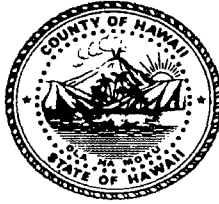


Harry Kim  
Mayor



Joseph Clarkson, Chair  
Donald Ikeda, Vice Chair  
Gilbert Aguinaldo  
Donn Dela Cruz  
Thomas Raffipiy  
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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 6 2018

Mr. Zendo Kern  
Planning Consultant  
194 Wiwoole Street  
Hilo, HI 96720

Dear Mr. Kern:

**SUBJECT: Use Permit No. USE 18-000078**  
**Applicant: Kurtistown Assembly of God Church**  
**Permitted Use: Allowed the Construction of an Outreach Center on 1.944**  
**Acres of Land**  
**Tax Map Key: 1-7-006:005**

The Windward Planning Commission, at its duly held public hearing on November 7, 2018 voted to approve the above-referenced request to allow the construction of a 3,040 square-foot community outreach center and related improvements on a portion of 1,944 acres of land situated with the Single-Family Residential 20,000 square feet (RS-20) zoned district. The project site is located on the mauka (northwest) side of Highway 11 directly across the Highway 11-Kuauli Road Junction, Kurtistown, 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 (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 permit in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations.
3. Construction of the proposed development, as substantially represented by the applicant, shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure

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DEC - 7 2018

Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25 2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and proposed structure(s), paved driveway access and parking stalls associated with the proposed development with the appropriate yard setbacks. 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. To further mitigate visual impacts along Highway 11, the applicant shall maintain a 50-foot buffer between the subject property's frontage along Highway 11 and the proposed parking lot.

4. Overnight accommodations are prohibited on the subject property. If the applicant proposes overnight accommodations for the outreach center or property, an amendment to the Use Permit will be required.
5. Access to the property from Highway 11 shall meet with the approval of the State of Hawai'i Department of Transportation (HDOT). Siting of any vehicular easement between the subject parcel and TMK 1-7-006:031 shall require consultation with HDOT and shall be included in plans submitted to the Planning Department for Plan Approval review. All parking shall be provided onsite and the applicant shall ensure that vehicles do not park along Highway 11 (Volcano Highway).
6. The method of sewage disposal shall meet with the requirements of the Department of Health.
7. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
8. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
9. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, 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.

10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
11. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate the revocation of the Use 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 Christian Kay of the Planning Department at 961-8136.

Sincerely,



Joseph Clarkson, Chairman  
Windward Planning Commission

LKurtistownassemblyofgodchurchUSE18-078wpc

Enclosure: PC Findings Report

Mr. Zendo Kern  
Planning Consultant  
Page 4

cc w/enclosures: Friends of the Volcano School of Arts and Sciences  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
DOT- Highways, Honolulu  
Department of Health  
GIS Section

**COUNTY OF HAWAI'I**  
**PLANNING COMMISSION FINDINGS**

**KURTISTOWN ASSEMBLY OF GOD CHURCH**

**USE PERMIT APPLICATION NO. 18-000078 (USE 18-000078)**

Based on the following findings, Use Permit No. 18-078 is hereby issued to allow the construction of a 3,040 square-foot outreach center on 1.944 acres of land within the Single-Family Residential (RS-20) zoned district. The property is northeast and adjacent to the site of the Kurtistown Assembly of God Church, which is located on the mauka (northwest) side of Highway 11 directly across the Highway 11-Kuauli Road Junction, Kurtistown, Puna, Hawai'i, TMK: 1 7 006: portion of 005.

The applicant, Kurtistown Assembly of God Church, is requesting a Use Permit to allow the construction of a 3,040 square-foot outreach center on the subject property to offer the following community outreach functions: hot dinners, food package distribution, showers, laundry, tutoring, job training and finding. The proposed outreach center building will offer the following:

- men's and women's bathrooms;
- laundry room;
- storage room;
- two (2) meeting rooms;
- a certified kitchen; and
- a meeting area.

In addition, the applicant will provide 41 paved parking spaces including one (1) ADA parking stall to meet the County Code parking requirements.

The existing Kurtistown Assembly of God Church is located adjacent and to the southwest of the subject and has been in operation as a church since 1956. The existing church facility lacks the space and improvements necessary to offer the needed community services that are outlined above. The proposed outreach center will provide those services to up to 80 people during the proposed business hours below. While the proposed outreach center is considered auxiliary to the existing church use, religious services will not be offered at the outreach center.

The proposed hours of operation for the outreach center are seven (7) days a week from 8:00 a.m. to 8:00 p.m. While the applicant does not anticipate the outreach center being open during the entirety of the proposed hours of operation, the requested timeframe will allow the applicant greater flexibility to schedule their outreach programs in a way that will to maximize their effectiveness. According to the applicant, clergy, church members and other volunteers will staff the outreach center programs.

