

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

130 HOLDINGS LLC

**AMENDMENT TO CONDITION NOS. 3, 5, 6 & 7 AND PROJECT SCOPE CHANGES
OF SPECIAL PERMIT NO. 870 (PL-SPP-2026-000115/AMEND SPP 870)**

Upon review of the request against guidelines for approving a Special Permit, the Planning Director recommends that the request to amend Special Permit No. 870 to reduce the size of a proposed regional trade center to two buildings totaling 10,400 square feet; add a 600-square-foot volunteer fire truck parking area; amend Condition No. 3 (Complete Construction) for a 5-year time extension to complete construction; delete Condition No. 5 (Water Supply); and delete Condition No. 7 (Highway 130/Orchidland Drive Intersection Improvements) **be approved by the Planning Commission.** Additionally, the Planning Director recommends that the request to delete Condition No. 6 (Improvements to Orchidland Drive) **be denied by the Planning Commission.** The Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. These recommendations are based on the following findings:

The applicant is requesting amendments to various conditions of Special Permit No. 870, which was originally approved to allow the establishment of a regional trade center on 2.311 acres of land within the State Land Use Agricultural District. The regional trade center was originally intended to be developed with five buildings, parking and related improvements. General services approved for the regional trade center include a variety of home, garden and animal supplies; catchment supplies, sales & service; solar water heaters; office space for service businesses such as electrical, plumbing, landscaping, gardening, auto repair, farmer cooperative and home business outlet. Additionally, the permit was amended in 2003 to include food service uses.

The applicant is requesting to downsize the project from five buildings to two buildings totaling 10,400 square feet and is requesting to include a 600-

square-foot compacted gravel parking area for volunteer fire trucks. The applicant proposes the following project elements as part of the Special Permit amendment request:

- **Existing Building Use:** 1,000 square feet of Building 2 will be converted into a restaurant. The remainder of Building 2 (approximately 3,000 square feet) is proposed to be used for hot and cold certified kitchen uses with no retail activity or customer visits. The remaining building areas will be improved and allocated for trade bays consisting of 800 to 1,200 square feet each. Prospective tenants are expected to provide similar services to those proposed in the original permit and would include specialty trade contractors, such as electricians, plumbers, landscapers, auto repair providers, catchment suppliers and solar water heater installers. The trade center will not include any retail sales.
- **Parking:** 47 standard and 2 ADA-accessible stalls.
- **Volunteer Fire Truck Parking:** A 20' x 30' (600-square-foot) compacted gravel parking area is proposed for the Orchidland Volunteer Fire Department truck. The Volunteer Fire Department will also have access to water on site.
- **Water:** Water is available through County water service. The water line has been connected to the property, and a fire hydrant has been installed.
- **Hours of operation:** 6:00 a.m. to 11:00 p.m.
- **Landscaping:** Landscaping will mitigate potential noise and visual impacts to surrounding properties.
- **Revoke School Special Permit:** If this amendment request is approved, the applicant requests that the previous Special Permit for an Elementary School (Special Permit No. SPP 21-000228) be revoked.

The following amendments have been requested by the applicant:

Condition No. 3 (Time to Complete Construction): The applicant is requesting a 5-year time extension to complete construction of the proposed development. The proposed Trade Center was briefly planned to be replaced by the ASC elementary school campus proposed under SPP 21-000228. However,

as that project is no longer planned, the landowner intends to complete construction of the Trade Center on the property as soon as possible. The applicant will obtain Final Plan Approval from the Planning Director prior to obtaining any building permits and will ensure that the trade center complies with all necessary fire protection, access, parking and landscaping requirements.

The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence. Rather, the applicant was unable to complete the conditions of the last (2014) Special Permit Amendment within the requisite 5-year time frame due to the combined cost of all improvements required and decided to instead pursue an opportunity to lease the property to the Arts and Sciences Center (ASC) so that they could develop an elementary school on the parcel. However, after obtaining a Special Permit for elementary school operations, the applicant and ASC were unable to settle on agreeable lease terms and so ASC decided to establish their school facilities elsewhere. Considering these events, the applicant would now like to revert to the original uses approved under Special Permit No. 870.

