



County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

APR 14 2014

Reverend William Knight
Open Arms Metropolitan Community Church
P.O. Box 1292
Pāhoa, HI 96778

Dear Reverend Knight:

Special Permit Application (SPP No. 14-000158)

Applicant: Open Arms Metropolitan Community Church

Request: To Allow the Construction and Operation of a Church and Related
Improvements and to Allow Special Events, Including Fundraisers, Rummage Sales,
Weddings, Funerals, and Other Celebrations that are Related to the Church
Congregation on One Acre of Land

Tax Map Key: 1-5-026:117

The Windward Planning Commission, at its duly held public hearing on April 3, 2014, voted to approve the above-referenced request to establish a church and related improvements on approximately one acre of land situated in the State Land Use Agricultural District. The property is located in Hawaiian Paradise Park Subdivision at the south west corner of Maku'u Drive and Koali (12th) Avenue, approximately 3 miles makai from the Kea'au-Paho Road intersection, Kea'au, Puna, Hawai'i.

Approval of the request is based on the following:

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. Construction of the proposed Phase 1 of church and related improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant shall secure Final Plan Approval from the Planning

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Director in accordance with the Zoning Code. Plans shall identify all existing and proposed structures, signage, fire protection measures, paved driveway access and all weather dust free parking stalls, outdoor lighting (if any), and other improvements associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise and visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Bufferyard landscaping shall conform to the standards for separation of a residential zone from a commercial zone as provided for in Planning Department Rule No. 17.

3. Construction of Phase 2 of the future church building and related improvements shall be completed within five (5) years from the date of completion of Phase 1. Prior to beginning Phase 2, the applicant shall secure Final Plan Approval from the Planning Director in accordance with the Zoning Code.
4. Any exterior signs shall meet with the approval of the Department of Public Works.
5. The entrance to the subject property shall be from 12th Avenue. Direct access to the subject property from Maku'u Drive shall be prohibited.
6. The applicant shall provide a 20 foot wide asphalt pavement within 12th Avenue commencing at the intersection of 12th Avenue and Maku'u Drive, and then along the subject parcel's entire 12th Avenue frontage meeting with the approval of Hawaiian Paradise Park Owners' Association. The paving of 12th Avenue shall be completed prior to the receipt of Certificate of Occupancy for Phase 2.
7. Special events shall be limited to no more than 100 persons per event, and held between the hours of 9:00 a.m. and 10:00 p.m.
8. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Certificate of Occupancy.
9. The applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed use.

10. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials 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 DLNR-SHPD when it finds that sufficient mitigative measures have been taken.

11. 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).
 - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate the revocation of 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.

Approval of this permit is based on the reasons given in the attached recommendation report.

Reverend William Knight
Open Arms Metropolitan Community Church
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Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288, ext 8142.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronald Gonzales', with a stylized, cursive script.

Ronald Gonzales, Chairman
Windward Planning Commission

Lopenarmsspp14-158wpc

Enclosure: PC Recommendation Report

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

**COUNTY OF HAWAI'I
PLANNING COMMISSION RECOMMENDATION**

**OPEN ARMS METROPOLITAN COMMUNITY CHURCH
SPECIAL PERMIT APPLICATION NO. 14-000158 (SPP NO. 14-000158)**

The applicant is requesting a Special Permit to allow the establishment of a church and related improvements and activities on approximately one acre of land in the Hawaiian Paradise Park Subdivision. The applicant is proposing to construct the project in two (2) phases, which consist of the following:

- **First Phase:** The first phase will consist of the main church building (1,162 square feet), the lobby (384 square feet), lanai (256 square feet) and restrooms (160 square feet) and paved parking as part of the first phase of the project.
- **Second Phase:** The second phase will consist of an addition to the first phase structure of 1162 square feet (identified as “future building” on the site plan) and any required paved additional parking.
- **Additional Activities:** The applicant is proposing to include special events on-site including fundraisers, rummage sales, ensemble music practices, potluck dinners, memorial services, weddings, funerals, baptisms and similar activities. These will be limited to no more than 100 people between the hours of 9:00 a.m. to 10:00 p.m.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), 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 Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The subject property is a vacant one-acre parcel and is not in agricultural use. The applicant proposes to establish a church and related uses on the subject property in the Hawaiian Paradise Park Subdivision. The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. Additionally, the soil is classified as rLW (lava flows, Pahoehoe). As a result, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

