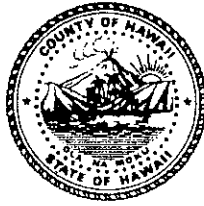


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

October 16, 2012

Mr. Roy Takemoto, Managing Director
PBR Hawaii & Associates, Inc.
101 Bishop Street, Suite 650
Honolulu, Hawai'i 96813

Dear Mr. Takemoto:

SUBJECT: VARIANCE: VAR 12-000088
Applicant: PBR HAWAII & ASSOCIATES, INC.
Owner: CHURCH OF JESUS CHRIST LATTER-DAY SAINTS
Request: Variance from Chapter 25, Zoning, Article 5, Division 1,
Section 25-5-4, Height Limit
Tax Map Key: 8-1-004:005

After reviewing your submitted variance application and information, the Planning Director certifies the **approval** of VARIANCE-VAR 10-021 subject to variance conditions. The variance allows proposed Church of Jesus Christ Latter-Day Saints church spire to be constructed to maximum 66 feet-5 inches building height in lieu of the property's maximum 45 feet height limit (35' + 10'). The variance is from Chapter 25, Zoning, Article 5, Division 1, Section 25-5-4, Height Limit and Section 25-4-27 Exemption from Height Limit.

BACKGROUND AND FINDINGS

1. **Location.** The subject property (TMK: 8-1-004:005) contains approximately 5.608 acres and is located on the corner of Hawai'i Belt Road and Onouli Road.
2. **Zoning.** The property is zoned Single-Family Residential – 15,000 square feet (RS-15) and Agricultural – 5 Acres (a-5a) by the County and designated State Land Use Urban or "U" and Agriculture (A) by the Land Use Commission (LUC).
3. **Variance Application-Site Plan.** The applicant submitted the variance application, attachments, and filing fee on August 23, 2012. The variance application's site plan map and other drawings to scale were prepared by the PBR Hawaii Associates, Inc. According to the

exterior elevation drawings, the proposed Church of Jesus Christ Latter-Day Saints “church spire”, will be constructed to a building height of 66 feet-5 inches.

4. **Variance Application (VAR 10-088)-Agency Comments and Requirements:**
 - a. The State of Hawai‘i-Department of Health (DOH) memorandum dated September 5, 2012 (see attached memorandum).
 - b. No comments have been received from Department of Public Works – Building Division as of this date.
5. **Notice to Surrounding Property Owners.** The applicant submitted copy of notices sent to surrounding property owners including affidavits stating notices were sent or mailed to surrounding property owners by USPO. According to these submittals, the first and second notice(s) were mailed by the applicant to a list of surrounding property owners on August 23, 2012 and September 6, 2012, respectively. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on September 16, 2012.
6. **Comments from Surrounding Property Owners or Public.** No written comments or objections from surrounding property owners or the general public were received.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The height limit for residential zoned properties is 35 feet, the zoning code allows for spire and steeples to extend an additional ten feet (Section 25-4-22(a)). The applicant has stated:

“The spire is a special and signature feature of the Church of Latter Day Saints meetinghouse. The site conditions offer an unusual circumstance to reduce the visual impact of the building and spire-the finished floor elevation of the meetinghouse is approximately 24’ below the Belt Highway. Primarily the steeple and spire would be the only portion of the building rising above the highway. As a narrow structure, the spire will not block views from the highway or other properties. Because the site’s lower topography relative to the surrounding highway and neighboring property, the total height of the spire will be comparable to the roof height of the neighboring structure to the north.”

The property is buffered by the Hawai‘i Belt Road to the east, Onouli Road to the south, and Konawaena Elementary School to the west. The nearest single family dwelling is located on a 41.146 acre parcel to the north. Therefore, given the location and topography of the project site, which is located within a 5.273 acre parcel, the height of the proposed church spire will not cause substantial adverse impact to the area’s character and to the adjoining properties within the subject neighborhood.

ALTERNATIVES

The new church could be designed to comply with the height limit of 45-feet. However, the church would not be able to construct the church spire, which is a special and signature feature of the Church of Jesus Christ Church of Latter Day Saints. Other design alternatives would render the church non-proportional and not serve the parishioners and owners in a manner expected. We believe the most viable alternative is to allow the structure with the 21-feet and 5 inches height variance for the "church spire."

The requirement for a 45-foot height limit for the church spire would be creating excessive demands on the petitioner when a more reasonable alternative is available.

INTENT AND PURPOSE

The intent and purpose to limit building height are to assure that adequate air circulation and exposure to light are available between buildings and boundary/property lines.

The height limit variance for the bell tower and cross affects a small section of the overall development of the property. The church, which is the major aspect of the development, is under the required height limit. Therefore, it will not compromise the overall open space, air, and light flow between the structures and property lines sought by the zoning height regulations.

Based on the foregoing findings, the approval of this application for variance 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 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 Hawai'i 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.

Mr. Roy Takemoto
PBR Hawaii & Associates, Inc.
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3. Building improvements on the subject property are subject to State law and County ordinances and regulation pertaining to building construction and building occupancy. The proposed Church of Jesus Christ Latter Day Saints shall be constructed in accordance with approved building plans and building specifications.
4. Applicant shall comply with all conditions of the Special Permit 11-000118 (SPP-11-000118) and Use Permit 11-000025 (Use11-000025)

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare Variance-VAR 12-000088 null and void.

Sincerely,



BJ LEITHEAD TODD
Planning Director

LHN:nci

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xc: Real Property Tax Office-Kona (Ltr. Only)
Planning Commission Division (SPP 11-000118 & Use 11-000025)
Kona Planning Office

Mr. Roy Takemoto
PBR Hawaii & Associates, Inc.
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October 16, 2012

NEIL ABERCROMBIE
GOVERNOR



LORETTA J. FUDDY, A.C.S.W., M.P.H.
Director of Health

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

SEP -6 2012

RECEIVED
COUNTY OF HAWAII
PLANNING
DEPT.

MEMORANDUM

DATE: September 5, 2012

TO: Bobby Jean Leithead Todd
Planning Director, County of Hawaii

FROM: Newton Inouye *NI*
District Environmental Health Program Chief

SUBJECT: VARIANCE APPLICATION-VAR 12-000088
Applicant: PBR HAWAII & Associates, Inc.
Owner: CHURCH OF JESUS CHRIST LATTER-DAY SAINTS
Request: Variance from Chapter 25, Zoning, Article 5, Division 7,
Section 25-5-4, Height Limit
Tax Map Key: 8-1-004:005

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

WORD:VAR 12-000088.my

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