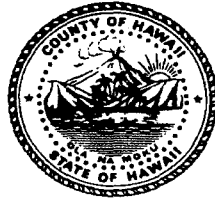


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

JUL - 1 2019

Mr. Sidney Fuke
Planning Consultant
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke

SUBJECT; Special Permit No. SPP 17-000195
Applicant: Living Stones Church
Permitted Use: Allow the Establishment of a Church and Related Facilities
Tax Map Key: 7-5-017:040 & 041

The Leeward Planning Commission, at its duly held public hearing on June 20, 2019, considered the above-referenced request to allow the establishment of a church and related facilities on an approximately 7+-acre portion of 29.389 acres of land situated in the State Land Use Agricultural District. The properties are located directly east (mauka) of Queen Ka'ahumanu Highway and immediately north of the Pualani Estates Subdivision, Kahului 2nd, North Kona, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The proposed Church and related facilities shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application dated September 28, 2017, any supplemental material, and the representations made before the Leeward Planning Commission. Any substantial expansion of the facility or uses beyond what is represented in this document shall require an amendment to this permit.

JUL - 2 2019

3. As represented by the applicant, hours of operation shall daily between 7:00 AM and 10:00 PM. Overnight activities shall be prohibited and all nocturnal activities (starting at 6:00 PM) shall occur indoors.
4. Prior to issuance of Final Plan Approval, the applicant shall provide to the Planning Department a metes and bounds survey of the approximately seven (7)-acre permit area in map and written form, on the subject properties. Should the location of the access easement change due to the construction of Ho‘omama Street, the applicant shall submit an amended metes and bounds survey. At no time shall the activities permitted under this Special Permit take place outside of the permit area.
5. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, 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 proposed structures, fences, signage, water sources (potable and non-potable), wastewater systems, fire protection measures, paved driveway access and paved and unpaved parking stalls as approved by the Director, outdoor lighting (if any, lighting must be shielded with light directed downwards), landscaping and other improvements associated with the proposed development. Further, any unpaved parking stalls shall be constructed of a material that will eliminate or minimize erosion, mud, and standing water.
6. As represented by the applicant, any new structures within the Special Permit Area shall be limited to a height of thirty-five (35) feet.
7. As represented by the applicant, all construction traffic shall be routed from Hualālai Road to the subject parcels via TMK: 7-5-017:044.
8. All existing and new driveway connections to Ho‘omama Street and Hualālai Road and work within the County Right-of-Way shall conform to Chapter 22 – County Streets – of the Hawai‘i County Code. Access to Hualālai Road including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works - Engineering Division.
9. Upon construction of the Ho‘omama Street extension, the applicant shall relocate their access to a location on Ho‘omama Street meeting the approval of Department of Public Works - Engineering Division.

10. The applicant shall comply with any requirements of the State Department of Transportation or the Department of Public Works Traffic Division to mitigate traffic impacts that may be generated by the proposed use.
11. Prior to issuance of a Certificate of Occupancy, the applicant shall provide fire protection measures appropriate for the proposed use meeting with the approval of the Fire Department, including but not limited to water storage for firefighting purposes, water supply with sufficient fire flow rate, and providing fire department access roads with adequate turning radiuses to support the proposed development.
12. Prior to issuance of Final Plan Approval, the applicant shall submit a drainage study prepared by a licensed engineer to the Department of Public Works for review and approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
13. There shall be no construction of substantial buildings within areas designated AE or AEF by Flood Insurance Rate Maps.
14. Prior to any land alteration activities affecting the AE or AEF flood zones, the applicant shall submit a flood study prepared by a licensed professional civil engineer for review and approval by DPW. These activities shall conform to Chapter 27 - Floodplain Management - of the Hawai'i County Code.
15. All proposed structures shall connect to the public sewer in accordance with Section 21-5 of the Hawai'i County Code. Prior to connection, the applicant shall conduct a sewer study in accordance with the applicable wastewater system design standards prior to approval to connect to the County Sewer system. The applicant shall provide such sewer line or other facility improvements as the Director of DEM may reasonable require, or as indicated by the sewer studies proposed mitigation of impacts for the proposed project.
16. Prior to the issuance of Final Plan Approval, a Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval.
17. Prior to the issuance of Plan Approval, the applicant shall submit for all uses on the property, estimated maximum daily water usage calculations, prepared by a professional engineer licensed in the State of Hawai'i, for review and approval by the Department of Water Supply (DWS). The water usage calculations shall include the estimated peak flow in gallons per minute (GPM) and the total estimated maximum water usage in gallons per day (GPD). The calculations should also include information pertaining to how non-potable

