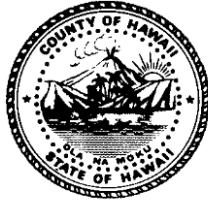


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

August 30, 2023

Sidney Fuke
Planning Consultant
P. O. Box 1345
Hilo, HI 96721
VIA EMAIL

Dear Mr. Fuke:

SUBJECT: Special Permit (PL-SPP-2023-000042)
Applicant: New Hope – Waikoloa
Permitted Use: Allows the Construction of a Church and Related Uses
Tax Map Keys: (3) 6-8-002:017 (por.) South Kohala, Hawai'i

The Leeward Planning Commission, at its duly held public hearing on August 17, 2023, voted to approve the above-referenced request to allow the construction of a church and related uses. The project site is located on the north side of Waikoloa Road, approximately 0.35 miles east (mauka) of its intersection with Paniolo Avenue, portion of Waikoloa, South Kohala, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, their successor(s), or assign(s) ("Applicant") shall be responsible for complying with all stated conditions of approval.
2. The operation of the Church and related uses shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application received by the Planning Department and any representations made to the Leeward Planning Commission. Any substantial expansion or uses beyond what is represented in these documents shall require an amendment to this permit.

3. Prior to the submittal of plans for a building permit, 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/or proposed structure(s), fire protection measures, driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed development.
4. Prior to occupancy of structures for the proposed use, the Applicant shall secure and finalize all required building permits from the Department of Public Works, Building Division.
5. Prior to occupancy of structures for the proposed use, the Applicant shall install a wastewater system meeting with the requirements of the State Department of Health.
6. The Applicant shall provide potable water for the proposed use through an agreement with Hawai'i Water Service, Inc, (HWSI), a State Public Utilities Commission-approved provider of water for the subject property and surrounding area.
7. Noise generated by the proposed use and/or construction shall not exceed applicable maximum permissible levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," unless a noise permit is obtained from the State Department of Health.
8. The applicant shall be responsible for control of fugitive dust, as stated in HAR 11-60.1-33. State Department of Health recommends that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
9. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. Additionally, a drainage study shall be prepared prior to Plan Approval and the recommended drainage system shall be constructed meeting the approval of the Department of Public Works, Engineering Division, prior to occupancy of structures for the proposed use.
10. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentary Control, of the Hawai'i County Code.

11. Any driveway connection and construction within Waikoloa Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code. Access to Waikoloa Road, including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works, Engineering Division (DPW). Additionally, the Applicant shall provide improvements to Waikoloa Road if required by DPW.
12. Driveway access to the proposed permit area from Waikoloa Road shall align with the existing permitted driveway access for Parcel No. (3) 6-8-002:016, located directly across Waikoloa Road from the subject property. Additionally, the proposed driveway access to the permit area shall provide a single point of access from Waikoloa Road for any future lots created on the remainder of the subject property.
13. 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 Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) 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.
14. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties.
15. 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 request is based on the reasons given in the enclosed Findings Report.

Sidney Fuke
Planning Consultant
August 30, 2023
Page 4

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

Sincerely,

Barbara DeFranco
Barbara DeFranco (Aug 30, 2023 13:56 HST)

Barbara DeFranco, Chairperson
Leeward Planning Commission

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Enclosure: Planning Commission Findings Report

cc w/enclosure via email: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Land Use Commission
State Department of Health
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

NEW HOPE WAIKOLOA
SPECIAL PERMIT APPLICATION NO. PL-SPP-2023-000042

Based on the following findings, a Special Permit to allow the construction of a church and related uses on a 5.012-acre portion of an approximately 2,153-acre parcel of land situated in the State Land Use Agricultural District is hereby **approved by the Leeward Planning Commission**. The subject property is located on the north side of Waikoloa Road, approximately 0.35 miles east (mauka) of its intersection with Paniolo Avenue, portion of Waikoloa, South Kohala, Hawai‘i, TMK (3) 6-8-002:017 (por.).

