



County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

APR 25 2013

Pastor Timothy H. Jittu
Divine Faith Ministries
P.O. Box 6542
Ocean View, HI 96737

Dear Pastor Jittu:

Special Permit No. 1190 (Docket No. 02-000037)

Applicant: Timothy H. Jittu

Request: Amendment to SPP No. 1190 to Allow a Five-Year Time Extension
To Complete Construction of Church (Condition 2)

Tax Map Key: 9-2-189:050

The Windward Planning Commission, at its duly held public hearing on April 18, 2013, voted to approve the above-referenced request for an amendment to Condition No. 2 (complete construction) of Special Permit No. 1190, which allowed the establishment of a church and related improvements on approximately 3.00 acres of land in the State Land Use Agricultural District. The property is located in Hawaiian Ocean View Ranchos Subdivision south (makai) of Māmalahoa Highway, and approximately 0.6 mile west of its intersection with Kohala Boulevard, Kahuku, Ka'ū, Hawai'i.

Approval of the request is based on the following:

On December 11, 2002, the Planning Commission issued Special Permit No. 1190 to the applicant to allow the establishment of a church and related improvements on the 3-acre subject property identified as Tax Map Key 9-2-189:050. At that time, the applicant proposed constructing an approximately 3,200-square foot church, a 400-square foot detached restroom/storage building, and gravel parking area. The applicant is requesting a 5-year time extension for Condition No. 2 in order to secure plan approval

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and complete construction of the proposed church and related improvements. The applicant is also proposing to downsize the original development plans to construct an approximately 1,500-square foot church building, which is about half the size of the original plan. The applicant is requesting the time extension because the church has tried to recover funds that were lost to a deceptive building company and raise enough funds to complete construction. However, the church is a small fellowship and therefore it will take time to raise funds.

Approval of this request would not be contrary to the General Plan or the Zoning Code. When this Special Permit was originally granted in 2002 the General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for the property was Extensive Agriculture. These are agricultural lands not classified as Important Agricultural Lands because they are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. With adoption of the current General Plan in 2005, the LUPAG Map designation for this area and the property was changed to Urban Expansion. This change was implemented in order to identify an area where commercial, industrial and community land uses could be established to provide services to the Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos subdivisions. The Urban Expansion designation allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. A church is considered a community use, and thus is consistent with the General Plan designation for the property. Additionally, the use of land for a church continues to be consistent with the zoning for the property, which is Agricultural 3-acre (A-3a), with the approval of the Special Permit.

Approval of this request would not be contrary to the original reasons for granting the Special Permit. The permit was originally granted to allow the establishment of a church and related improvements on the subject property. Due to funding issues, the church has not yet been constructed. The requested amendment is limited to the additional time needed to complete construction and to downsize the church structure from the originally planned size of 3,200-square feet to 1,500 square feet. Therefore, the original reasons for approving the Special Permit will be preserved. The church use continues to be an unusual and reasonable use of land, which would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

Based on the above information, this amendment request is approved. Approval of this request is subject to the following conditions (new material is underscored and material to be deleted is struck through and bracketed):

1. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Construction of the proposed church and related improvements shall be completed and all certificates of occupancy issued within five (5) years from the effective date of this amended permit. This time period shall include securing Final Plan Approval from the Planning Director. Plans shall identify structures, fire protection measures, parking stalls and driveway, and other improvements associated with the proposed uses. Landscaping in compliance with Planning Department Rule 17 (Landscaping Requirements) 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. Access shall be from Kohala Blvd. and the roadway easement. Access from Māmalahoa Highway shall be prohibited.
5. The method of sewage disposal shall meet with the requirements of the State Department of Health.
6. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- [5:]7. The applicant shall comply with applicable laws, rules and regulations of the appropriate State and County agencies, including the Fire Department and Department of Health, for the proposed use.

