

CERTIFIED MAIL

September 6, 1988

Reverend Fred J. Sapp  
Lutheran Church of the Holy Trinity  
73-973 Ahulani Street  
Kailua-Kona, HI 96740

Dear Reverend Sapp:

Special Management Area Use Permit  
and Special Permit Applications  
Evangelical Lutheran Church in America (ELCA) Loan Fund  
Tax Map Key 7-7-04:Por. 56

The Planning Commission at its duly held public hearing on August 30, 1988, voted to approve your applications, SMA Use Permit No. 274 and Special Permit Permit No. 677, to allow the establishment of a church and related improvements on approximately two acres of land at Holualoa 3rd, North Kona, Hawaii.

Approval of the special management area use permit application is based on the following:

The approval of a church and education facility and related improvements will not be violative of the objectives and policies stated in Chapter 205-A, HRS, nor with the intent of Rule No. 9 of the Planning Commission relating to Special Management Area.

The purpose of Chapter 205-A, HRS and Rule No. 9 is to preserve, protect and where possible, to restore the natural resources of the coastal zone areas. As a result, special controls on development may be necessary to avoid irretrievable loss of the valuable resources and the foreclosure of management options. No known rare or endangered species of plant or animal have been identified in this vicinity. Also, the project is located over 1,900 feet from the shoreline and should have minimal impacts to the coastal ecosystem. The combination of on-site drywells and landscaping will effectively inhibit erosion and water runoff.

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A preliminary letter report from William Barrera identifies eight archaeological sites within the two acre site. While the final reconnaissance report must still be submitted and approved by the Planning Director in consultation with the Department of Land and Natural Resources, preliminary indications are that there are no significant archaeological features or sites affected by the development. A possible grave site can be protected during land alterations by physical fencing. The Great Wall of Kuakini, at this particular location, has been previously altered--possibly when Lako Street was under construction. Recognizing the logical extension of Lako Street through the breaching of Kuakini Wall, this permit contains a condition requiring breach and reconstruction of the Great Wall of Kuakini meeting with the approval of the Planning Department and the Department of Land and Natural Resources. Any further mitigative measures must receive prior approval from the Planning Director before land alterations of the area.

The proposed construction of a church facility is not anticipated to have a significant environmental impact on the resources of the area. The proposed use will alter the presently vacant land by allowing a church facility and increased activity in this area. However, any visual interference will be minimized by a combination of architectural design and proper structural siting. The church at its highest point exclusive of the cross, will be 32 feet high. This is less than the height limit of 45 feet established in the Unplanned zoned district. Moreover, the slope and topographical contours of the terrain will also help alleviate the visual and structural impact of the low-profile buildings. The use of appropriate landscaping around the facility (as much as practicable) is being recommended as a condition for this permit. In order to retain a buffer between the proposed facility and surrounding properties, a 50-foot setback is also being required.

Public accesses along the shoreline and coastal hazards will not be affected because of the project's considerable distance from the coastal waters. Nor will the development interfere with any publicly-owned or used recreational areas.

No adverse impacts on the air and water quality are expected to be generated by the proposed church facility. Air emissions generated during the construction phases can be mitigated through the application of existing construction practice regulations.

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Based upon the above, it has been determined that the proposed development will not have any substantial adverse impacts on the surrounding area nor will its approval be inconsistent with the General Plan and Zoning Code or contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to Special Management Area.

Approval of the special permit application is based on the following:

The proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The purpose of the Land Use Law and Regulations is to protect, preserve, and encourage the development of lands in the State of Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also lands which are contiguous to agricultural activities by reason of topography, soils, and other related characteristics. The soils in the subject area are designated as "E" or very poor by the Land Study Bureau. The State Department of Agriculture's ALISH map does not classify the soils in this area. Furthermore, the Department of Agriculture did not foresee any adverse impacts on the agricultural resources of the area if the project were approved. It is determined that approval of the subject request would not be contrary to the objectives of the State Land Use Law and Regulations given the low agricultural potential for the subject area and the above-cited criterion for determining the Agricultural District.

