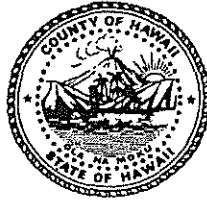


Harry Kim
Mayor



Geraldine M. Giffin
Chairperson

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 2904 9397

MAR 2 2 2002

Mr. and Mrs. Ron Freitas
74-4920 Kiwi Gardens
Kailua-Kona, HI 96740

Dear Mr. and Mrs. Freitas:

Special Permit Application (SPP 01-027)
Applicant: Ron and Shirlee Freitas (Kiwi Gardens)
Request: Allow for the Existing 3-Bedroom Bed and Breakfast
Establishment in an Existing Farm Dwelling
Tax Map Key: 7-4-7:34

The Planning Commission at its duly held public hearing on February 25, 2002, voted to approve the above-referenced application. Special Permit No. 1140 is hereby issued to allow an existing 3-bedroom bed and breakfast operation (Kiwi Gardens) within the existing dwelling situated in the State Land Use Agricultural District. The property is located in the Paniolo Country Subdivision, approximately 464 feet northwest of Hao Kuni Street-Kiwi Street intersection, Honokohau 2nd, North Kona, Hawaii.

Approval of this request is based on the following:

The bed and breakfast use is an unusual and reasonable use of land situated within the State Land Use Agricultural District. The Legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. The Legislature recognized that lands within Agricultural Districts might not be best suited for agricultural activities and yet classified as such. Furthermore they also recognized that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts. One house and one garage reside on the 1.124 acre parcel. The applicants are not proposing any expansion to their home to accommodate the proposed use. Furthermore, the parking of any vehicles related to the operation of the bed and breakfast is expected to be accommodated by the existing driveway. Thus, the use of the existing structure for a bed and breakfast operation will not require the commitment of additional agricultural land.

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The granting of this 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 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. The existing bed and breakfast is located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and "Other Important Agricultural Land" by the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map.

The subject property is situated within the State's Land Use Agricultural District and County's Agricultural-1 acre zoned district. Bed and breakfast establishments are a permitted use within the Agricultural district provided a Special Permit is secured. As previously mentioned, the bed and breakfast operation is confined to the existing two-story dwelling and no expansion is necessary to accommodate the proposed use. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The use shall not adversely affect the surrounding properties. The two-story dwelling is situated on a 1.124 acre parcel. The surrounding area consists of a mixture of non-commercial agricultural activities and single-family residences. The zoning pattern in the vicinity is Agricultural-1 acre (A-1a). A 9-foot 10-inch wide concrete driveway curves through the front of the property and widens to a 16-foot 7 inches at the road. Guest parking consists of three parking stalls in front of the two-story residence. Along the perimeter of the property there is dense vegetative growth that would screen from neighbors many of the activities that occur on the property. Based on the aforementioned facts, no negative impacts are anticipated.

The use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection. The site is currently serviced by water, telephone and electrical utilities. The traffic generated by the bed and breakfast is expected to be minimal. Access to the property is deemed adequate to accommodate the anticipated traffic generated. The applicants shall meet all applicable agency requirements of the Department of Health and the Fire Department prior to the continuance of the existing use. Letters received from the Department of Public Works, Department of Water Supply, and Police Department indicate that they have no comment or the applicants have complied with the conditions submitted by their department.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations, such as the operation by the applicants, are a part of a worldwide trend towards providing

alternative lodging sites in residential areas. Bed and breakfast operations are becoming increasingly popular for visitors who seek a more localized and authentic experience in home-type setting. Such small-scale use is consistent with the social and physical character of a rural-agricultural area and contributes to the economic structure of the County. As such, the Special Permit request to allow bed and breakfast accommodations in an A-1a zoned area would be consistent with this trend.

The land upon which the existing bed and breakfast is situated is unsuited for the uses permitted within the district. Further, the use will not substantially alter or change the essential character of the land and the present use. As stated earlier, the bed and breakfast use is located within an area with soils that are classified "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and "Other Important Agricultural Land" by the Department of Agriculture's ALISH Map. The subject property presently has the existing four-bedroom, two-story dwelling of which the three bedrooms on the bottom floor will be used for the bed and breakfast operation. A site visit by staff conducted on February 6, 2002 verifies that there are a significant variety and number of fruit trees present on the property. In addition, the applicants state that there are approximately 50 mature fruit trees. However, the fruit from the property is usually consumed by the applicants or given to neighbors or surrounding property owners. These trees may or may not be harvested at some time to assist in the operation of the bed and breakfast. Based on the fore mentioned Land Study Bureau classification and ALISH designation the land continues to be used for agricultural purposes despite its low agricultural productivity rating. It is a credit to the applicants for the number and variety of plants and trees present on the property. Furthermore, the applicants state that no existing agricultural plantings will be removed. Therefore, from a use and physical standpoint, there will be no major alteration to the surrounding landscape which would detract from its current agricultural setting.

The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates the property for Urban Expansion uses. 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

- 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 existing 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 improved nature of the property 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 roughly 2.75 miles away from the nearest shoreline. 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 or beach erosion.

Based on the above considerations, the approval of the existing bed and breakfast operation 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 permit.

1. The applicants, successors or assigns shall be responsible for complying with all stated conditions of approval within 6 months of approval.
2. The applicants 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 three (3) bedrooms.

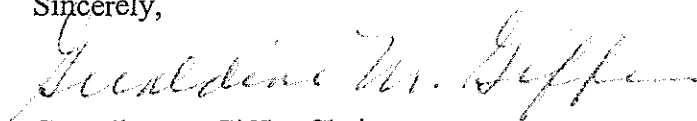
Mr. and Mrs. Ron Freitas
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4. A written final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval.
5. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health, for approval of the bed and breakfast use.
6. 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 applicants, 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).

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 of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department – Kona
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu
Department of Health