water use will be addressed for the agricultural activities. If required, a water commitment deposit shall be paid to the DWS prior to issuance of Final Plan Approval in accordance with Rule 5 of the DWS Rules and Regulations. The applicant shall construct necessary water system improvements as required by the DWS.

18. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of any additional water meters on private property, which must be inspected and approved by DWS.
19. The proposed kitchen shall meet the requirements of Chapter 50, Food Safety Code. The applicant shall secure a food establishment permit from the State Department of Health, prior to commencement of any food service to the public. A copy of the permit shall be provided to the Planning Department prior to issuance of a Certificate of Occupancy.
20. Prior to the issuance of any land alteration permits, the applicant shall install and implement all preservation measures listed in the approved Burial Treatment Plan. A letter documenting the installation of preservation measures shall be sent to SHPD and the Planning Department confirming completion of preservation measure installation.
21. Prior to the issuance of Certificate of Occupancy, the applicant shall complete all other requirements of the Burial Treatment Plan related to access, signage, landscaping, recordation at Bureau of Conveyances and recordation against the property title. The applicant shall be responsible for maintenance, inspections and compliance with care of the preservation area as required in the Adopted Burial Treatment Plan shall be the responsibility of the applicant.
22. In the unlikely 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, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division 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.
23. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used in the permit area and woody vegetation over 15 feet in height shall not be disturbed, trimmed or removed during bat birthing and pup rearing season of June 1st to September 15th without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist.

24. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
25. 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, 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 Planning 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.

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Jeff Darrow of the Planning Department at 961-8158.

Sincerely,

Keith F.
Unger

Digitally signed by Keith
F. Unger
Date: 2019.07.01
16:30:44 -10'00'

Keith F. Unger, Chairman
Leeward Planning Commission

LLivingstoneschurchSPP17-1951pc
Enclosure: PC Findings

Mr. Sidney Fuke
Planning Consultant
Page 6

cc: Living Stones Church
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Environmental Management
State DLNR-HPD
DOT-Highways, Honolulu
US Fish and Wildlife Service
State Department of Health
Plan Approval Section
Mr. Gilbert Bailado

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

LIVING STONES CHURCH

SPECIAL PERMIT APPLICATION NO. 17-195 (SPP 17-000195)

Based on the following findings, Special Permit No. 19-000205 is hereby issued to allow the establishment of a church and related facilities on an approximately 7+-acre portion of 29.389 acres of land in the State Land Use Agricultural District. The subject properties are located directly east (mauka) of the Queen Ka'ahumanu Highway and immediately adjacent and to the north of the Pualani Estates Subdivision, Kahului 2nd, North Kona, Hawai'i TMK: 7-5-017:040 (por) & 041 (por).

The applicant is requesting a Special Permit to allow for the development of a Church and related facilities on an approximately seven (7) +/- acre portion of two contiguous parcels of land (Parcel 040s and 041). Proposed improvements include:

- A new, 19,000 +/- square-foot, single-story church structure including a 600-seat chapel, prayer rooms, offices, and restrooms;
- A new, 4,000 +/- square-foot, single-story Sunday School consisting of space for a Sunday school, pre-school, nursery, kitchen and restrooms. The height of all structures will not exceed thirty-five (35) feet, which is less than the maximum allowable height in the agricultural zoneed district (45 feet);
- Access to the project site will be secured via a 24-foot wide, paved access easement over Parcel 041 from the Ho'omama Street extension consisting of approximately 13,000 +/- square feet;
- A 160-lot paved parking area; and
- Landscaping.