Since the last 2014 amendment request, the applicant has successfully extended County water to the subject property and constructed a fire hydrant. Moreover, the applicant is poised to complete construction within 5 years of the date of this amended permit, including securing a Final Plan Approval, building permits, and a Certificate of Occupancy in accordance with County Code and conditions of this amended permit.

Based on the overall information, the non-performance is the result of conditions that could not have been foreseen and are beyond the control of the applicant and was not the result of their fault or negligence.

Approval of the selected requests would not be contrary to the General Plan or Zoning Code, or the original reasons for the granting of the Special Permit. The General Plan Land Use Pattern Allocation Guide (LUPAG)

Map designates the subject parcel and surrounding area as Rural. Additionally, there is a Medium Density Urban node located across the street on the Pāhoa side of Orchidland Drive between 35th Street and Highway 130. The zoning for the area and the property has remained the same, which is designated as State Land Use Agricultural and County Agricultural (A-3a). Therefore, the approval of this request would not be contrary to the General Plan or the Zoning Code.

The Puna Community Development Plan (CDP) was adopted by the Hawai'i County Council, Ordinance 08 116, on September 10, 2008. The Puna CDP has identified this area as the Orchidland Neighborhood Village Center. The Orchidland neighborhood village center location was identified by the community association to be "located along Orchidland Drive from Highway 130 to halfway between 34th and 35th Avenues", which encompasses 15 parcels and an area of about 16 acres. The subject property is located on the boundary within the village center; thus, the proposed regional trade center is consistent with the Puna CDP.

The approval of this time extension request and the selected amendments would not be contrary to the original reasons for granting Special Permit No. 870, which was approved to allow the establishment of a regional trade center and include a variety of home, garden and animal supplies; catchment supplies, sales & service; solar water heaters; office space for service businesses such as electrical, plumbing, landscaping, gardening, auto repair, farmer cooperative, home business outlet and later to include food service uses. One of the original reasons for approval for the regional trade center was to provide and promote limited industrial uses to serve the needs of residents in this area of Puna, which would not be available in the existing Orchidland Estates Convenience Center.

Based on the preceding, the Planning Director recommends that the 5-year time extension request to Condition No. 3 **be approved**. Please note, the condition has been updated to reflect current standard condition language and to address the addition of the proposed volunteer fire truck parking.

Condition No. 5 (Water Supply Requirements): The applicant is requesting that Condition No. 5 be deleted as the property has been connected to the County water system and a fire hydrant has been installed. The proposed project will comply with all Department of Health and Fire Department requirements. The condition currently states:

“The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The storage facility shall be completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements. If an improvement district or similar project is proposed which would make county water available to the property, the owner shall participate and pay its fair share of any applicable construction costs and connect to the County water system.”

County water is available to the property from the Orchidland Gulsons LLC water system (served by the Department of Water Supply(DWS)) via an 8-inch waterline and a fire hydrant has been constructed fronting the subject property. A water commitment for 17 units of water (approximately 6,800 gallons per day) was secured as part of the previously proposed school use and the applicant anticipates that water needs for the current proposed project will not exceed the 17 units of water.

DWS notes that despite an existing water agreement between the applicant and Orchidland Gulson, LLC, it must verify whether sufficient water supply and meter capacity are available for the project, especially since the previously allocated 17 units were tied to an expired water commitment. The applicant must submit engineer-certified estimated water needs calculations of peak flow in gallons per minute (gpm) and maximum daily water usage (including irrigation) for review. Based on these, DWS will determine a water commitment deposit and facilities charges, determine existing meter size adequacy, and any required system adjustments, with facilities charges to be paid prior to issuance of a certificate of occupancy. The preceding will be added as a condition of approval.

Finally, despite the presence of a fire hydrant fronting the property, the 8-inch water line supplying the project does not meet DWS's 2,000 gpm fire flow rate standard for commercial use, thus the applicant will need to comply with any applicable requirements of the Fire Department for providing adequate access and sufficient quantities and flow rates of water for fire suppression. The preceding will be added as a condition of approval.

Based on the preceding, the Planning Director recommends that the request to delete Condition No. 5 **be approved**.

