



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

MAR 20 2015

Ms. Lori Beach
Hāmākua Harvest, Inc.
PO Box 1308
Honoka'a, HI 96727

Dear Ms. Beach:

Special Permit Application (SPP 14-000175)
Applicant: Hāmākua Harvest, Inc.
Request: To Establish a Farmer's Market
TMK: 4-4-005:008 & 009

The Windward Planning Commission, at its duly held public hearing on March 5, 2015, voted to approve the above-referenced request to allow the establishment of a farmer's market on a 6.7-acre portion of two parcels totaling 32.96 acres of land situated within the State Land Use Agricultural District. The project site is situated northeast of the Hawai'i Belt Road (Hwy 19) and Honoka'a-Waipio Road (Māmane Street) intersection, Pā'auhau, Hāmākua, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i for review and approval. In addition, the applicant shall seek and comply with any Fire Department fire protection requirements relative to fire flow capacity.

3. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
4. The farmer's market shall be established within five (5) years from the effective date of this permit. Prior to the construction and commencement of operations, the applicant shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all proposed structures, fire protection measures and gravel driveway access and gravel parking stalls, including overflow parking areas.
5. All parking for the farmers market shall be accommodated on the subject properties. Parking shall be prohibited on Hawai'i Belt Road (State Highway 19) and Honoka'a-Waipio Road (Māmane Street).
6. The applicant shall provide traffic control attendant(s) to actively manage traffic flow and parking associated with the farmers market.
7. If traffic control requires a person to direct traffic directly on Māmane Street, the applicant shall hire a Special Duty Police Officer to direct traffic during the hours of operation of the farmer's market. This condition can be removed if the applicant provides improvements on Māmane Street, such as a left-turn storage lane, meeting with the approval of the State Department of Transportation.
8. Any improvements in the Honoka'a-Waipio Road (State Route 240 - Māmane Street) right-of-way shall meet the requirements of the State Department of Transportation.
9. Access to the farmer's market shall be prohibited from Hawai'i Belt Road (State Highway 19). The applicant shall gate the current access along Hawai'i Belt Road (State Highway 19), and keep the gate locked during the hours of operation of the farmer's market.
10. Days of operations shall be limited to three (3) days a week (one weekday and the weekend). Hours of operation shall be limited to 8:00 a.m. to 4:00 p.m. on the weekend and 10:00 a.m. to 4:00 p.m. on the weekday.

11. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
12. Within one year from the date of receipt of the Certificate of Occupancy for the farmer's market, an individual wastewater system shall be installed meeting with the requirements of the Department of Health.
13. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks 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-HPD that sufficient mitigative measures have been taken.
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 of 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 the Zoning Code.
 - C) Granting of the 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 manner, the Planning Director may initiate procedures to revoke this permit.

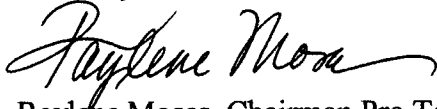
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This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies

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

Should you have any questions, please contact Maija Jackson of the Planning Department at 961-8159.

Sincerely,



Raylene Moses, Chairman Pro Tem
Windward Planning Commission

LHamkuaharvestSPP14-175wpc
Enclosure: PC Findings Report

cc: Mr. Michael Gibson (via email only)
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 Transportation
Mr. Gilbert Bailado

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

HĀMĀKUA HARVEST, INC
SPECIAL PERMIT APPLICATION (SPP 14-000175)

The applicant is requesting a Special Permit to allow the establishment of a farmer's market on a 6.7-acre portion of two parcels totaling 32.96 acres situated within the State Land Use Agricultural District. The subject property is located northeast of the Hawai'i Belt Road (Hwy 19) and Honoka'a-Waipi'o Road (Māmane Street) intersection, Pā'auhau, Hāmākua, Hawai'i, TMKs: 4-4-005:008 & 009.