- ~~[6. The proposed project shall be completed in substantial compliance with the representations made before the Planning Commission. Any expansion to the proposed request shall be submitted to the Planning Commission as an amendment to this Special Permit.]~~
- [7.]8. 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.
- [8.]9. 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.
- ~~[9. 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).]~~
10. If the applicant should require an additional extension of time, the request shall be submitted to the Planning Commission for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

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.

Pastor Timothy H. Jittu

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Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,

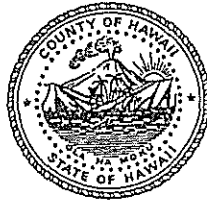


Wallace Ishibashi, Jr., Chairman
Windward Planning Commission

Ljittu01amendspp1190

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources-HPD
Mr. Gilbert Bailado

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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August 31, 2004

Pastor Timothy H. Jittu
President
Divine Faith Ministries
P.O. Box 6542
Ocean View, HI 96737

Dear Pastor Jittu:

Your Letter (May 28, 2004)
Special Permit 1190 (December 5, 2002)
to Establish a Church Site
Hawaian Ocean View Ranchos, Kahuku, Ka'u, Hawaii Island
TMK: 9-2-189: parcel 50, Lot 8

We received the above letter and apologize for this belated reply. The remainder of this letter will discuss the request and issues raised in the May 28th letter. In reviewing this matter with my staff, we recognize the difficulty of the matter at hand where site improvements have been made to the wrong lot while the legal permit authorizing the church site is for another parcel; in addition, the situation is compounded by what seems to be the redundant nature of the legal requirements for a special permit.

My staff initially responded by email (April 20, 2004) with an unofficial reply on the issue of whether another special permit application would be required to establish the DFM church site on the parcel that was improved by mistake. Receipt of the above letter confirms that you are seeking an official written statement on the matter.

Generally, four factors appear to affect the legality of this situation: the County and State legal requirements of the Special Permit (SP) process; the inherent limitations of these laws; and, the legal body that approved the permit, the County Planning Commission.

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Background. Generally, the May 28th letter arose because Special Permit 1190 authorized DFM to establish a church on parcel 50; however, it was discovered that site improvement work was made to an adjacent lot, parcel 51, instead of to parcel 50. Allegedly, the mistaken identification between these two parcels is attributed to two maps: the survey work done for DFM and the TMK plat map: 9-2-189.¹

Although the landowners are amenable to a land swap the exchange would not solve the legal necessity of repeating the SP process to have par. 51 approved for a church site.

Request. To avoid the duplication of redoing the SP application process for par. 51, the May 28th letter requested that we consider the alternative of using a notarized statement to correct the documents where parcel 50 is identified. The correction statement would read, "Should be Lot 51."

Furthermore, the letter states that although par. 50 was the lot represented on all documentation in the SP process, allegedly all work and description was based on the physical site of par. 51.² The May 28th letter (first page, paragraph 3) while admitting that par. 50 is the lot identified throughout the public permit process, reaches the conclusion that: "... in actuality ... [par. 51] was the physical site designated[,] ... inspected[,] and ... approved for ... Special Permit 1190."

Discussion. The SP application process was required because DFM proposed to establish a church site on par. 50, a lot in the State Agricultural district. State law, Hawaii Revised Statutes sec. 205-6, requires a SP when land classified as State Agricultural is proposed for a nonagricultural purpose. County Planning Commission Rule 6, in addition, specifies the County's SP procedures. At the local level, the appointed nine-member County Planning Commission is the body legally authorized to

¹ The May 28th letter (page 1, fourth paragraph) refers to TMK plat map, 9-2-189, and alleges that certain parcels on this map may be in the wrong location. At this stage, we can not accept this allegation as fact; although a possible survey error is alleged, the allegation is not substantiated with a survey map. To resolve the matter would require an accurate on-site field survey prepared by another licensed surveyor to double-check the accuracy of the allegation. Without the independent survey work to verify the basis of the allegation it remains, at best, an unsubstantiated speculation.

