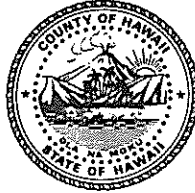


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

July 22, 1993

Hawaiian Acres Community Association
PO Box 368
Kurtistown, HI 96760

Gentlemen:

Special Permit Application (SPP 93-6)
Applicant: Hawaiian Acres Community Association
Request: Establish a Volunteer Fire Station, Community Center
and Related Improvements
Tax Map Key: 1-6-52:2

The Planning Commission at its duly held public hearing on July 15, 1993, voted to approve the above application. Special Permit No. 845 is hereby issued, to establish a volunteer fire station, community center and related improvements on approximately 3 acres of land within the State Land Use Agricultural district. The project site is located on the east (towards Keaau) side of Captain's Drive between its intersections with McCoy Road and Kaleponi Road, Fern Forest Subdivision, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii.

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JUL 22 1993

In the case of the Agricultural Districts, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The land on which the proposed use is located is classified as "E" or "Very Poor" by the Land Study Bureau for agricultural productivity and not classified by the ALISH Map. The subject property has not been in active agricultural production and would not be taking high potential agricultural lands out of use nor will the requested use have an adverse impact on the overall agricultural activity in the area. Although the granting of the proposed volunteer fire station and community association building/emergency shelter would allow the establishment of a non-agricultural use on the property, the proposed use would allow for the establishment of the community's basic protective services and be in the best interest of the general welfare of the Hawaiian Acres community. Therefore, the proposed use shall not be contrary to the objectives of the State Land Use Law for the Agricultural district.

The desired use will not adversely affect the surrounding properties. Surrounding uses include vacant lands with scattered residential and agricultural uses. Although there are no adjacent neighbors at the present time, it is recommended that a landscaping buffer be established and determined at the time of plan approval review, along the northwest (rear) and northeast property (side) property boundaries to minimize any noise impacts upon future residents.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, police and fire protection. Sewer will be by cesspool and water will be provided by a water catchment system. Access to the property is by approximately 1 mile of County paved roads and 1.1 miles of private paved and unpaved roads. The property is on the corner of Road 8, which is an asphalt-paved, single-laned 10-foot wide roadway; and Road C, which is an unpaved road with a 40-foot right-of-way. Although the roads leading to the subject property are not paved to County standards, the public safety benefits of the proposed uses outweigh the burden that unpaved roads place on public agencies. More specifically, the construction of a volunteer fire station would decrease emergency response time to a growing community that is located a considerable distance (3-5 miles from Highway 11) away from an existing fire station. Also, the construction of a community service building would allow for community activities to be held

within the subdivision, in the immediate vicinity where the residents actually live. The use of the building as an emergency shelter would also provide a basic service to the community. In addition, all requirements of the Department of Health, Department of Public Works and Fire Department shall be complied with prior to the establishment of the proposed uses as a condition of approval.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The fact that the subdivision was created without adequate infrastructure is a tremendous burden on the County. There is a definite need for the proposed uses. The efforts of this community to take action and assume responsibility to increase their public safety needs through the construction of a volunteer fire station is laudable. In addition, the community center building/emergency shelter would also provide a place where activities can be held and where a sense of "community" can be fostered.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district, however, the proposed use will not interfere with permitted uses. The proposed volunteer fire station, community association building/emergency shelter and related improvements will be used by the existing residents and essentially support existing and future community development by providing a much needed public safety service.

The proposed use will not substantially alter or change the essential character of the land and the present use. The subject property is approximately three acres in size and with an existing structure presently used as the community service building. There is also a tractor shed on the property. The construction of a volunteer fire station and the continued use of the property by the association will not displace agricultural uses.

The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the area for Orchards. The proposed use is consistent with the goal of the Land Use Element of the General Plan which is to "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and "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 proposed use also meets the goal of the Public Facilities Element of the General Plan which states "Encourage the provision of public facilities that effectively service community needs and seek ways of improving public service through better and more functional facilities which are in keeping with the environmental and aesthetic concerns of the community."

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. Final Plan Approval shall be secured from the Planning Director for the volunteer fire station, community association building/emergency shelter and related improvements. Plans shall identify structures, fire protection measures, paved parking stalls and paved driveway (chip seal, concrete or asphalt concrete), and landscaping buffer associated with the proposed uses. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Detailed landscaping plans shall include landscaping buffers in the form of trees and shrubbery along the northeast and northwest property boundaries of the project.
4. Construction of the volunteer fire station and community association building/emergency shelter and related improvements shall be completed and a certificate of occupancy issued within five years from the effective date of this special permit.
5. Should any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in

the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.