Church operations will occur primarily on Sunday with proposed services to be held at 7:30 AM, 9:00 AM, 10:30 AM and 6:00 PM. Weekday/evening classes and activities will be intermittent, will take place indoors and are proposed to cease at 10:00 PM (no overnight activities).

The grounds 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 State Land Use Agricultural District and would promote the effectiveness and objectives of the State Land Use Law and Regulations and Chapter 205, 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 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 properties are currently vacant and not in agricultural use. The proposed church and related facilities will be situated on approximately seven (7) +/- acres of a larger 29.389-acre combined area of the subject properties. Soils for this site are classified as within the Punalu'u series (rPYD), this soil series consists of well drained, thin, organic soils over pāhoehoe lava bedrock. The majority of the Parcel 040 is designated "E" or "Very Poor." The remainder of the parcel and all of Parcel 041 is designated D or "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. In addition, a large portion of Parcel 040 is affected by the Wai'aha Drainageway Split Flow 2 floodway, which is situated in the north west corner of Parcel 041 and bisects Parcel 040.

Based on the preceding, the proposed church and related facilities are a reasonable 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) The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. 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 would not adversely affect surrounding properties. The surrounding land uses in this area are a mixture of low to moderately dense residential, agricultural, and commercial uses. The subject properties are located directly to the east (mauka) of Queen Ka'ahumanu Highway. Properties to the north are similarly zoned agricultural (A-5a & A-1a). The property directly to the east of Parcel 041 was rezoned to Single-Family Residential (RS-10) in 2010. Located directly adjacent to the south is the 384-lot Pualani Estates residential subdivision zoned Single-Family Residential (RS-7.5). The property to the west (makai) across Queen Ka'ahumanu Highway is similarly agriculturally zoned and is the site of the Kona Distilling Company, which was granted a Special Permit for a distillery operation in April 2019 (SPP-19-205). There is a small commercial office complex generally north west of the subject site. On a separate parcel and in the vicinity, there is a self-storage facility. Other entitled land uses include a proposed commercial shopping complex and rental housing project located directly across of the Pualani Estates subdivision.

The Planning Department received several comment letters from surrounding property owners and the Pualani Estates Homeowners Association. The letters highlighted concerns over possible negative impacts on the surrounding community. These concerns

include, 1) noise, dust, and construction traffic during the construction phase; 2) concerns that the 2010 traffic study was outdated and did not account for increases in traffic since; 3) concerns over the impact of the project on flooding in the area; 4) concerns over the inadequacy of the proposed wastewater system; 5) concerns over possible impacts on archaeological features; and 6) concerns over noise, lighting, and other potential nuisances related to church operations.

In response to the public concerns, the applicant has proposed the following:

1) Construction Phase Access/Nuisances: To mitigate construction traffic through existing streets within the Pualani Estates Subdivision, the applicant plans to route construction traffic from Hualālai Road through TMK: 7-5-017:044, which is situated adjacent to north of the subject parcels. Contractors for the church will be required to adhere to State Department of Health requirements relative to noise and dust control during construction.

2) Outdated Traffic Study: The applicant submitted an updated traffic study in April 2018. The findings of the study are further discussed in Section C below (pp. 5-6). In addition, the applicant indicated that Parcel 040's existing access to Hualālai Road will continue to be used as an emergency access and possibly a secondary access in certain situations.

3) Impacts of the Project on Flooding: Discussion of flooding impacts is discussed in greater detail in Section C below (P. 8)

4) Wastewater System: The wastewater system requirements are discussed in greater detail in Section C below (pp. 7-8), but the applicant will be required to connect to the County Sewer system.

