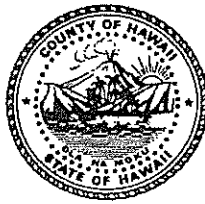


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
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CERTIFIED MAIL

7000 0600 0024 2904 9595

APR 22 2002

Mr. Wayne Souza  
P.O. Box 767  
Honokaa, HI 96727

Dear Mr. Souza:

Special Permit Application (SPP 02-003)

Applicant: Wayne Souza

Request: Allow the Existing One-Bedroom Bed and Breakfast Operation  
(Mauka Bed & Breakfast) Within the Existing Dwelling

Tax Map Key: 4-4-8:Portion of 13

The Planning Commission at its duly held public hearing on March 22, 2002, voted to approve the above-referenced application. Special Permit No. 1142 is hereby issued to allow the existing one-bedroom bed and breakfast operation (Mauka Bed & Breakfast) within the existing dwelling situated in the State Land Use Agricultural District. The property is on the east (Hilo) side of Kalaniai Road, approximately ½ mile makai of Kalopa State Park, Kalopa Homesteads, Hamakua, Hawaii.

Approval of this request is based on the following:

The applicant proposes to legitimize a one-bedroom bed and breakfast operation in an existing single-family dwelling. The bedroom has a private bath and separate entrance. The applicant applied for Building Permit 901056 in 1990 for a two bedroom addition. The applicant is working with the Department of Public Works, Building Division to close Building Permit No. 901056 which allowed for the construction of one of the bedrooms to be used as the bed and breakfast operation.

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The existing use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In recognizing that lands within the 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. In addition, 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.

Current agricultural activity consists of goats and horses contained in paddocks on the makai side and front of the subject property. Since the bed and breakfast operation will only involve one bedroom of the existing dwelling, it will not deplete the County of Hawaii's agricultural resources. Therefore, the existing use is an unusual and reasonable use of lands situated within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to Coastal Zone Management Program. Given the fact that the property has been previously cleared and developed, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. There is no designated public access to the mountain areas nor to the shoreline over the property. The project site is located approximately 7 miles from the nearest shoreline and is in rural-residential uses. The existing operation will not impact any recreational resources, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Therefore, the approval of the subject request shall not be contrary to the objectives and policies of the Coastal Zone Management Program.

The request is not contrary to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map that defines the subject property and its immediately surrounding area for Intensive Agriculture. Such designation allows for sugar, orchards, diversified agriculture and floriculture. The use is consistent with the following goals and policies of the General Plan:

*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.

*Land Use Element:*

- Designate and allocate land uses in appropriate proportions and mix 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.

The desired use will not adversely affect surrounding properties. Immediate surrounding lands are primarily rural residential. It is not expected that the one-bedroom bed and breakfast operation would create significant adverse impacts to the surrounding properties. Tall trees along the makai and rear property lines and the paddocks along the mauka and front property lines provide adequate buffer to minimize any noise and visual impacts upon the adjoining properties. Therefore, the character of the surrounding area will not be significantly altered. In addition, although the applicant has been in operation for approximately two years, no complaints or written objections have been received from the general public or adjacent landowners.

The existing operation will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the subject property is from Kalaniai Road, a 20-foot wide pavement within a 40-foot right-of-way. However, the inclined graveled driveway entrance is in poor condition, and, therefore, paving of this portion of the driveway will be required as a condition of approval. A designated area is available for guest parking. It is not anticipated that the one-bedroom bed and breakfast operation will significantly increase traffic. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Wastewater is disposed into an existing cesspool. County water is available and the applicant will be required to install a backflow preventer. Police and Fire services are available approximately 5 miles away at Honokaa. All other essential utilities and facilities are available to support the existing use.

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 use will be confined to one bedroom of the existing dwelling. The applicant has no plans for additional development.

The land upon which the existing use is sought is suitable for the uses permitted within the district; however, the use will not interfere with permitted uses. The land on which the existing use is located is classified as "C" or "Fair" for agricultural productivity by the Land Study Bureau and classified as Prime by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The property consists of Kukaiau silty clay loam. The subject property is already improved with the dwelling, gazebo and storage building. Paddocks for the goats and horses will not be impacted.

Based on the above considerations, the approval of the Special Permit request to legitimize the one-bedroom bed and breakfast operation would be supportive of 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 applicant, successors or assigns shall be responsible for complying with all of the 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 operation shall be limited to the use of one (1) bedroom.
4. The applicant shall finalize all permits for the existing dwelling as required by the Department of Public Works, Building Division for operation of the one-bedroom bed and breakfast operation within six (6) months from the effective date of the permit.
5. The driveway connection to Kalaniai Road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code as required by the Department of Public Works, Engineering Division.
6. The driveway entrance shall be repaired to allow for safe access.
7. Signage posted on the subject property shall meet with residential signage requirements.
8. The applicant shall install a backflow preventer on the property meeting with the approval of the Department of Water Supply within six (6) months of the effective date of the permit.
9. The applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the bed and breakfast use of the existing structure, including the Department of Health.
10. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.

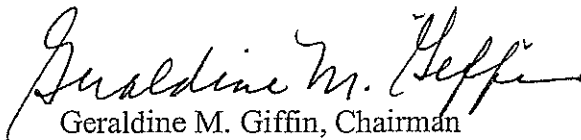
Mr. Wayne Souza  
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11. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. Non-performance is the result of conditions that could not have 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).

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

Lsouzaspp02-003PC

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