Condition No. 6 (Improvements to Orchidland Drive): The applicant is requesting that Condition No. 6 be deleted given that the required improvements would be contained to the subject parcel's frontage and would be out of place with the general road design and the rural/agricultural character of the surrounding area. Additionally, other Special Permits for similar commercial-type uses, such as SPP 09-00098, which allowed for the establishment of a commercial retail and office building on TMK 1-6-010:137, and SPP-2022-000017, which legitimized the use of a warehouse and office facility on TMK 1-6-009:385, have been approved in this area along Orchidland Drive without requiring such roadway improvements, further rendering the improvements out of place for the area. The condition currently states:

"The applicant shall provide pavement improvements to the northern half of Orchidland Drive along the subject property's entire Orchidland Drive frontage meeting with the Department of Public Works Standard Detail R-33 for Rural Collector Standards, prior to the issuance of a certificate of occupancy for any portion of the proposed project."

The subject parcel is accessed via Orchidland Drive, approximately 1,000 feet west of the intersection of Orchidland Drive and the Kea'au-Pāhoa Road. The project will not take access from 34th Avenue. Orchidland Drive is privately owned by Hilo Development, Inc. (the original developer of the subdivision) and maintained by the Orchidland Community Association (OLCA). Orchidland Drive is a 60-foot-wide right-of-way with a pavement width of approximately 28 feet at the intersection with Kea'au-Pāhoa Road. The pavement

width narrows to approximately 24 feet at the point of access to the subject parcel. Maintenance of subdivision roads is funded through mandatory road maintenance fees charged to landowners of the subdivision.

The applicant is proposing to install a single, full-turn driveway serving as the main entrance connecting to Orchidland Drive. There will be no separate driveway for the volunteer fire trucks.

The Director does not support the request to delete Condition 6 for the following reasons.

The requirement to improve the Orchidland Drive frontage has been part of this permit since it was first approved in 1994. It has continued to be required, in some form, through four later amendments. This shows that the Commission has consistently found these improvements to be necessary.

In 2014, the condition was revised to make it less burdensome for the applicant, but it was not removed. Instead, the Commission chose to keep the requirement while adjusting its scope, showing that the improvements were still considered important.

More recently, under SPP 21-000228, which allowed for the development of an elementary school on the property, the frontage improvement requirement was kept and updated to meet current Department of Public Works (DPW) standards. This reflects that the condition is still relevant, especially with increased use of the site.

The Planning Department also consulted with the Department of Public Works (DPW) for this amendment request, and they confirmed that the requirement is still appropriate and remain consistent with the intent of the 2014 revision.

Given that this requirement has been in place for decades, has been repeatedly retained by the Planning Commission, and is still supported by DPW, there is no clear reason to remove it. Removing Condition No. 6 would go against

past decisions and could result in needed roadway improvements needed to support the commercial use of the property not being completed.

For these reasons, the Planning Director recommends that the request to delete Condition No. 6 **be denied**.

Condition No. 7 (Highway 130/Orchidland Drive Intersection Improvements): The applicant is requesting that Condition No. 7 be deleted. The request to delete this condition was previously denied by the Planning Commission in 2014 at the request of the Department of Transportation (DOT), but the applicant has renewed the request, citing that the cost burden of the required improvements is unreasonable for a single applicant. DOT has since programmed intersection improvements (via a roundabout) in the Statewide Transportation Improvement Program, with construction anticipated in 2026 to address congestion and safety concerns. It is further noted that a more recent Special Permit for a school at the same site (SPP 21-000228), which was expected to generate greater traffic impacts, did not require such intersection improvements. The condition currently states:

“Channelization, signalization and street lighting improvements to the intersection of Highway 130 and Orchidland Drive shall be provided by the applicant if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.”

Traffic on Orchidland Drive is primarily generated by local residents and nearby commercial uses, with the proposed project expected to add approximately 27 peak-hour vehicle trips. This estimate is based on ITE Trip Generation Manual (11th Edition) rates for specialty trade contractor space and high-turnover sit-down restaurant uses, with contractor rates applied to the commercial kitchen due to the absence of a standard classification. The commercial kitchen component is not expected to significantly increase traffic, as it will not include customer visits or retail activity.

