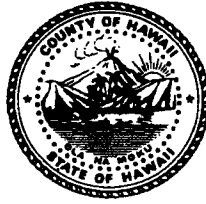


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County of Hawai'i

WINDWARD PLANNING COMMISSION

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

DEC - 9 2019

Mr. Frederick Kealoha
92-9071 Leilani Parkway
Captain Cook, HI 96704

Dear Kealoha:

SUBJECT; Use Permit No. USE 18-000075
Applicant: Thy Word Ministries Waikoloa dba Thy Word Ministries-Ka'u
Permitted Use: Allowed the Construction of a Church and Related Facilities
Tax Map Key: 9-5-021:035

The Windward Planning Commission, at its duly held public hearing on December 4, 2019, considered the above-referenced request to allow the construction of a church and related facilities on 3.098 acres of land within the Single-Family Residential-10,000 square feet (RS-10) zoning district. The property is located on Arena Road, approximately 750 feet southeast of its intersection with Nā'ālehu Spur Road, Nā'ālehu, Ka'u, 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. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations for the proposed improvements prepared by a professional engineer in the State of Hawai'i, for review and approval, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within one hundred and eighty days from the effective date of this permit.

DEC 10 2019

3. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of any water meters on private property, which must be inspected and approved by the Department of Water Supply.
4. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns 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 structures, fire protection measures, road and utility easements, paved driveway accesses and paved parking stalls associated with the proposed development. Landscaping shall be included on the plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) related to parking lot landscaping and screening for loading spaces, trash disposal areas, and mechanical equipment.
5. Prior to submission of plans for Final Plan Approval, the applicant shall either remove or permit all shipping containers located on the subject property.
6. The applicant shall install, construct and maintain improvements for Fire Department Access Road (FDAR) access from Māmalahoa Highway to the subject property and fire suppression improvements on the subject property as required by the Fire Department. Upon successful completion of the improvements and prior to the commencement of the proposed use, the applicant shall provide the Planning Department documentation from the Fire Department that the improvements meet Fire Code standards.
7. An individual wastewater system, meeting with the standards and requirements of the State Department of Health, shall be installed prior to the issuance of a Certificate of Occupancy.
8. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
9. The applicant shall secure a food establishment permit and construct a certified kitchen meeting the requirements of the State Department of Health, prior to commencement of meal service to guests. A copy of the permit shall be provided to the Planning Department prior to commencement of the proposed use.

10. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study of the subject property shall be prepared and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
11. All additional earthwork and grading activity shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
12. The applicant shall comply with all requirements of the adopted Archaeological Inventory Survey, Burial Treatment Plan, Archaeological Monitoring Plan, Archaeological Monitoring Report and any other requirements of the Department of Land and Natural Resources - State Historic Preservation Division.
13. 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.
14. The applicant shall comply with all other applicable County, State, and Federal laws, rules, regulations and requirements.
15. 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.

Mr. Frederick Kealoha

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- 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 this 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,

Joseph B.
Clarkson

Digitally signed by Joseph
B. Clarkson
Date: 2019.12.09
16:59:16 -10'00'

Joseph Clarkson, Chairman
Windward Planning Commission

LThywordministriesUSE18-075wpc

Enclosure: PC Findings

cc: Thy Word Ministries Waikoloa dba Thy Word Ministries-Ka'ū
Department of Public Works
Department of Water Supply
County Real Property Tax Division
County Fire Department
Department of Environmental Management
State Department of Health
State DLNR-HPD
Plan Approval Section
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

THY WORD MINISTRIES WAIKOLOA DBA THY WORD MINISTRIES-KA‘Ū
USE PERMIT APPLICATION (USE 18-000075)

Based on the following findings, Use Permit No. 18-000075 is hereby approved to allow the establishment of a church and related facilities on 3.098 acres of land within the Single-Family Residential-10,000 square feet (RS-10) zoning district. The property is located on Arena Road, approximately 750 feet south east of its intersection with Nā‘ālehu Spur Road, Nā‘ālehu, Ka‘ū, Hawai‘i, TMK: (3) 9 5 021:035.