² For example, the May 28th letter alleges that the site inspection, the application material on archaeological, floral-fauna, cultural, public access, access-to-property, traffic impact, utilities, and notification was based on par. 51's physical site; however, the lot represented, identified, and approved in the SP process was actually par. 50.

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approve and issue a special permit; the Planning Director is not authorized by the aforementioned laws or the County Charter to issue a SP.

- Lawful Authority. Special Permit 1190 was approved as a result of a *public process* requiring compliance with mandatory *public notice and hearing standards*. The state law and the County Planning Commission rule also have limitations: these laws do not authorize the Planning Director to unilaterally correct the situation of misidentified parcels or to unilaterally overrule SP legal criteria; in addition, the law does not authorize the Director to substitute his/her judgment over the Planning Commission's public decision making authority. Unfortunately, these laws also do not allow for a hardship exception or waiver and it does not authorize the option of curing a defective identification by the suggested notarized statement.

In this case, the Planning Director only has the power to take the desired action if the law empowers the authority to act; these laws, however, do not grant the Director the powers suggested in the May 28th letter.

- SP 1190 was approved as a result of its underlying facts. What this means is that par. 50, and not par. 51, was the lot publicly represented *throughout the entire application and hearing process*. Parcel 50 is where permit approval was being sought and eventually approved for; therefore, the significance of representing par. 50 goes to the entire public permit process – and not only to curing defective documents.
- Physical Site. Parcel 51's physical site is alleged to be the lot that was documented and inspected in the SP process; however, this conclusion is not supported by the official record; and, therefore, we are unable to agree with the conclusions reached in the May 28th letter: because the County Planning Commission approved SP 1190 for par. 50, not par. 51.

Conclusion & Next Steps. Unfortunately, this is a difficult matter that will require repeating the SP process for par. 51 and incurring an additional expenditure of time, effort, and expense for all concerned, the County and Divine Faith Ministries. The legal standards of the special permit process, however, do not allow the option of simplified impromptu solutions that are made to suit the circumstances.

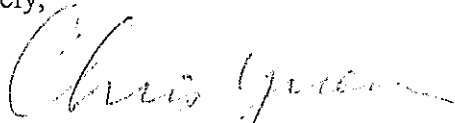
In proceeding with the SP application for par. 51, please consider these suggestions.

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- ✓ The SP application to establish a DFM church site on par. 51 may also include a request to rescind SP 1190 of par. 50.
- ✓ The May 28th letter raised the issue that the parcels on TMK plat map: 9-2-189 are not located as shown: allegedly, contrary to the plat map, parcels 50 and 51 may be the lots located across from the Orchid Parkway road and not parcels 49 and 50; however, as explained in footnote 1, because the allegation is unsubstantiated it is just as likely to be incorrect in its conclusion as it is currently undocumented by a survey map.
- ✓ Before this allegation can be accepted, the accuracy of its conclusions would need to be verified by an independent licensed surveyor; please consider having the location of parcels 50 and 51 resurveyed by an independent licensed surveyor. Unfortunately, the cost of another survey is the only method we're aware of to determine the accuracy of the allegation that these lots are not located as shown on the TMK plat map.
- ✓ Please provide this office with a readable copy of the survey map prepared by Manulele Services that allegedly discovered this discrepancy.

For any follow up discussion on the matters reviewed here, please contact Earl Lucero of my staff. Ph: 961-8288.

Sincerely,



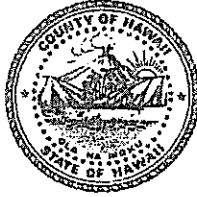
CHRISTOPHER J. YUEN
Planning Director

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cc: West Hawaii Planning Office
Tom Lapera, Manulele Services, P.O. Box 901, Na'alehu, HI 96772

Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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DEC 31 2002

Pastor Timothy H. Jittu
Divine Faith Ministries
P. O. Box 6542
Ocean View, HI 96737

Dear Pastor Jittu:

Special Permit Application (SPP 02-037)
Applicant: Timothy H. Jittu
Request: Establish a Church and Related Improvements
Tax Map Key: 9-2-189:050

The Planning Commission at its duly held public hearing on December 5, 2002, voted to approve the above-referenced application. Special Permit No. 1190 is hereby issued to establish a church and related improvements on 3.00 acres of land in the State Land Use Agricultural District. The property is located in Hawaiian Ocean View Ranchos Subdivision south (makai) of Māmalahoa Highway, and approximately 0.6 mile west of its intersection with Kohala Boulevard, Kahuku, Ka'ū, Hawai'i.