The applicant is requesting a Special Permit to construct and establish a Church and related uses on a 5.012-acre portion of a larger 2,153-acre parcel of land situated in the State Land Use Agricultural District. The proposed single-story, approximately 7,000-square foot building will accommodate a 2,100-square foot sanctuary and three classrooms ranging in size from 382 to 833 square feet. The remainder of the building will be used for offices, a media room, restrooms, storage, and a nursing room. In addition to regular church services, the applicant proposes to use the church facility for occasional weddings, memorials, and other gatherings. An outdoor play area will be located adjacent to the structure and landscaping will provide a buffer between the church facility and Waikoloa Road.

The applicant currently maintains an office and conducts services in a space at the Waikoloa Highlands Shopping Center, held on Sunday mornings from 9:30 am to 12:00 noon. According to the application, an increase in membership has necessitated planning for a larger facility. The applicant is in the process of purchasing the subject property, selected for its proximity to Waikoloa Village, where most members reside, as well as its accessibility for members from Waimea.

According to the application, Sunday services will begin at 9:30 am and end around 12:00 noon, during which time the congregation size will eventually reach 200 people. During weekdays, the church will host youth night, Bible study and prayer gatherings, typically held from 7:00 pm to 9:00 pm, with up to 40 attendees. Youth nights are currently held on Friday evening from 7:00 pm to 10:00 pm, with an average of 20 youth attendees, though that number is expected to increase to 40 attendees with the new facility.

The applicant will initiate the construction permitting process within one year of approval of the Special Permit with the hope of obtaining a certificate of occupancy by 2027, and with an estimated cost of approximately \$3 million.

The criteria 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 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 County General Plan designates the property as extensive agriculture and the soils are classified as “E” or Poor by the Land Study Bureau’s Overall Master Productivity Rating and undesignated by the Department of Agriculture’s ALISH Map. Given that the applicant will only be utilizing a 5.012-acre portion of the larger 2,153-acre parcel for the proposed use, the overall agricultural potential of the subject property will not be diminished. Given the preceding, the proposed use will not adversely affect the preservation and agricultural use of 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, 2,153-acre property is located east (mauka) of Waikoloa Village, on the north side of Waikoloa Road. The 5.012-acre, rectangular shaped permit area is vacant of any structures and the applicant reports it is used intermittently for pastoral purposes. The proposed use is unusual in that it is not agricultural in nature; however, considering the use will be limited to the permit area, it is reasonable and will not affect use of the remainder of the property. Based on the preceding, the subject request is considered an unusual and reasonable use of the agricultural land.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The subject request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County’s prime agricultural lands.

(B) The desired use shall not adversely affect the surrounding properties. Most surrounding parcels consist primarily of vacant land, or are used for pasture lands, with the existing Waikoloa Stables located approximately 1,000 feet to the west (makai) of the proposed permit area. Surrounding properties to the west are zoned Agricultural-5 acres (A-5a) or Village Commercial-20 acres (CV-20), adjacent land to the north is zoned Open, and a large parcel directly across Waikoloa Road is zoned Residential Agricultural-1 acre (RA-1a).

At the time of this writing, the Planning Department has received fifteen letters of public testimony regarding the proposed application, including comments from Waikoloa Village Association, of which seven are in opposition to and eight are in support of establishment of the proposed use. In addition to concerns raised by opposition testimony, several letters of support also shared concerns and requested that they be addressed with any project approvals. Issues raised include installation of EV charging stations,

compliance with the outdoor lighting ordinance, noise and dust mitigation, drainage mitigation, plans for future development of the parcel, wastewater system impacts, loss of agricultural land / spread of urban development, and view plane impacts.

A condition of approval will require the applicant to secure Final Plan Approval, a review process that will verify code compliance for outdoor lighting, parking, EV charging stations, driveway access and other improvements associated with the proposed development. Additionally, conditions of approval will require compliance with DOH noise and dust mitigation regulations and will require the applicant to submit a drainage study for review and approval by DPW.

The most common concern raised by public testimony, consistent with comments from the South Kohala Traffic Safety Committee, was the project's potential to negatively impact traffic safety on Waikoloa Road and increase vehicular congestion in the area. Conditions of approval will be included to address the issues of traffic safety and the potential for future road improvements to Waikoloa Road, which will be expanded upon in the following section.

