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County of Hawai'i

LEEWARD PLANNING COMMISSION

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OCT - 4 2016

Mr. Fritz Harris-Glade, AIA
FHG Architects AIA
P.O. Box 4476
Kailua-Kona, HI 96745

Dear Mr. Harris-Glade:

SUBJECT: Use Permit No. 99 (Docket No. USE 92-000001)
Applicant: Waikoloa Baptist Church
Request: Amendment to Condition Nos. 4 (Secure Final Plan Approval), 5 (Complete Construction), and 7 (Road Improvements)
Tax Map Key: 6-8-002:031 & 056

The Leeward Planning Commission, at its duly held public hearing on September 15, 2016, voted to approve the above-referenced request for an amendment to Condition No. 4 (secure Final Plan Approval), Condition No. 5 (complete construction), and Condition No. 7 (road improvements) of Use Permit No. 99, which allowed the establishment of a church, day care facilities, mission residences, recreational area and related improvements of 12.381 acres of land situated within the Single-Family Residential-10,000 square foot (RS-10) zoning district. The project site is situated within Waikoloa Village at the northwest corner of the Paniolo Drive and Pu'u-Nui Street intersection, Waikoloa, South Kohala, Hawai'i.

Approval of these amendments is subject to the following conditions:

1. The petitioner, its successors or assigns shall be responsible for complying with all conditions of approval.

2. Final Plan Approval for Phase I and related improvements shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review in accordance with Chapter 25-2-72 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Detailed landscaping, parking, and interior traffic circulation patterns shall be included on plans submitted.

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3. Construction of Phase I shall commence (building permit) within one year from the date of receipt for Final Plan Approval and shall be completed within two years thereafter (certificate of occupancy).

4. Final Plan Approval for the remainder of the development and related improvements shall be secured from the Planning Department within two (2) years from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-2-72 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Detailed landscaping, parking, and interior traffic circulation patterns shall be included on plans submitted.

5. Construction of the remainder of the development shall be completed (certificate of occupancy) within five years from the effective date of this amendment.

6. The applicant shall prepare and submit a drainage study of the subject property for the review and approval by the Department of Public Works. The applicant shall provide all drainage improvements as may be required by the Department of Public Works prior to the issuance of a certificate of occupancy of the proposed development.

7. Access to the project site, including adequate sight distance, shall meet with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy for any structure in Phase I. The applicant shall also restripe that portion of Paniolo Drive in the vicinity of the subject property to include a left turn lane at a time to be determined by and in the manner meeting with the approval of the Department of Public Works.

8. Curb, gutter and sidewalk improvements shall be installed in two phases. The first phase of curb, gutter and sidewalk installation shall include the property frontage beginning at the northern boundary of the property to and including any access points and be completed prior to the issuance of a certificate of occupancy for Phase I of the development. The second phase of curb, gutter and sidewalk installation shall include the remainder of the property frontage and be completed prior to December 31, 1999.

9. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this amendment. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

12. An 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 or 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 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 applicant shall submit its request to the Planning Commission for appropriate action.

Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

[*Note: Ramseyer version available upon request.*]

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 (808) 961-8158.

Sincerely,

Keith F. Unger, Chairman
Leeward Planning Commission

LWaikoloabaptistchurchamendUSE99lpc
Enclosure: PC Findings Report

cc: Waikoloa Baptist Church
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Planning Department - Kona
GIS Section

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

Based on the below considerations, approval of the amendment requests to Use Permit No. 99 are approved.

WAIKOLOA BAPTIST CHURCH has submitted an application to amend Condition No. 4 (secure Final Plan Approval), Condition No. 5 (time to construct remainder of development) and Condition No. 7 (road improvements) of Use Permit No. 99, which originally allowed the establishment of a church, day care facilities, mission residences, recreational area and related improvements on 12.381 acres of land situated within the County's Single Family Residential-10,000 square foot (RS-10) zoned district. The property is located within Waikoloa Village, at the northwest (makai) corner of Paniolo Drive and Pu'u-Nui Street intersection at Waikoloa, South Kohala, Hawai'i, TMK: 6-8-002:031 & 056.

Use Permit No. 99 was originally approved by the Planning Commission on March 24, 1992, which allowed the establishment of a church, day care facilities, mission residences, recreational area and related improvements on 12.381 acres of land situated within the County's Single Family Residential-10,000 square foot (RS-10) zoned district. On July 21, 2006, the Planning Commission approved amendment requests for Condition No. 4 (time to secure Final Plan Approval) and Condition No. 5 (time to complete construction) of Use Permit No. 99, which allowed changes to the site plan, dropped the phasing of the project and allowed ten years to complete construction of the facility. The permit was subject in part to Condition No. 4, Condition No. 5 and Condition No. 7, which states:

4. Final Plan Approval for the remainder of the development and related improvements shall be secured from the Planning Department within two years from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-2-72 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Detailed landscaping, parking, and interior traffic circulation patterns shall be included on plans submitted.
5. Construction of the remainder of the development shall commence (building permit) within one year from the date of receipt of Final Plan Approval for the remainder of the development and shall be completed within ten years thereafter (certificate of occupancy).
7. Access to the project site, including adequate sight distance, shall meet with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy for any structure in Phase I. The applicant shall also restripe that portion of Paniolo Drive in the vicinity of the subject property to include a left turn lane at a time to be determined by and in the manner meeting with the approval of the Department of Public Works.