The State Department of Transportation (DOT) anticipates completion of a roundabout and related safety improvements at the Kea‘au-Pāhoa Road and

Orchidland Drive intersection by 2027. DOT recommends that the applicant prepare a Traffic Assessment or Traffic Impact Analysis Report, prepared by a licensed engineer, to evaluate trip patterns, queuing, and potential impacts, including consideration of the planned roundabout. The study must also address any phased development, multimodal connectivity, and include any necessary mitigation measures at no cost to the state, subject to DOT review and approval prior to the issuance of building permits for the project. The preceding will be added as a condition of approval.

Based on the preceding, the Director recommends deletion of Condition 7, with the understanding that the applicant will be responsible for constructing any mitigation measure that may be recommended by the traffic studies as discussed above.

Project Scope Changes: The applicant is requesting to downsize the project from five buildings to two buildings totaling 10,400 square feet. This will focus the buildout and operation within and adjacent to the existing building shells that will be completed to house the proposed uses. Additionally, the applicant is requesting to include a 600-square-foot, compacted gravel parking area for volunteer fire trucks to the southwest of the proposed development. Finally, the applicant indicated that the project would share potable water with the volunteer fire department.

The Planning Director supports the project scope reduction as it will continue to comply with the requirements of the regional trade center and supports the location of volunteer fire truck parking on the property as it is a needed community resource that is not currently available in the area.

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: The subject property has been previously cleared and is currently vacant. No archaeological reconnaissance survey, cultural impact assessment, or biological studies were submitted with the application. However, a review of Planning Department records, available GIS data, and the State Historic Preservation Division (SHPD) records did not identify any previously recorded cultural within the subject property. By letter dated July 13, 2008, the State Historic Preservation Division issued a determination that “no historic properties will be affected” by the proposed development, citing previous urbanization and grading/grubbing that had altered the land.
- The valued cultural, historical, and natural resources found in the permit area: The subject property has been previously grubbed and graded, and based on available information, it is unlikely that valued cultural, historical, or natural resources are present within the rezoning area. No known archaeological or historic resources have been identified on the property, and it is not listed on either the State or National Register of Historic Places. According to the applicant, there is no known recent use of the property or surrounding area for traditional cultural or gathering practices. Additionally, due to the prior ground disturbance, the presence of threatened or endangered plant or animal species within the project area is considered unlikely.
- 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 already cleared property and surrounding urban environment. The proposed development is not expected to adversely impact cultural, historical, or natural resources, including traditional and customary Native Hawaiian practices. Due to the previously disturbed

condition of the property and surrounding area, the likelihood of impacts to native flora, fauna, or endangered species habitat is considered low.

- Feasible actions to protect native Hawaiian rights: To address the potential for inadvertent discovery of cultural resources, a condition of approval will require that all work cease in the immediate area if any historic or cultural remains (e.g., rock walls, terraces, platforms, shell concentrations, or human burials) are encountered. The applicant shall contact the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD), and work shall not resume until appropriate mitigation measures have been implemented and clearance is provided by DLNR-SHPD.

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 affected agencies.

Based on the preceding findings the **Planning Director recommends that the 5-year time extension request to Condition No. 3 and deletion of Condition Nos. 5 and 7 should be approved by the Planning Commission, while the deletion of Condition No. 6 should be denied.**

The following amended conditions of approval have been updated to reflect current standard condition language, been revised or deleted based on compliance with certain conditions and to reflect requirements from governmental agencies as

part of this amendment request (Material to be deleted is bracketed and struck through; material to be added is underscored):

1. The applicant, successors or assigns (Applicant) shall be responsible for complying with all of the stated conditions of approval.
2. ~~[If County water becomes available for this project, 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 and submit a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this amended permit.]~~ 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 ordinance in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. The Applicant shall be responsible for constructing any water system improvements that may be required by the DWS prior to receipt of Certificate of Occupancy for any portion of the proposed project.
3. ~~[Construction of the proposed development shall be completed within five (5) years from the effective date of this amendment. This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the~~

~~requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.]~~ Construction of the proposed development shall be completed within five (5) years from the effective date of this amended permit. Prior to construction, the Applicant(s) 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), paved driveway access and paved parking stalls (except for the volunteer fire truck parking area) associated with the proposed development. 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 for CV zones adjoining a RS zone.