The applicant is requesting a Use Permit to allow the establishment of an 8,400 square-foot church and related improvements on 3.098 acres of land. The request includes the following improvements:

- The 8,400 square-foot building will include a 3,780 sanctuary with a stage, pastor’s office, sound room and nursery, with the remaining 4,620 square feet of space dedicated to a foyer/greeting area, a certified kitchen for church use only, multi-purpose meeting/dining space, a children’s church classroom, nursery, storage, and bathrooms.
- The applicant’s site plan shows parking areas surrounding the church with a total of 106 regular parking stalls and six (6) handicapped parking stalls and a loading zone.
- The site plan also shows a proposed septic tank and leach field as well as rainwater catchment tanks for fire suppression and non-potable water and a sealed, food grade tank for potable water and certified kitchen use.
- Finally, the site plan shows the extent of a community cemetery and required buffer area as required by an approved burial treatment plan.

The applicant proposes the following services, classes and activities for the church facility:

- Proposed Sunday church services will start at 8:30 a.m. for a prayer meeting followed by praise and worship practice. The main service will start at 10:00 a.m. and end at noon. The applicant expects a “pot blessing” gathering to take place every other Sunday from noon to 2:00 p.m.
- The applicant is proposing smaller evening classes and gatherings four (4) nights a week including Bible study classes on Tuesday, hula and singing classes on Thursday, praise and worship classes and men’s and women’s ministry meetings one (1) evening a week each. Evening activities are anticipated to host 15 to 20 participants and will run from 5:30 to 8:30 pm.
- The applicant anticipates hosting occasional larger church related social or spiritual gatherings, fellowship functions, meetings and special events such as weddings, funerals, bazaars and the like.
- According to the applicant, the facility, including certified kitchen, will be for church use only and will not be rented for profit.
- According to the applicant, construction of the church and related facilities is anticipated to cost approximately \$800,000 and will likely take two (2) to three (3) years to build.

The reason for the request is that the applicant has been holding church services in other facilities in the community since 2002. Having their own facility will allow them to continue

their commitment to the Ka'ū community and decrease the burden on other churches or businesses in the community while being able to offer services, activities and gatherings in their own facility.

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits requires that such action conform to the following guidelines:

A. The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;

B. The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and

C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

The proposed church use meets the guidelines for approval of a Use Permit, for the reasons outlined below:

The proposed use is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes. The proposed use is situated within the State Land Use Urban district and County's Single Family Residential (RS-10) zoning district. The establishment of a church on the property is consistent with the purpose of the Zoning Code because churches can be permitted in the RS-10 zoning district and the State Land Use Urban district through the issuance of a Use Permit from the Planning Commission.

The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the goals and policies of the General Plan. The proposed church will be developed in compliance with Zoning Code regulations related to building height, yard setbacks, off-street parking and landscaping. Additionally, a church is considered a community use that will enhance the religious and charitable services of the community. The church will offer regular spiritual services, classes and guidance to the surrounding community.

Another condition of approval will require the applicant to secure the necessary Building Permit(s) for any proposed related structures. The Building Permit will allow other agencies to review for compliance with various county and state codes, including but not limited to Fire Code, Health Codes, ADA accessibility, electrical, plumbing and structure regulations.

The General Plan is intended to be used as a policy guide for the coordinated growth and development of all sectors of the County. It sets forth goals, policies, standards and courses of action to accommodate growth without congestion, to designate and preserve the lands needed for residential use, commercial and visitor services, industry, agriculture and open space, and to coordinate these uses with the County's service and circulation systems. The overall goals, policies and standards are set forth to physically plan the lands in the County in the best interest of the island's residents. The proposed request is consistent with the following goals and policies of the Land Use Element of the General Plan:

LAND USE – GENERAL

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- Encourage urban development within existing zoned areas already served by basic infrastructure, or close to such areas, instead of scattered development.

In order to create an effective land use pattern, zoning districts and their associated uses should closely correspond to the General Plan Land Use Pattern Allocation Guide (LUPAG) map for the area. The LUPAG Map is a graphic representation of the General Plan's goals and policies to guide the coordinated growth and development of the County. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the majority of the property as Medium Density Urban and a smaller portion as Low Density Urban. Low Density Urban areas are primarily residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses; overall residential density may be up to six units per acre. Medium Density Urban 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 church facility will be consistent with and supportive of uses allowed within the low and medium density urban designation. Thus, the proposed use is consistent with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for the property.

