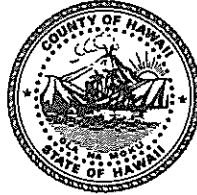


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL  
Z 095 324 885

JAN 07 2000

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Amendment to Special Permit No. 920

Applicant: Lenny Sutton

Request: To Allow the Expansion of an Existing 4-Bedroom Bed and Breakfast  
Operation to an 11-Bedroom Inn, and to Amend Condition Nos. 3, 5 and 6

Tax Map Key: 2-6-28:Portion of 17

The Planning Commission at its duly held public hearing on December 17, 1999, voted to approve the above-referenced request to amend Special Permit No. 920 to allow the expansion of the existing 4-room Bed and Breakfast operation to an 11-room Inn and related improvements on approximately 1.00 acre of land situated within the State Land Use Agricultural District. The request also includes amendments to Condition Nos. 3, 5 and 6, relating to complete construction of proposed additional improvements, limitation to 11 bedrooms and compliance with the section of the Zoning Code regulating bed and breakfast establishments, respectively. The property is located in the Puueo Farm Lots Subdivision, along the north (Hamakua) side of Waiiau Stream at Puueo, South Hilo, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. In the case of the Agricultural

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District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The subject property has not been actively used for agricultural purposes. The property is located in an area with soils classified as Kaiwika Soils (KaD), which are well-drained silty loams that were formed in a series of layers of volcanic ash. Kaiwika soils are generally used for sugar cane. The ALISH maps identify the subject property as Prime Agricultural Lands, with a soil rating of "C" or "Fair." The applicant is requesting an amendment to Special Permit No. 920 to expand the existing 4-bedroom Bed and Breakfast operation to an 11-room Inn with related improvements on approximately one (1) acre of a 21.9-acre property situated within the State Land Use Agricultural District. The request also includes amendments to Condition Nos. 3, 5 and 6 relating to complete construction of proposed additional improvements, limitation to 11 bedrooms, and compliance with the section of the Zoning Code regulating bed and breakfast establishments. Condition Nos. 3, 5 and 6 state:

- “3. The applicant shall complete construction of the facility within five (5) years from the effective date of the permit. Prior to the start of construction, Final Plan Approval shall be secured from the Planning Director. Plans shall identify proposed structures, paved (asphaltic-concrete, concrete or chip-seal) parking areas and/or driveway, existing and proposed orchards, landscaping and fire protection measure associated with the proposed use. Prior to securing Final Plan Approval, the applicant shall submit evidence of a Transient Accommodations Tax License and General Excise Tax License to the Planning Director.”
- “5. The bed and breakfast business shall be limited to the use of four (4) bedrooms.”
- “6. The applicant shall comply with all applicable requirements as stated in Ordinance No. 92-104, regulating bed and breakfast establishments.”

The applicant's existing 6-bedroom dwelling will continue to accommodate 4 rooms for the permitted bed and breakfast establishment. The applicant is proposing to construct two (2) new structures, one of which would be an approximate 800 square foot, 30-foot high, two-story, one-bedroom pagoda-like structure with a kitchen. The other proposed structure is a single-story approximately 2,200 square foot 6-bedroom/6-bathroom building. If approved, the completed project will consist of the following:

- a. 11 rooms within three structures (4 bedrooms within the existing dwelling, 1 bedroom in the new pagoda-like structure, and 6 bedrooms in the second new structure);
- b. Two (2) chip-sealed parking areas to accommodate a minimum of twelve (12) vehicles;

- c. Landscaping and agricultural activities (mainly macadamia nuts) on the balance of the 21.9-acre property.

