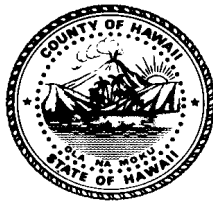


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

January 06, 2022

Mr. Sherman Wong
Lili'uokalani Trust
1100 Alakea Street, Suite 1100
Honolulu, HI 96813
VIA EMAIL

Dear Mr. Wong:

SUBJECT: Special Permit Application (PL-SPP-2021-000004)
Applicant: Lili'uokalani Trust
Request: To Establish a Cultural Academy and Retreat within an Existing Ranch House and Barn and Related Improvements
Tax Map Key: (3) 6-4-018:095

The Leeward Planning Commission, at its duly held public hearing on December 16, 2021, voted to approve the above-referenced request to establish a cultural academy and retreat facility within an existing ranch house and barn and related improvements, including overnight accommodations, programmed activities and special events on 5.362 acres of land situated within the State Land Use Agricultural District. The subject property is located at 64-5122 Pu'u Manu Place, approximately 1,560 feet from its intersection with Māmalahoa Highway, Pu'ukapu Homesteads 2nd Series, Waimea, South Kohala, Hawai'i.

Approval of this request is subject to the following conditions:

1. The applicants, successor or assigns ("Applicant") shall be responsible for complying with all stated conditions of approval.
2. The operation of the cultural academy and retreat facility and related improvements shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application dated September 2021 and as represented before the Leeward Planning Commission.

Any substantial expansion of the facility or uses beyond what is represented in these documents shall require an amendment to this permit.

3. Prior to commencement of the proposed use, the applicant shall secure and finalize all required building permits from the Department of Public Works Building Division, including change of use building permits for the existing structures to be converted from use as a single-family dwelling and barn to the proposed use of a cultural academy and retreat facility.
4. As represented by the applicant, capacity is limited to eight (8) students in addition to up to four (4) on site staff members.
5. As represented by the applicant, program hours shall be from 7:00 AM until 8:00 PM. Day programs shall end at 6:00 PM. Quiet hours for any overnight stays shall be from 8:00 PM until 7:00 AM.
6. A water commitment deposit shall be paid to the Department of Water Supply within 180 days from the effective date of this permit in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant is responsible for installing additional or larger water meters to support the proposed use.
7. The applicant shall construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to installation of a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and additional water meters. Each backflow device must be inspected and approved by the Department of Water Supply.
8. Prior to the commencement of the proposed use, an individual wastewater system(s) shall be installed, meeting with the standards and requirements of the State Department of Health.
9. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
10. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.

11. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the 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.
12. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire shall be avoided for any construction or other activities in order to avoid bats becoming ensnared by barbed wire during flight.
13. To protect Blackburn's Sphinx Moth (BSM) contact DLNR, Division of Forestry and Wildlife (DOFAW) to determine whether a vegetation survey should be conducted. To avoid harm to the BSM, remove plants less than one meter in height or during the dry time of the year. If removing tree tobacco plants or disturbing the ground around these plants, they must be checked thoroughly for the presence of eggs and larvae.
14. To protect any seabirds in the vicinity of the property, the applicant shall install shielded outdoor lights to direct light downwards. Additionally, the applicant shall avoid nighttime construction or nighttime work that requires outdoor lighting during the seabird fledging period, September 15 through December 15.
15. To avoid and minimize potential project impacts to the endangered Hawaiian goose (Nēnē) the applicant shall implement the following applicable measures: If Nēnē are present during construction activities, all activities within 100 feet (30 meters) should cease, and the bird should not be approached. Work may continue after the bird leaves the area of its own accord. Contact DOFAW for further guidance if a nest is discovered or a previously undiscovered nest is found on the subject property after work begins.
16. To protect any Hawaiian Hawks ('Io) in the project vicinity, prior to cutting any trees on the subject property, a qualified biologist shall survey the area to ensure no Hawaiian Hawk nests are present. 'Io nests may be present during the breeding season from March to September.
17. To prevent the spread of Rapid 'Ōhi'a Death (ROD), other harmful fungal pathogens, vertebrate and invertebrate pests (e.g. Little Fire Ants, Coqui Frogs), or invasive plant parts, DOFAW requests that the applicant consult with the Big Island Invasive Species Committee (BIISC) in planning, design and construction

of the project in order to properly mitigate spread of high-risk invasive species. Additionally, the applicant shall minimize the movement of plant or soil material between worksites in order to prevent the spread of invasive species. All equipment, materials and personnel shall be cleaned of excess soil and debris. All gear that contains soil, such as work boots and vehicles, should be thoroughly cleaned with water and sprayed with 70% alcohol solution.