Finally, the subject property is located within the low and medium density urban designation in the Ka'ū Community Development Plan (CDP) Official Land Use Policy Map for Nā'ālehu. Development of a church in this location would to meet the CDP community objective of locating community facilities in rural villages and towns capable of supporting Ka'ū-appropriate growth.

The proposed use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties. The project site is a 3.098-acre property is roughly triangular in shape. The property was graded and grubbed of most of its vegetation in 2018 and is vacant of any permitted structures, however, there are a total of ten (10) shipping containers on the property. The application cites one (1) 40' shipping container and two (2) 20' shipping containers on the property for materials and equipment storage, however, a subsequent conversation with this applicant revealed that an additional seven (7) shipping containers are temporarily being stored on the property. County Building Code limits accessory structures used for tool/storage sheds to 120 square feet within residential zoning districts without a building permit. A 20-foot shipping container is at least 160 square feet, therefore, all of the shipping containers on the property do not comply with the building code. A condition of approval will require the applicant to remove or obtain a building permit for all shipping containers located on the property prior to obtaining submitting plans for Final Plan Approval for the church.

In addition, there is a 0.42-acre community cemetery located along the mauka (northwest) side of the parcel.

The properties directly adjacent to the west and north are similarly zoned single-family residential (RS-10) and consist of a rodeo arena and vacant land. The property is bounded directly to the east by a County of Hawai'i drainage channel with single-family residential zoning and the closest dwelling approximately 130 feet to the east across the drainage channel. Directly to the south of the subject property is agriculturally zoned lands (A-20a), which are currently vacant. Other

zoning in the area includes Village Commercial (CV-7.5) to the west and north of the subject property and uses include a restaurant, construction company base yard, real estate offices, and a shopping center. Also, in the vicinity is the County's Nā'ālehu Park complex, which is zoned Open.

While there are some vacant and agricultural land uses in vicinity, the general character reflects an area with a mixture of commercial, recreational and residential uses. The proposed church use is similar to the existing uses nearby and therefore will not detract from the present character of the area.

The Planning Director received three (3) letters of opposition from neighbors living in the residential subdivision to the east, including a form letter citing concerns over an overabundance of churches in the area, increased weekend traffic and potential noise generated by church functions.

Due to the existing noise and traffic inherent to the activities already established in the area, it is not anticipated that noise and traffic associated with the proposed use will adversely impact surrounding properties. Short-term potential noise impacts will be limited to construction noise associated with earthmoving equipment.

To help mitigate potential noise and visual impacts related to operation, the proposed church building is situated approximately 140 feet from the eastern property line. Additionally, there is an earthen berm and light vegetation along the eastern portion of the property adjacent to the drainage channel. There is heavy vegetation including trees and shrub on the far side of the channel to the west of the residential subdivision. The applicant will be also required to install and maintain landscaping to mitigate any potential adverse noise or visual impacts as part of the Plan Approval process.

While the church use will increase traffic to the area, the majority of the proposed activities will occur during off-peak traffic periods and the applicant will provide sufficient parking on-site.

Based upon the preceding, the desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection, and other related infrastructure. Access to the property is via a series of 20-foot wide easements over private road lots from Māmalahoa Highway. These include a section of Nā'ālehu Spur Road, a private, one-lane roadway with varying pavement widths (approximately 17 to 21 feet) within a 60-foot right-of-way and within Arena Road, a private, one-lane roadway with varying pavement widths (approximately 15 to 18 feet) within a 20-foot access easement. As access to the project site is via easement over private property, the Department of Public Works did not recommend any roadway/access improvements, the applicant will be required to improve and maintain the roadway to Fire Department Access Road (FDAR) standards. Fire Code requires, *"...an unobstructed width of not less than 20 feet with an approved turn around area if the FDAR exceed 150 feet. FDAR and bridges shall be designed and maintained to support the imposed loads (25 tons) of the fire apparatus. Such FDAR shall be comprised of an all-weather driving surface."* According to Fire Code, engineered plans for FDAR and shall be submitted to the Fire Department for review prior to construction. Lastly, the applicant will be required to maintain the entire access road from the highway to the subject property, meeting Fire Department standards. Conditions reflecting these requirements will be added to this approval.

