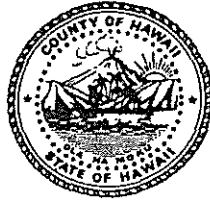


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL  
7000 0600 0024 2903 8322

JUL 27 2001

Mr. Gregory R. Mooers  
P.O. Box 1101  
Kamuela, HI 96743

Dear Mr. Mooers:

Special Permit Application (SPP 01-008)  
Applicant: Patricia Cook  
Request: Establishment of a Two-Bedroom Bed & Breakfast  
Operation Within an Existing Dwelling  
Tax Map Key: 6-4-15:25

SPP 1113

The Planning Commission at its duly held public hearing on July 6, 2001, voted to approve the above-referenced application. **Special Permit No. 1110** is hereby issued for the establishment of a two-bedroom bed and breakfast operation within an existing dwelling on land in the State Land Use Agricultural District. The property is located on Iokua Place, approximately 1,000 feet north of Mamalahoa Highway, Puukapu Homesteads, South Kohala, Hawaii.

Approval of this request is based on the following:

The applicant is proposing to utilize two bedrooms located downstairs in the existing two-story 5-bedroom three baths dwelling for the proposed bed and breakfast operation. The dwelling was constructed in 1961 prior to the adoption of the Hawaii County Zoning Code. The two-bedroom bed and breakfast operation would meet the guidelines for approval of a Special Permit for the reasons outlined below.

The granting of this bed and breakfast operation request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the

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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 District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. This particular property is situated within the State Land Use Agricultural District. The Ranches Ltd. Subdivision was created in May 1961 as residential lots, ranging in size from 30,248 to 61,045 square feet. The State Land Use Commission was created in July 1961; the interim regulations and temporary district boundaries became effective in April 1962; and subsequently the Regulations and Land Use District Boundaries became effective in August 1964. According to Chapter 205-4.5, HRS, construction of single-family dwellings on lots existing before June 4, 1976 are permitted uses within the agricultural districts. The previous Kamuela Zone Map (currently Lalamilo-Puukapu Zone Map) was adopted on December 6, 1967 that classified the Ranches Ltd. Subdivision and surrounding area as Agricultural-1 acre (A-1a). The subject subdivision consists of a majority of non-conforming lots, residential in nature, as they are less than the minimum one acre in size, and was created prior to the adoption of the Zoning Code in 1967. The property is located within an area whose soils are classified as "C" or Fair by the Land Study Bureau's Overall Master Productivity Rating. The Agricultural Lands of Importance to the State of Hawaii (ALISH) Map considers the area as "Existing Urban Development" lands which have been developed for urban type uses. The existing dwelling was constructed in 1961 and no agricultural activity existed on the property. Hence, the residential use has not displaced any agricultural activity nor diminish the agricultural potential of the property. Therefore, the approval of the bed and breakfast operation request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The bed and breakfast use is an unusual and reasonable use of land situated within the State Land Use Agricultural District. 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. Two thirds of the Ranches Ltd. Subdivision has been developed with single family dwellings over the past 40 years. The single-family dwelling existed on the property since August 1961. The bed and breakfast use will be subordinate and incidental to the principal use of the residence by the applicant. The two-bedroom bed and breakfast operation will be confined to the existing five-bedroom dwelling. As previously stated, the subdivision was created in May 1961 with residential lot sizes. Therefore, the subject request is considered an unusual and reasonable use of the agricultural land.

The desired use shall not adversely affect the surrounding properties. The existing single family dwelling is situated on 30,230 square feet of land that is a portion of a 26-lot Ranches Ltd. Subdivision created in May 1961 as residential lots, ranging in

size from 30,248 to 61,045 square feet. The subdivision is zoned A-1a and about two-thirds of the subdivision is developed with single family residences. Two dwellings, one an ohana dwelling, are situated on the abutting parcel to the north of the property, a dwelling on the parcel to the west, and the parcel to the south is presently vacant of any uses and structures. The parcel to the east, directly across the street and property, has a very deep ditch and is also vacant land. Of the total 30 parcels that front Iokua Place, 20 parcels contain residential dwellings with 2-3 of the parcels having a horse and/or cattle grazing.

