



County of Hawai'i

LEEWARD PLANNING COMMISSION

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APR 02 2014

Na Kalai Wa'a
P.O. Box 748
Kamuela, HI 96743

To Whom It May Concern:

Special Permit (SPP No. 14-000157)

Applicant: Na Kalai Wa'a

Request: To Allow Educational Uses and Special Events Including, But Not Limited to, Classrooms, Overnight Accommodations, Meetings, Seminars, Community Gatherings, And Related Activities in Conjunction With the Ethnobotanical Garden on 10 Acres of Land
Tax Map Key: 5-5-008:044

The Leeward Planning Commission, at its duly held public hearing on March 20, 2014, voted to approve the above-referenced application to allow educational uses and special events including, but not limited to, classrooms, camping, meetings, seminars, community gatherings and related activities, and activities in conjunction with the ethno-botanical garden on 10 acres of land situated within the State Land Use Agricultural District. The subject property is located on the west side of Hawi Road approximately 2,200 feet makai (north) of Akoni Pule Highway (State Highway 270) – Hawi Road intersection, Ka'auhuhu Homesteads, North Kohala, Hawai'i.

Approval of the request is based on the following:

The applicant is requesting a Special Permit to allow educational uses and special events including, but not limited to, classrooms, camping, meetings, seminars, community gatherings and related activities, and activities in conjunction with an ethnobotanical garden on 10 acres of land situated within the State Land Use Agricultural District. According to the application, the facility will consist of the following improvements:

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- Construction of an approximately 2,400 square-foot covered deck area to be used for meetings, gatherings and cultural activities. When not in use by the applicant, this meeting area will be made available to the public for similar activities.
- Camping facilities, including three (3) yurts, approximately 30 feet in diameter, up to five (5) smaller tent-like structures and designated areas for tents to accommodate staff and students utilizing the facilities. When not in use by the applicant, the camping area will be made available for similar use by the general public.
- Construction of a commercial kitchen and certified imu that can be used in support of educational and community gathering activities.
- Construction of a restroom facility for the use by the students and other guests. Portable toilets and outdoor showers will be utilized when necessary until the permanent restrooms are constructed.
- Use of the existing residence for offices as well as for overnight accommodations. The establishment of overnight accommodations will allow additional sleeping facilities for teacher/staff when the educational programs are in operation. The residence will also serve as the permanent office for the NKW foundation.
- Use of the existing warehouse as a canoe construction and boat maintenance facility as well as for woodcarving activities. When not in use by NKW, the facilities are proposed to be rented out to other artisans or practitioners for these purposes.
- Conversion of an existing structure to a caretaker's house. While this activity can be allowed as a farm dwelling, the caretaker will provide support to both the botanical garden activities as well as provide on-site management for the educational and community activities that are being proposed.
- The proposed ethno-botanical activities will include establishment of garden areas integrated into the project area. Limited planting of traditional plants will also be undertaken within the Lipoa Gulch area. In addition, the existing pasture area may be converted to use as part of the ethno-botanical garden in the future.

The applicant, Na Kalai Wa'a, has a mission to honor, protect and perpetuate Hawaiian traditions for the practice of wa'a (canoe) culture through the Makali'i voyaging programs for present, past and future generations. The organization was established in 1993 and is known for the building and sailing of Mau Loa, which is the first canoe to be built using traditional materials and methods in recent times, and the Makali'i. Their mission statement is "He wa'a he moku, he moku he wa'a", which translates "The canoe is our island, the island is our canoe."

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 granting of the proposed request would be consistent with the objectives sought to be accomplished by the Land Use Law and Regulations, and is an unusual and reasonable use of land situated within the State Land Use Agricultural District.

The granting of this request will 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 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. In recognizing that lands within the Agricultural Districts may not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses may 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.

The project site is situated on lands that maintain an overall master productivity rating of "B" or "Good" and "E" or "Very Poor" according to the Land Study Bureau's Detailed Land Classification-Island of Hawai'i. The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map identifies the project site as having "Prime" agricultural lands and a portion that is unclassified. The location of "Prime" agricultural lands correlates with the location of the Class "B" soils, which is the area outside of Lipoa Gulch. Lipoa Gulch is located along the western boundary of the property and is the location of the "unclassified" agricultural lands, which also correlates with the location of the Class "E" soils.

