



## 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

December 11, 2014

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

Dear Mr. Mooers:

Special Permit (SPP 14-000169)

Applicant: Anekona 'Ōuli Kānehoa Volunteer Fire Company

Request: Development and Operation of a Fire Vehicle Apparatus Garage

Tax Map Key: 6-2-001:075

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The Leeward Planning Commission, at its duly held public hearing on November 20, 2014, voted to approve the above-referenced request to allow the development and operation of a fire vehicle apparatus garage and related improvements on approximately 3.132 acres of land situated within the State Land Use Agricultural District. The project site is situated at to the east of the 'Ōuli Self Help Housing Project subdivision and west of the Anekona Estates Subdivision in 'Ōuli, South Kohala, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, driveway access and parking areas associated with VAG use. The paving of the driveway and parking spaces will not be required (with the exception of one accessible parking space which

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DEC 11 2014

shall be paved), and any material may be used that will eliminate erosion, mud and standing water. Prior to certificate of occupancy, the applicant shall prepare and implement, subject to Planning Department Approval, a landscape plan for the VAG to mitigate visual impacts.

3. The construction and operation of the facility and all of its related uses and activities shall be conducted in a manner that is substantially representative of plans and details as contained within the Special Use Permit application dated September 1, 2014.
4. Within one year of the date of this permit approval, applicant shall remove all abandoned vehicles and junk from the subject property and place a sign which states "Private Property Vehicles will be Towed at Owner's Expense."
5. Prior to certificate of occupancy of the proposed VAG, the applicant shall fence the property along the frontage road to limit access to and unauthorized parking on the subject property.
6. Sound levels shall follow Department of Health rules for residential areas (55 dBA daytime), HAR, Title 11, Chapter 46 (Community Noise Control). As represented by the applicant, there shall be no sirens or emergency lighting on the proposed VAG. Furthermore, emergency vehicles shall be prohibited from using sirens within the Anekona Estates, 'Ōuli, or Kānehoa subdivisions unless the emergency is within the subdivisions.
7. On-site training of Bravo 9 volunteer firefighters shall take place no more than five times a month and be limited to the hours between 8:00 a.m. and 7:00 p.m., provided that there will be no more than three hours of training on any particular day.
8. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
9. Prior to receipt of a Certificate of Occupancy, an individual wastewater system shall be installed meeting with the requirements of the Department of Health.

10. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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 the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
11. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed use, including those of the Department of Health and the Fire Department.
12. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

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.

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,



Brandi K. Beaudet, Chairman  
Leeward Planning Commission

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Enclosure: PC Findings Report

cc: Anekona 'Ōuli Kānehoa Volunteer Fire Co.  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
Department of Health  
Department of Fire  
Mr. Gilbert Bailado  
Mr. Andrew Frogley

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

**ANEKONA ‘ŌULI KĀNEHOA (AOK) VOLUNTEER FIRE DEPARTMENT  
SPECIAL PERMIT APPLICATION NO. 14-000169 (SPP 14-169)**

The applicant is proposing the development and operation of a Fire Vehicle Apparatus Garage (VAG) and related improvements on approximately 3.132 acres of land situated within the State Land Use Agricultural District on TMK 6-2-001:075 (por). The VAG will be a 2,080 square foot, 20-foot tall, single-story garage that includes an ADA accessible bathroom and shower.

Proposed uses for the subject parcel and improvements include:

- Storage of two or more firefighting vehicles assigned to the volunteer fire company by the Hawai‘i County Fire Department.
- Regular maintenance of the firefighting vehicles by 9 Bravo volunteers. Any major mechanical work will be performed by the County Fire Department mechanical shop in Hilo.
- Maintenance and storage of 9 Bravo firefighting equipment, including personal safety gear, hoses, pumps, tools and related items.
- Training site for 9 Bravo volunteers and Fire Department personnel 4 to 5 times each month.
- A central gathering place and dispatch location for 9 Bravo when called out on emergencies.
- A central meeting location for Fire department units if an incident occurs in the vicinity.

The applicant, the Anekona ‘Ōuli Kānehoa (AOK) Volunteer Fire Department is a non-profit organization formed to support the 9 Bravo volunteer fire company, which was formed in 2007 and currently has 14 volunteer firefighters trained by the Hawai‘i County Fire Department.