18. To prevent the spread of invasive plant species, the Applicant shall use native plant species, not invasive species, for landscaping that are appropriate for the area. DOFAW requests that the applicant consult with the Hawaii-Pacific Weed Risk Assessment website to determine potential invasiveness of plants proposed for use in the project. Additionally, the applicant should consult with the website www.plantpono.org for guidance on selection and evaluation for landscaping plants.
19. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
20. An initial extension of time for the performance of conditions 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 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.

Mr. Sherman Wong
Lili'uokalani Trust
January 06, 2022
Page 5

21. Should any of these conditions not be met or substantially complied with in a timely manner, the Director may initiate procedures to revoke this Special Permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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

Should you have any questions, please contact Jessica Andrews of the Planning Department at (808) 961-8155 or by email at Jessica.Andrews@hawaiicounty.gov.

Sincerely,

Michael Vitousek

Michael Vitousek (Jan 6, 2022 20:36 HST)

Michael Vitousek, Chairman
Leeward Planning Commission

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Attachment: Planning Commission Findings

cc w/att. via email: Ms. Kimi Yuen, PBR Hawai'i & Associates
Department of Public Works
Department of Water Supply
State Department of Health
State Land and Natural Resources, Division of Forestry and Wildlife
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

LILI‘UOKALANI TRUST
SPECIAL PERMIT APPLICATION (PL-SPP-2021-000004)

Based on the following findings, the requested Special Permit to establish a cultural academy and retreat facility within an existing ranch house and barn and related improvements, including overnight accommodations, programmed activities and special events on 5.362 acres of land situated with the State Land Use Agricultural District is hereby **approved by the Planning Commission**. The subject property is located at 64-5122 Pu‘u Manu Place, approximately 1,560 feet from its intersection with Māmalahoa Highway, Pu‘ukapu Homesteads, 2nd series, Waimea, Hawai‘i, TMK: (3) 6-4-018:095.

The applicant is requesting a Special Permit to establish a cultural academy and retreat facility, called LT Ranch. The proposed use will occur throughout the subject property, including within an existing 3,476-square foot, 4 bedroom, 3.5 bathroom ranch house and an existing 2,700-square foot barn. According to the applicant, LT Ranch will offer small group sessions for four to eight participants at a time. Two to four staff members will also be on site, including at least two staff members during any overnight stay. Activities are estimated to range from half-day sessions to three-week overnight retreats, depending on the program. Program hours are anticipated to be from 7:00 AM until 8:00 PM. The applicant initially requested to end day programs at 5:00 PM, however the applicant subsequently modified the request to end day programs at 6:00 PM. Quiet hours for any overnight stays will be from 8:00 PM until 7:00 AM. Capacity is limited to eight students regardless of session duration. The applicant will use the existing two-story ranch house to board the participants during overnight stays and provide staff office and workspace. The existing barn will include maker spaces, a workshop, and other support spaces for storage and equipment for cultural, art, and agricultural activities including ceramics, woodworking, crafting, and leather making. The applicant also intends to add sleeping accommodations for visiting staff in the barn. The remaining site will remain open with fenced pastures, a riding ring, a horse barn, goat barn, and pig pen. Fruit trees and lei plants will also be planted and nurtured to support the hands-on activities. The applicant recognizes the need for a Change of Use Building Permit for both the existing ranch house and barn. Accordingly, the applicant will work with the Department of Public Works to ensure all code requirements are met and necessary upgrades are completed, with the goal of commencing operations in January 2022.

The granting of this request would 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. The proposed use will include outdoor, nature-based activities on the subject property, to connect youth to animals and the land, in addition to indoor activities and programs within the footprint of the existing ranch house and barn. The

