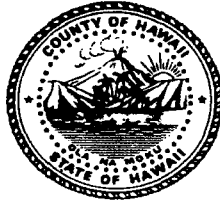


Harry Kim
Mayor



Joseph Clarkson, Chair
Thomas Raffipiy, Vice Chair
Gilbert Aguinaldo
Donn Dela Cruz
Donald Ikeda
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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

MAR 20 2019

Mr. Michael Shibata
Lili'uokalani Trust
1100 Alakea Street, Suite 1100
Honolulu, HI 96813

Dear Mr. Shibata:

SUBJECT; Special Permit No. SPP 18-000202
Applicant: Lili'uokalani Trust
Permitted Use: Establish a Community Center and Related Improvements
and Activities
Tax Map Key: 1-6-003:103

The Windward Planning Commission, at its duly held public hearing on March 7, 2019, considered the above-referenced request to establish of a community center and related improvements and activities on a 6.717-acre parcel of land within the State Land Use Agricultural District. The property is located along the west side of Kea'au-Pāhoa Road, approximately 700 feet south east of its intersection with Kukula Street and adjacent to the south of Kea'au Elementary, Kea'au, Puna, Hawai'i.

Approval of this amendment is subject to the following amended conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The operation of the community center complex and related improvements shall be conducted in a manner that is substantially representative of plans and details

MAR 21 2019

contained within the Special Permit Application dated November 21, 2018. Any substantial expansion of the community center complex or uses beyond what is represented in these documents shall require an amendment to this permit.

3. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
4. Construction of the proposed development shall be substantially completed within ten (10) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) 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), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
5. Access to the project site from Kea'au-Pāhoa Road and any other improvements required shall meet with the approval of the State Department of Transportation.
6. A drainage study shall be prepared by professional civil engineer licensed in the State of Hawai'i and submitted to the Department of Public Works prior to issuance of a construction permit. 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.
7. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
8. Prior to the commencement of the proposed use, individual wastewater system(s) shall be installed, meeting with the standards and requirements of the State Department of Health.

9. 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.
10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Health, the Fire Department and the Department of Water Supply.
11. An initial extension of time for the performance of conditions may be granted by the 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 Special Permit.
 - D. The time extension 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 Director shall submit the applicant's request to the Windward Planning Commission for appropriate action.
12. Should any of these 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.

Mr. Michael Shibata
Lili'uokalani Trust
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Approval of this permit is based on the reasons given in the attached findings.

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

Sincerely,

Joseph B. Digitally signed by Joseph
B. Clarkson
Date: 2019.03.20
14:53:18 -10'00'
Clarkson

Joseph Clarkson, Chairman
Windward Planning Commission

LLiliuokalanitrustSPP18-202wpc
Enclosure: PC Findings

cc: Ms. Kimi Yuen, PBR Hawaii
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State Department of Transportation
State DLNR-HPD
Plan Approval Section
Mr. Gilbert Bailado

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

LILI‘UOKALANI TRUST
SPECIAL PERMIT APPLICATION (SPP 18-000202)

Based on the following findings, Special Permit No. 18-000202 is hereby issued to allow for development of a community center complex on approximately 6.72 acres of land situated in the State Land Use Agricultural District. The subject property is located along the old Kea‘au-Pāhoa Road, adjacent to the Kea‘au Elementary School, Puna District, Island of Hawai‘i, Hawai‘i, TMK: (3) 1-6-003:103

The applicant is requesting a Special Permit for a proposed community center complex to provide family outreach and counseling services, afterschool programs, recreational activities, and various youth programs on 6.72-acres of land situated within the SLU Agricultural District. The proposed development will be coupled with the establishment of outdoor areas to the rear of the parcel to accommodate interactive learning, play and exploration, native Hawaiian gardens, agricultural terraces, and outdoor performance space intergraded with the existing topography as well as the following buildings:

- Construction of a one (1) story, 4,600-square-foot music and cultural performing arts building;
- Construction of a two (2) story, 13,900-square-foot multi-purpose building that includes a commercial kitchen, ‘makerspace’, a multi-purpose room, and office space for administrative uses;
- Construction of a 14,400-square-foot gymnasium facility with storage and locker rooms;

Parking areas for employees, visitors, and loading and unloading will be provided in accordance with the Zoning Code along with a 50-foot wide paved access from Kea‘au-Pāhoa Road into the property. The preliminary site plan shows 110 parking stalls, ADA accessible parking will be established based on County requirements. There will be approximately six (6) full time employees and nine (9) part-time employees serving approximately 20-60 elementary through high school-aged students. Facility hours of operation will occur in the later afternoon during afterschool hours (approximately 230pm to 630pm), on weekday nights (as needed) from 5pm to 9pm and on occasional weekends from 8am to 10pm.