**The granting of the proposed request would be consistent with the objectives sought to be accomplished by the Land Use Law and Regulations, and is an unusual and reasonable use of land situated within the State Land Use Agricultural District.** The granting of this request will promote the effectiveness and objectives of Chapter 205, Hawai‘i 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 Hawai‘i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. In recognizing that lands within the Agricultural Districts may not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses may 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 proposed use is unusual in that it is not agricultural in nature, but is a reasonable use within the Agricultural District because it will enhance public safety within this part of South Kohala which, due to the arid nature of the area, are prone to frequent brushfires that threaten surrounding communities of Anekona Estates, ‘Ōuli, and Kānehoa subdivisions.

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 Commission recommends as follows:

**(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** The subject property is not classified as prime agricultural land, and due to its poor soil characteristics does not have a high potential for sustained agricultural yields. The proposed use is considered an unusual and reasonable use of the agricultural land that will not adversely affect the preservation and agricultural use of the County's prime agricultural lands. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

**(B) The desired use would not adversely affect surrounding properties.** The subject property is 3.132 acres in size and is roughly rectangular in shape with access via Waiula Drive from Kawaihae Road. The project site was previously used for periodic grazing of animals and has been mechanically graded several times. The site is currently vacant with the exception of several abandoned vehicles stored on the property and appears to be used as additional parking for adjacent landowners' vehicles.

The subject property is 7 miles west of Waimea, and is zoned A-1a. The nearest dwellings are on properties located directly adjacent to the subject property within the 'Ōuli self-help residential subdivision. Surrounding zoning is mixed A-1a, A-5a, and RA-2a and mainly consists of the rural-residential subdivisions of Anekona Estates, Kānehoa and the County of Hawai'i's 'Ōuli Affordable Rental Project.

There may be some negative visual and noise impacts generated by the proposed request. To help mitigate these impacts, several conditions of approval will be added to this recommendation.

The visual impacts consist of the presence of abandoned and improperly parked working vehicles on the subject property and the view of the VAG from surrounding properties. The first visual impact preexisted the proposed project in that the vacant lot has been used for storage of abandoned vehicles and as additional parking for adjacent landowners. To mitigate this impact, the applicant will be required to remove all abandoned vehicles from the property and erect signage indicating that the parcel is private property and discouraging unauthorized parking or dumping. In addition, the applicant will be required to fence the northern boundary of the frontage road leading to the VAG to help limit vehicular access to and parking on the subject property by adjacent residents.

The second possible visual impact may be the view of the VAG from surrounding properties. To mitigate this impact, structures will be required to meet all setback and height requirements to minimize noise and visual impacts to the surrounding properties. In addition, the applicant will be required to prepare and implement a landscape plan for the area immediately surrounding the VAG subject to approval by the Planning Department. The intent of this landscaping plan is to reasonably mitigate the visual intrusiveness of the proposed VAG facility from surrounding residences. The size of the property, the location of the proposed VAG facility and the level and scope of its use as a volunteer fire apparatus garage and training facility does not warrant extensive and intensive application of landscaping to minimize noise that could be generated by the VAG operations.

Possible noise impacts would likely occur during Bravo 9 volunteer training periods and during times of emergency. According to the application, training would be provided by the Hawai'i County Fire Department and take place 4-5 times a month in the evening (4p.m.-7p.m.) to accommodate the volunteer firefighters, most of whom work day jobs. The training would consist of lectures and practicing of firefighting skills including running of the vehicles and spraying water. Bravo 9 currently holds trainings every two weeks (2-3 times a month), but

would like to increase the number to ensure that volunteer who may miss a training would have the opportunity to keep up to date on necessary firefighting skills. To mitigate the possible noise impacts, trainings will be limited to 5 times a month and would not last past 7:00pm.

During times of emergency, possible noise and visual impacts would include sirens and lights on the truck and VAG structure. In order to mitigate these impacts, the VAG building will be prohibited from having sirens and emergency lighting on the structure, and the trucks will be prohibited from using emergency sirens until they reach Kawaihae Road, unless the emergency is within the 'Ōuli, Anekona Estates, or Kānehōa Subdivisions.

In response to requested public comment on the project, the applicant has received 42 letters of support from the public and has also received two letters of concern/opposition and one adjacent land owner filed for contested case standing siting visual and noise impacts.