It is therefore determined that the proposed use is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

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. The subject request is considered an unusual and reasonable use of the agricultural land and will not adversely affect the preservation and agricultural use of the County's prime agricultural lands. Therefore, the proposed request is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties. The property is located in the Hawaiian Paradise Park Subdivision on the southwest corner of Makuu Drive and Koali (12th) Avenue. It is rectangular in shape and is one acre in size. There is a rock wall along the road boundaries. Currently, there are no other structures or uses occurring on-site. The property is situated within the State Land Use Agricultural district and the County's Agricultural (A-1a) zoning district.

The nearest single family dwelling is located on an adjoining parcel to the northwest along 12th Avenue. The church will meet the minimum required yard setbacks

and required landscaping through the Plan Approval process to further minimize any adverse noise and visual impacts that may be generated by the proposed request. All of the proposed activities will occur during off-peak traffic periods and the applicant will be providing sufficient on-site parking.

Lastly, the Planning Department has not received objections from the community. The Hawaiian Paradise Park Owners Association is in favor of the request but asks that the applicant be required to pave 12th Avenue to the end of their property. A condition of approval will be added to require the applicant to meet this request. Based on the above discussion, no significant adverse impact to surrounding properties is expected.

(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 Hawaiian Paradise Park Subdivision is from Keaau-Pahoa Road (Highway 130), a two-lane highway with a 100-foot right-of-way, the onto Maku'u Drive and 12th Avenue to the subject property. Maku'u Drive is a private road with an approximate 20-foot wide pavement within a 60-foot right-of-way. 12th Avenue is a private road with an approximately 20-foot wide cinder base within a 40-foot right-of-way. There is paving from Maku'u Drive to near the entrance to the property on 12th Avenue.

Water will be provided by a water catchment system. Wastewater disposal will comply with Department of Health regulations via a new onsite Individual Wastewater System (IWS) as a municipal sewer system is not available in the vicinity of the property. Lastly, electrical and telephone service are available to the property.

Based on the above discussion, 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. A portion of 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” uses may be allowed.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils on the property are classified as “E” or “Very Poor” for agricultural productivity by the Land Study Bureau and is unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The U.S. Soil Survey Type for the subject property is Pāhoehoe lava flows, (rLW). Pāhoehoe lava has no soil covering and is typically bare of vegetation except for mosses and lichens. The property has not been used for commercial agriculture in the past and due to its poor soil qualities is not ideal for producing sustained high agricultural yields. Thus, the land upon which the proposed use is sought is unsuited for the uses permitted within the district.

(F) The use will not substantially alter or change the essential character of the land and the present use. The essential character of the area is rural residential. The proposed use will alter the character of the land, but it will not be a substantial change. The proposed church will be developed in harmony with the existing rural character of the neighborhood.

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 property is designated Rural. This designation includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component, including the Orchidland Estates, ‘Āinaloa, and Hawaiian Paradise Park (HPP) subdivisions. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area,

and community and public facilities. The proposed use is considered a community facility as it will provide spiritual support for residents within the HPP subdivision and surrounding areas. The request is not contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area and complements the Land Use and Economic elements of the General Plan.

Additionally, the subject property is located near one of the proposed Hawaiian Paradise Park neighborhood village centers identified along Maku'u Drive between 15th and 17th Avenues within the Puna Community Development Plan.

Therefore, the proposed request is not contrary to the General Plan and official Community Development Plan for the area.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawai'i Revised Statutes, relating to the Coastal Zone Management Program. The property is not located within the Special Management Area and is over one mile from the nearest coastline. There is no record of a designated public access to the shoreline or mountain areas traversing the property. Due to the project site's distance from the shoreline, the property will not impact any recreational resources, scenic and open space or visual resources, coastal ecosystems and marine coastal resources.

The property has been previously cleared and is developed with border rock walls along the Maku'u Drive and 12th Avenue. The likelihood of any rare or endangered species, habitat or flora on the property is remote. The Department of Land and Natural Resources-State Historic Preservation Division has issued a "no-effect" letter stating that they believe that no historic properties will be affected by this project.

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 request to allow the establishment of a church and related improvements and activities on approximately one acre of land is approved.