The applicant is requesting a Special Permit to allow the establishment of a farmer's market on a 6.7-acre portion of two parcels totaling 32.96 acres situated within the State Land Use Agricultural District. The farmer's market will operate three days a week: on Saturday and Sunday between 8:00 a.m. and 4:00 p.m. and one weekday between the hours of 10:00 a.m. and 4:00 p.m. with 200-300 anticipated customers on the weekend days and 100-200 customers during the work week. The facility will be designed initially to accommodate 20 vendors with the ability to accommodate more vendors as needed. The market will have a strong educational focus, providing hands-on learning opportunities for both producers and consumers, which will include weekend workshops, informational booths, and agriculturally focused youth activities. The operation will provide for one or two employment positions. The 4,320 square-foot structure will be designed in the shape of a cross and will be constructed of wood and polycarbonate roofing with open sides. The floor will consist of gravel. On-site gravel access and parking will be made available for the proposed request.

The overall long-term vision of the applicant is to create a "whole system" integrated agricultural hub that will not only consist of the farmer's market, but will also include a demonstration working farm and learning center, a full service retail nursery, a compost facility, the site for the annual Hāmākua Ag Festival, and eventually a roadside market offering locally-grown produce and value-added processing facility and a community gathering place. A majority of the proposed uses are currently permitted under the State Land Use Law.

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, Hawai'i Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of the State Land Use Law and Regulations and Chapter 205, HRS, 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 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 project site is a 6.7-acre portion of the two parcels that totals 32.96 acres. The properties are classified as having "C" or "Good" soil by the Land Study Bureau's Overall Master Productivity Rating and classified as "Prime Agricultural Land" by the Department of Agriculture's ALISH Map. The farmer's market will not displace any existing agricultural activity or diminish the agricultural potential of the subject property, but will enhance and promote agricultural uses on the properties.

The request is unusual in that a farmer's market is not a permitted use in the State Land Use Agricultural district or in the County's Agricultural zoning district, even though it is normally considered agricultural in nature. However, it is reasonable that a farmer's market be considered because communities within the Agricultural district require certain services that support the agricultural community in which they are located, including farmer's markets.

Additionally, the granting of this request would 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 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. The use will not displace any existing agricultural activity or diminish the agricultural potential of the subject property. The applicant's proposed request and long term goal is to create a "whole system" integrated agricultural hub, which will promote the continued agricultural uses for these properties. Based on the above, the proposed use is considered an unusual and reasonable use of agricultural land that 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) The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. As discussed above, the subject request 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. Additionally, the proposed use will promote the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties. The subject property is located at the intersection of Hawai'i Belt Road (State Highway 19) and Honoka'a-Waipio Road (Māmane Street) near Honoka'a in the Hāmākua district. The property is made up of two parcels totaling approximately 32.96 acres. Of this, approximately 6.7 acres have been requested for the proposed farmer's market use (permit area). The permit area is triangular in shape and gently slopes to the north and has approximately 715 feet of frontage along Honoka'a-Waipio Road (Māmane Street). The properties are currently being used for cattle grazing and there are no existing structures.

Surrounding lands are zoned Agricultural (A-40a and A-1a) and Residential (RS-10) and consist of open pasture and cropland to the north, east, and south and single-family residential neighborhoods to the west. Much of the surrounding agricultural area is used for active grazing and for growing eucalyptus trees. The closest dwellings are located in the Huina Estates

Subdivision across the Honoka'a-Waipii'o Road (Māmane Street), approximately 670 feet to the west of the proposed farmer's market.

The farmer's market will operate two days a week (one weekend day and one weekday) between the hours of 10:00 a.m. and 4:00 p.m., mainly during "non-peak" traffic hours. The applicant will provide ample parking onsite to accommodate the proposed activities. The location of the farmer's market is at a reasonable distance from the nearest dwellings to minimize any noise or visual impacts.

The Planning Department did receive a letter of opposition from the Kapulena Orchard Community Association who expressed concern regarding the proposed composting facility and the potential impacts with the spread of little Hawaii Fire Ants. The representation of the composting facility proposed by the applicant is a permitted use within the State Land Use Agricultural district and is not part of the Special Permit request. Composting facilities may require a permit from the Department of Health-Solid and Hazardous Waste Division, who will oversee the operations in relation to the issued permit. Based on the above discussion, the proposed use is not anticipated to have any substantial adverse impacts on the surrounding properties.

