

COUNTY OF HAWAI‘I PLANNING DEPARTMENT RECOMMENDATION

TIRTHA LUITEL SPECIAL PERMIT APPLICATION (PL-SPP-2024-000062)

Upon review of the request against the guidelines for granting a Special Permit, the Planning Director recommends that the request to allow the development and operation of a commercial parking lot on an approximately 18,000-square foot portion of a larger 98.2850-acre parcel in the State Land Use Agricultural District **be denied by the Planning Commission**. Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This denial recommendation is based on the following findings:

The applicant is requesting a Special Permit to operate a 49-stall commercial parking lot for visitors to ‘Akaka Falls State Park. According to the application, an existing 11,500-square-foot concrete pad plus an additional concrete pad of 5,000-square feet will serve as the parking lot on the permit area. An automatic gate system is proposed for vehicular access and the applicant will provide a pedestrian gate for visitors to access ‘Akaka Falls State Park.

According to the applicant, the existing parking lot at ‘Akaka Falls State Park is insufficient to handle the daily vehicular traffic of visitors, resulting in congestion and hazardous conditions due to overflow parking along ‘Akaka Falls Road. The applicant proposes to utilize an existing concrete area on the subject property for paid parking to alleviate the problem of roadside parking and pedestrian hazards. The parking lot is proposed to be operated by the applicant and an attendant, who will be present to manage the parking lot. The applicant anticipates completing construction within 6 months, at an estimated cost of between \$400,000 to \$500,000.

The grounds for approving a Special Permit are based on Rule 6-7 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 District, and (b) the proposed use would promote the

effectiveness and objectives of Chapter 205, Hawai‘i Revised Statutes (H.R.S.), as amended.

The proposed use will not promote the effectiveness and objectives of Chapter 205, H.R.S., as amended. Through the passage of Chapter 205, H.R.S., otherwise known as State Land Use Law, the State Land Use Commission was established. It called for classification of all lands in the State and authorized the adoption of rules of practice and procedure and regulations for land use within the various land use districts. The four (4) land use districts (Agricultural, Rural, Urban and Conservation) created by the State Land Use Commission provided the basic legal framework of land uses in the State of Hawai‘i and assisted in the implementation of the long-range land use objectives of the State and Counties. The intent of these statutory provisions is to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people in Hawai‘i.

The proposed permit area for the development and operation of a commercial parking lot is located in an area designated Agricultural by the State Land Use Commission. As the requested use is not permitted in the State Land Use Agricultural District, a Special Permit is required to allow for the use to be permitted.

The 18,000-square foot permit area is classified as “C” or “Fair” soil by the Land Study Bureau’s Overall Master Productivity Rating. Additionally, the permit area is located on a portion of the subject property classified as “Prime Agricultural Land” by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. Prime Agricultural Land is land best suited for the production of food, feed, forage and fiber crops. The land has the soil quality, growing season and moisture supply needed to produce sustained high yields of crops economically when treated and managed, including water management, according to modern farming methods. The applicant has not complied with the condition of an existing Agricultural-Based Commercial Operation (ABCO) certification requiring that 20 acres of the subject property be used for productive agriculture. The proposed development and operation of a commercial parking lot would result in the conversion of land identified as Prime Agricultural Land to non-agricultural use, which would contradict the State Land Use Law and Regulations,

intended to preserve, protect and encourage the development of these lands for uses to which they are best suited.

Based on the preceding classifications, this land has been identified as having high agricultural potential for agriculture uses and should be preserved. Thus, the proposed use would not promote the effectiveness and objectives of Chapter 205, H.R.S., as amended.

The request would be contrary to the General Plan and Hāmākua Community Development Plan (HCDP). The County of Hawai‘i’s General Plan (General Plan) is the policy document for the long-range comprehensive development of the island of Hawai‘i. One of the purposes of the General Plan is to guide the pattern of future development of the County based on long-term goals. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as Important Agricultural Lands (IAL), which includes lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. The proposed development and operation of a commercial parking lot is not agricultural in nature and is thus inconsistent with the Important Agricultural Lands LUPAG designation.

