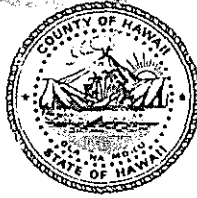


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

#### CERTIFIED MAIL

Z 472 692 311

July 16, 1999

Mr. Rodney C. Burtenshaw  
50 East North Temple Street  
Salt Lake City, Utah 84150

Dear Mr. Burtenshaw:

Variance Application WH(VAR 99-015)  
Variance No. 1029  
Applicant: RODNEY C. BURTONSHAW  
Owner: CHURCH OF JESUS CHRIST LATTER-DAY SAINTS  
Request: Variance From Minimum Height Requirements  
Tax Map Key: 5-5-010: Portion of 3

After reviewing your application and the additional information submitted, the Planning Director certifies the approval of your variance request to allow a proposed steeple with 66.3 feet height in lieu of the minimum 45 feet height limit, as required by Ordinance 96-160, Chapter 25, Article 5, Division 1, Section 25-5-4, and Article 4, Division 2, Section 25-4-22(a), Ordinance 97-88.

Please accept our sincere apologies for this tardy confirmation of the approval granted to allow the requested variance. We have been working within the department to improve the efficiency of this process which will hopefully result in more timely responses to future applications. Your patience is appreciated.

The subject property is located at a Portion Kaauhuhu, Grant 8342, at North Kohala, Hawaii, Tax Map Key: 5-5-010: Portion of 3.

#### SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property consists of 3.52 acres of land area.

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2. According to the Real Property Tax Division records as of February 16, 1996, the subject property has been registered under the Condominium Property Regime for four (4) units. Unit 1, the project area, consists of 3.52 acres and is owned by the Church of Jesus Christ of Latter Day Saints. Units 2,3, and 4 consisting of 1.741, 0.633 and 1.523 acres respectively, are owned by Kimberlee Larsen-Hester (50 percent) and George Radford (50 percent).
3. The following building permits were issued for the subject property:
  - a. Building Permit No. 800163 opened on January 21, 1980 for the construction of a single family dwelling. The permit remains open.
  - b. Building Permit No. 800164 opened on January 21, 1980 and closed on June 16, 1981 for the demolition of a dwelling and sheds.
  - c. Building Permit No. 945150 opened on February 24, 1994 for the construction of a single family dwelling. The permit remains open.
  - d. Building Permit No. 985985 opened on September 9, 1998 and closed on March 31, 1999 to relocate an existing dwelling.
4. Use Permit No. 155 was approved by the Planning Commission on April 10, 1979 for the development of a church and related improvements.
5. Use Permit No. 155 states the applicant proposes to construct an additional one story structure of approximately 14,000 square feet for religious instruction and ceremonies. This structure includes the religious spire to extend beyond the allowable 45 foot height limitation. The spire is both an architectural as well as a religious symbol for the church. The design elements of the building and the steeple are all proportionately designed to complement each other. The conditions state that plans shall identify existing and proposed structures, paved (asphaltic-concrete or chip-seal) parking areas and driveway, existing and proposed agricultural areas, landscaping along the eastern boundary to mitigate any visual and noise impacts, and fire protection measures associated with the proposed use. Parking for all functions shall be maintained on the subject property and comply with the requirements of Chapter 25 (Zoning Code).
6. Final Plan Approval dated February 4, 1999 states that the applicant shall install and establish the approved planting materials and related landscaping improvements. The applicant shall maintain the approved planting materials and church grounds in a healthy and attractive state.

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7. The architectural renderings, site map and building plans prepared by Edmond Akiona - Architect on October, 1998, shows the proposed steeple with a 66.3 feet height limit in lieu of the minimum 45 feet height limit. As such the proposed steeple would protrude 21 feet 3-5/8 inches into the maximum 45 feet height limit.
8. The variance application was filed with the Planning Department on March 11, 1999.

The following objections and concurrence to the variance were received from the surrounding and adjacent property owners:

- a. Mark Anthony and Marva Lee Perez, Scott Bedingfield and Susan Lehner, Karen Rosen and Robert Martin, Fran Wollard, Wayne and Kathleen Botelho, Brian Devine : (See Exhibit A - Letter dated April 4, 1999).  
  
