

County of Hawai'i

PLANNING COMMISSION

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Phone (808) 961-8288 • Fax (808) 961-8742

May 27, 2008

Mr. James Reddekopp, Jr.
Hawaiian Vanilla Company, Inc.
43-2007 Paauilo Mauka Road
Paauilo, HI 96776

Dear Mr. Reddekopp:

Special Permit Application (SPP 08-000049)
Applicant: Hawaiian Vanilla Company, Inc.
Request: Market Agricultural Products, Educational Tours, Culinary
Presentations, Commercial Kitchen
Tax Map Key: 4-3-13:27

The Planning Commission at its duly held public hearing on May 8, 2008, voted to approve the above-referenced application to allow a facility to market agricultural products, host educational tours, conduct culinary presentations, and operate a certified kitchen on 29,925 square feet of land situated in the State Land Use Agricultural District. The property is located along the south side of Paauilo Mauka Road, directly across from the Paauilo Mauka Road and Kaapahu Road junction, Paauilo (2nd Series) Homesteads, Hamakua, Hawaii.

Approval of this request is based on the following:

The applicant, Hawaiian Vanilla Company, Inc., is requesting a Special Permit to market agricultural products, host educational tours, conduct culinary presentations, and operate a certified kitchen within an existing vanilla processing facility on 29,925 square feet of land. James and Tracy Reddekopp, Jr. own and operate the Hawaiian Vanilla Company. The Reddekopps converted a dilapidated coffee mill/slaughterhouse into a vanilla processing facility. All proposed activities will occur inside the existing processing facility.

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The applicant is proposing to sell several types of agricultural products using vanilla grown on their property located approximately one-half mile from the processing facility, and produce and products from other farmers along the Hamakua coast. The products would include vanilla-enhanced jams, jellies, sauces and beauty products. They would conduct educational tours and presentations showing how Hawaiian vanilla is grown and processed, which would be offered once a day, three days a week, for up to three hours (generally 12 noon to 3 p.m.). As part of the tours, the applicant will offer culinary samples of Hawaiian vanilla and other agricultural products grown on the Reddekopps' farm, and from other farms along the Hamakua coast. The tour will provide a prepared lunch type meal with samples of the different products offered. There will also be samples offered to visitors of the facility.

The processing facility has a licensed certified kitchen and the applicant has received a Food Establishment Permit from the Department of Health to operate a sit-down restaurant type of operation. The applicant is proposing to serve food prepared within the certified kitchen to visitors of the facility using their agricultural products and products from other Hamakua farmers for on-site and off-site consumption, but not as a restaurant open to the general public.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. 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, Hawaii Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the Agricultural District. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. The project site is 29,925 square feet in size with several existing structures, including a vanilla processing facility and a dwelling. All proposed activities will occur inside the existing processing facility. Based on the minimal use of land for the proposed request and its association with agricultural activities, the subject request is considered an unusual and reasonable use of agricultural land.

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 for those uses to which they are best suited in the interest of the public welfare of the people

of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The project site is classified as "D" or "Poor" soil by the Land Study Bureau's Overall Master Productivity Rating and "Other Important Agricultural Land" by the Department of Agriculture's ALISH Map. The use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property. A condition of approval will be added to limit food items for sale to locally processed food products and to utilize agricultural products grown locally. This will be in keeping with the agricultural use of the property and prevent a type of commercial store or restaurant from being established that would allow the sale of many different types of non-ag items. Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. This criterion has been met based on the previous discussion listed above, mainly because the subject request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands that is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties. Surrounding properties are similarly zoned A-5a and consist of agricultural uses, several farm dwellings, and vacant land. There are dwellings located on adjacent parcels to the north, across Paauilo Mauka Road, to the west and to the south. The property borders Paauilo Mauka Road to the north. To help mitigate potential adverse impacts along the bordering roadway and the surrounding properties, landscaping will be required as part of the Plan Approval process. In addition, hours of operation will be limited to 10 a.m. to 5 p.m., Monday through Friday, with only three tours allowed during the week. Lastly, a condition of approval will be added limiting the amount of people to 70 persons, excluding staff, at any given time on the property. These additional requirements should further minimize the possibility of adverse impacts to the surrounding area. Based on the above information, the applicant has met this criterion.

(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 project site is proposed to be from Paauilo Mauka Road. There is enough

area on the property to provide for off-street parking and loading zones. A condition of approval will be added that no parking will be allowed along Paauiilo Mauka Road, including the loading and unloading of passengers and/or supplies. County water is available to the property. Wastewater will be disposed of into two existing approved septic systems. Telephone and electrical services are available to the site. Based on the above, the requested use will not burden public agencies to provide additional services and the applicant has met this criterion.