Approval of this request is based on the following:

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes (HRS), 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. In addition, the State Land Use Law and Regulations are intended 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 the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

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DEC 31 2002

The subject property is a vacant 3.00-acre parcel and not in agricultural use. The applicant proposes to establish a church and related improvements on the subject property in the Hawaiian Ocean View Ranchos Subdivision. The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. Therefore, the nature of the proposed use will not have an adverse effect on the County's agricultural land inventory. It is therefore determined that the proposed use is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

The proposed request is not contrary to the General Plan. Although the General Plan for the area is designated Extensive Agricultural and the zoning is Agricultural (A-3a), the subject property is not used for agricultural purposes. The proposed use would not displace any agricultural activity nor diminish the agricultural potential of the area, which has very limited agricultural activities. Although the establishment of a church would not take significant lands out of existing or potential agricultural use, it would allow uses other than agricultural uses within the subdivision. It should be noted that the County is currently conducting a comprehensive review update to the General Plan. One of the proposed amendments to the Land Use Pattern Allocation Guide (LUPAG) Map is to change the designation for certain areas, including portions of Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos along the Māmalahoa Highway, from Extensive Agricultural to Urban Expansion. Portions along the front of this parcel appear to be in this proposed area of change.

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 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 Hawai‘i.
- The County of Hawai‘i 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.

The desired use will not adversely affect surrounding properties. Surrounding lands are zoned A-3a and predominantly vacant with the nearest residence located approximately 500 feet from the subject property and across Maile Drive. The proposed church will be confined to the subject property. Therefore, the character of the property or its surrounding area will not be significantly altered. The proposed hours of operation are Sundays from 10:00 a.m. to 1:00 p.m. and 6:00 p.m. to 8:30 p.m., Tuesday Bible Study from 7:00 p.m. to 8:30 p.m., Thursday worship practice from 7:00 p.m. to 8:00 p.m. and Thursday men's meeting from 7:00 p.m. to 9:00 p.m. Additional use would include weddings, funerals, baptisms, board meetings, youth activities, community programs, etc. 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 adjacent properties. The property is of sufficient size for adequate setbacks and buffers that will minimize any physical, social, or other impacts. Although the granting of the proposed use would establish non-agricultural uses on the property, the proposed use would 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 improvements, and police and fire protection. The subject property is located in the Hawaiian Ocean View Ranchos Subdivision that takes access off of Kohala Blvd., a private subdivision roadway, onto the paved 20-foot wide roadway easement. 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. As County water is not available to the site, water will be provided by a catchment system and by bringing in drinking water for their members. All other essential utilities and facilities are available to support the proposed use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The Hawaiian Ocean View area continues to grow, albeit slowly, and allowing for the development of churches in this district would help meet the spiritual and social needs of the expanding population in this area. The Special Permit in the Agricultural District would be the appropriate vehicle for establishing churches in needed areas. Therefore, the requested use would provide the needed support for existing and future populations.

