



DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT



GEORGE R. ARIYOSHI
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EDDIE TANGEN
Chairman
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Vice-Chairman

LAND USE COMMISSION

250 South King St. / Honolulu, Hawaii 96813 / P. O. Box 2359 / Honolulu, Hawaii 96804

COMMISSION MEMBERS

James Carras
Charles Duke
Colette Machado
Mitsuo Oura
Carol Whitesell
Tanji Yamamura
Edward Yanai

December 9, 1975

Hawaii Planning Commission
25 Aupuni Street
Hilo, Hawaii 96720

Attention: Mr. Raymond Suefuji
Planning Director

Gentlemen:

At its meeting on December 5, 1975, the Land Use Commission voted to approve a Special Permit to HPM Development Corporation (SP75-224) for the establishment of a Latter Day Saints church within the State Land Use Agricultural District, located at North Kona, Hawaii, identified as Tax Map Key 7-5-03: portion of 2; subject to the conditions imposed by the Hawaii County Planning Commission.

A copy of the staff memorandum is enclosed for your information.

Very truly yours,

AH SUNG LEONG
Acting Executive Officer

Encl.

cc: HPM Development Corp.
Dave Laxson
Department of Taxation, Hawaii
Property Technical Office, Dept. of Tax.
Tax Maps Recorder, Dept. of Tax.
Real Property Tax Assessor, Dept. of Tax.

STATE OF HAWAII
LAND USE COMMISSION

MEMORANDUM

TO: Land Use Commission December 5, 1975
1:30 p.m.

FROM: Staff

SUBJECT: SP75-224 - HPM Development Corporation

The Hawaii County Planning Commission has transmitted a Special Use Permit request for the establishment of a LDS (Latter Day Saints) church on approximately 7.0 acres of land situated within the Agricultural District. The area in question is located adjacent to and immediately mauka of the Lono-Kona Sub-division, approximately 750 feet east of the Kalani Street and Lamaoakeola Street intersection in Keopu 3rd, North Kona (TMK: 7-5-03 portion of 2).

The proposed church will include a worship hall with a seating capacity of 350 people, a cultural hall, classrooms, Bishop's office and President's office. Access to the church site will be via an extension of Kalani Street, to be developed by the church at their expense, and dedicated to the County.

The proposed extension of Kalani Street will require breaking a portion of the Great Wall of Kuakini, which borders the west side of the subject property. This wall was built by Governor Kuakini, second Governor of the Island, for the purpose of fencing cattle. Aside from the wall, there are no known historic or geologically significant features of the property.

Presently, there are no structures situated on the parcel. The land is currently being used for grazing. Surrounding land uses include the adjacent Lono-Kona Subdivision and other pastoral lands.

The General Plan Land Use Pattern Allocation Guide Map designates this area as Orchards and Alternate Urban Expansion. The County's zoning designation is Unplanned. The County zoning code allows churches, as conditionally permitted uses, in all zones, except Industrial and Open districts.

The subject site has soils which are of the Punaluu extremely rocky peat series with a slope of 6 to 20 percent. Rock

outcrops occupy 40 to 50 percent of the surface. The surface layer is about 4 inches thick and is underlined with Pahoehoe lava bed-rock. This soil is rapidly permeable, runoff is slow, and the erosion hazard is slight. This soil is used for pasture and has a Capability class of VII. Class VII soils have very severe limitations that make them unsuited to cultivation and that restrict their use largely to pasture or range, woodland, or wildlife. Rainfall in the area is generally 30 to 40 inches annually.

In support of the request the applicant has stated the following:

"The proposed church site lies makai of the Kaahumanu Highway extension route and mauka of the Lono-Kona Subdivision. The property is not well-suited for agriculture and with the completion of the Kaahumanu Highway extension will be divided from the remaining agricultural property by a major highway. The present use is for pasture purposes, which use will be difficult and uneconomical to continue after the completion of the Kaahumanu Highway.

"The Proposed church site is amply large to accommodate the proposed use without significant effect on the adjoining Lono-Kona Subdivision. The Proposed use will not significantly affect the property rights of property owners in the immediate vicinity.

"Enforcement of the zoning code would result in the applicant's property being put to a use that it is not suited for physically or economically.