Applicant's Response: (See Exhibit B - Letter dated April 19, 1999).
- b. Karen Rosen and Robert Martin - (See Exhibit C - Letter dated April 13, 1999).
- c. Scott Bedingfield - (See Exhibit D - Letter dated April 13, 1999).
- d. Scott Bedingfield - (See Exhibit E - Letter dated May 7, 1999).
- e. Louisa Pugmire - (See Exhibit F - Letter dated June 14 and 23, 1999).
- f. John McKay Scovel - (See Exhibit G - Letter dated June 24, 1999).
- g. Leilani F. Scovel - (See Exhibit H - Letter dated June 24, 1999).
- h. Jeremy and Laura Hook - (See Exhibit I - Letter dated July 1, 1999).
- i. Kamaka Yamamoto - (See Exhibit J - Letter dated June 14, 1999).
- j. Joyce Yamamoto - (See Exhibit K - Letter dated June 16, 1999)
- k. Soichi and Rose Maeda - (See Exhibit L - Letter dated June 13, 1999).
- l. Alfonso Mitchell - (See Exhibit M - Letter dated June 16, 1999).
- m. Boyd T. Peterson - (See Exhibit N - Letter dated June 14, 1999).

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- n. Doris M. Peterson - (See Exhibit O - Letter dated June 14, 1999).
- o. Edward and Tomiko Nakamura - (See Exhibit P - Letter dated June 25, 1999).
- p. William H. Cooper - (See Exhibit Q - Letter dated June 14, 1999).
- q. Johanna Kuldher - (See Exhibit R - Letter dated June 14, 1999).
- r. Mark Munro - (See Exhibit S - Letter dated June 21, 1999).

Therefore, considering the foregoing facts, the Planning Director has determined that there are special or unusual circumstances applying to the subject property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

#### ALTERNATIVES

1. The owners on their own volition are honestly trying to comply with the Zoning Code.
2. Architectural alterations or design changes to the church to conform with the minimum height requirements would create undue and excessive hardships for the applicant when other more reasonable options are available.

Based on the above cited considerations, there are no reasonable solutions available without excessive demands being placed on the owners when a more reasonable alternative is available by the granting of this variance application.

#### INTENT AND PURPOSE

Section 25-4-22 (Exemptions from height limitations) states that the following structures are exempt from zoning district height limits under the specified restrictions: (a) Chimneys, spires, belfries, water tanks, monuments, steeples, antennae, flag poles, vent pipes, fans, structures housing or screening elevator machinery and other similar features, not to exceed ten feet above the governing height limit.

The intent and purpose of requiring buildings setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The

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proposed steeple will protrude 21 feet 3-5/8 inches into the maximum 45 feet height limit. The additional height above the forty-five feet height limit is appropriate as the spire is a religious symbol for the church and is proportionately designed to complement the design elements of the structure. This encroachment will not diminish the ability for adequate light and air to circulate and will still provide adequate open space. Therefore, while the Zoning Code requires a minimum 45 feet height limit, in this particular case, the encroachment will not visually or physically impact or be adverse to any adjacent properties or development with the granting of this variance. The rest of the existing church complies with the minimum yard and height requirements of the Zoning Code.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, this variance will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

This variance request is approved, subject to the following conditions:

1. The owner, assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The approval of this variance shall be included in the conveyance document for the subject property and a copy of the recorded conveyance document shall be submitted to the Planning Department within a year from the effective date of approval of this variance.
3. The applicant comply with all conditions as stated in Use Permit No. 155.
4. The applicant shall install and maintain a landscape buffer around the perimeter of the property to minimize potential noise, dust, or visual impacts between adjacent land uses. The landscape plan shall comply with Rule 17 of the Planning Department.
5. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

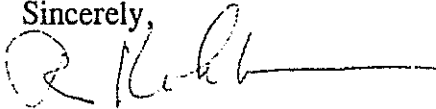
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Should you have any questions, please feel free to contact Eleanor Mirikitani of this department.

Sincerely,



VIRGINIA GOLDSTEIN  
Planning Director

EMM: rld

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xc: West Hawaii Office