The project site and surrounding areas have been historically used for sugar cane cultivation. While approval of this amendment will introduce non-agricultural uses on the subject property, the applicant is also introducing new agricultural uses that were previously not occurring on the subject property. Through its proposed programs, the applicant has demonstrated its commitment to enhance cultural as well as agricultural uses in a manner consistent with the objectives of the State Land Use Law and the General Plan by blending together several distinct uses that will mutually benefit each other. The applicant is developing several "canoe plant" gardens around the property for propagation and use with their programs and canoe construction. According to Wikipedia, the term "canoe plants" are plants taken from ancient Polynesia and transplanted to other Pacific Islands. The term is particularly used to refer to plants brought to Hawai'i 1,700 years ago by Polynesian explorers. Portions of the subject property will remain in pasture to be used for livestock and an ethno-botanical garden is planned to be developed onsite.

Therefore, the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended, and is considered an unusual and reasonable use of land situated within the Agricultural District.

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 as follows:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The applicant has met this criterion based on the previous discussion listed above, mainly that 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. The approval to allow educational uses and special events including, but not limited to, classrooms, camping, meetings, seminars, community gatherings and related activities, and activities in conjunction with an ethno-botanical garden or pasture on 10 acres of land is not anticipated to have a significant adverse effect on the County's agricultural land inventory and will preserve or keep lands of high agricultural potential in agricultural use.

While soils within roughly two-thirds of the property are classified as "Good" for agricultural productivity and was historically utilized for sugar cane production, approval of this request will allow for a unique opportunity to blend agricultural uses with educational and cultural activities, essentially enhancing and promoting all. The State Land Use Law asks that we protect, preserve and encourage the development of lands for uses which best suit the interest of the public health and welfare of the people in this state. Extensive or intensive cultivation of good agricultural land is not the sole solution toward the implementation of this mandate. The Applicant brings forth an opportunity where the continued cultivation of land through pasture activities, the establishment of an ethno-botanical garden and the restoration of Lipoa Gulch will be tied in with cultural learning opportunities. Agriculture is not always the direct act of providing food for our tables. Here is an opportunity to explain how food was grown in a way that sustained the Hawaiian culture and where this approval would be in the best interest of the public health and welfare of the people of the State of Hawai'i.

(B) The desired use would not adversely affect surrounding properties. The subject property is 10 acres in size and is shaped as a flag lot with the pole connecting to Hawi Road. The project site and its surrounding lands were historically utilized for sugar cane production. Currently, there are several structures located on the

property including there is a dwelling, an ag storage building and a worker's house/work shed/storage building. A portion of the property is used for pasture for grazing animals within a fenced paddock area.

The subject property is just north of Hawi town, which is mainly zoned RS-15 with some commercial and industrial properties. Surrounding land uses in the immediate vicinity consist primarily of pasture and farm dwellings on lands designated A-20a by the County. Immediately to the west are several properties zoned RA-1a and RS-10 that are developed with dwellings. The nearest dwellings are located on the adjoining properties to the west and south.

There may be some negative noise and traffic impacts generated by the proposed request, but it is anticipated that these uses will not be significant and will not adversely affect the surrounding properties. Regarding possible noise impacts, structures will be required to meet all setback and height requirements to minimize noise and visual impacts to the surrounding properties. Additionally, amplification devices be not be allowed outdoors after sunset for the special events. Regarding possible traffic impacts, the applicant is proposing to utilize buses and vans to transport students to the property. Additionally, the applicant is limiting the amount of people to no more than 100 for special functions including meetings, seminars and/or community meetings, which will occur generally on weekends or afternoons/evening.

Therefore, it is not anticipated that the proposed use will adversely affect the surrounding properties. Based on the above discussion, the applicant has met this criterion.

(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 property is from Hawi Road, which is a County road with an approximate 20-foot wide asphalt pavement with approximate 5-foot wide paved shoulders within an approximate 40-foot wide right-of-way. The project site is serviced by an existing 1 ½ inch meter, which allows an average of up to 2,000 gallons per day and up to 3,000 gallons usage per any one maximum day. Current average usage is well below this allowance. Additionally, the applicant is proposing to use two (2) 5,000-gallon water catchment tanks that will collect rainwater and can be used for agricultural irrigation and other non-potable water uses.

The applicant presently has a cesspool serving the facility as there is no municipal sewer in the area. Portable toilets and outdoor showers will be utilized when necessary until the permanent restrooms are constructed. The Department of Health commented that "Proposed flows to the new and/or existing cesspool(s) exceed 1,000 gallons per day or have the capacity to serve more than 20 persons per day and are therefore no longer

allowed under federal regulations. A condition of approval will be added to have an engineer submit revised wastewater plans to the Department of Health.

All other essential public utilities and facilities are or will be made available to support the proposed retreat. Based on the above discussion, the applicant has met this criterion.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. The property and some of the surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services that may not be available or allowed by zoning for its residents. The request to allow a camping and retreat center in this area is in line with the intent for allowing the issuance of a Special Permit. Based on the above discussion, the applicant has met this criterion.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils within the project site are classified as "B" or "Good" and "E" or "Very Poor" for agricultural productivity and are identified as Kohala silty clay 0 to 3 percent slopes (KhA). The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map identifies the project site as "Prime" agricultural lands and a portion that is unclassified. The location of "Prime" agricultural lands correlates with the location of Class "B" lands.

