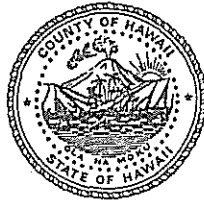


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

May 10, 2005

Mr. Edmond Akiona
EDMOND AKIONA-ARCHITECT
P. O. Box 1197
Wailuku, HI 96793

Dear Mr. Akiona:

VARIANCE PERMIT NO. 1505 (VAR 04-110)

Applicant: EDMOND AKIONA-ARCHITECT
Owner: THE CHURCH OF JESUS CHRIST OF LDS
Request: Variance from Building Height,
Chapter 25, the Zoning Code
Tax Map Key: 2-3-036:019

After reviewing your application and information submitted, the Planning Director certifies approval of your variance request subject to conditions. Variance Permit No. 1505 allows proposed prefabricated steeple component of the proposed church building to be constructed to an overall maximum height of 67 feet +/- measured from adjoining finished grade in lieu of the 55 feet maximum height limit permitted for "steeples" pursuant to the applicant's variance site plan map drawing. The variance request is from building height requirements of the Hawaii County Code, Chapter 25, Zoning, Article 5, Division 7, Section 25-5-73, Height limit, and Article 4, Division 2, Section 25-4-22, Exemptions from height limitations.

BACKGROUND AND FINDINGS

Location. The subject property containing 4.000 acres is a portion of Ponahawai, South Hilo, Hawaii. The property fronts on Ponahawai Street and is situated on the Hamakua side of Ponahawai Street approximately 1,360 feet (makai) of an intersection of Ponahawai Street and Komohana Street. The subject property, Lot H containing 31.6367 acres, is a portion of Olooa Reservation Lots, and situated at Puna, Hawaii.

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The TMK property is zoned Agricultural (A-1a) by the County and designated Urban "U" by the Land Use Commission (LUC).

Use Permit No. 199. The Planning Commission approved a church and related site improvements on the subject TMK property, subject to Use Permit conditions dated April 2, 2004.

2. **Variance Application-Site Plan/Building Drawings.** The applicant submitted the variance application, attachments, and filing fee to the Planning Department on or about December 3, 2004. The variance application's site plan was prepared by the applicant and includes other detailed building drawings, drawn to scale. According to the elevation drawings, the proposed apex or overall height of the "Steeple" or monument will exceed the maximum 55 feet building or steeple height limit allowed pursuant to Chapter 25, Zoning, by approximately 12 feet.

The applicant's transmittal letter or explanation dated November 30, 2004 states in part:

"The height variance for this slender spire will have minimum negative impacts to the surrounding property owner's coastal view planes. The proposed meetinghouse is adjacent to the northerly property owner, the Veteran's Cemetery and there (sic) will have no visual impact. The northwesterly property owners are located on Halai Hill, which is at a much higher elevation and will have minimum visual impact. The easterly neighbor operates a nursery and is on the makai side of the property, thus having no visual impact. The color selection of the steeple and spire will be an off-white shade and will give it a more subtle appearance, blending in with the surrounding area.

Traditionally, LDS churches are constructed with steeples and spires to help signify the meetinghouses for religious and symbolic purposes. These architecturally designed structures are integral to the design of all meetinghouses around the world. They help identify the building to the area and the community as well as visitors."

3. **Agency Comments and Requirements-(VAR 04-110):**

- a. The State Department of Health (DOH) memorandum dated December 17, 2004, states:

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“The Health Department found no environmental health concerns with regulatory implications in the submittals.

- b. ”The Department of Public Works (DPW) memorandum dated December 22, 2004, states in part:

“We have reviewed the subject application forwarded by your memo dated December 13, 2004 and have the following comments.

All new building construction shall conform to current code requirements.

More detailed code search is required to make a determination on the allowable height as allowed by the 1991 UBC.”

4. **Notice to Surrounding Property Owners.** Proof of mailing a first and second notice was submitted to the Planning Department. For the record, it appears that the first and second notice was mailed on December 21, 2004 and December 27, 2004 by the applicant.
5. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. No comments or objection were received from the surrounding property owner(s) or public.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The applicant filed the variance request and application to permit construction of proposed “Steeple”. The site plan for the proposed church was previously submitted for review under Plan Approval. Portions of the proposed “Steeple” will exceed the maximum 55 feet “steeple” height limit by approximately 12 +/- feet. The proposed building addition or building height is requested for traditional and physical reasons related to the permitted church use and building (meetinghouse) allowed pursuant to USE 199.

After considering the project’s background, property location and topography, and scale of the proposed LDS church building to be centrally located within the subject TMK property, the Planning Director has determined that there are special and unusual circumstances applying to the subject property which exist either to a degree which deprives the applicant or owner 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.

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ALTERNATIVES

Alternatives available to the applicant to address the proposed steeple's overall building height include the following:

1. Reducing the proposed building or "Steeple" height to comply with zoning height limit-55 feet for "steeples" or "other similar features".
2. Rezone the property to permit the proposed building height, etc.

INTENT AND PURPOSE

The intent and purpose to limit building height and respect other building limits on surrounding property are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and the boundary/property lines. The intent and purpose of assigning building height limit(s) within specific zoned designations is to insure that building scale or view planes/vistas are preserved, building vocabulary and patterns within a neighborhood are consistent, and community character is reasonably maintained. The construction of new buildings within urban areas or "mix" of residential and non-residential buildings should be complimentary and harmonious. New buildings and building scale within neighborhoods should be appropriate and complimentary.

The proposed church steeple will compliment the proposed church building. The "Steeple" addition and proposed steeple height and scale will augment or compliment the church use and enhance the church building's geometry. The steeple addition to the proposed building, together, will exhibit a building vocabulary generally associated with church architecture. The steeple addition and additional height to allow the steeple addition will complement the permitted church building on subject TMK property. The steeple addition will not restrict or impede natural lighting and air circulation within the property or adjoining property. Therefore, while the Zoning Code limits the church building height (other structures) on this agricultural zoned property to be constructed up to 45 feet height and allows church steeples to be constructed up to 55 feet height, respectively. In this case, the additional steeple height will not be highly visible or physically impact the adjoining residentially zoned property(s), cemetery(s), and dwellings on Halai Hill.

The subject variance application was acknowledged by letter dated December 13, 2004. Additional time was required to complete the variance background report was necessary. The applicant agreed to extend the decision date to on or before May 31, 2005.

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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, the variance request 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.

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

This variance request is approved subject to the following conditions:

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. The applicant-owner shall apply and secure Final Plan Approval (FPA) from the County of Hawaii Planning Department to construct proposed church steeple. Plans submitted with the Plan Approval Application for the church steeple building addition shall be consistent with the variance site plan or detailed plans submitted with the variance application.
4. The applicant shall contact the DPW-Building Division and "finalize" or close any building and construction permits to construct the church building, steeple, and related church improvements on subject TMK property.
5. The applicant shall comply with Use Permit No. 199 conditions.
6. Building improvements and permitted uses on the subject tax map key (TMK) property are subject to State law and County ordinances and regulations pertaining to building construction and building occupancy. The proposed church building shall be constructed in accordance with approved building plans and building specifications.

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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xc: Real Property Tax - Hilo
Planning Department – Kona
Planning Department-Ministerial-Hilo
Leonard Tanaka