The subject property has been utilized for residential purposes as well as a 4-bedroom Bed and Breakfast as permitted under Special Permit No. 920, which was approved in January, 1996. The property consists of 21.9 acres with less than 10 usable acres, as over 11 acres are part of, or within a ravine. The project area consists of approximately one acre. The approximately 10 acres are improved with macadamia trees, pineapple, sharwil avocado, Teddy Bear Palms, and Queen Palms. No existing or potential agricultural enterprise would be harmed by the proposed use which will be confined to the subject property, and no additional surrounding lands will be affected. Therefore, the proposed use will not displace any agricultural activity nor diminish the agricultural potential of the area. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

The desired use will not adversely affect the surrounding properties. Surrounding uses include mostly agricultural activities. According to the applicant, the nearest residence is approximately 2 miles from the site. As immediate surrounding properties are mostly in agricultural use, it is not expected that the proposed use would create significant adverse impacts to surrounding properties. According to the applicant, every design and operation effort will be made to keep the structures more residential than commercial in appearance. The property is sufficient in size to accommodate the proposed use, which will be low key with minimal impact. Overall, it is not anticipated that the immediate surrounding parcels would be impacted by the expansion of the 4-bedroom Bed and Breakfast establishment to an 11-room Inn. In addition, since the commencement of operations, no complaints have been filed with the Planning Department.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. The project site is located within an area adequately served with essential services and facilities. Water is available from a private catchment system on the property. The applicant has constructed a 10,000 gallon water tank to service the non-potable (including fire protection) and some potable needs of the existing project. With the proposed expansion, the applicant intends to construct an additional 10,000 gallon water tank on the site. A larger tank will be constructed if required. Bottled water will be served to guests if required by the Department of Health. There is a cesspool that services the existing 4-bedroom Bed and Breakfast. With the additional improvements, another cesspool or septic system meeting with the requirements of the Department of Health will be constructed on site. According to the Department of Health, the project will require two cesspools.

The subject property is located off a 60-foot wide easement from Amauulu Road, a County-owned paved roadway with a 30-foot wide right-of-way. As a condition of approval of Special Permit No. 920, the easement was improved with a 12-foot wide chip-sealed surface and 2-foot wide shoulders on both sides. According to the applicant, the easement is reasonably accessible for emergency vehicles. Potential roadway impacts will be minimal since the existing and projected volume of traffic in this area is very low, as there are only two dwellings in the area. Therefore, it is anticipated that the proposed use will not result in a significant increase in regional traffic. There is and will be adequate parking on site to accommodate the guests of the inn. Finally, no objections were received from the community.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The proposed use will encourage and promote the visitor industry, largely by catering to a different group of travelers. Accommodations such as bed and breakfasts and inns have become a part of a worldwide trend towards providing alternative lodging sites in rural and agricultural areas such as this particular location. They are popular for visitors who seek a more localized and authentic experience in a home-type setting. Such a small-scale and residential-related use is consistent with the social and physical character of a rural-agricultural area and will contribute to the economic development of the County. The "Strategic Directions for Hawaii's Visitor Industry" or Tourism Strategic Plan (TSP) prepared by the Hawaii Tourism Authority (June, 1999), forms the basis or foundation upon which Hawaii's future as a visitor destination will be built. This document is a fulfillment of one of the primary responsibilities of the Hawaii Tourism Authority (HTA) established by Act 156 SLH 1998. The TSP contains strategic directions in seven areas, one of which is Product Development. Under Agri Tourism, a subset of Product Development, strategic directions to promote Agri Tourism include:

- Create menus of experiences to make it easier for visitors to purchase agri tourism experiences and products.
- Advocate "Bed & Breakfasts (B&B's) and "Country Inns" on agriculture lands, farms, and ranches.
- "Bundle" agricultural experiences with health, adventure, culture, eco, and edu tourism.

Thus, the request is consistent with the State's strategic directions for Hawaii's visitor industry.

The use will not substantially alter or change the essential character of the land and the present use. The proposed use will be confined to the existing dwelling and two structures to be constructed on the subject property. The project will be in keeping with the existing character and scale of the surrounding community. The proposed improvements will neither conflict with nor intensify existing land uses, as approximately one (1) acre of the 21.9-acre property will be affected, and the remainder of the 10 acre usable portion of the property will remain in agricultural use.

The lands upon which the proposed use is sought is suitable for the uses permitted in the district, however, the proposed use will not interfere with permitted uses. The subject property is already improved with a 6-bedroom dwelling, used as a residence as well as a 4-bedroom Bed and Breakfast operation. Although there are agricultural uses on the property, the proposed inn will be subordinate to the primary use of the property as the applicant's dwelling. The existing agricultural activity on the usable portion of the property will be maintained and expanded in the future. The zoning for the property is Agricultural (A-20a).

