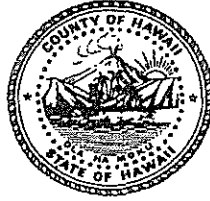


Harry Kim  
Mayor



## 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 2904 9427

MAY 05 2002

Carol and Mike Weaver  
74-4958 Kiwi Street  
Kailua-Kona, HI 96745

Dear Mr. and Mrs. Weaver:

Special Permit Application (SPP 02-001)

Applicant: Carol and Mike Weaver

Request: Establish a Four Bedroom Bed & Breakfast Operation

Tax Map Key: 7-4-7:71

The Planning Commission at its duly held public hearing on April 5, 2002, voted to approve the above-referenced application. Special Permit No. 1145 is hereby issued to allow a 4-bedroom bed and breakfast operation (Hawaiian Oasis), 2 bedrooms in the existing main dwelling and 2 bedrooms in the ohana dwelling, situated in the State Land Use Agricultural District. The property is a flag lot located on the east side (mauka) of Kealakaa Street, adjacent to the Paniolo Country Subdivision and in the vicinity of the Hualalai Academy, Papaakoko, North Kona, Hawaii.

Approval of this request is based on the following:

The applicants are requesting to continue the operation of the four-bedroom bed and breakfast within the existing main dwelling and ohana dwelling. The 2-story main dwelling is 3,846 square feet with 3 bedrooms, 3 1/2 baths, kitchen, living room, family room, recreation and laundry rooms, and office/exercise room. The applicants occupy the second floor and the guests would use the two bedroom suites on the first floor. The ohana dwelling is 576 square feet and is also two stories with one bedroom, a bathroom and kitchen on the second floor, and one bedroom with bathroom on the first floor. It is pointed out that the applicants would be required to comply with the Department of Public Works, Building Division requirements relating to the swimming pool.

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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. The subject property is 1.649 acres in size. The existing bed and breakfast operation is confined to the existing main dwelling, ohana dwelling, and its immediate vicinity. It is subordinate to the residential use of the property.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Commission was created in 1961; the interim regulations and temporary district boundaries became effective on April 21, 1962; and subsequently the Regulations and Land Use District Boundaries became effective on August 23, 1964. 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 property is located within an area with soils classified as Honuaulu Soils, which are silty or stony clay loams 8 to 25 inches thick. The Agricultural Lands of Importance to the State of Hawaii (ALISH) Maps identify the subject property as located in the area designated "Other Important Agricultural Lands, with a soil rating of "E" or Very Poor by the Land Study Bureau's Overall Master Productivity Rating.

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 may be permitted within the Agricultural district provided a Special Permit is secured. As previously mentioned, the bed and breakfast operation is confined to the existing main dwelling, ohana dwelling and its immediate vicinity. It is subordinate to the primary residential 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 desired use shall not adversely affect the surrounding properties. It is not expected that the bed and breakfast use would create significant adverse impacts to surrounding properties. The property is sufficient in size to accommodate the use, which will be low key with minimal impact. Surrounding lands, including the adjacent Paniolo Country Subdivision, are zoned Agricultural (A-1a) and they include a mixture of residences, incidental agricultural uses, and vacant lands. There are dwellings on the

