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## Nani Mau Gardens: Half a Century Of Special Permit Amendments

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In October 1973, the state Land Use Commission approved a special permit allowing for a commercial arboretum on about 23 acres of land in the state Agricultural District in the Panaewa area about three miles south of Hilo, on the eastern coast of Hawai'i Island.

More than 50 years later, the LUC is questioning the extent to which the series of garden owners have complied with conditions attached to the permit. It has asked for a status update from the latest owners at the commission's scheduled April 23 meeting.

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At the time the LUC issued the first permit, the arboretum had already been developed but a special permit was needed since what was being proposed was a commercial activity not specifically allowed under the state land use law, Chapter 205 of Hawai‘i Revised Statutes. The owner, Makoto Nitahara, wanted to charge admission to the arboretum and also sell agricultural products on site.

The county Planning Commission had already given its approval to the request but had imposed a condition limiting sales to agricultural products only.

Nine years later, Nitahara, operating his arboretum as Nani Mau Gardens, sought to amend the special permit in order to have “individual shops for the sale of locally produced agriculturally-oriented products, a small gift shop, and a snack shop.” This, Nitahara said, would “provide an outlet for the display and sale of handiwork of local craftsmen, and provide a central location in which tourists can observe various local products.” At the time, the only structures identified on the property were a single-family house, a garage, and a 3,840-square-foot metal building that housed the arboretum office.

The LUC approved the requested amendment but specified that “cooking food on premises and unrestricted sale of tourist items are not reasonable and unusual uses of the Agricultural District” and would not be allowed under the special permit.

That was the camel’s nose under the tent.

In 1987, Toyoma Garden Hawai‘i Corporation, the new owner of Nani Mau Gardens, came in with another amendment request. Somehow, the metal building had grown to 5,000 square feet, which the owner was seeking permission to increase to 10,360 square feet, including a second floor, and the number of garages had doubled to two.

Also included in the permit amendment request were conditions allowing the sale of “limited types of cooked or processed food on the premises...similar to the type of cooked and/or processed food offered at a ‘7 Eleven’ store.”

The county Planning Commission recommended approval of the amendment. On February 18, 1988, the LUC issued its approval of the amendment. A “snack facility” may be operated during business hours – but not a kitchen or restaurant – so long as the owner “satisfies all applicable county and state sewage, health, drainage, water, and building requirements.” In addition, the owner was to provide the state and county with annual progress reports “until all of the conditions of approval have been complied with.”

The very next year, the county and state were presented with yet another request to amend the special permit – this time by adding some 33 acres to the operation. The expansion area would include an equestrian trail and horse stables, a museum, a new pavilion, an area for picnics and barbecues, and an area where produce would be sold. The owner also wanted to delete the restrictions on food sales and to be allowed to open a restaurant on the second floor of the expanded main building, which was under construction at the time.

The restaurant, seating up to 120 guests, would be an extension of the current operations of the garden, which, the owner said, included “special ceremonious functions like a wedding.” The dining facility would be available for “post-ceremonial gatherings.” “Local patrons” would not be excluded, the application stated, but “it should be emphasized that the principal market of this restaurant is group tours.”





A non-working fountain and pool.

Hours of operation for all the facilities would remain unchanged: 8 a.m. to 7 p.m.

In anticipation of increased traffic, the owner was required to improve the intersection of Makalika Street and the Belt Highway.

On October 31, 1989, this third amendment to the original special permit was approved by the LUC.

Throughout the 1990s and into the 2000s, the amendments continued to come:

- **Fourth amendment, 1991:** The owner sought to add a leased five-acre parcel to the permit area through 2000, allowing for stockpiling and storage of construction-related materials on three acres but also two acres of forest trails; expand hours of operation to 11 p.m.; increase the area where retail sales could take place; open up a second access onto the county's Makalika Street "for special events parking;" and expand the main building to 25,000 square feet. The final amendment approved by the LUC allowed the five-acre addition; expanded hours of operation only on occasions where special events were occurring; and agreed to the requested larger commercial areas.
- **Fifth amendment, 1993:** This time the owner wanted extended deadlines for performance of conditions of previous amendments, including landscape buffers and road improvements. The owner cited "unfavorable economic conditions" in asking for the time extensions, which were granted.
- **Sixth amendment, 1994:** The owner sought to remove the leased five-acre lot from the permit area; extend by five years the time to make the intersection improvements; add a nine-hole pitch-and-putt golf course on at least 12 acres of the garden; and delay other improvements. The landowner also stated that he was proposing rezoning part of the expansion area of 33 acres into one-acre ag lots that could be sold for residential development, providing capital to carry out the other improvements that had been delayed. The time extension was granted. The owner was told to remove the "pitch-and-putt" area from the special permit area and to remove the one-acre lots from the permit area as soon as the rezoning was approved.