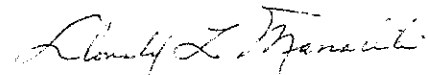
6. Driveway access shall meet with the approval of the Department of Public Works.
7. The applicant shall comply with all applicable county and state laws, rules, regulations and requirements, including the Department of Health, Fire Department and the Department of Public Works.
8. Upon compliance with all conditions of approval, in conjunction with the application for a certificate of occupancy and prior to the opening of the volunteer fire station, community association building/emergency shelter or any related improvements, the applicant shall provide, in writing, a final status report to the Planning Director.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) 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; 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; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

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.

Hawaiian Acres Community Association
July 22, 1993
Page 6

Should you have any questions, please feel free to contact Rodney Nakano or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:jdk
LHawai01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
Corporation Counsel
Fire Department
Department of Health
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Plan Approval Section



County of Hawai'i

WINDWARD PLANNING COMMISSION

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

SEP 17 2014

Ms. Diana B. Miller, President
Hawaiian Acres Community Association
P.O. Box 368
Kurtistown, HI 96760

Dear Ms. Miller:

Special Permit No. 845 (SPP 93-000006)

Applicant: Hawaiian Acres Community Association

Request: Amendment to Special Permit No. 845 to Allow Additional Uses Within the Community Center, Including a Farmers Market, and a One-Year Time Extension to Comply With Condition No. 4 (Construction Timeline for the Community Center and Volunteer Fire Station)

Tax Map Key: 1-6-052:002

The Windward Planning Commission, at its duly held public hearing on September 4, 2014, considered the above-referenced request for an amendment to Special Permit No. 845 to allow additional uses within the community center, including a farmers market, and a one-year time extension to comply with Condition No. 4 (construction timeline of the community center and volunteer fire station). Special Permit No. 845 was originally approved to allow the establishment of a volunteer fire station, community center and related improvements situated on three (3) acres of land within the State land Use Agriculture District. The property is located at the northeast corner of the intersection of Road 8 and Road C within the Hawaiian Acres Subdivision, Kea'au, Puna, Hawai'i.

Approval of this amendment is subject to the following amended conditions: (material to be deleted is bracketed and struck through, with added material underscored)

- ~~1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.~~

2. ~~The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.~~
3. ~~Final Plan Approval shall be secured from the Planning Director for the volunteer fire station, community association building/emergency shelter and related improvements. Plans shall identify structures, fire protection measures, paved parking stalls and paved driveway (chip seal, concrete or asphalt concrete), and landscaping buffer associated with the proposed uses. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Detailed landscaping plans shall include landscaping buffers in the form of trees and shrubbery along the northeast and northwest property boundaries of the project.~~
4. ~~Construction of the volunteer fire station and community association building/emergency shelter and related improvements shall be completed and a certificate of occupancy issued within five years from the effective date of this special permit.~~
5. ~~Should any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.~~
6. ~~Driveway access shall meet with the approval of the Department of Public Works.~~
7. ~~The applicant shall comply with all applicable county and state laws, rules, regulations and requirements, including the Department of Health, Fire Department and the Department of Public Works.~~
8. ~~Upon compliance with all conditions of approval, in conjunction with the application for a certificate of occupancy and prior to the opening of the volunteer fire station, community association building/emergency shelter or any related~~

improvements, the applicant shall provide, in writing, a final status report to the Planning Director.

- ~~8. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) 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; 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; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.]~~
1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
 2. Final Plan Approval shall be secured from the Planning Department for the farmers market and related improvements within one year from the effective date of this amendment. Plans shall identify structures, fire protection measures, paved and gravel parking stalls and paved driveway access (chip seal, concrete or asphalt concrete), and landscaping buffer associated with the proposed uses. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Detailed landscaping plans shall include landscaping buffers in the form of trees and shrubbery along the northeast and northwest property boundaries of the project.
 3. The applicant shall secure and finalize all building permits for all existing structures from the Building Division-Department of Public Works within one (1) year from the effective date of this amendment.
 4. All parking for the community association building/emergency shelter and the farmers market shall be on the subject property. Parking shall be prohibited on Road 8 or Road C for these uses.

5. The applicant shall provide traffic control attendant(s) to actively manage traffic flow and parking associated with the farmers market so that vehicles do not park or back up onto Road C and/or Road 8.
6. The applicant shall provide signage indicating where vendors and visitors may park on-site.
7. Hours of operation for the community center events shall be from 9:00 a.m. to 9:00 p.m., daily.
8. The farmers market shall be limited to one day a week and shall limit the amount of vendors to 20.
9. No amplification of music or speakers at events will be allowed on the property.
10. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
11. If the applicant fails to comply with the conditions of approval or causes complaint(s) relating to any interference or nuisance and is unable to resolve them with the surrounding community, the Planning Director shall investigate and, if necessary, suspend the permit. The Planning Director shall then refer the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the applicant fails to comply with the conditions of approval or has caused any unreasonable interference or nuisance on the surrounding community, the permit may be revoked.
12. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements including the Department of Public Works-Building Division for temporary tent permits.