Based on the proposed conditions of approval, it is not anticipated that the proposed use will create a significant adverse effect upon surrounding properties with mitigation measures in place.

**(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.** The primary access to the subject property is from Kawaihae Road via Waiula Drive, which is a private road in the process of being dedicated to the County. Waiula Drive has an approximate 25-foot wide asphalt pavement with approximate 11-foot wide paved shoulders within an approximate 50-foot wide right-of-way.

There is no public sewer in this rural area, so as a condition of approval for this permit, the applicant will be required to install an individual wastewater system approved by the State of Hawai'i Department of Health. The project site is serviced by an existing 5/8 inch water meter, which provides an average of 400 gallons of potable water per day which is expected to be sufficient for bathroom, shower, and equipment washing needs.

The proposed use will not generate the need for additional police, fire, or other public service agencies. Police and additional fire protection services are available approximately 7 miles from the subject site in Waimea town. The proposed action will provide the area greater fire protection by creating a permanent home for the 9 Bravo Volunteer fire company to be centrally located between the current Mauna Lani Fire Station and Waimea Fire Station.

According to the Flood Insurance Rate Map (FIRM), the area is not in a designated drainage way or floodplain and the proposed use will not have an impact on school enrollment or operations.

All other essential public utilities and facilities are or will be made available to support the proposed fire vehicle apparatus garage.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** The property and some of the 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. With the nearest fire station being 7 miles away in Waimea, the development of rural-residential subdivisions in the area, and the frequency of brushfires in the area (approximately one call per month for several years, according to the applicant), there is a clear, unanticipated need for firefighting facilities in the area.

**(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.** Soils within the project site are classified as "E" or "Very Poor" for agricultural productivity and are identified as Pu'u Pa extremely stony very fine sandy loam,

6 to 20 % slopes (PVD). The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map identifies the project site as "unclassified." In addition, the subject parcel gets an average annual rainfall between 10" and 20".

The subject parcel has soil and rain conditions which do not support intensive agricultural uses and are not well suited for agricultural activity.

**(F) The use will not substantially alter or change the essential character of the land and the present use.** The subject property has been vacant for years with the only use being storage of junk vehicles and casual parking by adjoining residents. The proposed use is rural in character and consistent with the surrounding rural-residential zoning and uses. The use of a portion of this 3.132 acre lot for a single-story vehicle apparatus garage will not substantially alter the land's present uses or essential character.

**(G) The request will not be contrary to the General Plan and the South Kohala Community Development Plan.** 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 area where the proposed request would be located is designated as Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two acres. These rural subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities.

Although the General Plan LUPAG designation differs from the actual zoning in the area, the proposed request is consistent with the General Plan LUPAG Rural designation for this area as public facilities are an allowable use as discussed above.

The approval of the subject request will be consistent with the following standards and courses of action Public Facilities Elements of the General Plan:

**Public Facilities Element – Protective Services**

- Locate fire stations within five miles of concentrated settlement areas (GP 10.3.3 (b) Standards)
- Service facilities shall be improved to meet needs. (South Kohala 10.3.4.6.2 (a) Course of Action)

Finally, the proposed request will be consistent with the South Kohala Community Development Plan, which was adopted by Ordinance No. 08-159 and became effective on November 20, 2008. The proposed request is consistent with General Policy 4 to "Develop Programs and Standards that will protect the South Kohala Community from natural hazards, including major storms, flooding, tsunami, lava flows, and wildfires", and sub-policy 4.2 to "Adopt development standards and community plans that mitigate wildfire risk and maximize responder safety, where wildfire danger is present." Based on the above discussion, the proposed use would conform to the General Plan and South Kohala CDP.

**The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program.**

The property is not located within the Special Management Area and is approximately 4.3 miles from the nearest shoreline. There is no designated public access to the mountain or shoreline areas over the property. Therefore, the proposed use will not adversely impact any

recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Due to the property's distance from the ocean, the property will not be affected by any coastal hazards or beach erosion. As such, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Finally, this recommendation is presented with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements for the approved use prior to its commencement or establishment upon the subject property. 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, and 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, Special Permit No. 14-000169 is approved to develop and operate a Fire Vehicle Apparatus Garage (VAG) and related improvements on approximately 3.132 acres of land situated within the State Land Use Agricultural District on TMK 6-2-001:075 (por).