subject property is situated within an area where soils are classified as “C” or Fair by the Land Study Bureau’s Overall Master Productivity Rating and designated as “Prime” by the Department of Agriculture’s ALISH Map. The proposed use will not displace existing agricultural activity or diminish the agricultural potential of the subject property. Therefore, 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.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District. 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. The subject property is approximately 5.362 acres in size and situated within the County’s Agricultural (A 5a) zoned district. The proposed cultural academy and retreat facility will occur throughout the subject property, including within an existing 3,476-square foot, 4 bedroom, 3.5 bathroom ranch house and an existing 2,700-square foot barn. According to the applicant, core to the LT Ranch programming will be providing experiential activities focused on strengthening connections to self, ‘āina, others, and Queen Lili‘uokalani. Through nature-based programming connecting youth to animals, the land, and creative expression through arts, youth will better understand their inherent potential and mana. Embraced within this healing environment, youth will engage in activities that increase their confidence, identity, and skills to self-determine their possible futures. LT will use the existing two-story ranch house to board the participants during overnight stays and provide staff office and workspace. The existing barn will include maker spaces, a workshop, and other support spaces for storage and equipment for cultural, art, and agricultural activities including ceramics, woodworking, crafting, and leather making. LT also intends to add sleeping accommodations for visiting staff in the barn. The remaining site will remain open with fenced pastures, a riding ring, a horse barn, goat barn, and pig pen. Fruit trees and lei plants will also be planted and nurtured to support the hands-on activities. Therefore, the subject request is considered an unusual and reasonable use of the agricultural land.

The desired use shall not adversely affect the surrounding properties. Surrounding areas to the north, south, and west of the property are zoned A-5a. Properties to the east are zoned A-40a. Private residences are located to the north, south, and east of the property. Undeveloped agricultural land is located to the west. Two to four staff members will be on site, including at least two staff members during any overnight stay. Capacity is limited to eight students regardless of session duration. The nearest adjacent dwelling is located approximately 125 feet to the north of the subject property and two other dwellings are located approximately 215 feet to the south and southwest of the subject property. Since the proposed use includes outdoor activities with youth, there is the potential for adverse effects due to increased noise or use of exterior lighting. However, due to the minimal size of the operation and proposed quiet hours from 8:00 PM until 7:00 AM, it is not anticipated that the proposed use will not result in significant adverse effects to the surrounding properties. Additionally,

comments provided by Pu‘u Manu Homeowners Association indicate that the applicant has met with the association and is willing to respect the quiet nature of the surrounding community.

Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. It is anticipated that traffic to be generated by the proposed cultural academy and retreat facility would be minimal. Access to the property is via Pu‘u Manu Place, a private roadway located within an access and utility easement on the western side of the property and connects to Highway 19. Pu‘u Manu Place is a paved 14-foot-wide private road that provides two-way traffic within the existing 50-foot-wide access and utility easement that runs across all the parcels in the subdivision. The applicant will offer transportation to and from the property via shuttles, reducing traffic impacts. Two to four onsite staff members will be arriving and departing the property daily during their shifts and providing transportation for the students via shuttles should there be any offsite activities.

There is no municipal sewer system in the subdivision. The Department of Health (DOH) stated that the existing wastewater system is inadequate for the proposed project and indicated that the applicant will need to submit plans for an additional individual wastewater system. Conditions reflecting these requirements will be added to this approval.

The property is serviced by the Department of Water Supply (DWS), through an existing 4-inch waterline within Pu‘u Manu Place fronting the subject parcel. According to DWS, the property is served by an existing 5/8-inch meter, which is limited to an average daily usage of 400 gallons. The applicant has provided water calculations showing that the proposed use will result in 1,040 GPD for total domestic daily use. According to DWS, the calculated water demand will require three (3) water units and water can be made available for the two additional water units by either upgrading the existing service lateral or by adding a new meter. The applicant will need to establish a water commitment for each of the two additional water units as required by DWS. Additionally, since DWS stated that the existing waterline within Pu‘u Manu Place is inadequate to provide 2,000 GPM of flow for fire protection, the applicant should contact the Fire Department to determine any other fire protection requirements or alternatives. Conditions reflecting these requirements will be added to this approval.

According to the Department of Public Works, Engineering Division, the property is situated within an area designated as Flood Zone X and Zone AO on the Flood Insurance Rate Map (FIRM) by FEMA. Zone X is an area of minimal flood hazard located outside the 500-year flood plain. Zone AO is the special flood hazard area that corresponds to the areas of one-hundred-year shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

All essential utilities and services are available to the site. Based on the discussion above, the proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, or police and fire protection.

Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. Since the State Land Use district boundaries were established in the 1960’s, demand has increased for retreat and wellness facilities that

offer overnight accommodations in a peaceful, more remote environment than can be found in resort venues. The proposed use would meet this demand by providing a safe and nurturing environment for youth and their families to connect with nature and gain improved wellbeing and health.