"The subject property is zoned unplanned under the County zoning code and the proposed use is a conditionally permitted use in an unplanned district. If the property was zoned agriculture under the County zoning code, the proposed use would still be a conditionally permitted use, and therefore not in conflict with the zoning code or General Plan for the County of Hawaii."

The Planning Department points out the following:

The seven (7)-acre area in question was a portion of a 144-acre parcel which was granted final subdivision approval on August 7, 1975.

There is also a pending subdivision application for the creation of a 1,643 square foot parcel which will be part of the Kalani Street extension. A tentative subdivision approval was granted on August 7, 1975 to the owner of this parcel, Arthur Nearon. The granting of this subdivision request will result in providing access to the subject property. Kalani Street has a right-of-way width of forty (40) feet with a 16-foot pavement.

Comments received from the Department of Water Supply were as follows:

"We have no objection to the subject request inasmuch as water was committed through a recent subdivision application involving the same parcel. However, the applicant should be informed that water shall be available only upon completion of the water system per approved construction plans of the said subdivision."

All other commenting agencies had no objections to the request.

In his letter to the Planning Department, N.B. McQuerrey objected to the request and questioned whether all 7 acres will be tax exempt, and what will the church be used for. He pointed out that the church is one of the largest landholders in the State and that he feels churches should only own the land the church sits on.

The Hawaii County Planning Commission held a duly advertised public hearing on the subject request on September 25, 1975.

At the hearing, Robert Carlsmith, representing the applicant, pointed out that the LDS church will be acquiring the property from Keopu Development Company Venture, who is present owner of the property. The application was signed by HPM Corporation on behalf of Keopu Development.

The County Planning Staff pointed out that the State Archaeologist has stated there is no objection to the 40' right-of-way break into the Great Wall of Kuakini for the proposed extension of Kalani Street.

In other testimony it was pointed out that the present chapel in Kailua is in poor condition, has inadequate parking areas, and is at a dangerous site because of its location near a heavy traffic area.

On October 16, 1975, the Planning Commission voted to recommend approval of the Special Permit as it was found that:

1. That 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 for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The area under consideration is classified

as agricultural by the Land Use Commission. The Agricultural District includes lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils and other related characteristics. The subject property has soils which are in the Soil Conservation Service's Capability Class VII. Class VII soils have very severe limitations which make them unsuited to cultivation and restrict their use largely to pasture or range, woodland, or wildlife. Class VII soils are the second to the lowest of the Soil Conservation Service's ranking system for agricultural productivity. Although it is possible for the subject property to be used for some agricultural activities, it is determined that approval of the subject request will not be contrary to the objectives of the Land Use Law and Regulations, given the capability class rating of the property for agricultural productivity and the above cited criterion for determining the Agricultural District.

Further, the use of the subject property for non-agricultural purposes is expected to not have an adverse effect on the overall agricultural potential of the region or the island.

In addition, churches and institutions of a religious nature are permitted in the Unplanned and the Agricultural zones by the County Zoning Code.

2. That the proposed use will not adversely affect surrounding properties. Surrounding land uses include the Lono-Kona Subdivision and grazing lands. The Lono-Kona Subdivision, in the area adjacent to the subject property, is zoned for residential duplex uses. This subdivision is fairly built up and is urban in character. The area under consideration is designated for alternate urban expansion on the General Plan Land Use Pattern Allocation Guide Map. Should a need for urban expansion arise in the future, it would be directed to areas designated as such by the General Plan. The pasture lands which surround the subject property on its mauka side could possibly be cut off by the proposed Queen Kaahumanu Highway extension. It is thus determined that approval of the proposed use on the subject property will not have an adverse effect on surrounding properties, be they urban or agricultural in nature.

3. That although the proposed use may alter the essential character of the land, it would not be detrimental to the present use of the subject property. The subject property is a seven-acre portion of a 144-acre parcel. This portion was recently subdivided out of the larger parcel. At the present time it is used for grazing. It is undenyng that the proposed use will alter the character of the land. However, it is determined that the provision of a church on the subject land would be beneficial and well-suited to accommodate the welfare of the public, in this particular case, the members of the church. At the present time, there is an existing meeting place for the members of this denomination. Due to the inconvenient location of the existing facility, however, it has become necessary for the church to relocate. The existing facility is located at an extremely busy intersection in Kailua and is subject to traffic, noise, and other similar nuisances. Aside from the existing facility, which would be phased out of use for worship services, there is no other facility of this denomination available to the residents in the general area of Kailua-Kona. Therefore, the establishment of the proposed use would suit the needs of the residents of the area."

