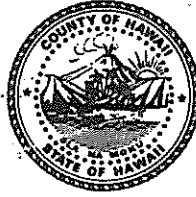


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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JUL 28 1998

Kevin K. Kurohara, M.D.
Kaumana Drive Baptist Church
388 Kaumana Drive
Hilo, HI 96720

Dear Dr. Kurohara:

Special Permit Application (SPP 98-6)
Applicant: Kaumana Drive Baptist Church
Request: Establishment of a Church and Related Improvements
Tax Map Key: 3-5-4:82

The Planning Commission at its duly held public hearing on July 17, 1998, voted to adopt the Hearing Officer's Report and approve the above-referenced application. Special Permit No. 1007 is hereby issued to establish a church and related improvements on 2.00 acres of land within the State Land Use Agricultural District. The property is located on the north side of Kuwaikahi Homesteads Road approximately 1,700 feet west (mauka) of Laupahoehoe School, North Hilo, Hawaii.

Approval of this request is based on the following:

I. Findings of Fact

A. Procedural Background

1. On March 11, 1998, Kaumana Drive Baptist Church (the "Applicant") applied for a Special Permit under Section 205-6, HRS, and Rule 6 of the Planning Commission to establish a church and related improvements on a portion of Tax Map Key:(3)3-5-004:082, Laupahoehoe, North Hilo, County of Hawaii.

2. The Applicant delivered notices of the filing of the subject application, public hearing and right to petition for a contested case to adjoining landowners within three hundred feet of the subject property, as evidenced by the proof of mailing/delivery filed on March 23, 1998 and April 29, 1998.

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3. Notice of the public hearing on the subject application was published in newspapers having a general circulation in the County of Hawaii and was posted and filed in the manner and in the time required by applicable law.

4. The Planning Commission held a public hearing on the subject application on May 15, 1998, at the State Building, Conference Rooms B & C, 75 Aupuni Street, Hilo, County and State of Hawaii.

5. At the public hearing, the Planning Commission considered the petition of Intervenors Timothy and Susan Garrard to intervene as parties and to request a contested hearing under Rule 4 of the Planning Commission.

6. After considering the Intervenors' respective petitions and the supporting testimony therefor, the Planning Commission voted to admit the Intervenors as parties to the proceeding and to conduct the proceeding on the subject application in the manner provided by Chapter 91, HRS, and Rule 4 of the Planning Commission (contested hearing).

7. The Planning Commission voted to appoint Kevin Balog, Chairman of the Planning Commission, to serve as Hearing Officer.

8. Intervenors filed their position statement on May 29, 1998.

9. The Applicant filed its position statement on May 29, 1998.

10. The Planning Department filed its position statement on May 28, 1998.

B. Substantive Facts

11. The Applicant owns the subject property.

12. As part of a plan to establish the Hamakua Baptist Mission, the Applicant proposes to establish a church and related improvements on the property. For over ten years, the Mission has conducted its church activities on various premises of other churches and organizations in the Hamakua district. Church members have been temporarily meeting on an outside patio of Laupahoehoe School on a month to month basis while searching for a permanent place of worship. The Applicant was notified that the availability of this temporary site at Laupahoehoe School is tenuous at best and is presently in the process of fundraising for this project. The Applicant hopes to commence construction upon reaching building fund goals and issuance of all required permits, with a vision of completion by the year 2000. The proposed property is not only affordable to the church, but is easily accessible for its parishioners, being that the subject property is just up the street from its present location at Laupahoehoe School. Proposed activities at the site include prayer services, counseling and fellowship meetings.

13. There is an increased need in the Hamakua district for serving the community's spiritual and social needs because of the poor economic conditions in that district.

14. The subject property is a 2-acre parcel which is zoned A-20a and located approximately 1,700 feet mauka (west) of Laupahoehoe School in Laupahoehoe, North Hilo, Hawaii.

15. The FIRM is minimal tsunami inundation.

16. The subject property is vacant with low-level native grass and shrubbery.

17. The subject property is designated as prime agricultural lands under the ALISH system.

18. The U.S.D.A. soil type is Ookala silty clay loam, 12 to 20 percent slopes, consisting of well-drained silty clay loams formed in volcanic ash. This soil is used for sugarcane. The surface layer is dark reddish-brown silty clay loam about 12 inches thick. The sub-soil is dark brown to dark yellowish-brown silty clay loam about 43 inches thick. This is underlain by partly weathered Aa lava fragments. This soil dehydrates irreversibly into fine sand size aggregates.

19. The Land Study Bureau Soil Rating is "C" or "Fair."

20. Lands surrounding the subject property are zoned A-20a and are vacant, pasture land or in single family residential uses. There are two single family dwellings adjacent to the property to the northeast (makai), and the other immediate adjacent properties are vacant or used as open pasture land. The nearest RS-zoned area is located approximately 1,000 feet makai of the subject property.

