

CERTIFIED MAIL

August 5, 1987

Mr. Charles C. Ha'o
Wainaku Congregation of Jehovah's Witnesses
610 Wainaku Avenue
Hilo, Hawaii 96720

Dear Mr. Ha'o:

Special Permit Application(87.4)
TMK: 2-7-38:3

The Planning Commission at its duly held public hearing on July 30, 1987, voted to approve your application, Special Permit No. 647, to allow the establishment of a church and related improvements on 7.18 acres of land at Paukaa, South Hilo, Hawaii.

Approval of this request is based on the following:

1. Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations.

The classification of lands and uses to which such lands may be put is established through Chapter 205, Hawaii Revised Statutes. The intent of the provisions of Chapter 205 in providing for the establishment of rural, urban, agricultural and conservation districts is to preserve, protect, 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 Hawaii. In the case of agricultural districts, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

Pursuant to Hawaii Revised Statutes 205-2 and 3.3 of the rules of the Land Use Commission, permissible uses in Agricultural districts include activities or uses characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, game and fish propagation; as well as services and uses considered

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accessory to the permitted activities; including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, and roadside stands. The provisions of Chapter 205, specifically HRS 205-2, also recognizes that agricultural districts "may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural districts.

Here, the U.S.D.A. Soil Conservation Service Soil Survey Report classifies the soil of the subject property to be of the Hilo Soil Series (HoC/HoD). The Land Study Bureau Overall Master Productivity Rating for agricultural use is Class "C" or Fair. The subject lands in this area are classified as "Prime" according to the Agricultural Lands of Importance to the State of Hawaii (ALISH) map. The State Department of Agriculture does not object to the proposed church facility in this area, but is concerned with the compatibility of the agricultural activities with the proposed church.

The subject property is situated within the County's Agricultural 20-acre zone district. Churches are a conditionally permitted use within the County's Agricultural zone district provided that a Use Permit is secured from the County Planning Commission. The property is also situated adjacent to the Paukaa Village Subdivision which is in the County's Single Family Residential zone district. The 7.18 acre to be taken out of the agricultural inventory for this area will not significantly affect the agricultural resource as the area has been out of production and there is no further intent to regain this area for any other agricultural activities. Its proximity adjacent to the existing single family residential development and the limited access through this area are factors which led to the discontinuance of any major sugar cane production of this area. Therefore, it is determined that based on the above circumstances, approval of the request would not be contrary to the objectives of the State Land Use Law and Rules and Regulations given the subject conditions.

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2. The desired use will not adversely affect surrounding properties.

The proposed church structure will be a one story building with 4,432 square feet of floor area. The building will be setback approximately 174+ feet from the front property line (Kulana Road); 160+ feet from the Hamakua side property line; and 163+ feet from the Hilo side property line; and 520+ feet from the rear property line. A 68 car parking area will be provided with landscaping around the building. The approximately 30 to 50-foot wide side yard adjacent to the Paukaa Village residential subdivision will be required as a condition of approval to be heavily landscaped to provide a buffer between the church facility and the residential subdivision. The primary access to the property will be from the Bishop Estate roadway to the north of the subject property to serve as its primary access from the Hawaii Belt Road. This intersection with the Highway is paved with adequate sight distance. This roadway has an existing 22 foot wide pavement leading to Kulana Road. Kulana Road going south to the subject property has approximately 16 feet of pavement. To ensure that the Bishop Estate roadway is available, a condition of approval is also being recommended to required for the petitioner to submit the easement documents prior to any issuance of final Plan Approval for the development. Therefore, with the availability of this access to the church facility, the vehicular traffic impact that would be generated by this use would be minimal to the residential subdivision to the south.

The congregation of approximately 170 people will meet for 2 hours on Sunday from 9:30 to 11:30 a.m.; 2 hours on Tuesday, 2:30 to 3:30 p.m. and 7:30 to 8:30 p.m. (30 people); and 2 hours on Thursday, 7:00 to 9:00 p.m.. From Tuesday to Saturday, a group of about 30 people meet at the church for 15 minutes starting at 8:30 a.m. The subject property is of sufficient size to enable the adequate setbacks and buffers to be established in minimizing any physical, social or other impacts that this facility may have on the neighborhood. These setbacks and landscaping requirements can be addressed through conditions of approval and the "Plan Approval" procedure established in the Zoning Code. Therefore, the size, bulk, architecture, function and placement of the proposed church facility and the impacts resulting therefrom are not anticipated to be adversely affecting the surrounding lands or properties nor significantly affecting the character of the area.

3. The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection.

The Department of Water Supply had no objections to the subject request and indicated the availability of water for the proposed church facility. The Department of Public Works, Fire Department, Police Department, Mauna Kea Soil & Water Conservation District and the Department of Land and Natural Resources had no comments or objections to the proposed request. As previously mentioned, with the use of the Bishop Estate roadway leading to Kulana Road as a primary access to the church facility, there will not be a need for any public improvements need to be provided by the County.

4. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

As indicated previously, the subject property has been taken out of the Mauna Kea Sugar's agricultural production. Although the property has a capability for future agricultural activity, the establishment of the church facility in this particular location would serve to provide an additional physical buffer between the residential subdivision and the future agricultural activities in this area. This should assist in minimizing the conflicts between these two differing types of uses. Therefore, though a range of agricultural activities could possibly be conducted, it has been determined that by reason of location and topography, that the removal of this 7 plus acres of land from the agricultural inventory will not have a detrimental impact on the agricultural resources of the area or the County of Hawaii.

5. The proposed use will not substantially alter or change the essential character of the land and the present use.

The essential character of the land is of a sloping topography with an associated relationship with the existing single family residential subdivisions which have been established in this area. Approximately 1.2 acres of the property will be developed with a building of approximately 4,700 square feet with 68 off-street landscaped parking area. Therefore, approximately 5.9 acres will still remain in its present state. All of the proposed physical improvements will have to be designed and constructed in accordance with County

and State requirements. Therefore, although there will be a different physical appearance of the property from what is presently there, the new improvements shall be minimal in its alteration of the essential character of this area.

6. The request is not contrary to the General Plan.

The County General Plan Land Use Pattern Allocation Guide Map designates this area for Intensive Agricultural uses. It should also be noted that as part of the General Plan Update program, the Planning Director is recommending that this area be designated to a Low Density Urban Development area. There is no Community Development Plan land use or zoning guide map for this area in the Northeast Hawaii CDP. In the County of Hawaii, churches are conditionally permitted uses in the Agricultural zone districts and are required to secure a Use Permit from the County Planning Commission. Although, it is not a directly permitted use, it is recognized that being in the conditionally permitted category, churches are recognized to be a compatible use in the Agricultural zone under certain circumstances. Additionally, one of the basic purposes of the County General Plan is "To improve the physical environment of the County as a setting for human activities - to make more functional, beautiful, healthful, interesting and efficient." The proposed church development at this particular location will fulfill this particular purpose.

In view of the foregoing, it is determined that the proposed church and related improvements is an unusual and reasonable use, which would not be contrary to the objectives sought to be accomplished by the land use law and regulations.

Approval of this special permit request is subject to the following conditions:

1. The petitioner, its successors, or assigns, shall be responsible for complying with all of the stated conditions of approval.
2. The plans for the church and related improvements including a detailed landscaping plan shall be submitted to the Planning Department for "Plan Approval" within one year from the effective date of this Special Permit. The detailed landscaping plan design shall include a heavy tree and hedge buffer between the south property line and the Paukaa Village subdivision.

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3. All parking for the church activities shall occur on the subject property and no parking shall be permitted on Kulana Road or within the County's right-of-way. An overflow parking area shall be designed within the development to ensure that no parking occurs on Kulana Road.
4. Construction of the proposed church, off-street parking in accordance with the requirements of the Zoning Code and landscaping and related improvements shall commence within one year from the effective date of final Plan Approval and be completed within two years thereafter.
5. The proposed building shall conform to all requirements of codes relating to building construction.
6. All drainage systems installed shall be subject to DPW review and approval, including proposed work within County right-of-way.
7. The petitioner shall submit document(s) which allows the Congregation to occupy and use private road adjacent and northerly of subject parcel for driveway and access purposes.
8. The petitioner shall secure and submit to the Planning Director documentation from the Bishop Estate providing the Congregation a roadway easement through its parcel.
9. The petitioner shall submit a agreement document to the Planning Director and the Department of Public Works, stipulating that primary route utilized by Congregation's membership shall be via the private road through Bishop Estate's parcel. This agreement document must be executed and approved prior to issuance of any final Plan Approval for the proposed development.
10. All other applicable rules, regulations and requirements, including those of the State Department of Health and the Fire Department shall be complied with.
11. An extension of time for the performance of conditions within the Special Permit 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

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applicants, 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 Special Permit; 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 Special Permit.

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

Sincerely,


Gary Mizuno, Chairman Pro Tem
Planning Commission

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division

bcc: Plan Approval Section