The land upon which the proposed use is sought is not suitable for the uses permitted within the district. However, the proposed uses will not interfere with permitted uses. The soil within the subject property is classified as "E" or "Very Poor" for agricultural productivity and unclassified by the ALISH Map. There is no agricultural activity occurring on the subject property, therefore, no agricultural lands will be taken out of active uses nor be diminished. The nature of the request is to allow the establishment of a church and related improvements. The subject property is located within Increment 2 of the 1,233-lot Hawaiian Ocean View Ranchos Subdivision, which received Final Subdivision Approval on March 13, 1970. Along the Māmalahoa Highway between Hawaiian Ocean View Estates and the Hawaiian Ocean View Ranchos Subdivisions, the following Special Permits were approved:

Hawaiian Ocean View Ranchos:

- A. TMK: 9-2-198:12 (SPP 663) effective May 20, 1988 to Richard Bond for a retail produce and gift shop (located 17 lots to the east).
- B. TMK: 9-2-197:1 (SPP 1057) effective June 2, 2000 to Hawaiian Ranchos Road Maintenance Corporation for a baseyard. (SPP 1171) effective May 28, 1998 to American Tower Corporation for a 180' lattice telecommunication tower (located 15 lots to the east at the northwest corner of Māmalahoa Highway and Kohala Blvd.).
- C. TMK: 9-2-185:1 (SPP 1063) effective July 5, 2000 to Kahuku Congregational Church for a church and related improvements (located 8 lots to the west).
- D. TMK: 9-2-185:94-96 (SPP 653) effective October 5, 1987 to Ocean View Investment Co., Inc. for various commercial and industrial uses (located 17 lots to the west).
- E. TMK: 8-2-188:1 (SPP 1106) effective March 19, 2001 to Kona Marshallese Church on Menehune Drive.

Hawaiian Ocean View Estates:

- A. TMK: 9-2-85:1 (SPP 1137) effective March 15, 2002 to Danny W. Freeman to allow for a mixed light industrial, commercial, woodworking facility with wholesale/retail outlet plus service rental and shop space and commercial kitchen for packaging products.
- B. TMK: 9-2-86:14 (SPP 717) effective August 7, 1989 to Bruce and Robin Hall for a bed and breakfast establishment.
- C. TMK: 9-2-86:15 & 9-2-92:1 (SPP 765) effective October 22, 1990 to Ross Farsi for a retail nursery and garden supply store.
- D. TMK: 9-2-93:12 (SPP 506) effective March 9, 1982 to Real Estate Gallery Kona, Inc. for a real estate office.
- E. TMK: 9-2-93:47 (SPP 1115) effective August 14, 2001 to Michael Bell for a gas station, mini-mart, restroom, self-storage facility and related improvements.
- F. TMK: 9-2-83:3 (SPP 637) effective January 21, 1987 to Quentin Arbo for a hardware store, postal facility and commercial building.
- G. TMK: 9-2-13:71 (SPP 186) effective August 7, 1971 to Hawaiian Ocean View Evangelical Community Church.

There are no commercial zoned lands to establish a church within the Hawaiian Ocean View Ranchos Subdivision. Therefore, the applicant is seeking to establish a church in a convenient location within the subdivision. The Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

Based on these considerations, the approval of the Special Permit request to establish a church and related improvements would support the objectives sought to be accomplished by the Land Use Law and Regulations.

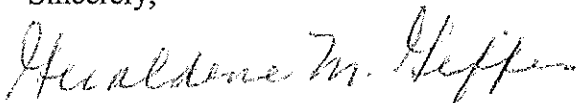
This request is approved subject to the following conditions. Should any of the conditions, however, not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The applicant shall be responsible for complying with all of the stated conditions of approval.
2. Construction of the proposed church and related improvements 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 structures, fire protection measures, parking stalls and driveway, and other improvements associated with the proposed uses. Landscaping in compliance with Planning Department Rule 17 (Landscaping Requirements) 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. Access shall be from Kohala Blvd. and the roadway easement. Access from Māmalahoa Highway shall be prohibited.
5. The applicant shall comply with applicable laws, rules and regulations of the appropriate State and County agencies, including the Fire Department and Department of Health, for the proposed use.
6. The proposed project shall be completed in substantial compliance with the representations made before the Planning Commission. Any expansion to the proposed request shall be submitted to the Planning Commission as an amendment to this Special Permit.
7. 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.
8. 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.

9. 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).

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

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Ljittu02pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu
Planning Dept. – Kona