(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, various "non-agricultural" services may be allowed.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The project site is classified as "D" or "Poor" by the Land Study Bureau's Overall Master Productivity Rating and is "Other Important Agricultural Land" by the Department of Agriculture's ALISH Map. Based on the small size of the property being utilized for this request and the associated agricultural activities being conducted within the existing vanilla processing facility, the applicant has met this criterion.

(F) The use will not substantially alter or change the essential character of the land and the present use. The uses requested would be related with the agriculture activity associated with the existing vanilla processing facility (Hawaiian Vanilla Company), which is presently operating on the subject property. The educational tours, retail concession, culinary presentations and certified kitchen associated with the proposed request will be located within the existing processing facility. Therefore, based on the above the discussion, the proposed use will not substantially alter or change the essential character of the land and its present use.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. 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 located in area identified as

Important Agricultural Land in the General Plan. The request will not be contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area. Additionally, the approval of the subject request would support the goals and policies of the Land Use and Economic elements of General Plan.

Land Use Element

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Land Use-Agricultural Element

- Encourage, where appropriate, the establishment of visitor-related uses and facilities that directly promote the agriculture industry.

Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Strive for an economic climate which provides its residents an opportunity for choice of occupation.
- Encourage the development of a visitor industry that is consistent with the social, physical and economic goals of the residents of the County.

The proposed request will allow the applicant an opportunity to improve their quality of life, provide an economic environment that allows this new, economic opportunity and increase the development of the visitor industry for Hawaii by promoting the establishment of a visitor-related use and facility that directly promotes the agriculture industry.

The request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The project site is not proximate to the shoreline and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. Although there were no professional surveys conducted of the site, it is not anticipated that endangered or threatened candidate species of flora or fauna are located within the property. The area has not been identified as a significant botanical or biological habitat. Presently, there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of known valued cultural, historical or native resources in the area. Thus, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kamaaina accounts of the area, historical survey of documentary records, botanical and/or fauna study was submitted.

The valuable cultural, historical, and natural resources found in the permit area: As the property has been improved with several structures, an archaeological inventory survey of the site was not conducted. The Department of Land and Natural Resources-State Historic Preservation Division issued a "no effect" letter stating DLNR-SHPD has determined that no historic properties will be affected by this undertaking because residential development and urbanization has altered the land.

Possible adverse effect or impairment of valued resources: The property does not abut the shoreline, therefore Hawaiian gathering and fishing rights is not an issue. Additionally, the property is being utilized for agricultural purposes and has been developed several structures.

Feasible actions to protect native Hawaiian rights. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and no action is necessary to protect these rights. A condition of approval will be included to require the applicant to notify the DLNR-SHPD should any unidentified sites or remains be encountered, and proceed only upon an archaeological clearance form the DLNR-SHPD.

Based on the above considerations, the approval of the request would support the objectives sought to be accomplished by the Land Use Law and Regulations. Approval of this request 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 applicant shall limit water consumption to levels allowed by the Department of Water Supply.
3. The proposed operation shall commence within one (1) year from the effective date of this permit. Prior to commencement, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, parking stalls, and other improvements associated with the proposed use. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse impacts to the roadways and the adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Landscaping shall comply with the bufferyard standard for separation of a CN (Neighborhood Commercial) zone adjoining a RS (Single-Family Residential) zone in Rule No. 17.
4. The retail concession shall be primarily limited to food products processed on-island and agricultural products grown on-island only, except for retail items directly related to Hawaiian Vanilla Company, such as cups or shirts with the company's logo. Culinary presentations shall feature and primarily consist of ag products grown on island. Sales activities must include agricultural products grown on the owner's property(s), when in season. The tours, retail concession, culinary presentations and certified kitchen shall operate within the existing processing facility.
5. The hours of operation shall be limited to 10:00 a.m. to 5:00 p.m. The use of the facility for non-commercial community events shall not be subject to these limitations. The tours shall be limited to three days a week. The agricultural tours shall not be allowed on other properties.
6. Buses are limited to no larger than 25-passenger type buses.
7. The limit of persons on-site at any given time is 70, excluding staff.

8. All parking shall be on-site and parking is prohibited off-site along Paauilo Mauka Road, including loading and unloading of passengers and/or supplies.
9. The proposed driveway accesses to Paauilo Mauka Road shall conform to Chapter 22, County Streets, of the Hawaii County Code. Only two (2) accesses will be allowed to the property.
10. Any exterior signs shall conform to Section 3-12 of the Sign Code, Chapter 3 of the Hawaii County Code, relating to signs in the Agricultural district.
11. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
12. 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 - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
13. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
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 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.

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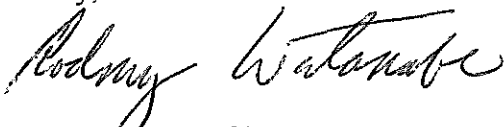
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this 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.

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Rodney Watanabe, Chairman
Planning Commission

Lhawaiivanilla01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources-HPD
DOT-Highways, Honolulu