5) Archaeological Impacts: Requirements to mitigate possible impacts to archaeological sites/resources on the subject property are discussed in greater detail below (pp. 11-14).

6) Potential Nuisances Related to Church Operations: To mitigate impacts on surrounding properties related to church operations, the applicant has proposed to work with the Pualani Estates of Kona Homeowners Association to develop mutual terms of operation, but at a minimum, the applicant proposes to prohibit overnight activities, limit hours of operation for the church from between 7:00 AM to 10:00 PM and require all nocturnal activities to take place indoors (up to 10:00 PM). These will all be added as conditions of approval. To mitigate noise impacts, the applicant has proposed to limit sound at the property line to the prevailing noise standards of the State Department of Health for residential area of 55 decibels ("dBA") between the hours of 7: 00 AM to 10:00 p.m. and 45 dBA between the hours of 10:00 PM to 7:00 AM. While the Director is supportive of this restriction, the County has no way to ensure compliance, so this will not be added as a condition of approval.

- Finally, to minimize any visual impacts, any new structures will be restricted to not exceed the 35-foot height limit, which is the maximum allowable height limit in the Single Family Residential Zone and less than the maximum allowable height in the agricultural zoned district (45 feet); this will be added as a condition of approval.

(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 project site will be from Ho'omama Street which intersects with

Puapua'anui Street within the Pualani Estates Subdivision. As the area of the proposed church does not directly front Ho'omama Street, the applicant has secured consent for a 24-foot wide access and utility easement across Parcel 041, which fronts Ho'omama Street. Ho'omama Street is a County roadway with approximately 30 feet of pavement and concrete curb, gutter and sidewalk within a 50-foot right-of-way. Both parcels currently take access off of Hualālai Road via a gravel driveway within fifteen (15)-foot wide flag poles. According to DPW, conditional approval of the access from Ho'omama Street shall be granted, however, should the State Land Use Boundary Amendment and County Rezoning applications for Parcel 041 be approved, a County dedicable road connecting Ho'omama Street to the northern property boundary of Parcel 041 will be required. Once Ho'omama Street is constructed, the applicant shall be required to relocate their access to a location on Ho'omama Street meeting the approval of DPW. Finally, access to parcel 040 to Hualālai Road, including the provision of adequate sight distances, shall meet with the approval of DPW. The preceding will be added as conditions of approval.

The applicant submitted a copy of a 2010 Traffic Impact Analysis Report (TIAR) with their 2017 Special Permit Application that was prepared in conjunction with a proposed State Land Use Boundary Amendment, Change of Zone and 100-lot residential subdivision for the subject properties. The draft TIAR found that the primary access intersection of Puapua'anui Street and Queen Ka'ahumanu Highway would operate at acceptable Level of Service. According to the State Department of Transportation – Highways Division, the 2010 TIAR was deficient, and they made recommendations to improve the study. In response to the preceding and to public concerns that the 2010 TIAR was prepared for different project type and that the data/analysis may be stale, the applicant submitted a Traffic Assessment Report (TAR) for the proposed church project. According to the draft TAR, the proposed project is expected to generate 302 trips (148 entering and 154 exiting) during the Sunday peak hour (9:00 AM to 10:30 AM). Weekday peak hour trips are expected to be a total of six (6) in the AM peak hour and eighteen (18) in the PM peak hour. Furthermore, the draft TAR found that the intersection of Puapua'anui Street and Queen Ka'ahumanu Highway is expected to operate at an overall LOS "B", during the Sunday peak hour of traffic with the proposed project. The intersection of Puapua'anui Street and Ho'omama Street is expected to operate at LOS "A" during the Sunday peak hour of traffic with the proposed project. Based on the preceding, the draft TAR did not recommend any traffic mitigation measures at this time. The draft TAR was sent to both the State Department of Transportation and Department of Public Works-Traffic Division on May 3, 2019 for review and comment. As of the date of this writing, neither the Planning Department nor the applicant has received any comment from those agencies. As of this writing, neither DOT nor DPW has commented on possible impacts from the proposed church. For this reason, should DOT require any mitigation for impacts generated by the proposed church, the applicant will be required to comply through a condition of this approval