The favorable recommendation was subject to the following conditions:

- "1. That construction of the chapel commence within one (1) year from the date of approval of the Special Permit and be completed within two (2) years thereafter.
- "2. That occupancy of the proposed building shall not be granted until final subdivision approval has been given to Subdivision No. 75-124, which is for the Kalani Street extension.
- "3. That a landscaping buffer shall be established along the Kuakini Wall side of the property for the purpose of screening the proposed use from existing residential uses. This buffer shall be incorporated into plans submitted for Plan Approval and shall be approved by the Planning Director.
- "4. That all other applicable rules and regulations, including the Plan Approval process, shall be complied with.

"Should any of the foregoing conditions not be met,
the Special Permit shall be deemed null and void."

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GEORGE R. ARIYOSHI
Governor
CHARLES W. DUKE
Chairman
SHINICHI NAKAGAWA
Vice Chairman

DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT



LAND USE COMMISSION

Suite 1795, Pacific Trade Center, 190 S. King Street, Honolulu, Hawaii 96813

COMMISSION MEMBERS:

James Carras
Colette Machado
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai

GORDAN FURUTANI
Executive Officer

November 6, 1978

Mr. Sidney Fuke, Planning Director
Hawaii County Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Re: Special Permit 75-224, Church of Jesus Christ of Latter-Day Saints

Dear Mr. Fuke:

At its meeting on October 19, 1978, the State Land Use Commission found that SP75-224 had lapsed and was already in an expired status at the time the extension request was made. The time extension request was made on July 3, 1978, nearly one (1) month after the expiration of the stipulated time period allowed to start construction of the proposed church. Therefore, the Land Use Commission is unable to approve this request because there is legally no permit for the Commission to act upon.

The record reveals that SP75-224 was originally approved by the State Land Use Commission on December 5, 1975. As a condition of approval on the original permit, it was required of the petitioner that "... construction of the church commence within one (1) year from the date of approval of the Special Permit and be completed within two (2) years thereafter." Since the permit was approved on December 5, 1975, construction of the facility was to have commenced by December 5, 1976. However, an 18-month time extension for the commencement of construction until June 5, 1978 was granted by the Land Use Commission on June 13, 1977. In the present case, SP75-224 lapsed on June 5, 1978, inasmuch as the permittee failed to comply with the time requirements of the permit.

The action of the Land Use Commission is not predicated on any decision that the need for the proposed use is not warranted, but is instead based entirely upon the failure of the applicant to make a timely request for extension.

Sincerely,

GORDAN Y. FURUTANI
Executive Officer

GYF:yk
Encl.

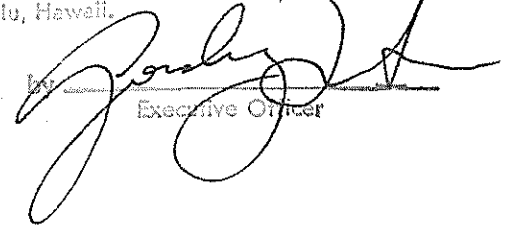
cc: Mr. Alvin E. Chong
Dept. of Planning & Economic Development
Department of Taxation - Hawaii
Tax Maps Recorder, Dept. of Taxation
Property Technical Office, Dept. of Taxation
Real Property Tax Assessor, Dept. of Taxation
Office of Environmental Quality Control
Division of Land Management, DLNR

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition) SP78-224
of the Church of Jesus Christ)
of Latter-Day Saints for Time) FINDINGS OF FACT, CONCLUSIONS
Extension) OF LAW AND DECISION AND ORDER
_____)

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

DEC 18 1978
Date


Executive Officer

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition) SP78-224
of the Church of Jesus Christ)
of Latter-Day Saints for Time) FINDINGS OF FACT, CONCLUSIONS
Extension) OF LAW AND DECISION AND ORDER
_____)

The Land Use Commission of the State of Hawaii,
having duly considered the entire record in the above entitled
matter, makes the following findings of fact and conclusions
of law.