As a policy document, the General Plan and its LUPAG map also provide guidance for a particular land use pattern that could be considered within a particular area whether by a change of zone or, as in this situation, a Special Permit. The IAL LUPAG designation alone does not create a presumption in favor or against this particular Special Permit application; it simply affords an opportunity for which a Special Permit request can be considered on a case-by-case basis. This denial recommendation is, in part, based on conflicts with the following goals and policies of the General Plan:

Preservation of Important Agricultural Land Element

- *Identify, protect and maintain important agriculture lands on the island of Hawai‘i.*
- *Preserve the agricultural character of the island.*
- *Assist the further development of agriculture through the protection of important agricultural lands.*
- *Protect and encourage the intensive and extensive utilization of the County's important agricultural lands.*

- *Ensure that development of important agricultural land be primarily for agricultural use.*
- *Investigate possibilities to prevent non-agricultural uses that could interfere with potential or existing agricultural activities on important agricultural lands.*
- *Encourage urban development within existing zoned areas already served by basic infrastructure, or close to such areas, instead of scattered development.*

Protect Sites of Natural Beauty

The importance of natural and scenic beauty and its true evaluation as an asset of public trust to be protected for future generations remain with the people of this island. While public planning and regulation are instrumental in achieving the goals set forth for this element, it is public awareness and interest that will maintain the natural beauty of the island of Hawai‘i.

- *Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.*
- *Protect the views of areas endowed with natural beauty by carefully considering the effects of proposed construction during all land use reviews.*
- *Do not allow incompatible construction in areas of natural beauty.*

The General Plan indicates that the Community Development Plan (CDP) is intended to implement the broad goals within the General Plan on a regional basis. The CDP should direct physical development and public improvements within a specific area and may contain detailed land use and zoning guide maps, plans for roadways, drainage, parks and other infrastructure and public facilities, architectural design guidelines, planning for watershed and other natural features.

The subject property is located within the boundaries of the Hāmākua Community Development Plan (CDP) which encourages the concentration of new commercial development in existing, walkable, mixed use town centers with the goal of preserving historic and cultural resources and limiting rural sprawl (Section 4.1.1). The subject property is not situated within an area designated for development in the HCDP, rather it is designated “Important Agricultural Lands” by the Land Use Guide Map. The closest town, Honomū, is located approximately 3.0 miles away from the subject property.

As the subject property is designated within the “Important Agricultural Lands” Land Use Policy Map category and the proposed use is not located in an existing town center, the proposed Special Permit is clearly not consistent with the General Plan or the Hāmākua CDP.

The desired use will adversely affect the surrounding properties. Surrounding properties are zoned Agriculture 20-acres (A-20a), Forest Reserve (FR) and Family-Agricultural 1-acre (FA-1a), with agricultural land uses, farm dwellings and State Park use. The closest residence to the proposed permit area is located approximately 0.25 miles to the south. The Planning Department has received two letters of public testimony in opposition to the proposal, which raise concerns with the commercial use of prime agricultural land, not retaining the essential character of the land, negative visual and traffic impacts, and potential impacts on nearby cultural and natural resources. By letter dated August 1, 2024, the Department of Land and Natural Resources, Division of State Parks (DSP) notes that the project may result in overcrowding at ‘Akaka Falls State Park, reducing the quality of visitor experiences. Additionally, the DSP anticipates establishing a visitor reservation system and a mobile food service at the park, which may affect the viability of the applicant’s proposal. The applicant’s response to DSP states that they believe the overcrowding concern is unwarranted and that the reservation system and mobile food service are not anticipated to affect their proposal. Further, in a telephone conversation with Planning Department staff, DSP staff noted that the proposed commercial parking lot may result in diverting visitor parking fees away from the current State Park-operated parking lot at ‘Akaka Falls which provides funding to State Parks. Additionally, DSP noted that they do not support setting a precedent with the Special Permit and expressed doubts that the establishment of a non-State Parks, commercial parking lot would provide a solution to overcrowding at State Parks.

Based on the preceding considerations, the Planning Director is recommending that the Planning Commission deny this application to allow the development and operation of a commercial parking lot on an approximately 18,000-square foot portion of a larger 98.2850-acre parcel in the State Land Use Agricultural District.