The proposed use is consistent with the following goals, policies and standards of the General Plan. The subject parcel falls within an area designated as Intensive/Extensive Agricultural. Such designations allow for sugar, orchard, diversified agriculture, pasture and range lands on the General Plan LUPAG Map. The zoning for the property is Agricultural-20 acres (A-20a) and the State Land Use designation is Agricultural. As such, a Special Permit was secured in January, 1996 to establish the bed and breakfast operation. The proposed request would complement and be consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- \* Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural and physical environments of the County.
- \* The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- \* Provide residents with opportunities to improve their quality of life.
- \* The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- \* The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the proposed use.

Based on the above considerations, the request to expand the 4-bedroom Bed and Breakfast establishment to an 11-room Inn would be an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Condition Nos. 3, 5 and 6 are amended as follows (material to be deleted is bracketed and new material is underscored). Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

3. The applicant shall complete construction of the [facility] additional improvements within five (5) years from the effective date of [the permit] this amendment. Prior to the start of construction, Final Plan Approval shall be secured from the Planning Director. [Plans shall identify proposed structures, paved (asphaltic-concrete, concrete or chip-seal) parking areas and/or driveway, existing and proposed orchards, landscaping and fire protection measure associated with the proposed use.] Plans shall identify existing and proposed structures, landscaping, fire protection measures, driveway, parking stalls and exterior signs associated with the business. Prior to securing Final Plan Approval, the applicant shall submit evidence of a Transient Accommodations Tax License and General Excise Tax License to the Planning Director.
5. The [bed and breakfast business] inn shall be limited to the use of [four (4)] eleven (11) bedrooms.


Mr. Sidney Fuke  
Page 7

6. The applicant shall comply with all applicable requirements of the affected agencies, including the Department of Public Works and Department of Health [as stated in Ordinance No. 92-104 regulating bed and breakfast establishments].

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 Phyllis Fujimoto or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,

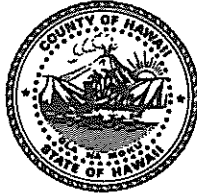


Richard B. Baker, Jr., Chairman  
Planning Commission

Lsutton02PC

cc: Mr. Lenny Sutton  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Kazu Hayashida, Director/DOT-Highways, Honolulu

Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL  
Z 095 323 275

January 25, 1996

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application No. 95-23  
Applicant: Lenny Sutton  
Request: Establish a Four-Bedroom Bed and Breakfast Operation  
With Related Improvements  
Tax Map Key: 2-6-28:Portion of 17

The Planning Commission at its duly held public hearing on January 11, 1996, voted to approve the above-referenced application. Special Permit No. 920 is hereby issued to allow the establishment of a four-bedroom bed and breakfast operation with related improvements on approximately 1.00 acre of land situated within the State Land Use Agricultural District. The property is located in the Puueo Farm Lots Subdivision, along the north (Hamakua) side of Waiiau Stream at Puueo, South Hilo, Hawaii.

Approval of this request is based on the following:

The granting of this special permit will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of the Agricultural districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The soils within the project site are classified "C" or Fair by the Land Study Bureau for agricultural productivity and classified as "Prime Agricultural Lands" according to the ALISH map system. The subject property is approximately 21.9 acres in size, with 6 acres in macadamia orchards. The applicant plans to plant about 1 acre in rambutan and set aside a 3-acre portion for a botanical reserve. The balance of the property would be left in its natural state. The applicant proposes to establish a 4-bedroom bed and breakfast establishment within a 6-bedroom dwelling on approximately 1 acre of the 21.9 acre parcel. The applicant plans to continue agricultural activities on the

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majority of the land. This request will not displace a significant amount of land from agricultural activity nor diminish the agricultural potential of the area. Therefore, the request would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

The proposed request is not contrary to the General Plan. The County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates this area for Intensive and Extensive Agricultural. The Hilo Community Development Plan also designates the area for agricultural uses. The applicant plans to continue agricultural activity on the subject property and establish the facility on approximately one acre of land.

The proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- \* Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- \* The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- \* Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- \* The County shall provide an economic environment which allows new, expanded or improved economic opportunities that are compatible with the County's natural and social environment.