According to the Department of Water Supply (DWS), the subject parcels have no existing water service, however there is an existing eight (8)-inch waterline within Hualālai Road, fronting the subject parcels and an existing eight (8)-inch waterline within Ho'omama Street, fronting Parcel 041. The existing waterlines fronting the subject properties are inadequate to provide the 2,000 gallons per minute of flow for fire protection.

DWS indicated that on zoning there are two (2) units of water available for each parcel (each unit of water equals an average of 400 gallons per day), but that the applicant would be required submit estimated maximum daily water usage calculations for the proposed development, prepared by a professional engineer licensed in the State of Hawai'i, for review and approval to determine if the existing system can accommodate the proposed water demand and the necessary water commitment deposit amount, facilities charges and other conditions of final approval. Finally, the applicant will be required to install a reduced pressure type backflow prevention assembly within five (5) feet of the meter on private property. The preceding will be added as conditions of approval.

Primary wastewater needs for the proposed project will be for the restrooms and proposed kitchen. The applicant intends to connect the project's wastewater system to the an existing eight (8)-inch sewer line is located within Ho'omama Street approximately 60 feet from Parcel 041, however it is not yet dedicated to the County. According to the Department of Environmental Management (DEM), the applicant shall be required to connect all proposed structures to the public sewer in accordance with Section 21-5 of the Hawai'i County Code. DEM also noted that Parcel 040 and a portion of Parcel 041 are within the one (1) mile buffer zone from the coastline which are identified under PUB-4.4 of the Kona CDP as being a priority area for connecting to the sewer system. Prior to connection to the sewer system, the applicant will be required to conduct a sewer study in accordance with the then applicable wastewater system design standards prior to approval to connect to the County sewer system. The applicant shall provide such sewer line or other facility improvements as the Director of DEM may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of the proposed project. The preceding will be added as conditions of approval.

There is no municipal garbage pickup in the County of Hawai'i. According to the applicant, solid waste will be handled by commercial haulers who will dispose of the refuse at the county landfill at Pu'uana'hulu. According to the Department of Environmental Management (DEM), the applicant will be required to submit a Solid Waste Management Plan to DEM for their review and approval. The preceding will be added as a condition of approval.

According to the Flood Insurance Rate Map (FIRM), the Wai'aha Drainageway Split Flow 2 floodway is situated in the north west corner of Parcel 041 and bisects Parcel 040 from the north east corner, in a south westerly direction to Queen Ka'ahumanu Highway. These areas described are designated within the AE flood zone (base flood elevation established) and AEF flood zone (floodway areas in zone AE). The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the base flood elevation. The remainder of the property is designated as flood zone X (area of minimal flood hazard). The site plan and narrative in the 2017 application was based on an old flood map that showed the AE zone only impacting a small portion of the eastern end of Parcel 040. According to the applicant, if the Special Permit is approved, the applicant will seek a Conditional Letter of Map Revision (CLOMR) that would result in a realignment of the floodway, thus changing the designation to flood zone X. As the applicant may not be successful in securing a CLOMR, the applicant is prepared to develop the basic structures of the proposed project within the existing flood zone X area.

Furthermore, the applicant stated that a portion of the access driveway and parking lot would be situated in floodway. The applicant submitted an updated site plan in 2019 to reflect the preceding. According to DPW, the applicant will be required to submit a flood study prepared by a licensed professional engineer for review and approval by DPW prior any land alteration activities affecting the AE and AEF flood zones. Furthermore, these activities shall conform with Chapter 27 – Floodplain Management – of the Hawai'i County Code. The preceding will be added as conditions of approval.

