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County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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September 30, 2024

Travis Chace
Lamb of God Baptist Church
P. O. Box 377692
Ocean View, HI 96737
VIA EMAIL

Dear Mr. Chace:

SUBJECT: Special Permit Application (PL-SPP-2024-000071)
Applicant: Lamb of God Baptist Church
Permitted Use: Allows the Establishment of a Church and Related Improvements
Tax Map Key: (3) 9-2-189:051, Kahuku, Ka'ū, Hawai'i

The Windward Planning Commission, at its duly held public hearing on September 5, 2024, voted to approve the above-referenced request to allow the establishment of a church and related improvements on a 3-acre property within the State Land Use Agricultural District. The project site is located at 92-8561 Māmalahoa Highway approximately 0.6 miles west of the junction with Kohala Boulevard in Kahuku, Ka'ū, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, their successor(s), or assign(s) ("Applicant") shall be responsible for complying with all stated conditions of approval.
2. The operation of the Church and related uses shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application received by the Planning Department and any representations made to the Windward Planning Commission. Any substantial expansion or uses beyond what is represented in these documents shall require an amendment to this permit.

3. Construction of the proposed new buildings and related improvements shall be completed within seven (7) years from the effective date of this permit. Prior to the submittal of plans for a building permit, the Applicant 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 structure(s), fire protection measures, driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed development.
4. Prior to occupancy of structures for the proposed use, the Applicant shall secure and finalize all required building permits from the Department of Public Works, Building Division.
5. The Applicant shall either develop a potable water system meeting with the approval of the State Department of Health, or install and use a minimum 4,000-gallon, separate, closed potable water tank to be filled with trucked potable water. The tank shall remain filled with sufficient water to meet potable water needs at all times.
6. Prior to occupancy of structures for the proposed use, the Applicant shall construct bathroom facilities meeting with the approval of the Department of Public Works and shall install a wastewater system meeting with the requirements of the State Department of Health.
7. The Applicant shall install, construct, and maintain improvements for Fire Department Access Road (FDAR) access to the permit area and fire suppression improvements, including but not limited to on-site water storage, as required by the Fire Department. Upon successful completion of the improvements and prior to the commencement of the proposed use, the Applicant shall provide the Planning Department documentation from the Fire Department that the improvements meet Fire Code standards.
8. As represented by the Applicant, the hours of operation will be Sundays between 9:00 a.m. and 2:00 p.m., Saturday services and community activities between 9:00 a.m. and 2:00 p.m. and evening gatherings between 5:00 p.m. and 9:00 p.m. Bible study on Mondays between 9:00 a.m. and 12:00 p.m. and Wednesday from 5:00 p.m. and 9:00 p.m. The administrative office will operate daily between 8:00 a.m. and 5:00 p.m.
9. To mitigate noise impacts on surrounding properties, the use of amplified sound shall be only allowed within the walls of the church structure for speaking.

10. All church parking will be entirely on site.
11. Access to the property shall be from existing easement along the frontage of the property. Access from Māmalahoa Highway shall be prohibited.
12. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. Additionally, a drainage study shall be prepared prior to Plan Approval and the recommended drainage system shall be constructed meeting the approval of the Department of Public Works, Engineering Division, prior to occupancy of structures for the proposed use.
13. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentary Control, of the Hawai‘i County Code.
14. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
15. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties.
16. 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. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the Applicant, 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.

Travis Chace
Lamb of God Baptist Church
September 30, 2024
Page 4

- 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).
17. Should any of these conditions not be met or substantially complied with in a timely manner, the Director may initiate procedures to revoke this Special 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 request is based on the reasons given in the enclosed Findings Report.

Should you have any questions, please contact Alukahe Kala of this department at (808) 961-8170 or by email at alukahe.kala@hawaiicounty.gov

Sincerely,



September 30, 2024 09:09 AM

Dennis Lin, Chairman
Windward Planning Commission

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Enclosure: Planning Commission Findings Report

cc w/enclosure via email: County Real Property Tax Division
State Department of Health
Department of Public Works
Fire Department
GIS Section
Windward Planning Commission
Jean Campbell, Esq., Deputy Corporation Counsel
Suzanna Tiapula, Esq., Deputy Corporation Counsel

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

LAMB OF GOD BAPTIST CHURCH
SPECIAL PERMIT APPLICATION NO. PL-SPP-2024-000071

Based on the following findings, Special Permit No. PL-SPP-2024-000071, to allow the establishment of a church and related uses in two phases on a 30,000 square foot portion of a 3-acre parcel of land within the State Land Use Agricultural District is hereby **approved by the Windward Planning Commission**. The subject property is located at 92-8561 Māmalahoa Highway, approximately 3,337.1 feet northwest of its intersection with Kohala Boulevard, Hawaiian Ocean View Ranchos, Kahuku, Ka‘ū, Hawai‘i, TMK: (3) 9-2-189:051 (por.).