21. The site plan submitted by the Applicant indicates an approximately 4,000 square foot one-story building and a parking lot for eighteen vehicles. According to the Applicant, the building will include four conference rooms, an office, restrooms, and a sanctuary for fifty to seventy-five people. The building is proposed to be sited closer to the eastern (front) portion of the property, with the remaining western (rear) portion to be available for various agricultural and gardening activities for its youth and other members.

22. The church will hold regular Sunday morning services from 8 a.m. to 12 noon, and two weekday evening Bible studies from 5 p.m. to 8 p.m.

23. The anticipated traffic flow is 6 to 10 vehicles on Sunday and two week nights, and the current local traffic flow will not be significantly affected.

24. Access to the property is from the Hawaii Belt Highway via Kuwaikahi Homesteads Road, a County Road, with an approximate 12-foot wide pavement in good condition, with 1 to 2-foot wide soft grass shoulders, all within a 40-foot right-of-way. A "Road Narrows" sign and a "One Lane" Road sign

exists approximately four-tenths of a mile down the road. This section is narrow, with minimal shoulder widths and roadside ditches. The Hawaii Belt Road is approximately another four-tenths of a mile down the road. The beginning four-tenths of a mile of the road, from the Belt Road, has a two-lane 16 to 17-foot wide pavement. According to the Department of Public Works, a minimum 16-foot wide pavement width is the acceptable standard for two-way vehicular traffic for a minor roadway.

25. According to the Department of Water Supply, water can be made available from an existing 6-inch waterline along the Kuwaikahi Homestead Road fronting the subject property.

26. According to the Applicant, wastewater will be disposed of within a cesspool.

27. According to the Department of Public Works, many drainage problems are occurring downstream of this area, and adequate drainage improvements will be mandatory for any development on this site.

28. Electricity and telephone services are available to the site. Police, fire and medical services are provided from the police and fire stations approximately 2,800 feet to the north, on the mauka side of the Hawaii Belt Road across from Sunny C. The Fire Department is proposing a new complex adjacent to the existing facility.

29. It is highly unlikely that any significant historic sites would be found on the subject property given the disturbance of the ground surface, and it is not anticipated that the proposed uses would have any effect on significant historic sites.

30. The County of Hawaii General Plan designates as "Urban Expansion" an area within which the subject property is located. An "Urban Expansion" designation allows church uses.

31. The Planning Department would support the granting of the subject application, subject to a condition which requires the Applicant to bear a pro rata share of the costs of necessary improvements to Kihalani Homestead Road.

32. The Applicant is willing to contribute a pro rata share of necessary improvements to Kihalani Homestead Road.

II. Conclusions of Law

1. The Special Permit program established by the state legislature under Section 205-6, HRS, is a conditional use system which, like the Special Management Area program under Chapter 205A, HRS, and county use permit program under Chapter 25, Hawaii County Code, authorizes the Planning Commission (where the affected area is less than 15 acres in area) to issue Special Permits for the maintenance of certain uses in the State Land Use Agriculture District.

2. Under Section 205-6, HRS, the Planning Commission may issue a Special Permit for a use that the Planning Commission finds is unusual and reasonable.
3. By its own Rule 6, the Planning Commission established decision criteria for determining whether a proposed use meets the unusual and reasonable standard of Section 205-6, HRS.
4. The proposed use is consistent with the guidelines of Rule 6-3(b)(5)(A) to (G):

a. The proposed use is consistent with the County of Hawaii General Plan. The General Plan designates the project site as an Urban Expansion Area, which allows church uses.

b. The proposed use will not substantially alter or change the essential character of the land and the present use. The project site is not currently used, and the proposed church use, as proposed, will not substantially alter the character of the land.

c. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The project site is zoned for agriculture uses but lies within the General Plan Urban Expansion area. The Land Study Bureau Soil Rating is "C" or "Fair" and would support certain agricultural activities. However, the project site is not of critical importance for agriculture purposes.

d. Unusual conditions, trends and needs have arisen since the state land use Agriculture district boundaries were established for the project site. There is a greater need to serve the spiritual and social needs of the community because of poor economic conditions in the district since the demise of Hamakua Sugar Company.

e. The proposed use will not unreasonably burden public agencies. The proposed use will not unreasonably burden public agencies. The proposed use itself will not require public agencies to provide additional improvements or services such as roads and streets, water, sewers, drainage, school improvements, and police and fire protection. The proposed use already uses existing roads and utilities and will not demand additional services from public agencies.

f. The proposed use, with appropriate mitigation measures, will not adversely affect surrounding properties. The church facility and proposed uses will occur only during limited periods of time during the week. The church building is a one-story, low-profile structure and is oriented so as to mitigate sound impacts on surrounding properties. Traffic is expected to be minimal and will not adversely affect surrounding properties. Impacts of the proposed uses would be significantly less than many other uses which are permitted outright in the agricultural zoning district.

g. The proposed use will not be contrary to the objectives sought to be accomplished by the state land use law, Chapter 205, HRS, and Rule 6 of the Planning Commission, and will promote the effectiveness and objectives of Chapter 205, HRS.

The objectives of Chapter 205, HRS, and Rule 6, Planning Commission Rules of Practice and Procedure will be promoted through the granting of this permit. The state agricultural district permits agricultural and non-agricultural uses to be implemented. Other reasonable and unusual uses may be permitted by special use permit, pursuant to and consistent with those districts. The proposed uses here are consistent with the surrounding agricultural district and the community characteristics within the surrounding area.

5. Appropriate conditions should be attached to any Special Permit that is issued for the proposed use to ensure that appropriate mitigation measures will minimize adverse impacts of operations on the project site on adjoining property owners and the general public.
6. The recommended conditions affixed hereto are reasonable and appropriate.
7. The proposed use, as conditioned, is an unusual and reasonable use in the State Land Use Agricultural District.

III. Decision and Order

Based on the foregoing Findings of Fact and Conclusions of Law, the application of Kaumana Drive Baptist Church, for a Special Permit to allow the Applicant to use the project site for the uses described in the subject application is hereby recommended for granting by the Planning Commission, provided, however, that the Applicant shall be responsible to observe and to comply with the conditions of approval affixed hereto and which, by this reference, are incorporated herein and are made a part of the Special Permit granted to the Applicant.

Approval of this request is subject to the following conditions. Should any of the conditions, however, not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The Applicant, its successors or assigns, shall be responsible for complying with all stated conditions of approval.
2. The construction of the church shall be completed within five (5) years from the effective date of this permit. This time period shall also include securing Final Plan Approval from the Planning Director for the construction of the church. Plans shall identify structures, fire protection measures, paved parking area and driveway, and other improvements associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.


3. Any exterior signs shall meet with the approval of the Department of Public Works.
4. Applicant shall install landscaping which provide visual buffers to adjacent properties mauka and makai of the subject property, subject to the approval of the Planning Director.
5. In conjunction with the construction of the church, Applicant shall construct a chain-link fence, fence of alternate material, or wall on the road front portion of the subject property. The fence or wall shall include an entry gate which will control vehicular and pedestrian access and which will be closed and locked during the periods of time when the church premises are not being used for activities allowed by this permit. The fence or wall shall be connected to similar side-yard fencing or wall structures. If the rear of the property is easily accessible to pedestrian traffic, then the fence or wall shall be constructed along the rear portion of the property and shall be connected with such side-yard structures. The purpose of these structures is to prevent unauthorized use of the property. Plans for such structures shall be subject to the approval of the Planning Department.
6. Applicant shall pay for its pro rata share of improvements of substandard portions of Kihalani Homestead Road (also referred to as "Kuwaikahi Homestead Road") makai of the subject property, including related roadway drainage improvements, which are determined by the County of Hawaii to be related to the impacts of Applicant's proposed uses and to be necessary to upgrade such road in the future to a "minor street." Prior to the issuance of an occupancy permit, Applicant shall formally commit to making such payment or rendering services in lieu of such payment, subject to the approval of the Planning Department, in consultation with the Department of Public Works.
7. The hours of church operation shall be from 8:00 a.m. to 12:00 noon on Sundays and from 5:00 p.m. to 8:00 p.m. on two week nights. Applicant may also conduct wedding ceremonies and funeral services, as may be requested by and for the congregation's members and their families.
8. Applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for this proposed use.
9. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide, in writing, a final status report to the Planning Director.
10. If the applicant fails to comply with the conditions of approval or is unable to resolve any public complaint(s), the Planning Director shall investigate and, if necessary, enforce the appropriate conditions. The Planning Director may, as part of any enforcement action, refer the matter to the Planning Commission for review. Upon appropriate findings by the Planning Commission that the applicant has failed to comply with the conditions of approval or has caused an unreasonable adverse impact on surrounding properties, the permit may be suspended or revoked.

11. An initial extension of time for the performance of conditions 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 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.
 - 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 feel free to contact Alice Kawaha or Phyllis Fujimoto of the Planning Department at 961-8288.

Sincerely,



Leonard Tanaka, First Vice-Chairman
Planning Commission

LKauma02.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
R. Ben Tsukazaki, Esq.
Timothy and Susan Garrard