4. The ~~[applicants]~~ Applicant shall comply with the design guidelines in the development of the proposed regional trade center as detailed by the Orchidland Estates Community Association in their letter to the Planning Director dated February 24, 1994 ~~[, except for the requirement for the project to operate on county water and provide an additional fire hydrant].~~
5. ~~[The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The storage facility shall be completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements. If an improvement district or similar project is proposed which would make county water available to the property, the owner shall participate and pay its fair share of any applicable construction costs and connect to the County water system.]~~ The Applicant shall install, construct and maintain any fire suppression improvements on the subject

property that may be required by the Fire Department. Upon successful installation of the improvements and prior to issuance of a Certificate of Occupancy for any portion of the proposed project, the Applicant shall provide the Planning Department documentation from the Fire Department indicating that the improvements meet Fire Code standards.

6. ~~[The applicant shall provide pavement improvements to the northern half of Orchidland Drive along the subject property's entire Orchidland Drive frontage meeting with the Department of Public Works Standard Detail R-33 for Rural Collector Standards, prior to the issuance of a certificate of occupancy for any portion of the proposed project.]~~ The Applicant shall provide pavement improvements to the northern half of Orchidland Drive along the subject property's entire Orchidland Drive frontage consisting of a 12-foot wide travel lane, 8-foot wide shoulder, and 10-foot wide swale, meeting with the Department of Public Works Standard Detail R-19 for "Half-Section of Street with Shoulder" within the existing 60-foot right of way, prior to the issuance of a certificate of occupancy for any portion of the proposed project.
7. ~~[Channelization, signalization and street lighting improvements to the intersection of Highway 130 and Orchidland Drive shall be provided by the applicant if required by the Department of Transportation, prior to the issuance of a certificate of occupancy for any portion of the proposed development.]~~ The Applicant shall conduct a Traffic Assessment or a Traffic Impact Analysis Report prepared by a professional engineer, licensed in the State of Hawai'i for review and acceptance by the Hawai'i Department of Transportation, which should include the following: a)An evaluation to identify whether the daily operations relating to trip patterns and queuing concerns based on proposed uses will have any local or regional impacts to the nearby State-owned Kea'au-Pāhoa Road which should include the new roundabout in the analysis. The study should also provide any

recommended mitigations to be implemented at no cost to the State; b) If the project construction is phased over multiple years, interim horizon years should be analyzed for the completion of each phase; and c) The study should provide a discussion on multimodal (bicycle/ pedestrian) paths within the proposed site and connectivity to the rest of the area.

8. ~~[The regional trade center operations shall be limited to 6:00 a.m. to 11 :00 p.m. Uses permitted within the proposed regional trade center shall be limited to those uses specified by the applicants within the Planning Director's Background Report dated May 10, 1994 as Exhibit E—Orchidland Trade Center—Project Overview and food service uses.]~~

The regional trade center operations shall be limited to 6:00 a.m. to 11:00 p.m. Uses permitted within the proposed regional trade center shall be limited to those uses specified in Exhibit 1 of the Planning Director's Background Report for this amendment and food service uses but excluding retail sales.

9. The ~~[a]~~Applicant shall provide an 8-foot-high chain link fence or of comparable security effect along the boundaries with the adjacent properties identified by TMK: 1-6-~~0~~10: 046 and 081.
10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
11. The ~~[applicant(s)]~~ Applicant shall comply with applicable laws, rules and regulations of the affected agencies, including those of the Department of Public Works and Department of Health ~~[and the Fire Department]~~.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being complied. 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.

13. ~~[If the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the Planning Commission for appropriate action.]~~The proposed regional trade center shall be developed and operated in a manner that is substantially representative of plans and details contained within the Special Permit Amendment Request Application dated January 9, 2026, any supplemental material, and the representations made before the Windward Planning Commission. Any expansion of uses beyond what is represented in these documents shall require an amendment to this permit.
14. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
15. If the Applicant should require an additional extension of time, the Planning Director shall submit the Applicants' 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 shall initiate procedures to revoke this permit.]~~
16. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.