The project objective is to fulfill the Lili‘uokalani Trust’s (applicant) mission to ensure the wellbeing of the most vulnerable Native Hawaiian children and their ‘ohana. With a growing population in the Puna District, this proposed community complex will serve the East Hawai‘i community and more specifically provide afterschool performing arts, education, and athletic opportunities for children and families in and around Kea‘au-Pāhoa, Kurtistown, Mountain View, and Volcano Village areas. The applicant is supportive of alternative learning programs and is exploring the use of its facilities in partnership with other youth services programs and the nearby public schools.

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. 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 has been historically used for sugar cane cultivation and includes remnant railroad lines and roadways that are no longer apparent or in operation. While approval of this request will introduce non-agricultural uses on the subject property, the Special Permit will limit the proposed non-agricultural uses to the use of the community facility and may impose conditions to mitigate any impacts. Initial consultation with the State Department of Education indicates there is potential for positive coordination between the area public schools and the proposed community center. While the proposed community facility will be used on a daily basis, the greatest use will occur during afterschool hours to provide students with enrichment activities and learning opportunities. The applicant states that the proposed project is not a type of use that will generate new students as it is intended to serve the existing families by providing afterschool programs and services. Therefore, the request to allow family outreach, counseling services, afterschool programs, recreational activities, youth programs, and special events and activities in conjunction with a community center complex on 6.72 acres of land is an unusual and reasonable use of land in the State 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) The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. 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 family outreach, counseling services, afterschool programs, recreational activities, youth programs, and special events in conjunction with a

community center complex on 6.72 acres of land situated within the State Land Use Agricultural District is not anticipated to have a significant adverse effect on the County's agricultural land inventory.

The soils within the property are classified as "Poor" for agricultural productivity and were historically utilized for sugar cane production, railroad lines, and roadway uses. Approval of this request will allow for a unique opportunity to fill a need in the community to incorporate educational, cultural, and family uses adjacent to two (2) exiting schools, and an existing 300+ lot agricultural subdivision. The State Land Use Law asks that the County 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. The proposed project provides an opportunity to address societal issues of this region as well as providing family assistance using Hawaiian culture such that 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 project site and its surrounding lands were historically utilized for sugar cane production, railroad lines and roadway uses. Currently, the subject parcel is undeveloped other than stormwater management (swales) devices placed during the development of the nearby schools and roadway. There is no current use of the parcel, and access is limited due to overgrowth of vegetation and the topography of the site.

Initial consultation between the applicant and the State Department of Education (DOE) indicated there was potential for positive coordination between the area public schools and the proposed community facility. While the proposed facility will be used on a daily basis, the greatest use will occur during afterschool hours to provide students with enrichment and learning activities such as, but not limited to: creative performing arts, cultural enrichment, sports and athletic programs, and afterschool events.

Typical traffic to and from the proposed facility is not anticipated to overlap with area and regional morning and afternoon peak traffic flows from the nearby public schools, as the proposed facility use is anticipated to peak during mid-day and afterschool hours. All future traffic movements at area intersections are projected to remain at LOS "C" or better with the proposed community facility. 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. To accommodate the relatively high number of pedestrians accessing the project site, pedestrian accessibility measures (e.g., sidewalk connectivity, marked crosswalk, and median islands) will be employed to facilitate connectivity between the nearby schools and the project site. Additionally, to further support and enhance pedestrian accessibility, traffic calming measures (e.g., curb extensions and raised crosswalk/speed tables) will also be emplaced. There is no County of Hawaii wastewater service in the immediate area. Therefore, the proposed project will develop an individual wastewater system in accordance with applicable laws and regulations. The applicant will be responsible to construct or pay for connections to the County water system to the

existing water transmission system along the Kea'au-Pāhoa Road; based on preliminary water use calculations the required water demand will not necessitate improvements to the existing off-site water transmission system.