adjoining properties immediately north, west and east of the existing dwellings on the subject property. The lands along the north boundary of the driveway (pole portion) and to the south of the subject property are presently vacant of any uses. Overall, it is not anticipated that the immediate surrounding parcels would be impacted by the operation of the 4-bedroom bed and breakfast. The distance between the dwellings and the next residential structures is such that there should be little to no visual impact. Finally, no written objections were received from the community.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection. Access to the property is via a 10-foot wide paved driveway from Kiwi Street. Kiwi Street is a two-lane County road that has a 50-foot right-of-way, and 21-foot pavement with 9-foot paved shoulders and swales. Access to the property is deemed adequate to accommodate the traffic generated by the bed and breakfast operation. Traffic would be about the same as if the bedrooms were rented on a long-term basis. Therefore, it is anticipated that the use will not result in a significant increase in regional traffic. The available on-site parking provides space for four vehicles as required for four rental units. Water is available from the 8-inch waterline in Kiwi Street. The parcel receives County water through an existing 5/8-inch meter, which is deemed adequate for only one dwelling at 600 gallons per day. The Department of Water Supply requires the installation of a separate 5/8-inch meter for the second dwelling, and two backflow preventers (reduced pressure type) by a licensed contractor. A condition will be included to comply with the Department of Water Supply requirements. Police, fire and emergency services are available to the project area from the Kailua stations, a distance of about two miles. The applicants shall also meet all applicable agency requirements of the Department of Health, Department of Water Supply, Department of Public Works and the Fire Department for the bed and breakfast use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The 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 land upon which the bed and breakfast use is sought is suitable for the uses permitted within the district; however, the use will not interfere with permitted uses. The property has been improved and landscaped with over 50 varieties of palm trees, various fruit trees (lime, orange, papaya, passion fruit), various flower plants (plumeria, ginger, hibiscus, bromeliads), herbs, bamboo, ferns, shrubs and ground cover. Current agricultural activities are marginal at best. There are some herbs, pineapples, oranges, and other fruit trees; however, the trees appear to be used as part of the landscaping rather than a commercial enterprise. They may or may not be harvested at times to assist in the operation of the bed and breakfast. The bed and breakfast use will occur within existing buildings and immediate area and no existing agricultural plantings will be removed. Thus, the proposed project will not seriously impair the agricultural productivity or potential of the subject property, nor will it seriously or significantly deplete the County of Hawaii’s agricultural land resource.

The use will not substantially alter or change the essential character of the land and the present use. As previously mentioned, the property has already improved with the existing main dwelling, ohana dwelling and other accessory residential structures of which will be used for the bed and breakfast operation. There is very tall vegetative growth along the perimeter of the property that screen the dwellings and structures from the neighboring residences. Therefore, from a physical standpoint, there will be no major alteration to the landscape which would give this area an appearance other than what is presently there.

The request will not be contrary to the General Plan. The subject request is within an area designated for Urban Expansion uses on the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The 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.
- 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.

Keahole to Kailua Development Plan was adopted by the County Council by Resolution No. 296 91 on April 3, 1991, as a guide for future infrastructure and land development of the area. The Land Use Plan in the document reflects the area as existing one acre agricultural lots.

The existing bed and breakfast operation use is consistent with the objectives, policies, and guidelines of the Special Management Area as provided by Chapter 205A, HRS, and Rule No. 9 of the Planning Commission Rules of Practice and Procedure. Given the extensive clearing activities that have taken place and the existing residential use, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. Although the ili of Papa'akoko is associated with the last Kuni ceremony conducted in Hawai'i in the 19<sup>th</sup> century, at present there is no evidence of traditional and customary Native Hawaiian rights being practiced on the property. Therefore, no feasible action is necessary to protect these rights. According to

the State Historic Preservation Division, residential development/ urbanization has altered the land and thus, no historic properties will be affected by the bed and breakfast operation.

According to the Planning Department's file, there is no designated public access to the mountain areas or to the shoreline traversing the subject property. The property is approximately three miles from the coastline. No flood map panel has been printed for this area as the property is located at minimal tsunami inundation area. It is anticipated that the bed and breakfast use will not adversely impact any archaeological resources, gathering rights, recreational resources, scenic resources, open space, 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 request to continue the operation of the 4-bedroom bed and breakfast would constitute 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.

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 of the stated conditions 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 operation shall be limited to the use of four (4) bedrooms.
4. The applicants shall secure and finalize all necessary permits as required by the Department of Public Works, Building Division within six (6) months from the effective date of this permit.
5. Signage posted on the subject property shall meet with residential signage requirements.
6. The applicants shall comply with all other applicable laws, rules, regulations and requirements of the affected government agencies, including the Department of Water Supply.

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7. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
8. 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 Hilo office at 961-8288 or Daryn Arai of the Kona office at 327-3510.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Lweaver01PC

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