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

**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.** 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 consistency with the goals and policies of the General Plan and applicable Community Development Plan (CDP).

According to the Zoning Code, Single Family Residential districts, "provide for lower or low and medium density residential use, for urban and suburban family life. It applies to areas having facilities, and to carry out the above stated purpose." The proposed outreach center is considered auxiliary and accessory to the Kurtistown Assembly of God Church on the adjacent property to the west. Within the Zoning Code, buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RS district. The existing Kurtistown Assembly of God Church has been in operation as a legal, non-conforming church use since 1956. As churches can be permitted within a Single-Family Residential zoned district if a Use Permit is approved by the Planning Commission, the Director felt it prudent that a Use Permit be obtained for the proposed outreach center use to allow for further review and analysis of its impacts on infrastructure, surrounding properties and goals and policies of the General Plan and the Puna CDP.

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 General Plan designation for this property is Urban Expansion, which allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. The request complements and is consistent with the Land Use and Economic elements of the General Plan and is consistent with Puna CDP goals and policies related to quality of life, social services and community facilities. Based on the preceding, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, the County General Plan and the Puna CDP.

**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.** The subject property is adjacent and to the northeast of

the Kurtistown Assembly of God Church. Surrounding properties are zoned RS-20, A-5a and A-10a. The surrounding area is characterized by a mix of single-family residences, agricultural uses and vacant land. The nearest dwelling is located approximately 220 feet to the southwest of the subject property. The adjacent properties to the west and northwest are in agricultural uses and the adjacent property to the northeast is vacant.

The Kurtistown Assembly of God Church has been located on the adjacent parcel for since 1956. Some of the existing outreach services (e.g. soup kitchen and food distribution/hot breakfast) will shift from the church property to the outreach center, therefore the proposed use will be in alignment with what the community is already accustomed to in this area. The applicant is requesting hours of operation seven (7) days a week from 8:00 a.m. to 8:00 p.m., to allow greater flexibility to schedule their outreach programs in a way that will to maximize their effectiveness. The outreach center will only be open during scheduled service times. While the applicant has not proposed overnight accommodations as part of this request, a condition of approval will prohibit overnight accommodations and will require an amendment to the Use Permit if overnight accommodations are proposed in the future.

Traffic to the subject parcel will increase, but only during scheduled outreach service times. The applicant will provide 41 parking spaces, including one (1) ADA parking stall to on-site. To retain the rural character of the area and mitigate visual impacts to the surrounding properties, the Director is recommending a condition requiring a 50-foot buffer between the road and the parking lot along the subject parcel's Highway 11 frontage, in addition to landscaping required as part of the Plan Approval process.

Based on the preceding, the proposed outreach center will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties and will provide needed services to benefit the surrounding community.

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

Access to the project site is from Volcano Highway (Highway 11), which is a State owned and maintained roadway with an approximate 32-foot pavement with paved shoulders within an 80-foot wide right-of-way. The applicant is also requesting a secondary access via an easement, situated in close proximity to the highway, from the Kurtistown Assembly of God Church property adjacent to the west of the subject parcel (TMK: 1-7-006:031). As the subject property is accessed off a State Highway, the applicant will be responsible for meeting the access requirements of the State Department of Transportation prior to operation of the outreach center.

County water can currently be made available from an existing 6-inch waterline within Volcano Road fronting the subject property. DWS also confirmed that the waterline is adequate to provide the required 2,000 gallons per minute flow for fire protection. As conditions of approval of this permit, the applicant will be responsible for submitting anticipated maximum daily water usage calculations for the proposed project so that DWS can determine the appropriate service lateral and water meter size

requirement. Moreover, the applicant will be required to install a reduced pressure type backflow prevention assembly and any additional improvements within the road right-of-way that may be required by other agencies.

There is no County sewer service available to the subject property, therefore the applicant will be required to install an individual wastewater system meeting with the approval of the State Department of Health as a condition of approval.

The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Electricity, telephone, police, fire, and medical services are available to the property. A condition of approval is included to require that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

**The proposed 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: No archaeological assessment /inventory survey or flora/fauna study was conducted for the property

The valuable cultural, historical, and natural resources found in the project area: The likelihood of any rare or endangered species, habitat of flora or fauna or any archaeological features is remote on the property based on land alteration from the prior use of the subject property for agricultural purposes. The Department of Land and Natural Resources – State Historic Preservation Division has issued a "no-effect" letter dated September 12, 2018 stating that DLNR-SHPD has determined that no historic properties will be affected by this project because previous agricultural use has altered the land.

Possible adverse effect or impairment of valued resources: There are no known historical or cultural resources on the subject property.

Feasible actions to protect native Hawaiian rights. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and 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 property. 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.