In reviewing the requested amendments by the applicant, the Planning Director is recommending that Condition No. 4 and Condition No. 7 remain the same as the wording will apply even in this amendment request without any changes to the wording of the conditions. Condition No. 4 will allow the applicant two years from the "effective date of this amendment" to secure Final Plan Approval. Condition No. 7 does not have a time trigger but the condition remains in effect if the Department of Public Works asks the

applicant to restripe the portion of Paniolo Drive in the vicinity of the subject property to include a left turn lane at a time to be determined by and in the manner meeting with the approval of the Department of Public Works.

The Planning Director is recommending approval of the request for a 5-year time extension to complete construction as required by Condition No. 5 with a change to the wording to be more consistent with the language used in current approvals of similar requests. Additionally, the Planning Director is recommending that the option for the applicant to request an additional administrative time extension be allowed under Condition No. 12. This will allow additional time to complete construction without having to come back before the Planning Commission for approval if there are additional unforeseen pressures. This will give the applicant a total of ten (10) to complete the project.

The following brief chronology of the project demonstrates the continuing and diligent efforts of the applicant to complete the project.

- On March 24, 1992, the Planning Commission approved Use Permit No. 99 to allow the establishment of a church, day care facilities, mission residences, recreational area and related improvements on 12.381 acres of land.
- On March 1, 1993, Hawaii Baptist Convention requested a 12-month extension of time to comply with Condition No. 2, wherein to secure Final Plan Approval for Phase I.
- On April 8, 1993 the Planning Director granted an administrative approval for an extension of time to comply with Condition No. 2 until March 24, 1994.
- On January 28, 1994, Hawaii Baptist Convention requested a second 12-month extension of time to secure Final Plan Approval for Phase I. The reason for the request was due to the death of the pastor. The Planning Director granted a second administrative approval for an extension of time to comply with Condition No. 2 until March 24, 1995.
- On July 7, 1994, Final Plan Approval for the new church and day care center building was issued by the Planning Director.
- Building Permit No. 945735 was issued for a day care, church, office, kitchen, hall, covered center lanai, 4 bedrooms, 1 and 1/2 bath and chapel on September 15, 1994 and was completed on August 22, 1996.
- On August 1, 1996, the Planning Commission approved an amendment to Condition No. 8 (Curb, Gutter and Sidewalk Improvements) to allow the improvements to be completed in two phases prior to December 31, 1999. The entire length of the property fronting Paniolo Avenue was completed with curb, gutter and sidewalk as of 1998.
- On July 21, 2006, the Planning Commission approved amendment requests for Condition No. 4 (time to secure Final Plan Approval) and Condition No. 5 (time to complete construction) of Use Permit No. 99, which allowed changes to the site plan, dropped the phasing of the project and allowed ten years to complete construction of the facility.

Approval of this amendment request would not be contrary to the General Plan or the Zoning Code. The amendment to Condition Nos. 4, 5 & 7 would not be contrary to the original reasons for granting the Use Permit. The request would be consistent with the Land Use Element of the General Plan which states "Designate and allocate lands in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to "Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment." The granting of this request at this particular location will provide a convenient service to the growing residential community while maintaining the residential community and the residential character of the area.

The property is zoned Urban and Single-Family Residential (RS-10), which allows a church as a permitted use if approval is received by the Planning Commission. Approval of Use Permit No. 99 was originally granted by the Planning Commission on March 24, 1992.

Lastly, since the original approval and the amendment approval, the South Kohala Community Development Plan was adopted by Ordinance No. 08 159 on December 1, 2008. The church and requested amendment is consistent and not contrary with the policies and objectives of the plan.

The inability of the applicant to comply with the requirements of Condition No. 4, 5 and 7 of Use Permit No. 99 is the result of conditions which could not have been foreseen or are beyond the control of the applicant. Delays in constructing the project were due to the severe economic conditions that could not have been foreseen and was beyond the control of the applicant. The Waikoloa Baptist Church Association has received a substantial donation from one of its members that will allow them to proceed with the remainder of the development.

The applicant is requesting time extensions for Condition Nos. 4, 5 & 7 to complete construction of the remainder of the development. The approval of the amendment requests will allow the applicant to complete the remainder of the development as originally envisioned by the applicant and approved by the Planning Commission.