Ms. Diana B. Miller, President
Hawaiian Acres Community Association
Page 5

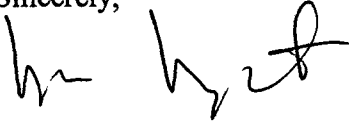
13. If the applicants should require an additional extension of time, the applicants shall submit their request to the Planning Commission for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

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.

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8142.

Sincerely,



Myles Miyasato, Chairman
Windward Planning Commission

LHawnacresCAspp845wpc

Enclosure: PC Findings Report

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State DLNR-HPD
Plan Approval Section
Mr. Gilbert Bailado

COUNTY OF HAWAII PLANNING COMMISSION FINDINGS

HAWAIIAN ACRES COMMUNITY ASSOCIATION AMENDMENT TO SPECIAL PERMIT NO. 845

The applicant, Hawaiian Acres Community Association (HACA), is requesting several amendments to Special Permit No. 845. The amendments include allowing additional uses within the community center, a farmers market, and a one-year time extension to comply with Condition No. 4 (construction timeline of the community center and volunteer fire station). Special Permit No. 845 was originally approved on July 15, 1993 to allow the establishment of a volunteer fire station, community center and related improvements situated on three (3) acres of land within the State Land Use Agricultural District.

The first request is for additional uses to be allowed as part of the community center including exercise/fitness programs, instructional classes, and fund raising events. The exercise/fitness classes would include exercise classes, Kung Fu, Karate, yoga and dance classes. Instructional classes would include gardening, conservation techniques, musical instruments, crafts, languages and other diverse areas. HACA does not anticipate more than 2 classes a day with 10 to 15 people between the hours of 9:00 a.m. and 9:00 p.m. Fund raising events to raise funds for HACA, which would consist of events such as bake sales and auctions of donated goods held about twice a year.

The second request is to allow a farmers market, which will be held one day a week for approximately 4 to 6 hours. The number of vendors will be capped at 20. There will be a 20-foot by 30-foot canopy tent to house the vendors and possibly musicians (not amplified). It is anticipated that there will be approximately thirty (30) visitors on site at any given time and approximately one hundred (100) visitors for the 6-hour period.

The third request is to allow a one-year time extension to comply with Condition No. 4 (complete construction of the volunteer fire station, community association building/emergency shelter and related improvements). The applicant is requesting the time extension to complete construction and receive a final inspection for the volunteer fire station, which is basically a structure to park the fire truck. Additionally, the applicant will need to submit for a change of occupancy permit to convert the existing dwelling into the community center and apply for temporary tent permits for any temporary tents that remain on site for the farmers market.

Granting of the amendment request would not be contrary to the original reasons for the granting of the permit. The use would continue to be 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 land upon which the existing use is sought is unsuited for the uses permitted within the district. It is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map.

Additionally, with conditions of approval being added to minimize any potential impacts from traffic or noise, the use should not adversely affect surrounding properties. A condition of approval has been added requiring that the applicant secure Final Plan Approval from the Planning Director to allow for the review of the expanded community center use and the farmers market plans to insure there is enough parking and landscaping to help mitigate traffic, visual and noise impacts.

Lastly, the continued operation will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. The Police Department expressed concerns in their comment letter that establishing a farmers market has the potential to create added congestion and parking issues in an area that is not sufficiently developed for the potential traffic the market would create, thereby creating unsafe conditions. In response to these concerns, conditions of approval will be added requiring that all parking for the farmers market be located onsite. There will also be conditions added to require that the applicant provide signage indicating where vendors and visitors may park on-site and to have traffic control attendant(s) to actively manage traffic flow and parking associated with the farmers market so that vehicles do not park or back up onto Road C and/or Road 8. The applicant is proposing to have all parking located on site with a total of 35 available parking spaces.

Therefore, based on the above, the granting of the amendment requests would not be contrary to the original reasons for the granting of this permit.

Approval of these requests would not be contrary to the General Plan or the Zoning Code. The amendment request continues to be consistent with the Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan, which is located in an area identified as Extensive Agriculture. This category includes lands not classified as Important Agricultural Land and includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. Other less intensive agricultural uses such as grazing and pasture may be included in the Extensive Agriculture category.

Additionally, the request continues to be consistent with the Land Use Element of the General Plan, which states to “Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.”

Lastly, the request is consistent with the Zoning Code as the applicant has previously submitted a Special Permit and received approval from the Planning Commission to allow the establishment of a volunteer fire station, community center and related improvements situated on three (3) acres of land within the State Land Use Agricultural district. The applicant is now requesting to amend the original Special Permit to allow additional uses within the community center, a farmers market, and a one-year time extension to comply with Condition No. 4 (construction timeline of the community center and volunteer fire station). Therefore, the amendment requests would not be contrary to the General Plan or the Zoning Code.

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, 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 amendment requests to Special Permit No. 845 are approved by the Planning Commission.