

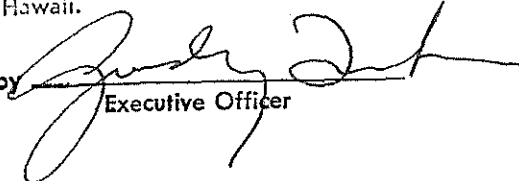
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)	SP78-306
Petition for Special Permit)	
of)	KONA CHURCH OF GOD
)	
KONA CHURCH OF GOD)	
)	
)	

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.

NOV 21 1978

Date

by  Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DECISION AND ORDER

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In the Matter of the)	SP78-306
Petition for Special Permit)	
of)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
KONA CHURCH OF GOD)	DECISION AND ORDER
_____)	

FINDINGS OF FACT, CONCLUSIONS 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 Petition for Special Permit was filed by the
Kona Church of God requesting a Special Permit to allow the
establishment of a church on approximately 1.14 acres of land
situated within the State Land Use Agricultural District at
Kohanaiki, North Kona, Hawaii, Tax Map Key 7-3-19: 24.

2. The subject property is located along the Makai
side of the Hawaii Belt Road, approximately 650 feet north of
Kaloko Drive.

3. The Petitioner proposes to construct a 1,900
square foot structure to be used as a religious meeting place.
The planned capacity of the worship area is intended to be
between 110 and 120 persons.

4. The subject property is presently vacant. Surrounding land uses include single-family residential dwellings, various agricultural activities including coffee bean cultivation and pasturage use, and vacant lands.

5. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the subject area as "Extensive Agriculture". The area surrounding the subject parcel is also designated for Alternate Urban Expansion.

6. The present zoning of the subject parcel is Agricultural-3 acre (A-3a). Under the County of Hawaii's Zoning Code, churches and institutions of a religious nature are conditionally permitted uses in an agricultural zone.

7. Soils of the subject area are of the Punaluu Series. These soils consist of well-drained, thin, organic soils over Pahoe-hoe lava bedrock.

8. The Land Study Bureau's overall master productivity soil rating for agricultural uses is Class "D" or "Poor" for the subject property.

9. The Soil Conservation Service's soil capability rating is Class VII which includes soils that have severe limitations that make them unsuited for cultivation.

10. The subject property is not in an area classified by the Department of Agriculture as "Agricultural Lands of Importance to the State of Hawaii".

11. The average slope of the subject area is approximately 13 percent.

12. The subject parcel is bordered on three sides by roadways, including the Hawaii Belt Road on the east, a government road on the north, and an abandoned government

road on the east and south sides. Access to the subject property is intended to be from the government road on the north side.

13. The Hawaii Belt Road has an 80-foot right-of-way and a 22-foot pavement. The government roads have approximately 30-foot wide right-of-ways.

14. The roadway on the north and east sides of the subject area were never improved and do not contain any paved areas. The road on the south side is an approximately 10-foot wide abandoned roadway in poor repair.

15. There were no objections to the proposed use from governmental agencies except that the Department of Transportation commented that the existing paved accesses to the subject property to the north and south be improved as necessary, and that adequate off-highway parking be provided. The Department of Public Works also commented that the Petitioner be required to provide a 16-foot wide paved access to the driveway of the church from the state highway.

16. At a public hearing held on May 17, 1978, no one spoke in opposition to the request for Special Permit.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted within an agricultural district may be permitted by Special Permit pursuant to HRS Section 205-6, and State Land Use Commission District Regulation Part V.

2. The proposed use will not be contrary to the objectives sought to be accomplished by the State 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 include 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. Soil on the subject property is of the Punalu'u Series which consist of well-drained thin organic soils over Pahoehoe bed-rock. Rock outcroppings occupy 40 to 50 percent of the surface.

The Land Study Bureau's rating of these lands for overall agricultural productivity is Class "D" or "Poor". Furthermore, this area is not classified by the State Department of Agriculture as "Agricultural Lands of Importance to the State of Hawaii". Although it is possible that some agricultural activities may be conducted on the subject property, it is concluded that approval of the subject request would not be contrary to the objectives of the State Land Use Law and Regulations, given the capability class rating of the subject property for agricultural productivity, and the above-cited criterion for determining the Agricultural District.

The use of the subject property for nonagricultural purposes will not have a significant adverse effect on the overall agricultural potential of the region or of the island and State.

3. Although the proposed use will somewhat alter the essential character of the land, it is concluded that such a change will make the highest and best use of the land for

the public welfare at the present time, inasmuch as the subject property is presently vacant. Although the proposed use will undeniably alter the existing character of the property to some degree, it is concluded that a religious institution on a limited scale on the subject land will be beneficial, and well-suited to accommodate the welfare of the general public.

4. The proposed use will not adversely affect the surrounding properties and their improvements. The subject property and the surrounding lands are zoned agricultural by the County, and their uses include scattered single family dwellings, vacant lands, and various agricultural uses. It is not anticipated that the proposed church use will conflict with any of the existing uses in the area.

In addition, institutions of a religious nature are allowed as "conditionally permitted uses" within the agricultural zoned lands under the County of Hawaii's Zoning Code. As such, the approval of the Special Permit request for the establishment of a church and related uses on the subject property will not be contrary to the County of Hawaii's Zoning Code. Therefore, the establishment of the proposed use is concluded to be compatible with the area and would not be in conflict with the surrounding land uses.

5. The proposed use will not unreasonably burden public agencies to provide roads and streets and other infrastructures and services. All essential services and facilities are or will be made available to the subject property. The subject property is bounded on three (3) sides by government roads. Access to the property from the Hawaii Belt Highway shall comply with the requirements of the State

Department of Transportation, Land Transportation Facilities Division, and the Department of Public Works. One (1) of these requirements is that the access shall be a minimum width of sixteen (16) feet.

DECISION AND ORDER

IT IS HEREBY ORDERED:

That Special Permit Number 78-306 for the establishment of a church on approximately 1.14 acres of land situated within the State Land Use Agricultural District at Kohanaiki, North Kona, Hawaii, Tax Map Key 7-3-19: 24, be approved subject to the following conditions:

1. That the Petitioner or its authorized representative submit plans for Plan Approval within one (1) year from the effective date of the Special Permit.
2. That construction commence within one (1) year from the receipt of Final Plan Approval and be completed within two (2) years thereafter.
3. That access to the proposed parking area from the Hawaii Belt Highway shall meet the requirements of the Department of Public Works, and the State Department of Transportation, Land Transportation Facilities Division.
4. That the Petitioner shall provide an all-weather dust-free surface parking area. The number of stalls to be provided shall be determined at the time of Plan Approval.
5. That all other applicable rules, regulations, and requirements, including those of the Department of Health, shall be complied with.

6. That should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

DATED: Honolulu, Hawaii, November 9, 1978.

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

By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By James R. Carras
JAMES CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George Pascua
GEORGE PASCUA
Commissioner