The applicant is requesting a Special Permit to establish and operate permanent church and related uses in two phases on a 30,000 square foot portion of a 3-acre parcel of land situated in the State Land Use Agricultural District. The proposed church facility consists of the following components:

- Phase 1 will establish the foundational infrastructure consisting of:
 - Foundational infrastructure, including a primary access driveway and;
 - The installation of modern septic and water catchment systems;
 - The initial parking facilities;
 - One 1,024 square foot church structure
- Phase 2 will expand on the previous phase by
 - Expanding the parking facilities to accommodate growing use and accessibility needs;
 - A second, 1,024 square foot church structure connected to the first church structure by a pergola.

The Lamb of God Baptist Church is an independent Baptist Church that seeks to create a space where intergenerational dialogue flourishes, allowing wisdom, values, and stories to pass seamlessly from elders to youth. The applicant purchased the subject property in Hawaiian Ocean View Ranchos in 2022 with the intention to significantly enhance community services and engagement.

The applicant proposes to construct the church and related improvements in two phases. Construction for Phase 1 is expected to be completed within 24 months and the applicant anticipates starting Phase 2 within 36 months after Phase one completion. Lamb of God Baptist Church is requesting a 7-year time frame to account for the full development and estimates the cost at roughly \$400,000 for Phase 1 and another \$400,000 for Phase 2 for a total of \$800,000.

The applicant proposes the following activities and hours of operation:

- On Sundays between 9:00 a.m. and 2:00 p.m. and evening gatherings from 5:00 p.m. to 9:00 p.m.
- On Saturdays the applicant plans to have services and community activities from 9:00 a.m. to 2:00 p.m. along with evening gatherings from 5:00 p.m. to 9:00 p.m.
- Bible studies are proposed on Mondays from 9:00 a.m. to 12:00 p.m. with

extended Bible studies on Wednesdays from 5:00 p.m. to 9:00 p.m.

- Administrative office hours will be daily from 8:00 a.m. to 5:00 p.m.
- Additionally, the applicant may offer periodic activities such as baptisms, youth programs, weddings, funerals, and other community events.

Regular worship services are anticipated to attract an average of 100 attendees in Phase 1, and additional 100 attendees during Phase 2 for a total of 200 attendees

The criteria 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 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 Agricultural District that would not be contrary to the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might 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.

In addition, 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.

The subject, 3-acre property is rectangular in shape and located at 92-8561 Mamalahoa Highway within the Hawaiian Ocean View Ranchos subdivision. It has been partially cleared and graded and is currently vacant of any structures or improvements. The applicant proposes to use a portion of the property to establish the church use and intends for the remainder of the property to continue to support the local flora and fauna.

Soils for this site are classified as Kapua and Haplic Ustarents soils, with 2 to 10 percent slopes. This soil type is made from organic material over a'a lava and lava mixed with organic matter and basic volcanic ash. It is considered somewhat excessively drained and well-drained, has a low runoff class, and is not considered prime farmland. The parcel is designated as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau's Detailed Land Classification System. The property is also considered "unclassified" on the Agricultural Land by the Department of Agriculture's ALISH Map. These soil characteristics and designations are not suitable for commercial agriculture.

Based on the preceding, the proposed church and related facilities are an unusual use in that they are not agricultural in nature and are considered reasonable as the proposed use 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) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. As evaluated above, the applicant's request is considered an unusual and reasonable use of agricultural land that will not adversely affect the preservation of lands with high agricultural potential in the County of Hawai'i.

(B) The desired use shall not adversely affect the surrounding properties. All adjacent land to the east, south, and west are zoned Agricultural-3 Acres (A-3a) and contain single-family residences. Other surrounding properties are residential in nature, but mostly unimproved. The closest buildings are a church structure approximately 36 feet to the northeast on an abutting parcel which was approved by Special Permit number SPP 1190 and a dwelling located approximately 560 feet to the east on an adjacent parcel.

According to the applicant, the church's presence and activities are designed to align with the area's existing rural character without introducing disruptive changes. They anticipate that the noise from their operations will be minimal, ensuring that the peaceful ambiance of the area is preserved.

Proposed activities, hours of operation, and anticipated congregation numbers are listed above. According to the applicant, Sunday services are anticipated to attract the highest number of attendees and vehicles, but due to Sunday regularly having the least amount of traffic, church activities are unlikely to significantly impact the existing traffic. A condition of approval will require all parking to occur on-site in designated parking stalls and not on the roadway.

It is not anticipated that the church use will have any visual impact as the proposed church buildings and related infrastructure is consistent with the residential character of the surrounding community.