The property is currently not serviced by the County sewer system; however, the applicant proposes to install an individual wastewater system meeting with the requirements of the State Department of Health. This will be added as a condition of approval.

According to the Department of Water Supply (DWS), water can be made available from an existing eight (8)-inch waterline along Māmalahoa Highway approximately 1,000 feet from the subject parcel. Given that the property does not front a DWS main water line, it is considered “out of bounds” and therefore is limited to one (1) unit of water, which is equal to an average daily usage of 400 gallons. The applicant proposed to install two (2) 20,000-gallon rainwater catchment tanks provide for non-potable and fire suppression water needs and a sealed, food grade water tank to provide for additional potable and certified kitchen use.

DWS requires that the applicant provide estimated maximum daily water usage calculations for the proposed uses. Those calculations will be used to determine appropriate service lateral and meter required. Finally, DWS indicated that a reduced pressure type backflow prevention assembly was installed, inspected and approved by DWS. The preceding will be added as conditions of approval.

In subsequent conversations with staff, DWS indicated that the current water line is not sufficient to meet the 2,000 gallons per minute fire flow requirement to support firefighting on the subject property. As a condition of approval, the applicant will be required to address fire suppression requirements in the Fire Code, including submitting engineered plans for fire suppression improvements for review and approval prior to construction and operation of the proposed church use.

Prior to operation, the applicant will be required to secure a food establishment permit meeting the requirements of the State Department of Health.

The property has no severe geological or topographical problems which cannot be rectified, or which would render the land unusable. All development generated run-off will be disposed of on-site and not allowed onto adjacent properties or roadways. According to the Department of Environmental Management, a Solid Waste Management Plan will be required of the applicant for review and approval. The preceding will be added as conditions of approval of this permit.

Police, fire and medical services are located nearby in Nā‘ālehu and Pahala.. Electricity and telephone services can be made available to the site.

Based on the preceding discussion, the proposed request will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection, and other related infrastructure.

The request is not contrary to Chapter 205A, Hawai‘i Revised Statutes, relating to Coastal Zone Management. The property is not located in the Special Management Area and is not proximate to the shoreline; therefore, it will not be impacted by coastal hazards and beach erosion. There is no record of a designated public access to the shoreline or mountain areas that traverses the property.

According to the Flood Insurance Rate Map (FIRM), the subject property is located in Zone "X", area outside of the 500-year flood plain.

As previously stated, the subject property includes a 0.42-acre community cemetery located along the mauka (northwest) side of the parcel identified by and Archaeological Inventory Survey (AIS) conducted in 2009 by Scientific Consultant Services, Inc. The AIS also identified a historic house site and remnant foundations of small modern bathhouses. The AIS concluded that ‘no further work was necessary for the latter two sites, but that the cemetery should be preserved in place subject to a Burial Treatment Plan (BTP). SHPD concurred with these recommendations and on October 15,

2009, the Hawaii Island Burial Council (HIBC) approved the BTP. The applicant has installed both interim construction barriers along the required 30-foot cemetery buffer and a permanent rock wall, with a pedestrian gate, and signage has been installed around the cemetery.

In response to the applicant's Use Permit Application, SHPD determined that additional mitigation was necessary prior to the County approving the Use Permit. This work included: 1) An updated site plan for the proposed project; 2) An archaeological field inspection, conducted by a qualified archaeologist to document unpermitted grading and grubbing reported on the property; 3) The development of an Archaeological Monitoring Plan meeting the requirements of HAR §13-279-4 to be submitted to SHPD for review and acceptance prior to issuance of the Use Permit; and 4) An Archaeological Monitoring Report meeting the requirements of HAR §13-279-5 be submitted to SHPD for review and acceptance following completion of the monitoring work. Furthermore, SHPD required that the applicant secure an after-the-fact grading permit prior to further construction activities. To date, the applicant has furnished an updated site plan, conducted the archaeological field inspection, developed the Archeological Monitoring Plan, and applied for the after-the-fact grading permit with the Department of Public Works. Compliance with conditions of the Burial Treatment Plan, Archaeological Monitoring Plan, Archaeological Monitoring Report, and all other SHPD requirements will be added as conditions of approval.

According to the applicant, no further valued cultural, historical or natural resources exist on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site.

Based on the preceding, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

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 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 the affected agencies.