



LAND USE COMMISSION

Komikina Ho'ohana 'Āina

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i

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February 14, 2025

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421 Makalika Street
Hilo, HI 96720
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Sidney M. Fuke
P.O. Box 1345
Hilo, HI 96720
Email: sidneyfuke@gmail.com

SUBJECT: SP73-159 Toyama Gardens dba Nani Mau Gardens, Inc.

Dear Ms.Cui and Mr.Fuke:

On February 6, 2025, The Land Use Commission received and posted your letter in response to our delinquent annual report letter.

Thank you for providing the letter from the County of Hawai'i dated May 18, 2011, which was a response to the 2011 Annual Report, and included the Planning Director's acknowledgment that all conditions were being complied with and stated that further reports were needed at this time.

Upon review of the information you have submitted and previous approved amendments to the Special Permit; we have the following comments:

Condition No. 9 of the Tenth Amended 2009 Decision and Order states:

An annual progress report shall be submitted to the State Land Use Commission, County Planning Commission, and County Planning Director prior to the anniversary date of the approval of this amendment. The report shall address the status of the development and the compliance with the conditions of approval. 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.

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This Condition provides for the County Planning Director to determine if, based on compliance with conditions, further annual progress reports are required. However, it does not give the County Planning Director the power to waive or remove Condition No. 9. That decision rests with the State Land Use Commission through a Petitioner-generated motion to modify or delete conditions. This will require authoritative evidence from the appropriate State and/or County agencies substantiating compliance with each of the conditions.

Until such time as a motion to modify or delete conditions for this docket has been approved; compliance with all of the conditions of the Special Permit, including an annual progress report, are still required as the Land Use Commission has the obligation to assure Decisions and Orders are being complied with.

In accordance with Condition No. 9 of the Tenth Amended 2009 Decision and Order, subsequent annual reports are due prior to or on December 4th of each year. Please note the D&O is available for review on the LUC website at:
<http://www.luc.hawaii.gov/sp73-159>.

The Commission is scheduling a **comprehensive status report to be held on March 19, 2025**.

Should you have any questions, please contact our office, at (808) 587-3823 or via email at dbed.luc.web@hawaii.gov.

Sincerely,



Daniel Orodener
Executive Officer
Land Use Commission
State of Hawai'i

CC: Mary Alice Evans and Alison Kato Esq. - State of Hawai'i *Office of Planning and Sustainable Development*

Jeff Darrow - County of Hawai'i Planning Director
Christian Kay – County of Hawai'i Planner