

County of Hawai'i

PLANNING COMMISSION

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

April 15, 2005

Rev. O. L. Mathison
P.O. Box 189
Volcano, HI 96785

Dear Rev. Mathison:

Special Permit Application (SPP 04-019)
Applicant: Volcano Assembly of God
Request: Establishment of a Church
Tax Map Key: 1-9-1:portion 45

The Planning Commission at its duly held public hearing on April 1, 2005, voted to approve the above-referenced application. Special Permit No. 1259 is hereby issued to allow the establishment of a church and related activities on approximately 1.5 acres of land situated in the State Land Use Agricultural District. The property is located on the corner of Wright Road and Road A, adjacent to and northwest of Volcano Cymbidium Acres Subdivision in Volcano, Puna, Hawaii.

Approval of this request is based on the following:

The applicant proposes to establish a church on approximately 1.5 acres of a 3.5-acre parcel. The site plan indicates an approximately 70' by 40' single-story structure, porte cochere, water catchment system and parking lot. The building will consist of a sanctuary, offices, classrooms, restrooms and storage areas. The proposed church will accommodate approximately ninety (90) individuals. There will be special celebrations including weddings, luncheons and funerals. Present services at another location consist of Sunday School class from 9:30 a.m. to 10:00 a.m. and Sunday morning worship from 10:15 a.m. to 12 noon. Currently, there are thirty (30) individuals attending Sunday service. The applicant requests the Special Permit to establish a church, as there is none in Volcano Village.

The existing 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, Hawaii Revised Statutes (HRS), as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in

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APR 15 2005

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 Hawaii. 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 the 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.

Soils on the property are classified as "C" or "Fair" (for the majority of the parcel) for agricultural productivity by the Land Study Bureau and Other Important Agricultural Lands (OIAL) by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The OIAL designation includes lands other than Prime or Unique Agricultural Land that is also of statewide or local importance for agricultural use. The property is currently vacant and is not in active agricultural use. As only a 1.5-acre portion of a 3.5-acre parcel will be used for the church, it is not anticipated that the proposed use will displace any agricultural activity nor diminish the agricultural potential of the area. The applicant intends to keep the majority of existing plants and trees including ferns, ohia and sugi pines, to blend in with the surrounding properties and to keep the site in its natural state as much as possible. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

The request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The project site is located in Volcano and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. Although there were no professional surveys conducted of the site, it is not anticipated that endangered or threatened candidate species of flora or fauna are located within the property, and the area has not been identified as a significant botanical or biological habitat. Presently, there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of known valued cultural, historical or native resources in the area. Thus, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

No commissioned archaeological inventory survey of the area was conducted. In a letter dated September 27, 2004, the applicant has requested a "no effect" letter from the State Department of Land and Natural Resources. The property is not known to be a habitat for any rare or endangered animal life and would not have any significant negative impact on floral or fauna resources in the area.

The desired use will not adversely affect surrounding properties. Immediate surrounding lands are predominantly vacant and zoned A-20a and A-5a. Surrounding parcels to the southeast are zoned A-20a, site of Volcano Cymbidium Acres (Subdivision No. 2660) with 124 approximately 20,000-square foot lots and five lots approximately 40,000 square feet in size. The Olaa Summer Lots, located across Wright Road to the west, is zoned A-5a. There is a single-family residence to the east of the parcel on Road A. Although not visible from Wright Road, building permit records indicate that there are single-family residences across the property on Wright Road. The property is 3.5-acres in size and large enough to minimize any impacts from the proposed development. Due to the limited nature of the proposed use, it is not anticipated that the use will adversely impact surrounding properties. As a condition of approval, the applicant will be required to provide landscaping to mitigate any potential adverse noise or visual impacts to adjacent properties. This requirement should further minimize the possibility of adverse impacts to the surrounding area. No objections were received from the public as of this writing.

The establishment of a church will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the site is from Wright Road, a County-owned and maintained roadway with a 20-foot wide pavement within a 50-foot right-of-way. Water will be provided by a private catchment system, and a septic system will be installed. Police services are located in Keeaau, and fire services are available from the volunteer fire station in Volcano Village. 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 project site and surrounding areas are designated for agricultural uses by both State and County land use laws. However, through the issuance of a Special Permit, various "non-agricultural" services and uses may and have been established. The establishment of a church in the Volcano area would help meet the spiritual and social needs of a growing community. According to the applicant, there are no churches in the nearby vicinity of the site.

The request will conform to, among others, the Land Use and Economic elements of the General Plan and is not contrary to the goals, policies and standards of the General Plan. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. Although the property is designated Extensive Agricultural Land, soils on the property are classified as "C" or "Fair" for agricultural productivity and Other Important Agricultural Lands by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. While the potential for

intensive agricultural uses may exist, the soil conditions within the property and surrounding area would preclude such intensive agricultural activities from being conducted. Although church activities are not defined as a use that is compatible with the Extensive Agricultural Land designation, the proposed use is consistent with the Land Use and Economic element of the General Plan. 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.

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kamaaina accounts of the area, historical survey of documentary records, botanical and/or fauna study was submitted.

The valuable cultural, historical, and natural resources found in the rezoning area: The applicant believes that no rare or endangered floral or faunal resources are likely to be on the site, and proposes to retain the existing plants and trees to blend in with the surroundings. The applicant has requested a "no effect" letter from the DLNR-HPD.

Possible adverse effect or impairment of valued resources: Native plants could be destroyed by construction and ground alteration. The property does not abut the shoreline, therefore Hawaiian gathering and fishing rights is not an issue.

Feasible actions to protect native Hawaiian rights: A condition of approval will be included to require the applicant to notify the DLNR-HPD should any unidentified sites or remains be encountered, and proceed only upon an archaeological clearance from the DLNR-HPD. The applicant has stated that there is no evidence of any traditional or customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. Thus, it is believed that the project would have no adverse impact relative to the cultural and historical resources of the area. To the extent to which traditional and customary Native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights.

Based on the above considerations, the approval of the request to establish a church would support the objectives sought to be accomplished by the Land Use Law and Regulations. Approval of this request is subject to the following conditions. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

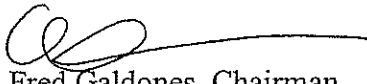
1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Construction of the proposed church shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
3. Any exterior signs shall meet with the approval of the Department of Public Works.
4. The driveway access to the church facility shall be limited to Wright Road only. The driveway connection to Wright Road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
5. Septic tank(s) shall be installed, meeting with the standards and requirements of the State Department of Health, prior to the issuance of a Certificate of Occupancy.
6. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
7. 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.
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.
9. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

10. An initial extension of time for the performance of conditions 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.
 - 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

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 Norman Hayashi 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
Department of Land & Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu