

CERTIFIED MAIL

April 18, 1989

Rev. Lorin Carmichael
P.O. Box 1598
Keaau, HI 96749

Dear Rev. Carmichael:

Special Permit Application (89-6)
Tax Map Key: 1-6-10:111

The Planning Commission at its duly held public hearing on April 11, 1989, voted to approve your application, Special Permit No. 698, to allow the construction of a church facility and related improvements on 0.987 acres of land situated within the State Land Use Agricultural District at Orchid Land Estates Subdivision, Keaau, Puna, Hawaii.

Approval of this request 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 for the public health and welfare of the people of 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 use, but also lands which are surrounded by reason of topography, soils, and other related characteristics. The subject area's dominant soil type is pahoe-hoe lava; it is not classified on the ALISH Map system; and it is rated "E" or very poor for agricultural activities. Although it is possible that some agricultural pursuits may be conducted on the subject property, 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 Agricultural District.

EXHIBIT**A**

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The proposed church use should not adversely affect the surrounding properties and their improvements, provided additional setbacks and landscaping are imposed as conditions of approval. The proposed setbacks of the church from immediately adjacent properties to the west and south are 45 and 30 feet, respectively. The property to the west contains a residence while other properties are vacant. Because of potential nuisances (noise) to the existing residence, a 50-foot setback of the church structure from the western boundary is being required. The 50-foot setback has been imposed on other church structures where nearby residences could be affected. This requirement should not be a hardship given the .987 acre size of the property and the fact that the water catchment tank (15 feet in diameter) must maintain a 15 foot sideyard setback and 10 foot separation between the church building. The property to the south is vacant but the proposed church use should maintain a minimum 30-foot setback from the southern property line along with the provision of landscaping. Landscaping is also being required along the frontage of Pohaku Circle to screen visual impacts from the road and future residents across Pohaku Circle. The Church is proposing to set back the structure as far as possible from Keaau-Pahoa Road. The front portion of the property will remain in its natural state and should provide sufficient visual relief from the Road. Further, the height of the proposed structure is 23 feet, well within the 45-foot height limitations of the Agricultural zoned district. With the imposition of greater setbacks for the church structure and landscaping buffers, it is anticipated that the impacts resulting from the use will not adversely affect surrounding lands nor significantly affect the character of the area.

The proposed use will not unreasonably burden public agencies to provide roads and other similar infrastructure or services. Pohaku Circle is a substandard private roadway. A 200-foot section of the road from the intersection is paved to a width of 20 feet. Given the increase in traffic generated by the church and the partially improved condition of Pohaku Circle, it is recommended that the existing pavement on Pohaku Circle be continued at a width of 20 feet to the farthest point of the proposed access driveway. These improvements would be in the interest of public safety and welfare of the roadway users. With regards to Paradise Hui Hanalike's request to include the road maintenance fee requirement in the permit, it is felt that such a payment is a private matter between the Road Committee

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and the landowner and should not be contained as a County requirement. A condition has been included which restricts access to Pohaku Circle with no direct access from the Keaau-Pahoa Road as required by the Department of Transportation. Finally, the site distance shall be improved by the removal of vegetation on the Pahoa side of the Pohaku Circle/Keaau-Pahoa Road intersection meeting with the approval of the Department of Public Works.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. In terms of population, the Puna District has been the second fastest growing district on the island. From 1970 to 1980, the population of Puna has increased by 128 percent. Since 1975 the Planning Commission has approved seven special permits for church activities within a 1 1/2 mile radius of the subject property. This indicates a general trend of providing for the spiritual needs of the expanding population in this area.

Based on the foregoing findings, it is determined that the establishment of a church and related improvements is an unusual and reasonable use of land within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

This finding does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this request is subject to the following conditions:

1. The petitioner, its successors, or assigns shall be responsible for complying with all conditions of approval.
2. Final Plan Approval for the church and related improvements shall be secured within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. 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 Pohaku Circle. Plans shall also include detailed landscaping plans which buffer the use from adjacent properties to the west, south and north. Further, the church structure shall maintain minimum setbacks of 50 feet from the western property line and 30 feet from the southern property line. Accessory structures such as the water tank, shall comply with minimum setbacks of 25 feet from the front property lines and 15 feet from the side property lines. In addition, structural separation of 10 feet with a 6-foot clearspace shall be maintained.

3. Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
4. Access to the property shall be taken from Pohaku Circle. No direct access shall be permitted from Keaau-Pahoa Road.
5. The pavement of Pohaku Circle shall be continued at a width of 20 feet to the farthest point of the proposed driveway access meeting with the requirements of the Department of Public Works. These improvements shall be constructed prior to the approval of occupancy permit by the Planning Department.
6. The site distance from Pohaku Circle in the Pahoa direction shall be improved by removal of vegetation meeting with the approval of the Department of Public Works. Such improvements shall be performed prior to the approval of occupancy permit by the Planning Department.
7. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Health and the Department of Transportation.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. 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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9. An extension of time for the performance of conditions within the 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 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 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 permit.

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

Sincerely,

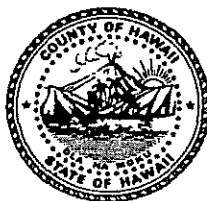


Gary Mizuno
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission

bcc: Plan Approval Section

Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

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JAN 12 2001

Mr. James Tarring
JET Builders, Inc.
1286 Moku Place
Hilo, HI 96720

Dear Mr. Tarring:

Amendment to Special Permit No. 698 (SPP 698) (89-6)

Applicant: Lorin D. Carmichael

Request: Establishment of a Youth Fellowship Hall and
New Church Building

Tax Map Key: 1-6-10:111 and 112

The Planning Commission at its duly held public hearing on December 15, 2000, voted to approve the above-referenced request to amend Special Permit No. 698, which allowed the construction of a church facility and related improvements for the establishment of a youth fellowship hall and new church building on approximately 1.987 acres of land within the State Land Use Agricultural District. The properties are located in the Orchid Land Estates Subdivision at the corner of the Keaau-Pahoa Highway and Pohaku Circle, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. 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 district. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the

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public welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural purposes. Parcel 112 has been cleared and graded, and is being used as a parking area. Therefore, the proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has been used as a parking area for some time. The proposed use will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and "Unclassified" land by the Department of Agriculture's ALISH Map. The applicant is requesting an amendment to Special Permit No. 698 to allow for the construction of a new church building on Parcel 112 and the conversion of the existing church and office building on Parcel 111 to a youth fellowship hall, on approximately 1.887 acres of land situated within the State Land Use Agricultural District. Both parcels are not within the Special Management Area (SMA) and are approximately 4 miles from the nearest shoreline. Special Permit No. 698 allowed for the construction of a church facility and related improvements on Parcel 111. Parcel 112 is already graded and used as a parking area. Therefore, the proposed use will not displace any agricultural activity nor diminish the agricultural potential of the area, since this parcel has not been in agricultural use. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

The desired use will not adversely affect the surrounding properties. There are dwellings across the Keaau-Pahoa Road, across Pohaku Circle and to the south of both parcels. Parcel 113, adjacent to the east, is vacant. Possible noise generated by the proposed use is expected to be negligible, however, a planting buffer will be required to mitigate any adverse noise or visual impacts to the adjacent properties. The property is of sufficient size for adequate setbacks and buffers that will minimize any physical, social, or other impacts. By the granting of an amendment to the existing special permit, the proposed use would still meet the needs of the existing community by providing social and religious support services for the area. Therefore, the proposed use will not alter or change the essential character of the land and present use nor will it impact the surrounding area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvement and police and fire protection. The subject parcels are located in the Orchid Land Estates Subdivision on Pohaku Circle, a private subdivision roadway. It is not anticipated that the proposed use will impact or burden public agencies given that the requested uses are intended to service the existing population and the church is already established at this location. County water is available to the site. There is a cesspool that services the existing church. Electricity and other essential utilities and facilities are available to support the proposed amended use. Access to the new church building is from the existing driveway and the proposed second

Entrance/Exit on Parcel 111. Therefore, consolidation of the two parcels will be required. The paving of Pohaku Circle at a width of 20 feet up to the existing driveway access was a condition of Special Permit No. 698. Since there is a request for a second access along Pohaku Circle, it is recommended that the existing pavement be continued at a width of 20 feet along the entire frontage of Pohaku Circle.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Special Permit No. 698 allowed for the development of the existing church in this location to help meet the spiritual and social needs of the expanding population in this area. Therefore, the requested amendment would still provide the needed support for existing and future populations.

The proposed use is consistent with the following goals, policies and standards of the General Plan. Although the General Plan for the area is designated Orchards and the zoning is Agricultural (A-3a), the subject properties are not used for agricultural purposes. The proposed use would not displace any agricultural activity nor diminish the agricultural potential of the area, which has no agricultural activities. Although the establishment of a new church building would not take significant lands out of existing or potential agricultural use, it would allow uses other than agricultural uses within the subdivision.

The request is not contrary to the goals, policies and standards of the General Plan. The approval of the subject request would support the following goals of the General Plan:

Land Use Element:

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element:

- Provide residents with opportunities to improve their quality of life.
- Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.

- The County of Hawaii shall strive for diversity and stability in its economic system.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

Based on the above considerations, the request to amend the Special Permit to allow for the construction of a new church building on Parcel 112 and the conversion of the existing church and office building on Parcel 111 to a youth fellowship hall would be an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Approval of this request is subject to the following amended conditions of approval of Special Permit No. 698. Please note that the original conditions are deleted. Bracketed material is deleted and underlined material is added.

- [1. The petitioner, its successors, or assigns shall be responsible for complying with all conditions of approval.
2. Final Plan Approval for the church and related improvements shall be secured within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. 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 Pohaku Circle. Plans shall also include detailed landscaping plans which buffer the use from adjacent properties to the west, south and north. Further, the church structure shall maintain minimum setbacks of 50 feet from the western property line and 30 feet from the southern property line. Accessory structures such as the water tank, shall comply with minimum setbacks of 25 feet from the front property lines and 15 feet from the side property lines. In addition, structural separation of 10 feet with a 6-foot clearspace shall be maintained.
3. Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.

4. Access to the property shall be taken from Pohaku Circle. No direct access shall be permitted from Keaau-Pahoa Road.
5. The pavement of Pohaku Circle shall be continued at a width of 20 feet to the farthest point of the proposed driveway access meeting with the requirements of the Department of Public Works. These improvements shall be constructed prior to the approval of occupancy permit by the Planning Department.
6. The site distance from Pohaku Circle in the Pahoa direction shall be improved by removal of vegetation meeting with the approval of the Department of Public Works. Such improvement shall be performed prior to the approval of occupancy permit by the Planning Department.
7. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Health and the Department of Transportation.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. 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.
9. An extension of time for the performance of conditions within the 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 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 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 permit.]
1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.

2. Final Consolidation Approval of the subject properties shall be secured from the Planning Director prior to the submittal of plans for Final Plan Approval review.
3. Construction of the proposed church and the conversion of the existing church and office building to a youth fellowship hall shall be completed and all certificates of occupancy issued within five (5) years from the effective date of this permit. This time period shall include securing Final Plan Approval from the Planning Director. Plans shall identify existing and proposed structures, fire protection measures, paved driveway and paved parking stalls (chipseal or asphalt-concrete) and landscaping associated with the proposed use. Parking for all functions shall be maintained on the subject property and comply with the requirements of Chapter 25 (Zoning Code). Landscaping/fencing shall also be indicated on the plans and be provided along adjacent property boundaries for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.
4. Pohaku Circle shall be paved with chipseal or asphalt-concrete to a width of 20 feet for the remaining frontage of Parcel 111. These improvements shall be constructed prior to securing a Certificate of Occupancy for the church building.
5. Any exterior signs shall meet with the approval of the Department of Public Works.
6. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works prior to consolidation. Drainage improvements, if required shall be constructed meeting with the approval of the Department of Public Works prior to issuance of the certificate of occupancy.
7. The applicant, its successors or assigns shall submit a Solid Waste Management Plan to the Department of Public Works for review and approval. A copy of the approved Plan shall be submitted to the Planning Department prior to the issuance of the certificate of occupancy.
8. An initial extension of time for the performance of condition within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, 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.

Mr. James Tarring

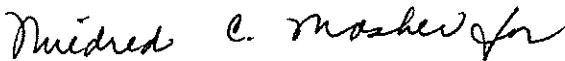
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- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lcarmichael01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Lorin D. Carmichael