FINDINGS OF FACT

1. The Petitioner, Church of Jesus Christ of Latter-Day Saints, is requesting a six (6) month time extension to allow the construction of a church on approximately seven (7) acres of land situated within the State Land Use Agricultural District at Keopu 3rd, North Kona, Hawaii, Tax Map Key 7-5-03: 22 (formerly portion of parcel 2).
2. The original Special Permit was approved by the State Land Use Commission on December 5, 1978.
3. Condition Number One (1) of the Special Permit required that construction of the church commence within one (1) year from the date of approval of the Special Permit and be completed within two (2) years thereafter.
4. Inasmuch as the permit use was granted on December 5, 1975, construction of the church was to have commenced by December 5, 1976.
5. In a letter dated March 24, 1977, the Petitioner requested an 18-month time extension for the commencement of construction until June 5, 1978.
6. That request for extension was granted by the Land Use Commission on June 13, 1977.

7. At the same time, the Special Permit was transferred from HPM Development Corporation (original applicant on behalf of the church) to the Church of Jesus Christ of Latter-Day Saints.

8. By letter from the Land Use Commission dated May 18, 1978, all County Planning Departments, including the Hawaii County Planning Department, were advised that the Commission will henceforth not approve requests for time extension, if the request is filed after the commencement or expiration dates stipulated in the permit had lapsed.

9. Construction of the church was to have commenced by June 5, 1978.

10. On July 3, 1978, the Petitioner filed for a second time extension at a period of time nearly one (1) month after the expiration of the permit.

11. The Petitioner stated that the person previously responsible for filing extensions of the permit let it lapse because of a probable oversight.

12. It was also stated in the record that the previous delays in construction of the church was due to the necessity of the Petitioner to secure approval from church headquarters, the time needed to raise funds for construction, and a recent change in the leadership of the church.

CONCLUSIONS OF LAW

1. Rule 9-3(1) of the Rules of Practice and Procedure of the Land Use Commission require that a reasonable time limit for establishing the use be imposed as a condition of the Special Permit.

2. The reasonable time limit for establishing the use as required in Special Permit Number 75-224 was not complied with.

3. The Petitioner failed to request a timely extension of the time condition within the Permit.

4. Therefore, Special Permit Number 75-224 expired by operation of law.

5. The Land Use Commission of the State of Hawaii is, therefore, unable to approve the request for extension inasmuch as the permit has expired by operation of law.

6. The Commission's conclusions are not based upon any determination of the need, or the lack of need of the proposed facility.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 75-224, requesting a six (6) month extension of the time condition for establishing the church on approximately seven (7) acres of land situated within the State Land Use Agricultural District at Keopu 3rd, North Kona, Hawaii, Tax Map Key 7-5-03: 22 (formerly portion of parcel 2), be and is hereby denied approval for the foregoing reasons.

DATED: Honolulu, Hawaii, December 13, 1978

LAND USE COMMISSION

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George Pascua
GEORGE R. PASCUA
Commissioner

By Carol B. Whitesell
CAROL B. WHITESELL
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
of the Church of Jesus Christ) SP78-224
of Latter-Day Saints for Time) CHURCH OF JESUS CHRIST OF
Extension) LATTER-DAY SAINTS
_____)

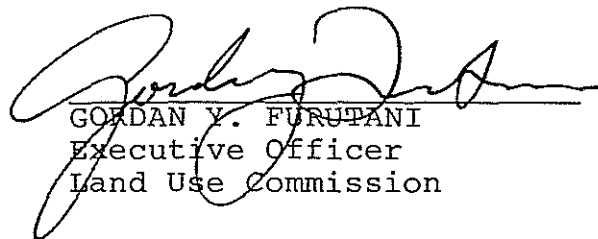
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's Decision and Order was served upon the
following by certified mail:

Sidney Fuke, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Alvin E. Chong
First Counselor on the
Stake Presidency
P. O. Box 312
Kamuela, Hawaii 96743

Dated: Honolulu, Hawaii, this 18th day of December, 1978.


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission