKAWA: Okay. Any other questions or comments? If not, staff, go ahead with the roll call.

DARROW: Thank you, Mr. Chairman. Commissioner Springer?

SPRINGER: Yes.

DARROW: Commissioner McCall?

MCCALL: Aye.

DARROW: Commissioner Alameda?

ALAMEDA: Aye.

DARROW: Commissioner Graham?

GRAHAM: Aye.

DARROW: Commissioner Thibadeau?

THIBADEAU: Aye.

DARROW: And Mr. Chairman?

FUJIKAWA: Aye.

DARROW: The motion passes six to zero.

FUJIKAWA: You will be informed in writing from the Planning Department of today's hearing. Thank you.

The discussion ended at 2:37 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary