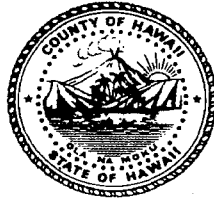


Harry Kim  
Mayor



Keith F. Unger, Chair  
Oliver "Sonny" Shimaoka, Vice Chair  
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Michael Vitousek  
Faith "Faye" Yates

## County of Hawai'i

### LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

NOV - 9 2018

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

Dear Mr. Mooers:

**SUBJECT: Special Permit No. 378 (Docket No. 77-000020)**  
**Applicant: Lalamilo Farm Partners, LP**  
**Request: One Year Time Extension for Condition No. 5 (Plan Approval)**  
**Tax Map Key: 6-6-005:032 (portion)**

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The Leeward Planning Commission, at its duly held public hearing on October 18, 2018, voted to approve the above-referenced request to amend Special Permit No. 378 (Docket No. 77-000020) to allow a 1-year time extension to comply with Condition No. 5 (Plan Approval), which allowed the retention and continued operation of a bakery; butter processing, storage and distribution facility; limited retail sales area and related improvements on approximately 0.5 acre of land situated within the State Land Use Agricultural District. The project site is located on the north side of Lalamilo Farm Road approximately 900 feet west of its intersection with the Māmalahoa Highway and within the Lalamilo Farm Lots Subdivision at Lalamilo, South Kohala, Hawai'i.

Approval of this amendment is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The proposed "Five Mountain Fitness" fitness center shall be allowed to operate on the subject property until December 31, 2016. The applicant shall immediately remove the outdoor shower facility and any outdoor exercise equipment. Use of the Fitness Center, including all improvements thereto, during the time frame agreed to herein, shall be in compliance with any and all applicable building, fire, electrical, plumbing, wastewater, and safety codes. Compliance with this condition shall be subject to Planning Department inspection.

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NOV - 9 2018

3. All bakery operations shall be moved indoors within six (6) months after the date of this amended permit by the Planning Commission.
4. Retail space on the Property allowed for uses approved under this special permit amendment shall not exceed two hundred (200) square feet.
5. The applicant shall secure Final Plan Approval from the Planning Director in accordance with the requirements of the Zoning Code within one (1) year from the effective date of this amended permit. Plans shall identify all proposed uses, existing and proposed structures, signage, fire protection measures, driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed uses.
6. Within one (1) year of the effective date of this amended permit, the applicant shall either secure and finalize all applicable building permits for, or remove all unpermitted structures and appurtenances from the property, including but not limited to all unpermitted additions to the original 7,875 square foot former vegetable processing facility. Should the applicant successfully permit the currently unpermitted additions, uses within the newly permitted spaces shall be limited to those that are either permitted under this Special Permit as amended, or as determined by Hawai'i Revised Statutes as being permitted in the State Land Use Agricultural District.
7. Prior to the issuance of Final Plan Approval, the applicant shall submit a solid waste management plan to the Department of Environmental Management for review and approval.
8. Prior to the submittal of plans for Plan Approval review, the applicant shall submit to the Department of Water Supply (DWS) for its review and approval the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i, and make any connection and water system improvements necessary based on the water usage calculation report. The applicant shall be responsible for any additional improvements deemed necessary by DWS. In addition, the applicant shall install a reduced pressure type backflow prevention assembly, which must be inspected and approved by the DWS. Finally, subject to other agencies' requirements to construct improvements within the road right-of-way fronting the property affected by the approved uses, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.

9. No parking on public streets or right-of-way of any vehicle associated with the uses allowed by this amended permit will be permitted.
10. An individual wastewater system meeting with the standards and requirements of the State Department of Health shall be installed and/ or upgraded to accommodate all uses approved under this permit, within one (1) year of the date of issuance of Final Plan Approval.
11. Within one (1) year of the date of issuance of Final Plan Approval, the applicant or lessees associated with uses approved under this permit shall secure and maintain all necessary food manufacturing and food service permits required by the State Department of Health.
12. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
13. Any expansion of the facility or uses beyond what is permitted under this permit amendment shall require an amendment to this permit.
14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
15. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

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.

*[Note: Ramseyer version available upon request.]*

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

Approval of this permit is based on the reasons given in the attached Findings Report.

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
Page 4

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,



Keith F. Unger, Chairman  
Leeward Planning Commission

LLalamilofarmpartnersAmendSPP378lpc  
Enclosure: PC Findings Report

cc w/enclosures: Lalamilo Farm Partners, LP  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
State Land Use Commission  
Department of Environmental Management  
Plan Approval Section  
GIS Section  
Planning Department - Kona

**COUNTY OF HAWAI‘I**  
**PLANNING COMMISSION FINDINGS**

**LALAMILO FARM PARTNERS, LP**  
**AMENDMENT TO SPECIAL PERMIT NO. 378 (SPP 378)**

Based on the following considerations, an amendment to Special Permit No. 378 to amend Condition No. 5 (Plan Approval) for a one (1) - year time extension is approved.

**LALAMILO FARM PARTNERS, LP** is requesting a one (1)-year extension of time to Condition No. 5 (Plan Approval) of Special Permit No. 378, which allowed the temporary operation of a fitness center; retention and continued operation of a bakery; butter processing, storage and distribution facility; limited retail sales area and related improvements on approximately 0.5 acre of land situated within the State Land Use Agricultural District. Condition No. 5 currently states:

*“The applicant shall secure Final Plan Approval from the Planning Director in accordance with the requirements of the Zoning Code within one (1) year from the effective date of this amendment. Plans shall identify all proposed uses, existing and proposed structures, signage, fire protections measures, driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed uses.”*

The applicant requested and was granted an administrative time extension for Condition No. 5 until June 8, 2018 and began this time extension process prior to this deadline. Granting this time extension request will allow the applicant’s consultants to complete the studies and secure permits to comply with all conditions of approval required prior to securing Final Plan Approval and to ultimately secure Final Plan Approval within one (1) year of the effective date of this amendment to Special Permit No. 378.

**The 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.** On May 19, 2016, the Leeward Planning Commission granted an amendment to Special Permit No. 378 to allow the establishment of a fitness center (until December 32, 2016); and the retention and continued operation of a bakery; butter processing; storage and distribution facility; limited retail sales area; and related improvements on approximately 0.5 acres of land on the subject property.

In a series of letters between the applicant’s then representative, Sidney Fuke and the Planning Director regarding condition compliance, the applicant informed the Planning Department that the fitness center and bakery use ceased on the property. Furthermore, the applicant felt that the butter processing, storage and distribution facility use along with the incidental retail sales of butter products was essentially a component of the “processing of ice cream products” approved under the January 2006 amendment to Special Permit No. 378. The applicant further stated that since all of the uses for which a Special Permit was necessary had ceased, it was their belief that the Special Permit had been rendered moot. Based on the preceding, the applicant felt that compliance with other conditions of approval were unnecessary and requested the Director’s concurrence with those assertions. The Director did not agree with the applicant’s assertions and stood by his previous determination that Plan Approval was required for all of the newly approved

uses (including a bakery, butter processing, storage, and distribution facility, limited retail sales area, and related improvements). Additionally, the Director advised that the applicant still needed to comply with Condition No. 6 (securing building permits), No. 7 (solid waste management plan), and No. 8 (water usage calculations) prior to issuance of Final Plan Approval and Condition No. 10 (wastewater improvements) after Final Plan Approval is granted.

Based on this direction, the applicant has contracted the services of engineer Peter JK Dahlberg, PE, R(S) of Aina Engineers Inc., to complete the studies and plans (Solid Waste Management Plan, water usage calculations, and site surveying) required to comply with conditions of approval required to be completed prior to issuance of Final Plan Approval. Additionally, the applicant is having the unpermitted structures and appurtenances on the property evaluated determine the cost of securing the necessary building permits. If this cost is too great, the applicant will remove the structures prior to issuance of Final Plan Approval. In order to finalize all of the preceding, the applicant is requesting a one (1)-year extension of time to secure Final Plan Approval.

**Granting of the time extension would not be contrary to the General Plan or the Zoning Code or for the original reasons for granting the permit.** The LUPAG designation for the subject parcel is Important Agricultural Lands, the zoning is agricultural, soils within the permit area site are classified as “B” or “Good” for agricultural productivity by the Land Study Bureau and are classified as “Prime Agricultural Lands” under the ALISH map. In addition, both the General Plan and South Kohala CDP have several policies protecting important agricultural lands. The existing butter processing, storage and distribution facility and limited retail sales area to sell value added agricultural products produced on the property are agricultural in nature, taking place within existing, permitted structures on an approximately 0.5-acre portion of a larger five (5)-acre parcel and are permitted under the existing Special Permit, as required by the Zoning Code.

The applicant is simply requesting a one (1)-year time extension to secure Final Plan Approval to comply with conditions of the Special Permit, which were required to satisfy the requirements of public agencies to ensure compliance with health and safety rules/codes for the permitted uses.

The original reasons for the approval of the Special Permit are still applicable, and the time extension request is not contrary to these reasons. As stated above, the agriculturally related uses permitted under the Special Permit are considered unusual and reasonable in the State Land Use Agricultural District and are not contrary to the objectives sought to be accomplished by State Land Use Law.

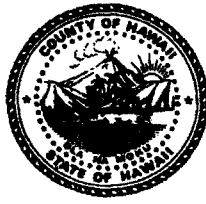
Continuation of the permitted uses within the existing, permitted structures is not expected to adversely affect surrounding properties or substantially alter the essential character of the land.

The permitted uses shall not unreasonably burden public agencies to provide services and infrastructure. The applicant is requesting the time extension to, in part, complete the needed studies, plans, and permitting required to ensure proper infrastructure and services to the property in support of the permitted uses. (i.e. Solid Waste Management Plan, water usage calculations, and building permits prior to Final Plan Approval and Wastewater system after Final Plan Approval).

Additionally, the permitted uses and requested time extension are not contrary to the General Plan, Zoning Code, CDP, Coastal Zone Management and State Land Use Laws.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

William P. Kenoi  
Mayor



Keith F. Unger, Chair  
Collin Kaholo, Vice Chair  
Nancy Carr Smith  
Scott Church  
Barbara Nobriga  
Oliver "Sonny" Shimaoka

## County of Hawai'i

### LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

JUN 24 2016

Roy A. Vitousek, III, Esq.  
Cades Schutte LLP  
75-170 Hualālai Road, Suite B-303  
Kailua-Kona, HI 96740-1737

Dear Mr. Vitousek:

**SUBJECT: Amendment to Special Permit No. 378**  
**Applicant: Lalamilo Farm Partners, LP**  
**Approved Uses: Allow a Fitness Center, Bakery, Butter Processing, Storage and Distribution Facility, Limited Retail Sales Area and Related Improvements**  
**Tax Map Key: 6-6-005:032 (portion)**

Please allow this letter to supersede our previous letter to you dated June 8, 2016, in order to correct a misrepresentation of approved uses within the letter, more specifically, within the title and the description of the Commission's action. We apologize for any confusion this may have caused you and your client.

The Leeward Planning Commission, at its duly held public hearing on May 19, 2016, voted to approve the above-referenced request to amend Special Permit No. 378. This amendment to Special Permit No. 378 allows the establishment of a fitness center, bakery; butter processing, storage, and distribution facility; limited retail sales area and related improvements on approximately 0.5 acre of land situated within the State Land Use Agricultural District. The project site is situated on the north side of Lālāmilo Farm Road approximately 900 feet west of its intersection with the Māmalahoa Highway and within the Lālāmilo Farm Lots Subdivision at Lālāmilo, South Kohala, Hawai'i.

Approval of this amendment is subject to the following amended conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The proposed "Five Mountain Fitness" fitness center shall be allowed to operate on the subject property until December 31, 2016. The applicant shall immediately remove the outdoor shower facility and any outdoor exercise equipment. Use of

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JUN 24 2016



the Fitness Center, including all improvements thereto, during the time frame agreed to herein, shall be in compliance with any and all applicable building, fire, electrical, plumbing, wastewater, and safety codes. Compliance with this condition shall be subject to Planning Department inspection.

3. All bakery operations shall be moved indoors within six (6) months after the date of this amended permit by the Planning Commission.
4. Retail space on the Property allowed for uses approved under this special permit amendment shall not exceed two hundred (200) square feet.
5. The applicant shall secure Final Plan Approval from the Planning Director in accordance with the requirements of the Zoning Code within one (1) year from the effective date of this amendment. Plans shall identify all proposed uses, existing and proposed structures, signage, fire protection measures, driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed uses.
6. Prior to issuance of Final Plan Approval, the applicant shall either secure all applicable building permits for, or remove all unpermitted structures and appurtenances from the property, including but not limited to all unpermitted additions to the original 7,875 square foot former vegetable processing facility. Should the applicant successfully permit the currently unpermitted additions, uses within the newly permitted spaces shall be limited to those that are either permitted under this Special Permit as amended, or as determined by Hawai'i Revised Statutes as being permitted in the State Land Use Agricultural District.
7. Prior to the issuance of Final Plan Approval, the applicant shall submit a solid waste management plan to the Department of Environmental Management for review and approval.
8. Prior to the submittal of plans for Plan Approval review, the applicant shall submit to the Department of Water Supply (DWS) for its review and approval the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i, and make any connection and water system improvements necessary based on the water usage calculation report. The applicant shall be responsible for any additional improvements deemed necessary by DWS. In addition, the applicant shall install a reduced pressure type backflow prevention assembly, which must be inspected and approved by the DWS.

Finally, subject to other agencies' requirements to construct improvements within the road right- of-way fronting the property affected by the approved uses, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.

9. No parking on public streets or right-of-way of any vehicle associated with the uses allowed by this amended permit will be permitted.
10. An individual wastewater system meeting with the standards and requirements of the State Department of Health shall be installed and/or upgraded to accommodate all uses approved under this permit, within one (1) year of the date of issuance of Final Plan Approval.
11. Within one (1) year of the date of issuance of Final Plan Approval, the applicant or lessees associated with uses approved under this permit shall secure and maintain all necessary food manufacturing and food service permits required by the State Department of Health.
12. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
13. Any expansion of the facility or uses beyond what is permitted under this permit amendment shall require an amendment to this permit.
14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
15. An initial extension of time for the performance of conditions, with the exception of Condition Nos. 2 and 3, 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).

If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

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.

*[Note: Ramseyer version available upon request.]*

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

Approval of this amendment is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,



Keith F. Unger, Chairman  
Leeward Planning Commission

LLalamiloamendSPP378lpc2  
Enclosure: PC Findings Report

cc: Mr. John Edney/Lalamilo Farm Partners, LP  
Mr. Sidney Fuke, Planning Consultant  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
State Land Use Commission  
Department of Environmental Management  
Thomas L.H. Yeh, Esq.  
Sherry P. Broder, Esq.  
William Brillhante, Esq., Assistant Corporation Counsel  
Mr. Gilbert Bailado

**COUNTY OF HAWAI'I**  
**PLANNING COMMISSION FINDINGS**

**LALAMILO FARM PARTNERS, LP**  
**AMENDMENT TO SPECIAL PERMIT NO. 378 (SPP 378)**

Based on statements and representations made by the Applicant and Intervenors during the April 21, 2016 Leeward Planning Commission (LPC) meeting on this matter, the LPC considered a revised recommendation from the Planning Director with the following clarifications:

- Meadow Gold has ceased its refrigerated box truck parking and distribution hub activities on the subject property, which therefore will not be considered as part of this Special Permit amendment.
- The Director has determined that the Honey Production and Distribution use is permitted in the State Land Use Agricultural District (HRS 205-2 (d)(7)) and permitted under County Zoning Code (Chapter 25-1-5 (b) under definitions for Agricultural products processing, minor. Therefore, this use will not be considered as part of this Special Permit amendment.
- The Director is recommending that a provision to allow an administrative time extension to the six (6)-month deadline to move all bakery operations indoors not be permitted.

Furthermore, the revised recommendation was reviewed based on the understanding that all parties to the March 13, 2016 Joint Stipulated Settlement Agreement agreed that it was not necessary to amend said settlement agreement in order for the LPC to take action on the recommendation.

Based on the preceding and following considerations, the amendment to Special Permit 378 to allow the retention and continued operation of a bakery; butter processing, storage and distribution facility; limited retail sales area and related improvements on approximately 0.5 acre of land situated within the State Land Use Agricultural District are approved. In addition, the continued operation of the fitness center and associated parking area will be phased out over time as agreed to in the joint Stipulated Settlement Agreement.

**LALAMILO FARM PARTNERS, LP** has requested to amend Special Permit No. 378 to allow the establishment of a fitness center; refrigerated box truck parking area; bakery; honey storage and distribution facility; butter processing, storage and distribution facility; limited retail sales area and related improvements on approximately 0.5 acre of land situated within the State Land Use Agricultural District. The subject property is located on the north side of Lālāmilo Farm Road approximately 900 feet west of its intersection with the Māmalahoa Highway and within the Lālāmilo Farm Lots Subdivision at Lālāmilo, South Kohala, Hawai'i, TMK: 6-6-005:032 (por).

The applicant is requesting an amendment to Special Permit No. 378 to legitimize and allow the continued operation of the following uses on the subject parcel:

- A fitness center and associated parking area;
- A bakery;
- Butter processing, storage and distribution facility;
- Limited retail sales area; and
- Its Related improvements

Special Permit No. 378 was originally approved on February 1, 1978 by the State Land Use Commission to allow the establishment of a vegetable processing facility. Since that approval date, the State Land Use law was amended to allow agricultural products processing, major and minor, as permitted uses in the State Land Use Agricultural District. On January 20, 2006, the Planning Commission approved an amendment to Special Permit No. 378 to allow the processing of ice cream products within the original 7,875 +/- square foot vegetable processing facility. This amendment was approved based on, amongst other things, that the vegetable processing would continue in conjunction with ice cream production, that ice cream production would be limited within the original 7,875-square foot vegetable processing facility (with a condition requiring an amendment should any expansion of uses or the facility take place) and that the remainder of the parcel would be used for agricultural activities.

Over time, the subject uses requested in this current amendment application were improperly established within the remainder of the original structure as well as within a series of approximately 2,500 square feet of unpermitted additions (used primarily for the fitness center and storage) and surrounding areas for parking on a 0.5-acre portion of the 5-acre subject parcel.

Lalamilo Farm Partners LP was issued a warning letter on August 1, 2014 by the Planning Department indicating that the applicant was renting/leasing space within the former vegetable processing facility and unpermitted additions for the preceding and other unpermitted uses based on a public complaint and site investigation by Planning Department inspectors on August 21, 2014. The Planning Department issued an additional warning letter on September 12, 2014 following another site inspection at the applicant's request to identify any other Zoning Code issues so that the applicant could prepare and submit this requested amendment to Special Permit 378 to cover these unpermitted uses as corrective action prescribed in both letters (copies of these letters are attached to the amendment application). The applicant was given a deadline of December 15, 2014 to file the amendment request with the initial application to Amend SPP No. 378 submitted on December 10, 2014.

The Leeward Planning Commission (LPC) held a hearing on the subject Special Permit amendment request on March 19, 2015. At the hearing, the LPC granted standing to Nathan Hirayama, Cheryl Hirayama, Royce Hirayama, Charlene Hirayama, Raymond Kawamata, Earl Yamamoto, Myles Tomiyama and Sandra Tomiyama to participate as intervenors in a contested case hearing. In addition, the LPC voted to have the contested case heard by an outside hearings officer. Proceedings for the Contested Case hearing were held over two days (November 19 and 20, 2015) at the North Hawai'i Education and Research Center (NHERC) in Honoka'a, Hawai'i before hearings officer Sherry Broder.

Additional hearings were to be scheduled, however, on March 23, 2016 the applicant, intervenors, and Planning Department reached a Stipulated Settlement Agreement (hereinafter referred to as "settlement agreement") which suspended the contested case hearing pending approval of the Special Permit Amendment with stipulated conditions by the Leeward Planning Commission. This settlement agreement stipulates a series of conditions which provide mitigation for impacts to the surrounding community. These stipulated conditions form the basis for conditions of approval for this Special Permit amendment.

The Leeward Planning Commission (LPC) held a second hearing on the subject Special Permit amendment request on April 21, 2016. At that hearing, the LPC voted to continue its meeting on this matter to its May 19, 2016 meeting in order to provide the Director time to update his recommendation based on representations made by the Applicant and the Intervenor at this meeting.

The grounds for approving a Special Permit are based on Rule 6-7 in the Planning Commission Rules of Practice and Procedure. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i 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 Lālāmilo Farm Lots subdivision was initially established as an agricultural subdivision by the State of Hawai'i in 1961. The State originally established restrictive covenants on these lands limiting the agricultural use to row crops and orchards. Although, for the most part, the restrictive covenants for the Lālāmilo Farm Lots have been lifted, the uses permitted are still restricted to those agricultural uses permitted under Chapter 205 of the Hawai'i State Land Use Law and further defined by Chapter 25 of the Hawai'i County Code regarding Zoning. Soils within the Lālāmilo Farm Lots subdivision are rated as Class "B" or "good" for agricultural productivity under the Land Study Bureau Soil Rating system, and it is also classified as "prime" under in the classification of Agricultural Lands of Importance to the State of Hawaii ("ALISH"). The farms in this agricultural subdivision presently produce a significant percentage of produce and cut flowers grown in the state, including Chinese cabbage, tomatoes, asparagus, strawberries, cantaloupe, watermelon and a wide variety of lettuce. In addition, the State has invested heavily in agricultural infrastructure for the area including the Kamuela Vacuum Cooling Plant which is a large warehouse co-op run by Lālāmilo farmers in partnership with the State Department of Agriculture to cool down Waimea-grown vegetables before being shipped to market and the Waimea Irrigation System, where Lālāmilo farmers utilize 680,000 gallons per day (85%) of the irrigation water supplied by this this system for crop production.

The subject property is five (5) acres in size and is situated within the County's Agricultural (A-5a) zoning district. The property was developed with an original 7,875+/- square foot vegetable processing facility, which was subsequently increased to 10,375+/- square feet in size, primarily through the construction of unpermitted additions. Furthermore, there are associated parking areas, a dwelling, agricultural storage structures, and 16 greenhouses on the property. According to the applicant, at least half of the 16 greenhouses on the property are being leased to local farmers who are growing various agricultural products (tomatoes, orchids, strawberries, and poha berries), and the applicant intends to continue to find prospective farmers to lease the remaining greenhouses. Finally, the applicant is proposing to plant a fruit orchard on unused portions of the property to supply fruit for use in the permitted ice cream production facility.

While the vegetable processing facility no longer processes vegetables, the structure has been used in the manufacturing of premium ice cream as permitted under the January 20, 2006 Special Permit amendment. One of the proposed uses under the current amendment request, butter processing, are related to the manufacture of the ice cream by using byproducts of the ice cream manufacturing process to produce butter.

The bakery uses many local agricultural products in their baked goods, which according to the owner of this business, includes local chocolate, macadamia nuts, Kona Coffee, citrus, lilikoi, poha, mango, banana, pineapple, sea salt, honey, raw sugar, ginger, herbs and butter. Finally, the approximately 200 square foot, limited retail sales area provides a space for direct sales of the value-added products to local consumers.

While the majority of the proposed uses themselves are not strictly agricultural in nature in the sense of cultivation or propagation of crops or animals, they will utilize Hawai'i-grown agricultural products in the manufacture of various value-added products. The majority of proposed uses have been and will continue to take place within the original footprint of the 7,875-square foot vegetable processing facility. Exceptions to this include a portion of the bakery operation that is located on the lanai/concrete parking area adjacent to the building and a portion of the fitness center that is being operated within unpermitted additions to the original vegetable processing facility. In total, the uses being recommended for approval only utilize about 1/2 acre of land within a larger 5-acre parcel that has already been improved and established to accommodate non-cultivable activities and thus will not diminish the potential for agricultural activity on the remainder of the property.

The proposed bakery and butter processing, storage and distribution facility and its related improvements are *reasonable* uses upon this portion of the subject property due to its use of agricultural products grown in the state as prescribed by State Land Use Law at HRS §205-4.5(a)(15) and HRS §205-2(d)(15)(B) whereby "*Retail activities in an enclosed structure owned and operated by a producer for the display and sale of agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer's agricultural operations, and other food items*" are defined as permitted uses on Agricultural lands. What is not clearly defined by State law is the required amount of Hawai'i-grown products to be utilized to create such value-added products that would then qualify its manufacture and retail as a permitted use. Furthermore, this section of law requires that the retail sale of agricultural and value-added products be conducted by and within a structure owned by the "producer" of the agricultural products. The subject property and the existing 7,875 square foot former processing facility is owned by Lalamilo Farm Partners, LLP. Aside from the butter production, we are not aware that the landowner is also an owner of any of the proposed production activities. Therefore, for the sake of process and to seek assurance of compliance with applicable land use regulatory requirements, this amendment to the Special Permit is the proper regulatory vehicle to consider the proposed uses.

The proposed bakery; butter processing, storage and distribution facility and limited retail sales area and its related improvements are *reasonable* uses upon this portion of the subject property due to its use of agricultural products grown in the state as its accommodation within the general footprint of the former vegetable processing facility.

The fitness center is an unusual and *unreasonable* use of Agricultural lands because it has no direct relationship with any use permitted within the Agricultural district and does not provide a service that would promote such agricultural activities.

**(A) Such uses shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The 5-acre parcel is designated as Important Agricultural Land by the General Plan LUPAG Map, comprised of soils classified by the Land Study Bureau's rating system as class "B" or "Good" for agricultural productivity and further classified as "Prime Agricultural Lands" by the ALISH map. As stated above, all of the proposed uses utilizing Hawai'i-grown products in its manufacturing processes and associated retail activities will take place largely within the original footprint of the former vegetable processing facility and within approximately 1/2 acre within a larger 5-acre parcel that has already been improved and established to accommodate non-cultivable activities. Therefore, these approved uses will not displace any existing agricultural activity nor diminish the agricultural potential of the remainder of the property and will not adversely affect the preservation and agricultural use of the County's prime agricultural lands and is largely consistent with the intent of the State Land Use Law that permits the manufacture of value-added products that were produced using agricultural products grown in Hawai'i.

Therefore, these proposed uses are not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations, especially when the proposed uses and associated activities will be limited to the footprint of the existing former vegetable processing facility and existing parking areas encumbering an additional 1/2-acre of land. The proposed butter processing operations are incidental to the permitted ice cream manufacturing and the limited retail sales area within the former vegetable processing facility is also incidental and directly supportive of the bakery and butter production facilities. The bakery and the butter processing/storage/distribution facility and their related activities and facilities all directly incorporate and promote the use of Hawai'i-grown products

To this end, however, the Department could conceivably support the continued use of the fitness center within the approximately 7,875 square foot structure that formerly accommodated the vegetable processing facility. Testimony in favor of allowing for the continued operation of the fitness facility has demonstrated the level of support for this facility by some residents within Lālāmilo Farm Lots subdivision as well as within the broader community as an unusual and reasonable use. It is understandable and reasonable that a landowner would wish to maximize the use of the underutilized former vegetable processing facility. While this property is situated within an area that comprises some of the best quality soils on the island for agricultural productivity, approximately one-half (0.5) an acre of high quality soils have already been displaced by the construction of the former agricultural production facility and adjacent parking area.

The settlement agreement allows for the fitness center to continue operation until the end of the 2016 calendar year. This allowance is based on several conditions, including the immediate cessation of the use of outdoor shower facilities, the requirement to obtain after-the-fact land use and building permits on all associated unpermitted structures, and no possibility for administrative or Commission granted time extensions. It is recommended that the commission require the use to phase out at the end of the year and incorporate the settlement agreement conditions as conditions of this permit.



**(B) The desired uses would not adversely affect surrounding properties.** Properties to the south and west of the subject property are zoned A-5a and consist of vegetable and truck crop farms and dwellings within the Lālāmilo Farm Lots subdivision. The adjacent property to the east is zoned A-5a and further east across Māmalahoa Highway is a large parcel which contains the Parker Ranch racetrack, zoned A-40a. Adjacent to the north of the racetrack is the Luala'i residential subdivision zoned RS-7.5. Properties to the north of the subject parcel are zoned A-5a and A-1a and are vacant. The nearest dwelling is located to the south across Lālāmilo Farm Road approximately 200 feet from the subject property boundary.

The proposed uses and associated traffic generated include workers of the various businesses, customers of the retail sales area, and fitness center members. The Applicant estimates the non-fitness center related traffic to increase on the order of 8-12 inbound vehicular trips (or 16-24 total trips) per day. According to the Applicant, the fitness center, accommodates about 6 to 7 members per hour. However, this amount of traffic will cease with the closure of the fitness center. All combined, the proposed uses is not expected to generate a level of traffic that would significantly impact Lālāmilo Farm Road. The Department of Public Works, which maintains Lālāmilo Farm Road, and the Police Department, both did not express any concerns regarding the proposed uses. Therefore, we determine that the level of traffic generated by the approved uses will not have a significant impact upon Lālāmilo Farm Road or upon surrounding properties. In order to address concerns over additional traffic caused by the retail sales area, the settlement agreement introduced a condition limiting the size of the retail sales area to its existing 200 square feet. The settlement agreement also introduced a condition restricting parking on public roads/streets or rights-of-way. These conditions will be added as a condition of approval of this permit amendment.

There will be some construction noise during renovation work to remove unpermitted structures, however this noise increase will be temporary and contractors will be required to comply with State Department of Health noise standards. There may be additional noise from increased vehicular traffic to the site, however it is not expected to be significant.

With the exception of some of the bakery and fitness center uses, most of the proposed uses will take place within the existing, 22-foot tall former vegetable processing facility structure. The bakery operation preparation area is located within the structure, however, most of the baking ovens (wood fired and electric) are located on the concrete loading dock area under an overhang on the west side of the building. In order to mitigate any negative impacts on the surrounding community, the stipulated settlement agreement is requiring the bakery to move completely indoors within six (6) months for the issuance of the Special Permit by the Planning Commission. Based on discussions at the April 21, 2016 LPC meeting, the Director has determined that this Recommendation should include no provision for an administrative time extension to performance deadlines for both the bakery and the fitness center.

In addition, according to the Applicant, no lights are being planned for the existing parking area which should minimize visual impact during the evening hours. Finally, landscaping the parking area along Lālāmilo Farms Road will be required as part of the Plan Approval process as a condition of this permit, which should minimize visual impact to surrounding properties.

Adjoining and nearby property owners have expressed concerns that are not directed at how the proposed uses will affect them or their properties, but how commercial and urban uses should not be located within or near to farming areas due to the potential for complaints from

these commercial and urban uses about the dust, noise and odors which emanate from these farming operations. Concerns about liabilities upon these adjoining and neighboring farmers due to potential legal claims of illness caused by the spraying of chemicals and fertilizers on neighboring farms were also raised. While we can appreciate the concerns raised by these neighboring farmers, they can rely upon the privileges afforded to these neighboring landowners by the Hawai'i Right to Farm Act.

**(C) Such use shall 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 provided by the County-maintained Lālāmilo Farm Road that maintains an approximately 20-foot wide pavement with grass shoulders situated within a 40-foot wide right-of-way. The County Department of Public Works did not express any concern or specify any required improvements to accommodate the propose uses. All combined, the proposed uses are not expected to generate a level of traffic that would significantly impact Lālāmilo Farm Road. The Department of Public Works, which maintains Lālāmilo Farm Road, and the Police Department, both did not express any concerns regarding the proposed uses.

According to the Department of Water Supply (DWS), water is available from an existing 6" waterline fronting the subject parcel along Lālāmilo Farm Road. Currently, the water meter serving the site should be serving a different parcel (Parcel 20). The Applicant indicated that they would resolve the water meter assignment discrepancy with DWS. In addition, DWS requires estimated daily water usage calculations by a Hawai'i licensed engineer, including the total estimated daily water usage in gallons per day and the estimated peak flow in gallons per minute (GPM) and including irrigation use to determine additional water system improvements that may be needed. Upon receipt of the water usage calculations above, the DWS will make a determination as to the water commitment deposit amount and prevailing facilities charge, which is subject to change, to be paid. Based on the water demand calculations, the Department will determine the appropriate service lateral and meter size required. The existing service lateral will need to be cut and plugged. Additionally, as required by the DWS, a reduced pressure type backflow prevention assembly will be required to be installed within five (5) feet of the meter and on private property. If a larger or additional meter is required, a backflow prevention assembly will also be required for that meter. The installation of the backflow prevention assembly(s) must be inspected and approved by the DWS before water service can be activated.

There is no public sewer system servicing the subject property. Wastewater disposal for the existing structures are presently accommodated by a septic system. According to the State Department of Health (DOH), the existing wastewater system is inadequate for the proposed project and requires the installation of a new wastewater system designed by a licensed engineer and approved by the DOH, which will be made a condition of this approval.

According to the Department of Environmental Management, there are no municipal solid waste collection services in the County. All solid waste generated by the proposed use will require private disposal at the West Hawai'i Sanitary Landfill. The Department of Environmental Management also recommends that a solid waste management plan be prepared, submitted and approved by their office, which will be a condition of this approval.

All other essential utilities and services are available to the site. Police, fire, and medical services are located in Waimea, less than 2 miles away.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's Agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. The property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various non-agricultural services that may not be available or allowed by zoning for its residents.

Since the district boundaries were established, the Hawai'i agricultural industry has trended away from larger mono-crop farms producing raw agricultural commodities (i.e. sugar and pineapples). Instead, the industry has trended towards smaller, more diversified farming operations which rely on the ability to process their own products or sell their raw products for processing to produce value-added agricultural products. This creates more flexibility for small farmers/ag producers to respond to consumer demand and opens up more local and export markets for their crops. The proposed bakery, butter processing and distribution facility, and limited retail sales area support this agricultural trend.

**(E) The land upon which the proposed uses are sought are unsuited for the uses permitted within the district.** Soils within the permit area site are classified as "B" or "Good" for agricultural productivity, are classified as "Prime Agricultural Lands" under the ALISH map, and are designated as Important Agricultural Lands (IAL) by the General Plan LUPAG Map. Important agricultural lands are those with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. There are 16 greenhouses on the property, at least half which are being leased to local farmers who are growing agricultural products (tomatoes, orchids, strawberries, and poha berries). In addition, the applicant is proposing to plant a fruit orchard on unused portions of the property to supply fruit for use in ice cream production.

As stated above, all of the uses recommended for approval will take place largely within the original footprint of the former vegetable processing facility, and occupying approximately 1/2 acre within a larger 5-acre parcel that has already been improved and established to accommodate non-cultivable activities. Moreover, in order to protect the remainder of the prime agricultural land on the parcel, a condition of approval for this permit will require the applicant to remove all unpermitted structures from the property and limit parking associated with the proposed uses to the concrete parking area approved under the January 20, 2006 Special Permit amendment and which existed on the date of this amendment application (January 15, 2015).

Requiring the phasing out of the fitness center as a condition of approval of this amended permit will ensure that this particular non-agricultural use will not permanently displace potential agricultural use of this existing processing facility and ensure that the existing building and surrounding lands are available for agricultural purposes in a relatively quick timeframe.

Based on the preceding, the proposed uses will not diminish agricultural opportunities within the subject property and thus will not adversely impact its agricultural potential.

**(F) The proposed uses will not substantially alter or change the essential character of the land and the present use.** The essential character of the property and surrounding area is agricultural. The applicant plans to utilize only .5 acre within a 5-acre parcel to accommodate the proposed uses. Most of the needed improvements associated with the requested uses already exist (i.e. former vegetable processing facility and parking areas). For the most part, the proposed uses are related to or support local agriculture and will take place within the footprint of the former vegetable processing facility and existing paved parking area. Therefore it is not anticipated that the proposed use will substantially alter the essential character of the area. One must note that the essential character of agricultural land within the State of Hawai'i has changed over the years. Once primarily exclusive to the cultivation of crops and the propagation of animals, the State Land Use Law now allows for agricultural tourism operations, wind energy and solar energy facilities, biofuel production facilities, open area recreational uses like ziplines, and agricultural-based commercial operations. More specifically to the subject property and the proposed uses, we do not see a significant departure from the character of the property over the years as a vegetable processing facility to an ice cream manufacturing facility, to the current proposal, which will house the primary uses within the original footprint of the vegetable processing facility.

**(G) The request will not be contrary to the General Plan and Community Development Plan (CDP).** The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The project site is identified by the LUPAG map as Important Agricultural Lands, which are lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. In addition, the South Kohala CDP (adopted in 2008) also makes several Policy and strategy references to Protection of Important Agricultural Lands (including Waimea Policy 1 and Waimea Strategy 3.1).

As stated above, all of the proposed uses will take place largely within the original footprint of the former vegetable processing facility, and within approximately 1/2 acre within a larger 5-acre parcel that has already been improved and established to accommodate non-cultivable but related agricultural activity on the property. The fitness center use will phase out within a time frame as provided in the settlement agreement.

**The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management.** The property is located more than 10 miles away from the nearest shoreline and will not be impacted by coastal hazards or affect beach erosion, coastal ecosystems and marine resources. Additionally, it is not located in the Special Management Area. There is no record of a designated public access to the shoreline or mountain areas that traverses the property. According to the applicant, no valued cultural or natural resources exist on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced at the site. No formal archaeological study was conducted of the property due to past and current agricultural use of the land and because no ground disturbing activities are proposed.

The Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) issued a "no-effect" letter dated February 11, 2015 stating that they believe that there are no historic properties present within or adjacent to the proposed project area and as the proposed amendment would not result in additional land disturbance. Therefore, the proposed uses are not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building and change of use permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above considerations, the **approval of the amendment request to allow a bakery; butter processing, storage and distribution facility; limited retail sales area and related improvements on approximately 1/2 acre of land would support the objectives sought to be accomplished by the Land Use Law and Regulations. The operation of the proposed fitness center on the subject property will be discontinued and phased out within the agreed upon period specified by the settlement agreement.**

December 8, 1977

Mr. Stephen Yamashiro  
297 Waiianuenue Avenue  
Hilo, HI 96720

Dear Mr. Yamashiro:

Special Permit Application  
Petitioner: Honolulu Poi Co., Ltd./  
Walter Imaoka  
Tax Map Key 6-6-05:Portion of 20

The Planning Commission at its regular meeting of December 6, 1977 considered your application for a special permit to allow the establishment of a vegetable processing plant on five (5) acres of land situated within the State Land Use Agricultural District at Lalamilo, South Kohala, Hawaii.

The Commission voted to forward a favorable recommendation to the Land Use Commission subject to the following conditions:

1. That the petitioner or its authorized representative, with authorization from the property owner of the subject parcel, shall submit subdivision plans within one (1) year of the effective date of approval of the Special Permit. The petitioner or its authorized representative shall be responsible for final subdivision approval.
2. That the petitioner shall commence construction of the proposed facility within one (1) year of the date of final subdivision approval and be completed within two (2) years thereafter.
3. That use of the existing processing facilities on the Okada property, identified as TMK: 6-6-05:13, shall be terminated within 90 days of the establish-

DEC 13 1977

EXHIBIT

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December 8, 1977

ment of the proposed processing facilities on TMK:  
6-6-05:portion of 20 and Special Permit 75-225 shall  
be nullified.

4. That the applicant shall comply with the Rules  
and Regulations of the Department of Water Supply.
5. That all other applicable rules and regulations,  
including the plan approval process, shall be  
complied with.

Should any of the foregoing conditions not be met, the  
Special Permit may be deemed null and void.

In the meantime, should you have any questions, please  
feel free to contact the Planning Department at 961-8288.

Sincerely,



(Mrs.) Lorraine R. Witzchaku  
Chairman, Planning Commission

lgv

cc Mr. Ernest Tottori  
State Land Use Commission  
Land Use Division, DPED

STATE OF HAWAII  
LAND USE COMMISSION

MEMORANDUM

TO: Land Use Commission DATE: February 1, 1978  
FROM: Staff  
SUBJECT: SP77-284 - Honolulu Poi Company, Ltd./ Walter Imaoka

The petitioner, Honolulu Poi Company, Ltd., is requesting a Special Permit to allow the establishment of a vegetable processing plant on approximately five (5) acres of land situated within the State Land Use Agricultural District at Lalamilo, South Kohala, Hawaii, Tax Map Key 6-6-5: portion of 20. The subject property is situated within the Lalamilo Farm lots, approximately 1,000 feet west of the Mamalahoa Highway (see County Exhibit J-1). Access to the site is available off of the Mamalahoa Highway via the Lalamilo farm lot road.

The petitioner intends to purchase a five acre portion of parcel 20 from the present landowner, Walter Imaoka, to construct a 75 feet x 150 feet vegetable processing facility. The vegetable processing facility will be used for the receiving, washing, cutting and packaging of lettuce and cabbage for salad mixes and other vegetable products. The produce will be obtained from growers in the Kamuela area. The packaged produce will then be shipped to Honolulu.

In support of the request the petitioner has in part stated the following:

"Honolulu Poi is in the business of manufacturing poi, growing, processing and packaging of mungo beans sprouts, soy sprouts, alfalfa sprouts, fresh tossed green salads, shredded lettuce salads, cole slaw and other fresh vegetable products using locally grown produce. At the present time, Honolulu Poi is purchasing large quantities of the produce needed for its processed vegetable and salad lines from various farmers in Kamuela...

"Pursuant to consent granted by the Board of Land and Natural Resources on August 29, 1975, and action by the Planning Commission of the County of Hawaii, on October 16, 1975, and the State Land Use Commission of the State of Hawaii on December 5, 1975, granting a Special Use Permit, Honolulu Poi, under agreement with NOBUE OKADA and YOSHIE MATSUMOTO OKADA, has been operating a vegetable processing plant on a portion of Lot 22, Lalamilo Farm Lots...



"The agreement between NOBUE OKADA and YOSHIE MATSUMOTO OKADA and Honolulu Poi will terminate on December 31, 1978. Because of Honolulu Poi's desire to further improve its capacity and product, a larger permanent facility is needed.

"Walter Imaoka & Tamae Imaoka... are the present owners of Lot 2, Lalamilo Farm Lots, South Kohala, Island, County and State of Hawaii. Subject to consent by the Board of Land and Natural Resources, and approval by the Planning Commission of the County of Hawaii and the Land Use Commission, the Imaokas have agreed to sell to Honolulu Poi a five-acre portion of Lot 2. The area purchased by Honolulu Poi would be used to construct a permanent processing plant and facilities to cultivate seedlings for various vegetable crops which will be made available to the farmers. The balance of the property retained by the Imaokas will not be adversely affected and can still be used for truck crops. Honolulu Poi would be the owner of the land upon which the vegetable processing facility would be located.

"During its operations, the plant will utilize a six day a week schedule and employ an optimum of 13 employees. Twelve employees will be used to trim, wash, cut and package and one employee will act as a supervisor-driver.

"The plant will utilize water in all its operations and for daily cleaning and maintenance of the work area. Based on the consumption of water at its present location in Honolulu, there will be a need of about 2,000 to 3,000 gallons of water for an 8-hour operation. With this level of water consumption, the plant will process 2,000 to 4,000 pounds of product a day during an 8-hour shift. No additives, which will be noxious to animal or plants will be in the discharged water. The only foreign substance will be the soil herbicides and fertilizer and revivor rinsed from the processed vegetables. Methods of recovering the soil and recycling the water are being looked into and as part of the development of the seedling cultivation facility.

"As a power source, the plant will need two (2) 220-volt, three phase electrical lines. These will be used for the air conditioning, refrigeration and power for the cutter and spin dryer. The trim and other organic waste from the plant operations will be made available as animal feed or as compost. It may also be spread over the adjoining fields and plowed under as fertilizer.

"At the present time, the farmers in the Lalamilo area deliver products to Honolulu Poi's pilot plant in Lalamilo. In the process of doing so, they are relieved of the responsibility of shipping costs, the cost of the

cardboard cartons, and loss due to spoilage or damage in shipment. By placing the vegetable processing plant in the area close to the source of supply, Honolulu Poi has assumed the farmers of the cost of freight to Honolulu and in addition, the farmers have been relieved of the cost of packaging in cartons and the risk from spoilage. The vegetables that are accepted by Honolulu Poi at its plant will be fresher and any loss due to spoilage or damage in shipment is the responsibility of Honolulu Poi. What the farmers send in and is accepted will be what they are paid for. The advantage to Honolulu Poi is that it will get a fresher produce at a lower price. It will be able to utilize produce that are off grade because of size or with removable defect, but is otherwise acceptable for use. The availability of the produce would be stabilized and it would be hoped that greater local production would be encouraged.

"The community would be benefited by the creation of new jobs. Though the jobs will not be for high paid skilled labor, it will offer work to those with the desire to earn a fair pay for their efforts. The infusion of money in the form of salaries and purchase from the community will add to the economic base of the area. This in turn will generate tax revenue for both the County and State.

"The proposed use will not alter the nature and use of the surrounding area. The building will only take up a portion of the five acres, with the balance to be devoted to the cultivation of seedlings. The balance of the property retained by Imaokas remain available for agricultural use.