The proposed use will take place within the 5-acre permit area and any expansion beyond what is represented in the application will require an amendment to the Special Permit. The permit area is surrounded by vacant lands with little present development, aside from the previously mentioned Waikoloa Stables. The nearest residential buildings are situated approximately 2,200 feet northwest of the permit area, thus, given the distance and the rolling topography of land northwest of the subject property, this should provide a natural visual and noise buffer from residential properties located in Waikoloa Village.

Finally, as represented in the application, Sunday services will begin at 9:30 am and end around 12:00 noon, weekday meetings and activities will cease at 9:00 pm and Friday youth nights will cease at 10:00 pm. A condition of approval will require compliance with these representations. Based on the preceding it is not anticipated that the proposed use will adversely affect the surrounding properties.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the subject parcel and permit area will be provided by a single driveway from Waikoloa Road, a County-owned and maintained roadway consisting of a pavement width of 24 feet within a 120-foot-wide right-of-way. Waikoloa Road is a major mauka – makai road, connecting Māmalahoa Highway and the Queen Ka‘ahumanu Highway.

The applicant estimates that the proposed use will generate between 25 – 50 vehicle trips on Sunday mornings and that weekday activities will not exceed 20 vehicle trips, typically occurring during evening hours or outside of peak-hour traffic. According to the South Kohala Traffic Safety Committee (SKTSC), while the intersection of Waikoloa Road and Paniolo Avenue is scheduled for improvements by the County of Hawai‘i, no improvements are proposed “to increase the capacity of Waikoloa Road or add additional safety features that would improve access to parcels along Waikoloa Road, including but not limited to center turning lanes.” Further, SKTSC notes that while the applicant points to limited vehicle traffic due to off-peak-hour activities, safety features to limit congestion and improve ingress/egress maneuvers should be considered. As such, SKTSC requested

the submittal of a Traffic Impact Analysis Report (TIAR) as part of the Special Permit application.

While the Planning Director did not require submittal of a TIAR, a condition will be included requiring the applicant to align the driveway for the proposed use with the existing, permitted driveway access to Parcel No. (3) 6-8-002:016, located directly across Waikoloa Road, constructed as part of the proposed Waikoloa Highlands residential development. Additionally, the condition will limit the subject property to one point of access from Waikoloa Road, including access to any future lots created on the remainder of the property.

The Department of Public Works (DPW) notes that all driveway connections and construction within Waikoloa Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code, and that access to Waikoloa Road, including the provision of adequate sight distances, shall meet with DPW approval. A condition of approval will include a requirement that the applicant be responsible for any improvements to Waikoloa Road that may be required by DPW, as a result of impacts from the proposed use.

According to the application, potable water will be provided by the State Public Utilities Commission-approved provider of water in the area, West Hawai'i Water Company (WHWC). By letter dated January 26, 2023, Hawai'i Water Service, Inc. (HWSI) noted that WHWC is one of its subsidiaries and estimates the projected demand for the project to be 1,210 gallons per day. HWSI further states that it is willing to provide water services to the proposed project. A condition of approval will require the applicant to provide potable water for the proposed use through an agreement with HWSI.

There is no municipal sewer system in the area. The applicant estimates that wastewater demand will be comparable to four residential units on Sundays with weekday demand comparable to that of a single-family dwelling, and proposes to install a private, individual wastewater system. A condition of approval will require the applicant to install wastewater system(s) meeting with the approval of the State Department of Health.

The property is situated within an area designated as Flood Zone X on the Flood Insurance Rate Map (FIRM) by FEMA, an area determined to be outside the 500-year flood plain. Electrical and telephone services are available to the property. Police, fire, and medical services are available in Waimea. Based on the preceding, the requested use will not burden public agencies to provide additional services.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's Agricultural District boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. Although the property and surrounding areas are designated for agricultural uses by both State and County land use laws, through the issuance of a Special Permit, various "non-agricultural" services and uses may be allowed.

Since the district boundaries were established, there has been an increased demand for community services in areas outside of the urban core and on rural/agricultural lands. Approval of the Special Permit will allow construction of a building providing a

community service on a 5.012-acre permit area, while leaving the remainder of the 2,153-acre subject property available for agricultural uses.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property's soils are classified as "E" or Very Poor by the Land Study Bureau's Overall Master Productivity Rating and are undesignated by the Department of Agriculture's ALISH Map, thus while it has been historically used for grazing cattle, the land is not well suited for agricultural uses. The use of a 5.012-acre portion of the larger 2,153-acre property will not have a negative impact on the agricultural use of the remaining land.

