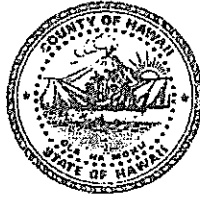


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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FEB 03 2003

Mr. Ted Keahiolo
1377 Auahi Place
Hilo, HI 96720

Dear Mr. Keahiolo:

Special Permit Application (SPP 02-040)
Applicant: Pastor Toese Ah Sam
Request: Establish a Church and Related Improvements
Tax Map Key: 1-7-6:10

The Planning Commission at its duly held public hearing on January 17, 2003, voted to approve the above-referenced application. Special Permit No. 1193 is hereby issued to establish a church and related improvements on approximately 4.217 acres of land situated in the State Land Use Agricultural District. The property is located in Ola'a Homestead Reservation Lots on the west side of Volcano Road, adjacent to the Ho'omana Na'auao O Hawai'i Church, between Hawelu Road and N. Ala Road, Kurtistown, Kea'au, Puna, 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. 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. 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 applicant proposes to establish a church and related improvements as well as farming on the subject property. The project site was previously cultivated with sugarcane. Presently, the 4.217-acre parcel is vacant and not in any agricultural use. The

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land on which the proposed use will be located is classified as "D" or "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. However, the applicant has stated that some type of farming activity will be established on two acres at the rear of the property. The nature of the proposed church 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 desired use will not adversely affect surrounding properties. Surrounding lands are designated Agricultural and zoned Agricultural (A-5a and A-10a) as well as designated Urban and zoned Single Family Residential (RS-20). The subject parcel is surrounded by macadamia orchards and banana fields. The adjacent dwellings are to the north and rear of the subject parcel. The proposed church and parking area 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 Saturdays from 9:00 a.m. to 4:00 p.m. and a midweek service and/or meeting from 6:00 p.m. to 9:00 p.m. Possible noise generated by the proposed use is expected to be negligible; however, from the Volcano Road to the beginning of the proposed agricultural activity area, a five-foot wide planting buffer along both side property lines 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 Puna and Volcano 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. Access is from the State maintained Volcano Road (Highway 11). Ingress/egress will be via two 25-foot wide paved driveways that are approximately 95 feet apart. However, the applicant's agent has submitted a revised site plan to denote that the driveway accesses will be limited to one way in and one way out.

It is not anticipated that the proposed use will impact or burden public agencies given that the requested uses are intended to service the community. The applicant proposes to install two 1,250 gallon septic tanks and two 12' x 30' absorption beds with infiltrators for wastewater disposal. Solid waste will be disposed of at the Hilo landfill. Although County water is available to the site, the applicant has stated that they will comply with the Department of Water Supply's requirements to obtain the necessary water commitment. All other essential utilities and facilities are available to support the

proposed use. Police and Fire services are available from Kea'au Town. Finally, public agencies reviewing the request had no objections to the proposed use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Development of churches in the Puna district would help meet the spiritual and social needs of the population in this area. The Special Permit in the Agricultural District would be the appropriate vehicle for establishing churches in needed areas. Special Permit No. 618 was approved in 1986 to legitimize and allow for the expansion of the nearby Ho'omana Na'auao O Hawai'i Church. The nearest Seventh-Day Adventist Church is located in Hilo. Therefore, the requested use would provide for the community needs of this area.

The land upon which the proposed use is sought is suitable for the uses permitted within the district; however, the proposed uses will not interfere with permitted uses. Although the parcel is in the State Land Use Agricultural District, the proposed church and related improvements will serve the existing as well as future residents. The proposed use would supplement the community's basic needs. The soil within the subject property is classified as "D" or "Poor" for agricultural productivity and unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. Although there is no agricultural activity occurring on the subject property, agricultural activity will be established on two acres at the rear of the parcel. Therefore, although no agricultural lands will be taken out of active uses nor be diminished, agricultural activity will be established.

The proposed request is not contrary to the General Plan. The County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates this area for Low Density Urban Development which allows for ancillary community uses such as a church. This proposed use would be established two lots to the north of the Ho'omana Na'auao O Hawai'i Church which was legitimized by Special Permit No. 618.

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.

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. However, should any of the conditions not be met or substantially complied with in a timely fashion, the Planning 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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.
3. 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 in accordance with the Zoning Code. 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. Native species from the area shall be used when possible.
4. Driveway accesses from Volcano Road shall be limited to one way in and one

way out, meeting with the requirements and approval of the State Department of Transportation.

5. A drainage study shall be prepared prior to the issuance of Final Plan Approval. Any required drainage improvements shall be constructed meeting with the approval of the Department of Public Works.
6. Any exterior signs shall meet with the approval of the Department of Public Works.
7. The applicant shall comply with applicable laws, rules and regulations of the appropriate State and County agencies, including the Department of Public Works, Department of Health, the Fire Department and the Department of Transportation for the proposed use.
8. 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.
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.

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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,



Fred Galdones, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Brian Minaai, Director/DOT-Highways, Honolulu
Pastor Toese Ah Sam