"The utilization of the building to process fresh, locally grown vegetables will put the property to the highest and best use. The availability of a 'new' market in the area will make it possible for the farmers to increase their return, thereby improving the use of the surrounding area."

The County of Hawaii's General Plan Land Use Pattern -- Allocation Guide Map designates the subject property for extensive agriculture. This designation applies to lands which may be used for pasturage and ranching. The property is presently zoned Agricultural 5-acres.

The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "B" or "Good" for the subject site. These soils are of the Waimea series and mainly used for pasturage and truck crops. Average annual rainfall range between 30 to 45 inches.

Surrounding land uses include truck and flower farming, ranching, a horse race track and vacant lands. The Kamuela Airport is located approximately 3/4 mile southeast of the subject parcel.

The Lalamilo farm lot road which provides access to the site has a 40 feet right-of-way and 16 feet pavement width.

Pertinent comments from governmental agencies:

1. Department of Land and Natural Resources

Since the subject parcel is located within the State developed Lalamilo Farm Lots, consent for the use and proposed subdivision from the Board of Land and Natural Resources is required. This consent was granted and noted in comments submitted by the Department of Land and Natural Resources:

"As documentation which accompanied the application shows, the Board of Land and Natural Resources has consented to use of the five-acre portion of Lot 2 of the Lalamilo Farm Lots for the construction and operation of a vegetable processing facility and has approved submission of the special permit application (September 23, 1977, meeting, agenda Item F-5).

"Accordingly, we recommend the application be approved."

2. Department of Water Supply

"The existing water system facilities within the Lalamilo Farm Lots will not be able to support the anticipated water demands for the proposed vegetable processing plant.

"Water to service this facility is available from the 6-inch waterline along Mamalahoa Highway. The applicant will be required to comply with our Rules and Regulations at the time of application for water service.

"On the matter of the proposed two-lot subdivision that is intended, water service is available from the existing Lalamilo waterlines, provided that the usage will be for domestic use only and that the meter will be limited to the 5/8-inch size."

3. Department of Health

"Our comments are made in a supportive manner. Private sewage and grey water disposal systems should address the Public Health Regulations requirements, Chapter 38, Sewage Treatment and Disposal Systems."

#### 4. U.S. Soil Conservation Service

The U.S. Soil Conservation Service provided the following comments:

"The soil type present is Waimea very fine sandy loam. The parcel is at about 2620 feet elevation and receives between 30 and 45 inches annual rainfall. Strong winds are common in this area. A means of preventing soil erosion from the wind should be considered. This may involve watering to prevent dust during construction as well as a series of permanent windbreaks.

"A system to dispose of waste water should be considered. The proposal to spread the recycled water over the seedling area is good if the water can be applied in such a way that erosion from runoff does not occur. This land, although categorized as Prime Agricultural Land, would not be abused if the above mentioned precautions are taken."

Other cooperating agencies, including the Department of Agriculture, Fire Department, Police Department, and Department of Public Works had no objections to the subject permit request.

At the public hearing held by the Hawaii County Planning Commission on November 16, 1977, two representatives of the petitioner spoke in favor of the Special Permit. There was no testimony in opposition to the request. For the Commission's information, the November 16, 1977, hearing transcript has been attached (County Exhibit Q).

On December 6, 1977, the Planning Commission voted to recommend approval of the Special Permit to the Land Use Commission based upon the following findings:

"That the proposed use will not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations. The intent of these statutory provisions is 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 lands of high agricultural potential for agricultural uses. The purpose of the subject request is to allow the establishment of a vegetable processing plant. The plant will service vegetable farmers in the area by buying, packaging and marketing products for them. The proximity of the processing plant to the growers minimizes losses due to spoilage or damage in shipment. Thus while the establishment of the plant will remove a portion of the proposed five-acre lot from farming, it will benefit the overall agricultural productivity

of the region. In light of such factors, it is determined that the proposed processing plant will further the objectives of the Land Use Law and Regulations by providing essential support facilities for agricultural activities in the region.

"That the proposed use will not unreasonably burden public agencies to provide facilities and services. The petitioner is presently operating a similar facility in the Lalamilo Farm Lots. The Lease of that location will be terminated on December 31, 1978. The proposed facility will enable the transfer of operations from the present location to the Imaoka property. The present operation is provided with all essential utilities, public services and facilities. Water supply is adequate at the present plant operations level. During the initial stages of the proposed operation, the applicant stated that the level of water consumption will remain about the same. Although domestic water services may not be adequate for the expansion of operations due to distribution system limitations, the petitioner is considering the installation of a private treatment unit to supplement future water needs from the existing agricultural water line.

"That the proposed use shall not adversely affect surrounding properties. The subject property is within the Lalamilo Farm Lots subdivision which was created by the State for agricultural purposes. Other uses are allowed with written consent from the Board of Land and Natural Resources. Consent was granted in September, 1977. Given the intent of the State in creating the Lalamilo Farm Lots and the purpose of the requested use, it is determined that the establishment of a vegetable processing plant on the subject property will not adversely affect surrounding properties.

"That the proposed use will not substantially alter or change the essential character of the land and present use. Although the petitioner intends to purchase five (5) acres from the owners, only a portion will be used for the processing plant facility. The remainder of the property will be used to cultivate seedlings.

"That the proposed use will make the highest and best use of the land for the public welfare. A major policy of the State and the County is the encouragement and support of agricultural activities throughout the State. The proposed use is intended to facilitate and improve marketing conditions. As such it is in concert with the State and County agricultural policy. It is therefore determined that the proposed use will promote the highest and best use of the subject property in the interests and welfare of the people of Hawaii."

The favorable recommendation was subject to the following conditions:

1. That the petitioner or its authorized representative, with authorization from the property owner of the subject parcel, shall submit subdivision plans within one (1) year of the effective date of approval of the Special Permit. The petitioner or its authorized representative shall be responsible for final subdivision approval.
2. That the petitioner shall commence construction of the proposed facility within one (1) year of the date of final subdivision approval and be completed within two (2) years thereafter.
3. That use of the existing processing facilities on the Okada property, identified at TMK: 6-6-05: 13, shall be terminated within 90 days of the establishment of the proposed processing facilities on TMK: 6-6-05 portion of 20 and Special Permit 75-225 shall be nullified.
4. That the applicant shall comply with the Rules and Regulations of the Department of Water Supply.
5. That all other applicable rules and regulations, including the plan approval process, shall be complied with."

It was further stated by the Planning Commission that: "Should any of the foregoing conditions not be met, the Special Permit may be deemed null and void."