The Puu Nani Subdivision is located adjacent to and east of the subject subdivision and is primarily in residential uses. The Planning and Traffic Commission granted tentative subdivision approval on March 19, 1962 for the entire residential Puu Nani Subdivision. Final Subdivision Approval was granted in November 1964 (Unit 1), November 1965 (Units 2 & 3), and June 1971 (Unit 4). This subdivision consists of total 205 lots ranging in size from 8,105 square feet to 32,994 square feet. Of the 205 parcels, there are 145 parcels that contain residential dwellings. The Mokuloa Subdivision is located adjacent to and west of the subject subdivision and is also primarily in residential uses. Final Subdivision Approval was granted in May 1988 and consists of 69 one-acre parcels, 30 parcels of which contain residential dwellings. Lands to the south of the subject subdivision, across of Mamalahoa Highway, are 10-acre parcels presently in cattle grazing. The Puu Nani Subdivision, Mokuloa Subdivision and lands to the south are currently zoned A-1a. However, the Planning Department has not received any objections from the surrounding community. Therefore, it is not anticipated that the bed and breakfast use will adversely affect the surrounding properties.

Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. It is anticipated that there would not be any traffic impacts generated by the two-bedroom bed and breakfast operation. Access to the property from Mamalahoa Highway is via Iokua Place, the primary subdivision road. Mamalahoa Highway, fronting the subject subdivision, has a 60-foot wide right-of-way. Iokua Place is a 50-foot wide right-of-way with a 15-foot and 4-inches wide pavement and grass shoulders. The condition and width of this roadway is deemed adequate to accommodate the anticipated traffic to be generated. There is no municipal sewer system in the subject Ranches Ltd. Subdivision area. The applicant currently utilizes an existing cesspool. County water is available to the parcel via an existing 5/8-inch meter service. However, the Department of Water Supply is requiring that the applicant install a backflow preventer on the property. This requirement will be included as a condition of approval. A drainage ditch meanders throughout the subject subdivision from the mauka area toward Mamalahoa Highway. However, it does not traverse the property. The property is situated within an area

designated as Flood Zone X, an area determined to be outside the 500-year flood plain. The Waimea School Complex is about two miles from the subdivision and the closest school facilities.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The purpose of the special permit request is to establish a two-bedroom bed and breakfast accommodations which have become part of a worldwide trend towards providing alternative lodging sites in rural and residential 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 use is consistent with the social and physical character of the residential area and contributes to the economic structure of the County. 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 and No. 00-152 were passed by the County Council to ensure that bed and breakfast businesses remain subordinate and incidental to the principal use of the residence as a single family dwelling.

The land upon which the use is sought is unsuited for agricultural uses permitted within the district. As mentioned, the subject subdivision consists of residential lot sizes. The bed and breakfast use will be confined to an existing single family dwelling and will not substantially alter or change the essential character of the land and the present use on the parcel as well as in the subject subdivision as a whole. The bed and breakfast use will be subordinate and incidental to the existing use of the dwelling as the applicant's primary residence. No additional improvements are required, and as such, the bed and breakfast facility is not expected to cause impacts which would significantly alter the character of the land and the present use.

The request is not contrary to the General Plan. The bed and breakfast operation request is not contrary to the General Plan objectives and policies nor the Land Use Pattern Allocation Guide (LUPAG) Map, which designates the subject area as Urban Expansion. The proposed use is consistent with the following goals and policies 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

- \* Provide residents with opportunities to improve their quality of life.
- \* 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 County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.
- \* The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.

The bed and breakfast operation use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. Given the extensive clearing activities that have taken place and the existing residential uses, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There are no designated public access to the mountain areas over the property. The property is located more than 10 miles from the nearest coastline. It is adjacent to existing residences, and vacant lands. Therefore, the bed and breakfast use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property is not affected by any coastal hazards nor beach erosion.

Based on the above considerations, the establishment of the bed and breakfast operation within the existing dwelling 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 and Regulations.

Approval of this request is subject to the following conditions. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special Permit.

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 business shall be limited to the use of two (2) bedrooms.
4. The applicant shall install a backflow preventer on the property meeting with the approval of the Department of Water Supply, prior to the opening of the bed and breakfast operation.
5. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies, including the Department of Health.
6. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval and prior to opening of the bed and breakfast operation.
7. An initial 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).

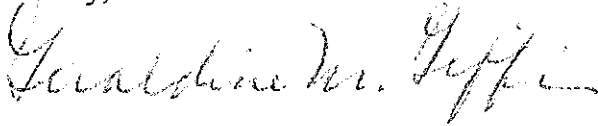
Mr. Gregory R. Mooers

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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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Lcooksp01-008PC

cc: Ms. Patricia Cook  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
State Land Use Commission  
Brian Minaai, Director/DOT-Highways, Honolulu  
Department of Health