The proposed use will not substantially alter or change the essential character of the land. The proposed request of a cultural academy and retreat facility will include outdoor, nature-based activities on the subject property, such as planting of fruit trees and lei plants, to connect youth the land, in addition to indoor activities and programs within the footprint of the existing ranch house and barn. Through nature-based programming connecting youth to animals, the land, and creative expression through arts, youth will better understand their inherent potential and mana. Experiential learning will teach the youth about farming and agriculture, which will in turn support farming in the surrounding area. The character of the surrounding lands is predominantly rural/agricultural in nature, with scattered farm dwellings. Therefore, the proposed request will not substantially change the essential character of the land.

The request is not contrary to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map that defines the subject property and immediately surrounding area as Important Agricultural Lands. The request is not contrary to the goals, policies and standards of the General Plan and the South Kohala Community Development Plan. 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 where the proposed request would be located is designated as Important Agricultural Lands. The Important Agricultural Lands designation includes those with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. Since the proposed use will incorporate agricultural use of the subject property into the proposed use, the request is consistent with the General Plan designation for this area.

The South Kohala Community Development Plan (SKCDP) was adopted by Ordinance No. 08 159 on December 1, 2008. The subject property is located in an area designated for the "Small Farms and Ranches Preservation Program" and Pu'u Maile is identified on the SKCDP Waimea Town Conceptual Plan. According to the SKCDP, "preservation of Waimea's sense of place shall be the principal, overarching land use policy for Waimea. This policy shall be implemented through measures for responsible growth, and through the preservation and protection of important lands and resources, including important cultural and historic sites and structures, important agricultural lands, and visually and environmentally important open space areas in Waimea Town." Per the SKCDP, "preserving Waimea's close relationship with nature is critical to preserving its 'sense of place'" and the "small farm lots and ranch lots in East Waimea" are "of great importance to the rural and paniolo character of Waimea." Additionally, the SKCDP identifies the protection of the pu'u as a key strategy to preserve Waimea's sense of place and states that "efforts to protect the pu'u should be centered on keeping the pu'u and surrounding areas in agricultural use (grazing) and conservation use. Many

of the pu‘u have deep cultural importance for Native Hawaiians, and they are important areas for Native Hawaiians to pursue traditional cultural practices. Allowing access to the pu‘u is important for these traditional cultural practices.” According to the applicant, the proposed use is consistent with the vision for Waimea Town and strong sense of place as the applicant will be maintaining the existing ranch house, farm and barn structures, and the open space as pasture. No new construction is proposed on Pu‘u Maile and the proposed cultural academy and retreat will provide hands-on activities, which connect ‘ōpio to nature and the land, consistent with the SKCDP vision of preserving the small farms and ranches in Waimea.

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 developed with an existing ranch house and barn and with agricultural use, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. There is no designated public access to the ocean or mountain areas over the property. It is adjacent to existing residential and agricultural lands. The property is not located within the Special Management Area. 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 coastal hazards or beach erosion.

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

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), provided comments to address the impact of the proposed project on endangered or threatened flora and fauna, specifically the Hawaiian Hawk (‘Io), the Blackburn Sphinx Moth, Hawaiian hoary bats, Hawaiian goose (Nēnē), and seabirds. Additionally, DOFAW provided comments regarding the spread of Rapid ‘Ōhi‘a Death and the spread of invasive species. Conditions of approval will be included to address the recommendations provided by DOFAW.

An Archaeological Inventory Survey (AIS) was conducted for the property by ASM Affiliates (ASM) in June 2021. As a result of the fieldwork, no historic properties of any kind were identified within the property. Additionally, the applicant states that there are no specific valued historical resources currently present within the property. The survey does identify several traditional cultural practices that formerly took place in the general vicinity of the property and eight natural resources. According to the survey, Pu‘u Maile lies in the northeastern corner of the project area and Pu‘u Manu lies just south of the project area. Past cultural practices identified in the survey were bird hunting, agriculture, and ranching. The report concludes that the proposed action would have no direct impacts on the practice of bird hunting or traditional agricultural practices or associated agricultural features. No impacts are anticipated to Pu‘u Maile as the current proposed action does not include construction at the pu‘u. The applicant has

stated that they will also incorporate cultural and historical education and into the activities with the ‘ōpio and planting of native plants.

Lastly, this recommendation is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the proposed use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permit, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

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.