(F) The proposed use will not substantially alter or change the essential character of the land and the present use. As previously mentioned, the land has been historically used for grazing cattle and is predominantly an arid, rugged landscape, with grasses and sparse vegetation. The proposed construction of a church and related uses will be limited to the permit area on the makai side of the property and will not substantially change the essential character of the remainder 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 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 subject property is designated as Extensive Agriculture by the General Plan, which includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. Other less intensive agricultural uses such as grazing and pasture may be included in the Extensive Agriculture category. As mentioned previously, the proposed use occurs on a 5.012-acre portion of the larger 2,153-acre parcel and will not diminish agricultural use of the subject property, which presently is limited to intermittent pasturing of cattle.

The approval of the subject request would support the goals and policies of the Land Use and Economic elements of the General Plan.

Land Use Element

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawai'i.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

- The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Some public comments raised concerns that the project will increase “urbanization” of the surrounding area, leading to a loss of agricultural lands. The Planning Director notes that the draft General Plan has expanded the Medium-Density Urban designated area to include the permit area and lands immediately to the north, west and south. Although this indicates an expansion of urban designated lands as compared to the current General Plan, the intention is to establish a boundary that does not include the remainder of the 2,153-acre subject property, mauka of the permit area, which the draft General Plan concurs should not be developed with urban or commercial uses.

A public comment raised a concern that the proposed church building will interfere with views of Mauna Kea, which raises the issue of protected view planes and sites of natural beauty, as designated by the General Plan. While the General Plan notes various view planes along Queen Ka‘ahumanu Highway, looking mauka and makai, as sites of natural beauty, there is not a designated, protected view plane from Waikoloa Village. Furthermore, since the church building is proposed to be a single story, 30-foot-tall structure, and given rolling topography to the northwest of the permit area and the 2,200-foot distance from residential structures, it is not expected that the proposed building will interfere with views of Mauna Kea from residential areas.

Based on the preceding, the proposed request is consistent with the Land Use and Economic goals and policies of the General Plan.

The South Kohala Community Development Plan (SKCDP), adopted on November 20, 2008 by Ordinance No. 08-159, designates the subject property as within an area to maintain existing agricultural zoning. Policy 1 of the SKCDP aims to “Provide Infrastructure and Facilities for a Growing Community” in the planning area. The proposed use will be limited to a 5-acre permit area and will provide a facility that offers social and spiritual gatherings and weekly activities for the community. Additionally, the parcel’s zoning remains agricultural and the remainder of the large parcel will be available for agricultural uses consistent with the broader goals of the above-referenced SKCDP policy.

Based on the preceding, the request is consistent with the goals and objectives of the SKCDP.

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 subject property is located approximately 5 miles from the nearest shoreline, is not within the Special Management Area and will not be impacted by coastal hazard and beach erosion. There is no designated public access to the mountain or shoreline areas over the property. 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. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

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.

Investigation of valued resources: An Archeological Assessment (AA) of the permit area was prepared by Kualaiwi Archeology, LLC, dated April 2023. No formal botanical study was included in the application.

The valued cultural, historical, and natural resources found in the special permit area: According to the AA, “No archeological sites or features were identified within the project area” and that “the absence of archeological sites within the parcel is likely attributable to the rugged and arid conditions within the area.” The entire parcel has been historically used for cattle grazing and the property is vacant of any structures.

According to the applicants, it is not known whether the subject property or immediate surrounding area has been used in the recent past for the gathering of plants by Native Hawaiians. None of the floral or faunal species observed by the applicant are listed or endangered and given the findings of the Environmental Impact Statement (EIS) conducted in 2007 for the Waikoloa Highlands project across Waikoloa Road, the applicant does not believe that rare or endangered faunal resources are likely to be found in the permit area.

Possible adverse effect or impairment of valued resources: Native plants and/or endangered species are unlikely to be impacted by the proposed development due to the historical use of the entire property for cattle grazing, as mentioned above.

Feasible actions to protect native Hawaiian rights: As stated by the applicant, no gathering is taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

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.