The proposed use will not generate new students as it is intended to serve the existing families by providing afterschool programs and services to the families in the region. The proposed use will compliment and support the existing educational facilities located nearby. While there will be an occasional and unavoidable need for police protection, the proposed use is envisioned as a safe place for students to attend afterschool programs. To provide fire protection, a fire hydrant having the ability to supply adequate flow must be located within 300 feet of all parts of the proposed facility as well as the installation of one (1) backflow preventer for domestic water use and fire protection.

All other essential public utilities and facilities are or will be made available to support the proposed community facility. 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. 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. Residential growth in the Puna District has increased such that a need for safe and productive activities for school aged children has been deemed necessary. The proposed project would provide much needed community buildings, facilities, and activities to support the growing population and increased public school enrollment anticipated in the future.

(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 "D" or "Poor" for agricultural productivity and are identified as 'Ōla'a cobbly hydrous loam (2-10% slopes). The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map identifies the majority of the project site as "Prime" agricultural lands with the remaining portion designated as "unclassified".

The project site is ideally located near several public schools on a currently undeveloped parcel. There is a flat portion of the project parcel that will support the proposed community buildings and parking area, while the sloped areas will be established as terraced slopes to support native and Polynesian introduced plants for outdoor exploratory and educational opportunities for the community. Although the project site is zoned for agriculture, a commercial-scale agriculture use would conflict with the two (2) neighboring schools and residential uses located adjacent to the project parcel.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed use will not substantially alter the character of the surrounding area as the proposed community facility will be similar in scale to the neighboring public schools, and will be limited to the flat portions of the project parcel. The proposed community facility will be set back approximately 100 feet

from Kea'au-Pāhoa Road and will be hidden by the existing fenced drainage culvert and vegetation fronting the parcel. The general topography of the project parcel will be largely undisturbed with minor terracing and grading for plating areas, pathways and agricultural plots confined primarily to the rear of the project parcel.

(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 property as Medium Density Urban. These are areas of village and neighborhood commercial, single family and multiple family residential (up to 35 units per acre), ancillary community and public uses, and related functions.

The proposed request is a community facility that will complement the Public Facilities-Education element of the General Plan:

Public Facilities-Education

- Encourage combining schoolyards with county parks and allow school facilities for afterschool use by the community for recreational, cultural, and other compatible uses.

Additionally, the Puna Community Development Plan (PCDP) is supportive of the proposed use and is consistent with Section 3.3 which states: "Schools are also an important social resource, serving not only as educational institutions, but also as de facto community centers and recreation areas in rural areas.

The proposed community facility is supportive of social services and community policies as described in the PCDP by locating these types of facilities in close proximity to its potential users. Additionally, the proposed use is supportive of the current use of the area, and acts to complement the existing educational services provided by the public schools. Based on the above, the proposed request is consistent with the goals of both the General Plan and the PCDP.

(H) The proposed use is an unusual and reasonable use of land, which would not be contrary to the objectives to be sought by the land use law and regulations, which, for the agricultural and rural districts, seeks to preserve or keep lands of high agricultural potential in agricultural use. The proposed community facility is a reasonable use for the project site that is consistent with the existing development in the area, which includes single family dwellings, schools, and resident-oriented businesses, and will support the existing land uses and community in this region.

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 properties are located outside of the Special Management Area and is approximately four (4) miles from the nearest shoreline. The subject project site and its surrounding lands were historically utilized for sugar cane production, railroad lines and roadway uses. Currently, the subject parcel is undeveloped.

An Archeological Inventory Survey (AIS) was prepared for the project site and was accepted by the State Historic Preservation Division (SHPD) on October 4, 2018. The AIS documented two historic sites, 1) a remnant segment of the former Glenwood Division Route of the Hilo Railroad Company/Hawai'i Consolidated Railway and 2) four (4) discontinuous segments of a core-filled boulder and cobble wall that is interpreted to be historic (post-contact) in age. The AIS concluded that both sites lack integrity and that the proposed project will have no effect on historic properties. The AIS indicated that the documentation of the two sites within the project site is adequate, and no further work is recommended for either site. By letter dated October 4, 2018 the SHPD determined that "no historic properties affected from the proposed SMA [sic] permit". Additionally, the SHPD states, "When SHPD agrees that the action will not affect significant historic properties, this is the SHPD's written concurrence and historic preservation review ends. The permit issuance process may proceed".

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.

Lastly, at the March 7, 2019 hearing, the Commission voted to approve revised conditions to change the timing of the completion of construction for the development from five (5) years to ten (10) years prior to Final Plan Approval.