Although a majority of the land upon which the proposed use is sought is suited for uses permitted within the agricultural district, the applicant is utilizing much of the project site with uses that are agricultural including continued pasture use, an ethnobotanical garden and multiple garden areas. The various "non-agricultural" services that will be provided as part of the request will benefit the community as well as honor, protect and perpetuate Hawaiian traditions for the practice of wa'a (canoe) culture, which will be imparted to present and future generations of residents and visitors. Based on the above discussion, the applicant has partially met this criterion.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed request will not substantially alter and change the essential character of the land and its present use. Some changes would occur mainly by the increased traffic to the area and the addition of the additional structures, but these changes are not considered substantial. Based on the above discussion, this criterion has been met.

(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 area where the proposed request would be located is designated as Low Density Urban, which allows for residential uses with an overall residential density up to six units per acre, with ancillary community and public uses, and neighborhood and convenience-type commercial uses. Although the General Plan LUPAG designation differs from the actual zoning in the area, the proposed request is consistent with the General Plan LUPAG designation for this area as well as with the current Agricultural zoning of the subject property as the applicant has demonstrated their commitment in conducting agricultural activities in conjunction with the proposed educational uses and special events including classrooms, camping, meetings, seminars, and community gatherings.

The approval of the subject request will be consistent with the following goals and policies of the Economic, Land Use and Historic Sites Elements of the General Plan:

Economic

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Encourage the development of a visitor industry that is in harmony with the social, physical, and economic goals of the residents of the County.

Land Use Element

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.

Historic Sites

- Recognize the importance of certain natural features in Hawaiian culture by incorporating the concept of “cultural landscapes” in land use planning.
- Recognize the natural beauty and history of the area as a major economic and social asset to be protected and perpetuated as part of the uniqueness of the island.

Finally, the proposed request will be consistent with the North Kohala Community Development Plan, which was adopted by Ordinance No. 08-151 and became effective on November 5, 2008. The proposed request is consistent with Strategy 1.5 to “establish agricultural education programs” and with Strategy 1.6 to “establish community cultural programs.”

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. Given the fact that the property has been altered by previous cultivation of sugar cane operations in the past, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. Additionally, the Department of Land and Natural Resources-Historic Preservation Division issued two letters stating that they believe that no historic properties will be affected by this project.

The property is not located within the Special Management Area and is approximately one mile from the nearest shoreline. Therefore, 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. 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 properties. 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, the proposed request is an unusual and reasonable use of land that is not contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. 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.
3. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns 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 structures, gravel driveway access and gravel parking stalls associated with the approved uses.
4. The applicant shall secure and finalize any required change of use (building) permits for all existing structures from the Building Division-Department of Public Works within one (1) year from the effective date of this permit.
5. The construction and operation of the facility and all of its related uses and activities shall be conducted in a manner that is substantially representative of plans and details as contained within the revised Special Use Permit application dated January 14, 2014.
6. The maximum amount of overnight guests at the property will be 30 persons, plus faculty and staff. The maximum amount of guests associated with special events at the property will be 100 persons, plus faculty and staff. All advertising shall be consistent with this requirement. Special event hours of operation shall be limited between the hours of 9:00 a.m. and 10:00 p.m.

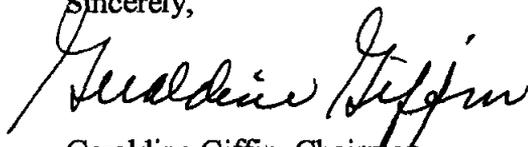
7. Sound levels shall follow Department of Health rules for residential areas (55 dBA daytime), HAR, Title 11, Chapter 46 (Community Noise Control). There shall be no amplified music or speech allowed outdoors after sunset.
8. The applicant shall have an licensed engineer prepare and submit revised wastewater plans to the Department of Health.
9. The applicant shall contact the Department of Health-HEER Division to identify and address any elevated soil arsenic levels prior to commencing any activities authorized by the issuance of this Special Permit.
10. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
11. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed use, including those of the Department of Health and the Fire Department.
12. 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. 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 Zoning Code.
 - C. Granting of the time 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 the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the 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.

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288, ext 8142.

Sincerely,



Geraldine Giffin, Chairman
Leeward Planning Commission

Lnakalaiwaaspp14-157

cc: Mr. William L. Moore
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State DLNR-HPD
Mr. Gilbert Bailado