The proposed church facility will not adversely affect the surrounding properties and their improvements. The surrounding lands are vacant to the north, south and west. Immediately adjacent lots within the Komohana Kai Subdivision Unit II to the east are vacant for the most part and contain only a few residences. The proposed church facility will be 32 feet in height and approximately 4200 square feet in size. As mentioned previously, a condition of approval is a 50-foot setback requirement from all property lines and a provision for perimeter landscaping to reduce potential nuisance factors for existing and future uses. Concerns over bulk, size, architecture, function and placement of the proposed facility can be addressed through the "Plan Approval" process established in the Zoning Code thereby mitigating impacts which may be generated from the proposed project.

The proposed use will not unreasonably burden public agencies to provide roads and other similar infrastructure or services. The current conditions are adequate given the condition of Lako Street which has a 50-foot wide right-of-way and a 20-foot wide pavement constructed with curbs, gutters and sidewalks. Water is available from an 8-inch waterline along Lako Street provided a water commitment is secured from the Department of Water Supply. It should also be noted that all cooperating agencies raised no objections to this application.

Based on the foregoing, it is determined that the proposed church and education facility and related improvements is an unusual and reasonable use of land within the State Land Use Agricultural District. As such, it is further determined that approval of the subject request would promote the effectiveness and objectives of Chapter 205, MRS, as amended.

Approval of the requests are subject to the following conditions:

1. The petitioner, its successors, or assigns shall be responsible for complying with all conditions of approval.
2. The petitioner shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" within ninety days from the date of approval of the permits. The permits shall become effective after the water commitment payment has been accepted by the Department of Water Supply.
3. Plans for the church and education facility, including detailed parking and landscaping plans, shall be submitted to the Planning Department for Plan Approval review within one year from the effective date of the permits and Final Plan Approval shall be secured within two years thereafter. Parking shall comply with the requirements of Chapter 25 (Zoning Code). No parking variance from the Code shall be applied for or granted. Parking for all functions shall be maintained on the subject property to ensure that on-street parking will not occur on Lako Street. An overflow parking area shall be provided for on the project site and shall be delineated on the plans submitted for plan approval. Detailed landscaping plans shall include landscaping buffers in the form of trees and shrubbery along the sides of the project as well as landscaping medials within the parking areas.

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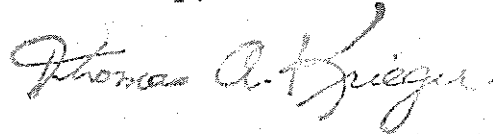
4. Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
5. The church and education facility shall maintain a minimum 50-foot setback all property lines. The purpose of this requirement is to provide an adequate visual and noise buffer area between the church use and adjacent existing and future residents.
6. A drainage system meeting with the approval of the Department of Public Works shall be provided.
7. Driveway access shall meet with the requirements of the Department of Public Works.
8. Preschool or day-care activities shall not be permitted.
9. Prior to any site work, an archaeological reconnaissance survey shall be submitted to and approved by the Planning Department in consultation with the Department of Land and Natural Resources-Historic Sites Section and any mitigative measures shall be reviewed and approved by the Planning Department. The Great Wall of Kuakini shall be breached and reconstructed in a manner meeting with the approval of the Planning Director.
10. Should any unanticipated archaeological or historic features be uncovered during the construction activities, work in the affected area shall cease immediately and the Planning Department notified. Work shall not resume until clearance has been obtained from the Planning Department.
11. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Health and the Uniform Fire Code.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permits. 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.

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13. An extension of time for the performance of conditions within the permits 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 of 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 the granting of the permits; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permits.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Thomas A. Krieger  
Chairman, Planning Commission

xc: State Land Use Commission  
Mr. Vernon Dicke  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
DBED, CZM Program w/background  
DLNR

bcc: Plan Approval Section