The proposed use will not have any significant adverse effects on the surrounding properties. The subject property is located in the Puueo Farm Lots Subdivision which consists of large agricultural lots mainly used for macadamia orchards. Surrounding development is rather sparse with structures on approximately 6 of the 62 lots. The closest dwelling is located about 1/2 mile away. Due to the size of the subject property and the location of the structure, the proposed use is not anticipated to have significant adverse effects on the surrounding properties.

The proposed use will not substantially alter or change the essential character of the land and the present use. The subject property is presently being used as a macadamia orchard. Agricultural activity will continue to take place on the property, with the bed and breakfast establishment proposed on approximately 1 acre of the 21.9 acres. The applicant plans to create a botanical reserve on 3 acres and plant rambutan on 1 acre. The Waiiau Stream runs along the southern boundary of the subject property, where much of the land will remain in its natural state.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. The

applicant proposes that wastewater disposal be accommodated by cesspool. Water will be provided by a private catchment system. The Department of Health will enforce wastewater disposal regulations and drinking water regulations and the Fire Department will enforce fire protection requirements. Other essential utilities and services are or will be made available to the site. Access to the subject property is from Amaulu Road which is a County paved road onto roadway easements that are under the control and maintained by the Puueo Farms Association. A previously submitted Special Permit Application for the same request was denied by the Planning Commission in 1992, due to the gravel road conditions, which would not have been in the best interest of public health and safety. Under the present request, the applicant proposes to pave the gravel roadways with chipseal to a width of 12 feet with 2-foot shoulders on both sides. A portion of the roadway close to the entrance of the property may not have its full 4-foot shoulders due to land conditions. Although the Police Department did state some concerns due to the remoteness of the property, the paving of the roadway would certainly improve access concerns and accessibility for emergency vehicles. The applicant also proposes to have a reservations-only policy and to provide specific directions to the subject property. The applicant is also willing to provide a shuttle service to guests if requested. Based on the proposed improvements, it is not anticipated that the proposed use will have an adverse impact on traffic and safety along this roadway.

The land on which the proposed use is sought is unsuited for the uses permitted within the district. The subject property is suitable for agricultural activities and will continue to be used for macadamia orchards. No significant amount of land will be removed.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The proposed bed and breakfast accommodations are a part of a worldwide trend towards providing alternative lodging sites in rural and agricultural areas such as this particular location. They are becoming increasingly popular for visitors who seek a more localized and authentic experience in a home-type setting. Such small-scale development is consistent with the social and physical character of a rural-agricultural area and is in keeping the economic goals of the County.

The proposed use will not have an adverse effect on archaeological and flora and fauna resources within the area. As the subject property has already been disturbed and farmed; therefore, archaeological, flora and fauna resources are not expected to be affected. A condition of approval is included to require work to cease if any unidentified sites or remains are discovered.

Based on the above considerations, the establishment of a four-bedroom bed and breakfast establishment is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury

or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.

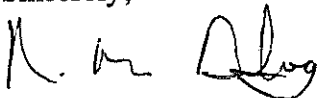
3. The applicant shall complete construction of the facility within five (5) years from the effective date of the permit. Prior to the start of construction, Final Plan Approval shall be secured from the Planning Director. Plans shall identify proposed structures, paved (asphaltic-concrete, concrete or chip-seal) parking areas and/or driveway, existing and proposed orchards, landscaping and fire protection measure associated with the proposed use. Prior to securing Final Plan Approval, the applicant shall submit evidence of a Transient Accommodations Tax License and General Excise Tax License to the Planning Director.
4. The existing gravel roadway leading to the subject property shall be paved with chipseal to a width of 12 feet with approximately 2-foot wide shoulders on both sides.
5. The bed and breakfast business shall be limited to the use of four (4) bedrooms.
6. The applicant shall comply with all applicable requirements as stated in Ordinance No. 92-104, regulating bed and breakfast establishments.
7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when sufficient mitigated measures have been taken.
8. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke this permit.

Mr. Sidney Fuke  
Page 5  
January 25, 1996

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 feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman  
Planning Commission

AK:syw

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cc: Honorable Stephen K. Yamashiro, Mayor  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Mr. Lenny Sutton