There should not be any other public service type of impacts due to the proposed project. The site is currently serviced by police and fire facilities that are located less than seven (7) miles from the subject parcel. The project's location should not require any extension or expansion of these public 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. While they are zoned Agricultural, the subject properties are situated within the Kona CDP Urban Area and are within close proximity to residential subdivisions that are consistent with adjacent urban land uses and zoning designations. Due to population growth in the Kona region, there is a need to provide area residents with additional opportunities to participate in fellowship and spiritual gatherings, thereby enhancing local community life, providing a community-based service, and fostering the continued growth and development of families.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils on this site are classified as within the Punalu'u series (rPYD), this soil series consists of well drained, thin, organic soils over pāhoehoe lava bedrock. The majority of the Parcel 040 is designated "E" or "Very Poor." The remainder of the parcel and all of Parcel 041 is designated D or "Poor" for agricultural productivity by the Land Study Bureau's Detailed Land Classification System. The property is also considered "unclassified" Agricultural Land by the Department of Agriculture's ALISH Map. In addition, a large portion of Parcel 040 is affected by the Wai'aha Drainageway Split Flow 2 floodway, which is situated in the north west corner of Parcel 041 and bisects Parcel 040. The proposed church and related facilities on Parcel 040 and the 13,000 square foot access easement across Parcel 041 will be situated on about seven (7) +/- acres of a larger 29.389-acre combined area of the subject properties. Based on the preceding, the proposed church and related facilities

(F) The use will not substantially alter or change the essential character of the land and the present use. The site will be altered from its current vacant, vegetated state and the development of the proposed church facilities and parking area will change the character of the site. However, as the project site is located adjacent to a residential community, the proposed church use is consistent with the character of the surrounding area. Based on the preceding, the use is not anticipated to alter or change the essential character 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 County of Hawai'i's General Plan is the policy document for the long-range comprehensive development of the island of Hawai'i. One of the purposes of the General Plan is to guide the pattern of future development in this County based on long-term goals. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the majority of the property, including the proposed Special Permit area as Urban Expansion, 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. As previously stated, churches and other houses of worship are typically found within and adjacent to urban/residential areas and thus would be consistent with this LUPAG designation.

In addition, the proposed use would support the goals and policies of the Land Use element of General Plan.

Land Use Element

- Goal: Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environment of the County.
- Policy: Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The General Plan designates Ho'omama Street as a major collector Road, and as discussed above, when the extension of Ho'omama Street is constructed, the applicant will be required to relocate its access easement to Parcel 040.

The Kona Community Development Plan (KCDP) directs growth in the Kona Region. The subject parcel is situated within the Kona Urban Area, within the secondary area of the Kahului–Puapua'a Village Neighborhood TOD floating zone (that has yet to be "fixed" through a site-specific master plan and rezoning process). The KCDP does not speak specifically to Special Permits for Churches on agricultural land, but the Church use is generally consistent with the relevant guiding principles, goals, objectives, policies and actions of the KCDP, guiding growth in the Kona Urban Area as being primarily within "compact villages."

Based on the preceding, request will not be contrary to the General Plan and Kona Community Development Plan.

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 SMA is part of the Coastal Zone Management Program regulated by the County. The subject property is located approximately 1.2 miles from the nearest coastline and is not situated within the Special Management Area. There is no known public access to the shoreline or mountains through the subject property.

Proposed structures on the property will connect to the County sewer system and all project related drainage shall be handled on-site. Furthermore, the applicant shall comply with Chapter 10, Erosion and Sedimentation Control, Hawai'i County Code, Chapter 27 – Floodplain Management, Hawai'i County Code and State Department of Health (DOH) water pollution control regulations, thus the project is not anticipated to

have any negative impact on coastal ecosystems, marine resources. Additionally, the applicant proposes to limit the height of the structures to no more than 35 feet in order to minimize impacts to open space and scenic resources.