- **Seventh amendment, 1998:** This deleted the 30 or so acres that were at one point intended to accommodate the pitch-and-putt course and the development of one-acre house lots, since rezoning for that purpose was accomplished.
- **Eighth amendment, 1999:** The landowner was requesting once more a time extension for the improvements to the intersection of Makalika Street and the Belt Highway. Once more, a five-year extension was granted by the LUC in August 1999. Less than four months later, Toyoma Gardens sold the property to Nani Mau Inc., owned by Kenneth Fujiyama.
- **Ninth amendment, 2005:** This deleted altogether the condition to complete improvements to the intersection of Belt Highway and Makalika Street. It also allowed operations to extend to 11 p.m. for special events and limited commercial activities to the 25,000-square-foot building plus coin-operated machines and “mobile vendors.”
- **Tenth amendment, 2009:** This amendment was to “convert the existing salon building” and an existing maintenance building to allow their use by a charter school. The existence of the beauty salon on the property was not authorized by any prior amendment nor was the construction of the maintenance building proposed for school use. (Records maintained by the Department of Commerce and Consumer Affairs suggest the salon began operations in 2004 and went out of business sometime in 2009.) The Windward Planning Commission recommended approval, conditioned on operation of the charter school limited to hours between 7 a.m. and 4 p.m., with exceptions allowed for special school events, which were allowed until 10 p.m..

That tenth amendment was the most recent, but it does not reflect many changes that have occurred on the property since then. In 2011, Fujiyama – unable to keep creditors at bay for the several properties he or his companies owned, including the Naniloa Hotel in Hilo and the franchise for the Volcano House in Hawai‘i Volcanoes National Park – lost the gardens to Glory Nani Mau, which acquired the 22 acres where the buildings and gardens are sited for \$2.2 million. The principal of Glory Nani Mau is Yee Shum Severson, also known as Helen Koo.

In 2016 Connections charter school relocated out of the garden buildings. In 2018, the buildings were occupied by Kua o ka La charter school, whose campus in Puna had been consumed in the lava flows. Connections had been paying Glory Nani Mau at least \$10,000 a month from July of 2012 through the end of 2015, according to a lease recorded with the state Bureau of Conveyances. No similar lease has been recorded for the occupancy of Kua o ka La.

Also, at some point following the tenth amendment, a church took up residence on the grounds – a use that would seem to require yet another amendment to the special permit. The church, Overcoming Faith Center, continues to hold services in garden buildings. One of its pastors, Seaula “Jr.” Tupa‘i, ran for lieutenant governor on the losing Republican ticket in 2022. In 2024, he was a candidate for Hawai‘i County mayor, receiving 11 percent of the primary vote.

Planning consultant Sidney Fuke, in a letter to the county planning director last month, said that the church used “an existing 3,500+/- square foot structure” and held services several times a week. He acknowledged that the church’s use of the property is not authorized under the special permit. The landowner “has a month-to-month rental arrangement with the church and has informed the church that its use will be terminated or suspended upon receipt of notice of violation from the county.”

Jeff Darrow, the county planning director, was asked whether he intended to notify Nani Mau Gardens Group that church use of the property was not authorized. No reply was received by press time.

In 2022, the main garden area was sold for \$4.275 million to Nani Mau Garden Group, whose principal, Zengdi “Cindy” Cui, is an executive with an investment managing company, Launching Pad, LLC. A few months later, the 33-acre as-yet undeveloped area to the north of the garden sold to 521 Makalika Estates, for \$1.15 million. The two member/managers of that LLC are Cui and Severson.

— **Patricia Tummons**

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