Based on the preceding it is not anticipated that the proposed use will adversely affect 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 subject parcel and permit area will be provided by a single paved driveway from a privately owned easement that runs parallel to Māmalahoa Highway. According to the State Department of Transportation (DOT), the applicant shall continue to use the existing easement at the frontage for access to the property via nearby intersections with no direct crossing onto the state-owned Māmalahoa Highway. The preceding will be added as a condition of approval.

County water is not available to the subject property. The applicant proposes to install a 20,000-gallon catchment tank equipped with necessary filtration systems to serve potable and fire suppression water needs. According to the State Department of Health (DOH), Safe Drinking Water Branch, DOH does not recognize unregulated rain catchment systems as capable of meeting State and Federal drinking water requirements. DOH does regulate "Public Water Systems", however, the requirements to develop such a system can be onerous and expensive. The Planning Commission has approved Special Permits for uses in areas that do not have public water available if the applicant installs a closed water tank to for drinking and sanitation water needs. These tanks are filled with potable water trucked to the site and have plumbing separate from any rainwater catchment tank. Based on the preceding, a condition of approval will allow the applicant to choose between

developing a “Public Water System” meeting with the requirements of DOH, or the installation and use of a separate, closed water tank for drinking and sanitation water. Additionally, a condition of approval will require the applicant to comply with Fire Code requirements for sufficient fire suppression water.

There is no county sewer system in the area. The applicant proposes constructing 4 ADA accessible restrooms, which will be supported by a septic system to be approved by the Department of Health with sufficient capacity to support the 4 proposed bathrooms. The preceding will be added as a condition of approval.

The property is situated within an area designated as Flood Zone X on the Flood Insurance Rate Map (FIRM) by FEMA, an area determined to be outside the 500-year flood plain. Electrical and telephone services are available to the property. Police, fire, and medical services are available in Nā‘ālehu and Pāhala. Based on the preceding, 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. Although 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 and uses may be allowed.

Since the district boundaries were established, the population of Ocean View and Hawaiian Ocean View Ranchos has significantly increased, thus there has been an increased demand for community and religious services in this rural subdivision, as is evidenced by the approval of Special Permits for 5 churches within 3 miles of the subject property since 1971. Approval of the Special Permit will continue to meet the need for community/religious services on a portion of a 3-acre parcel, while leaving the remainder of the property available for agricultural uses.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property’s soils are classified as “E” or Very Poor by the Land Study Bureau’s Overall Master Productivity Rating and are undesignated by the Department of Agriculture’s ALISH Map. Based on the preceding, the proposed church use will not have a negative impact on the agricultural use of the property.

(F) The proposed use will not substantially alter or change the essential character of the land and the present use. As previously mentioned, the land is predominantly an arid, rugged landscape, with grasses and sparse vegetation. The proposed construction of a church and related uses will be concentrated on the mauka side of the property and will not substantially change the essential character of the remainder 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 project area is designated as Urban Expansion by the LUPAG Map, which Allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. A small portion of the property is designated as Extensive Agriculture.

The approval of the subject request would support the goals and policies of the Land Use and Economic elements of the 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.
- The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawai‘i.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Based on the preceding, the proposed request is consistent with the Urban Expansion LUPAG designation and Land Use and Economic goals and policies of the General Plan.

The subject property is situated in an area designated as “Rural” by Ka‘ū Community Development Plan (KCDP) Regional Land Use Policy Map. The KCDP specifically addresses Special Permits for Churches in “Rural” areas within the Ka‘ū CDP planning area and the KCDP supports the development of social services, churches, and community support facilities for the residents of Ka‘ū. Approval of the proposed request will allow the applicant an opportunity to improve the quality of life in this area while providing a service to residents in the community. Based on the preceding, the request is consistent with the goals and objectives of the KCDP.

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 approximately 5.49 miles from the nearest shoreline, is not within the Special Management Area and will not be impacted by coastal hazard and beach erosion. There is no designated public access to the mountain or shoreline areas over the property. As such, 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. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawai‘i State Supreme Court’s “PASH” and “Ka Pa‘akai O Ka‘Aina” decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: No formal archaeological or botanical studies were included in the application.

The valued cultural, historical, and natural resources found in the special permit area: As the subject parcel was partially cleared and graded before the applicant purchased the property in 2022, it is unlikely that any valued historical resources exist. Furthermore, there are no listed or endangered floral or faunal species likely to be found on the subject property.

According to the State Historic Preservation Division, no historic properties will be affected by the proposed church. It is not known whether the subject site or immediate area was ever used for traditional and customary rights by native Hawaiians.

Possible adverse effect or impairment of valued resources: As there are no valued resources found on the property, there is no possible adverse impacts or impairment from the proposed development.

Feasible actions to protect native Hawaiian rights: As stated by the applicant, it is not known whether the subject site or immediate area was ever used for traditional and customary rights by native Hawaiians. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

Lastly, this recommendation is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the proposed use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permit, 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.