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 Planning Department must consider a project's impact on native Hawaiian gathering and fishing rights. Specifically, there must be a discussion of the cultural, historical, and natural resources and associated traditional and customary practices of this site and the impact of this project to these resources and practices. As the subject parcels are not adjacent to or near the shoreline, fishing and coastal access rights should not be impacted.

Investigation of valued resources: The applicant has presented the following information from which the Planning Commission can determine the valued cultural, historical, and natural resources within the area sought for the Special Permit:

- An Archaeological Inventory Survey conducted by Thomas R. Wolforth, M.S. and Jon Wilson, B.A. of Scientific Consultant Services, Inc. in August of 2008.
- A draft Burial Treatment Plan (BTP) prepared by Glenn G, Escott, M.A, and Thomas Dols, M.A. date April 2019.

The valuable cultural, historical, and natural resources found in the permit area: The AIS identified thirty (30) sites. Of these, twenty-six (26) were identified as "no further work required." One (1) site was recommended for data recovery, and three (3) burials, found within a cave on Parcel 040 were recommended for preservation with an approved Burial Treatment Plan. The AIS was approved by the State Historic Preservation Division (SHPD) by letter dated June 13, 2008.

The BTP required preservation treatments including a twenty (20)-foot permanent preservation buffer from the outside perimeter of the lava tube cave consisting of a solid core rock wall of traditional tapered and dry stack appearance with a gate for pedestrian access and a ten (10)-foot, no-build easement outside of the 20-foot permanent buffer. According to the BTP, the permanent preservation rock wall will be constructed prior to the church and parking lot construction and will act as the buffer during all construction activities. No construction or ground disturbance shall occur within the permanent preservation buffer. Furthermore, access to the burial is available from the church driveway and parking will be available in a lot adjacent to the driveway. The access easement to Site 26602 will be a footpath from parking lot to the north east entrance of Site 26602. The property owner is responsible for ensuring the access easement is usable for pedestrian travel and is responsible for keeping the access easement clear and open. Access will be permitted seven (7) days a week, one-half hour before sunrise to one-half hour after sunset. The BTP also articulated requirements for signage, timing of the installation of preservation measures, landscaping, maintenance responsibilities, and Bureau of Conveyance recordation requirements.

At its meeting on March 21, 2019, the Hawai'i Island Burial Council (HIBC) reached a unanimous decision to preserve the burial sites in place. Additionally, the HIBC

recommended that SHPD accept the Draft Burial Treatment Plan. By letter dated March 28, 2019, SHPD accepted the BTP following the recommendation of the HIBC. The applicant's compliance with requirements of the approved BTP will be added as conditions of approval of this permit.

Feasible actions to protect native Hawaiian rights: To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights. The proposed project will not restrict the use of natural resources along the shoreline, as the property is not in close proximity to the shoreline.

Conditions of approval will require the applicant to implement requirements of the adopted Burial Treatment Plan and will protect any unidentified cultural, historical, and natural resource in the event any are inadvertently encountered during construction.

According to the applicant, there was no professional flora survey conducted on the site but observed vegetation on the site consists of a mixture of introduced plant species such as kiawe, koa haole, and a variety of grasses. None of these species are considered threatened or endangered by the US Fish and Wildlife Service. No professional fauna survey was conducted on the subject site, but due to the semi-developed state of the area the applicant expects introduced bird species (Japanese white eye, Spotted Dove, House Finch, Common Myna, etc.) and domestic animals and feral rodents on the site. Thus, the applicant does not believe rare or endangered resources are likely to be found on the subject property.

According to the US Fish and Wildlife Service (USFWS) the Hawaiian Hoary Bat has the potential to occur in the vicinity of the project area and may roost in nearby trees. If any site clearing is required, this should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15). Barbed wire should be avoided for any construction because bat mortalities have been documented as a result of becoming ensnared by barbed wire during flight. These will be added as conditions of approval.

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 property. Additional governmental requirements may include the issuance of a liquor license, issuance of building permits, 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 affected agencies.