(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 properties will be from Honoka'a-Waipii'o Road (State Route 240 Māmane Street), which is a two-lane State roadway consisting of 15-foot paved lanes (30 feet total) and 7-foot wide paved shoulders within a fronting the property. The entrance to the properties is via a 60-foot wide paved apron leading to a proposed 20-foot wide, gravel driveway to allow for two-way traffic entering and exiting the properties. County water is available to the property. The applicant has proposed to initially provide portable toilets for wastewater, but a condition of approval will be added to require that an Individual Wastewater System (IWS) meeting with the approval of the Department of Health be installed for the farmer's market within one year from the issuance of the Certificate of Occupancy for the market. Electricity and telephone are available to the property. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. A condition of approval will be included to require that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

The Police Department and the State Department of Transportation commented regarding traffic concerns and access to the property from Highway 19. Both departments directed that direct access from Highway 19 be prohibited. There is currently an access from Highway 19 to the project site, which appears to be the remnant of the Old Belt Road. As such, a condition of approval will be added requiring the applicant to install a gate at the access on Highway 19 and that it be locked during days of the farmer's market.

Additionally, the Police Department has safety concerns regarding vehicles attempting to make a left turn on to Honoka'a-Waipii'o Road (State Route 240 - Māmane Street) from the subject property. There is poor visibility and the speed limit in the area is 40 miles per hour fronting the ingress/egress. They are requesting that no left turn movements on to Māmane Street. The problem that arises if the left-turn is restricted, patrons of the market will turn right onto Māmane Street and then make a U-turn at the next intersection (Ohia Street) or proceed through the Huina Estates Subdivision and need to make a left turn onto Highway 19 from Loke

Street, which also has very poor sight distance. In commenting on this request, the State Department of Transportation did not request that the left turn onto Māmane Street be prohibited.

To help resolve the Police Department's concerns, a condition of approval will be added requiring the applicant provide traffic control attendant(s) to actively manage traffic flow and parking associated with the farmers market so that vehicles park appropriately onsite and can safely turn left onto Māmane Street. If traffic control on Māmane Street requires a person to direct traffic directly on Māmane Street, the applicant will be required to hire a Special Duty Police Officer to direct traffic during the hours of operation of the farmer's market. This requirement can be removed if the applicant provides improvements on Māmane Street, such as a left-turn storage lane, meeting with the approval of the State Department of Transportation. Based on the above discussion and the added conditions of approval, the requested use will not burden public agencies to provide additional services.

(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 land and soils upon which the proposed use is situated is identified as Kukaiiau silty clay loam, 12 to 20 percent slopes (KuD), classified as "C" or "Good" by the Land Study Bureau's Overall Master Productivity Rating and is classified as "Prime Agricultural Land" by the Department of Agriculture's ALISH Map. The land and soil are suited for the uses permitted within the district and the applicant will be actively enhancing and promoting agricultural uses on the properties. Although the request does not meet this criterion, the effectiveness and objectives of the State Land Use Law and Regulations will be met.

(F) The proposed use will not substantially alter or change the essential character of the land and the present use. The properties and the surrounding area to the north, south and east is essentially characterized as agricultural, with residential subdivisions to the west across Māmane Street. The proposed farmer's market will be conducted on a portion of two larger properties within an open-sided structure. There will be no significant changes to the property. Although the proposed farmer's market will alter or change the present use of the property, the changes will not be substantial as the market will be conducted only two days a week. As such, the proposed use will not substantially alter or change the essential character of the land and the 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 property is located in area identified as Low Density Urban and Important Agricultural Land in

the General Plan. The project site is situated within the Low Density Urban area with the remainder of the properties being within the Important Agricultural Land designated area. The Low Density Urban designation includes residences (up to 6 units per acre in density) with ancillary community and public uses, and neighborhood and convenience-type commercial uses. As such, the request will not be contrary to the 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.

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 Hawai'i.

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 and provide an economic environment that allows this new, economic opportunity for residents and visitors.

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 subject property is located over 1 mile from the closest shoreline and is not located within the Special Management Area. There is no designated public access to the mountain areas over the property. Given the fact that the property has been used for on-going agricultural activities, including cattle grazing, it is unlikely that any archaeological features and threatened plant, animal or avian species will be adversely affected. The Department of Land and Natural Resources-State Historic Preservation Division confirmed that they believe there will be no historic properties will be affected by this proposed action.

Therefore, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion.

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 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, Special Permit No. 14-000175 is approved to allow a farmer's market on a 6.7-acre portion of two parcels totaling 32.96 acres situated within the State Land Use Agricultural District on TMKs: 4-4-005:008 & 009.