



## 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

SEP 17 2014

Elbert L. Green  
Ocean View Baptist Church, Inc.  
P. O. Box 6197  
Ocean View, HI 96737

Dear Mr. Green:

Special Permit (SPP 14-000164)  
Applicant: Ocean View Baptist Church, Inc.  
Request: Construction and Establishment of a Church and Related Improvements  
Tax Map Key: 9-2-002:012

The Windward Planning Commission, at its duly held public hearing on September 4, 2014, voted to approve the above-referenced request to allow the establishment of a church and related improvements on 4.057 acres of land situated within the State Land Use Agricultural District. The property is located at 92-1416 Coral Parkway, approximately 175 feet northeast of the Ginger Blossom Land – Coral Parkway intersection, Hawaiian Ocean View Estates, Ka'u, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed initial church building and related improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant shall secure Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify all existing and proposed structures, signage, fire protection measures, all-weather

dust-free driveway access and parking stalls, outdoor lighting (if any), and other improvements associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise and visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Bufferyard landscaping shall conform to the standards for separation of a residential zone from a commercial zone as provided for in Planning Department Rule No. 17.

3. Construction of future church buildings and related improvements shall be completed within five (5) years from the date of completion of the initial church building. Prior to construction, the applicant shall secure Final Plan Approval from the Planning Director in accordance with the Zoning Code.
4. Access to the property shall be from Coral Parkway rather than the highway.
5. Special events shall be limited to no more than 200 persons per event, and held between the hours of 9:00 a.m. and 8:00 p.m.
6. The applicant shall provide fire department access and water for fire suppression to the property and church buildings as outlined in the Fire Department memo dated June 5, 2014.
7. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
8. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
9. Comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.
10. Construction activities must comply with the provisions of Hawai'i Administrative Rules, Chapter 11-46, "Community Noise Control."

11. The applicant shall install an individual wastewater system meeting with the requirements of the Department of Health prior to the issuance of a Certificate of Occupancy.
12. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
13. 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.
14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
15. An initial extension of time for the performance of conditions within the permit may be granted by the 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.
  - d) The time extension 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).
16. 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 Special Permit.

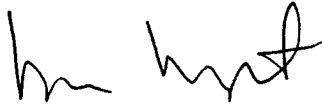
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This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288, ext 8142.

Sincerely,



Myles Miyasato, Chairman  
Windward Planning Commission

LOceanViewBaptistChurchspp14-164wpc  
Enclosure: PC Findings Report

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
State DLNR-HPD  
Plan Approval Section  
Mr. Gilbert Bailado

**COUNTY OF HAWAI'I  
PLANNING COMMISSION FINDINGS**

**OCEAN VIEW BAPTIST CHURCH, INC.  
SPECIAL PERMIT NO. 14-164 (SPP 14-000164)**

The applicant is requesting a Special Permit to allow the establishment of a church and related improvements on 4.057 acres of land be approved by the Planning Commission. The development would include an approximately 5,000 square foot church building that will include an auditorium, restrooms, a kitchen, a nursery, a classroom, storage rooms and a janitor's closet. The facility will accommodate approximately 200 parishioners. Church services will be held on Sundays from 9 a.m. to noon. Other activities on the property will include Sunday evening meetings, church related classes and activities on some weekdays and evenings, weddings, memorials, celebrations, and activities and programs in support of Ocean View and the surrounding communities on an as needed basis. The church will have one employee, the pastor and about four volunteers. Additional structures may be added in the future as finances allow that include additional classroom and administrative space, detached restroom and shower facilities with scheduled community access, storage space, and covered picnic facilities.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural District; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. This recommendation is based on the following findings:

**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.

The subject property is a vacant 4-acre parcel and is not actively being used for agriculture. There is a small macadamia nut orchard on a small portion of the property but the trees are in poor condition. The applicant proposes to establish a church and related uses on the subject property in the Hawaiian Ocean View Estates 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. Additionally, the soil is

classified as rLV (Lava flows, A'a). As a result, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the following criteria listed under Section 6-3(b)(5) (A) through (G) of its rules of practice and procedure:

- (A) **Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** The proposed use is considered an unusual and reasonable use of the agricultural land that will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.
- (B) **The desired use would not adversely affect surrounding properties.** Surrounding properties are zoned Agricultural (A-1a) and consist of scattered dwellings and vacant land. The nearest dwelling is located approximately 50 feet from the east and west property boundaries. Church services will typically be held Sunday mornings with special events such as weddings and funerals being held during weekdays and evenings but not typically after 8:00 p.m. These activities and events could generate noise that interferes with the surrounding residences. However, noise mitigation through landscaping and limiting operational hours should control noise to reasonable levels. The applicant is proposing to use an all-weather dust-free material for the driveway and parking areas to control dust. Given that the area is rural residential in character rather than urban in is reasonable to allow non-paved driveways and parking areas in order to maintain the character of the area. Therefore, it is not anticipated that the requested use will adversely affect the surrounding properties.
- (C) **Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.** Access to the property from the Hawai'i Belt Road (Hwy 11) is over Ginger Blossom Lane to Coral Parkway. These are private subdivision roadways that are owned collectively by the subdivision lot owners and maintained by the Hawaiian Ocean View Estates Road Maintenance Corporation. The Road Maintenance Corporation has not expressed concerns to the Planning Department about the proposed church getting access over these subdivision roads. The applicant will install an individual wastewater system for wastewater and a water catchment system for potable water and fire suppression. Electricity and telephone service is available to the property. Police services are available about 15 miles to the east in Nā'ālehu and fire services are available about 2 miles from the property in Ocean View. Based upon the above, the proposed use will not burden public agencies to provide additional services.
- (D) **Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently

amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. Since then the Hawaiian Ocean View Estates subdivision has become more residential in nature; however, the property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various "non-agricultural" services may be allowed.

- (E) **The land upon which the proposed use is sought is unsuited for the uses permitted within the district.** The property is situated on land that has soils classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. The property's soil type is a'a lava. Therefore, the land upon which the proposed use is sought consists of soils that are considered very poor and are not optimal for agricultural use.
- (F) **The use will not substantially alter or change the essential character of the land and the present use.** The land is currently vacant of uses and structures. The character of the surrounding community is rural residential in nature. The proposed use will alter the character of the land, but it will not be a substantial change. The proposed church will be developed in harmony with the existing rural character of the neighborhood.
- (G) **The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.** 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. The property is located in area identified as Rural in the General Plan. This category includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The proposed use is considered a community facility for residents within the HOVE subdivision and surrounding areas. Thus, the proposed use is not contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area and would support the goals and policies of the Land Use and Economic elements of General Plan.

Land Use Element

- 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 through economic development that enhances the County's natural and social environments.

Approval of the proposed request will allow the applicant an opportunity to improve the quality of life in this area while providing a service to residents in the community.

**The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to the coastal zone management program.** The subject property is located over five miles to the nearest shoreline and therefore will not cause beach erosion or affect marine resources, coastal ecosystems, and coastal recreational opportunities. Nor will the property be affected by coastal hazards. Additionally, there is no designated public access to the mountain areas over the property. There is no record of traditional Hawaiian rights being practiced on the property. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above considerations, Special Permit No. 14-0000164 to allow the establishment of a church and related improvements on 4.057 acres identified as Tax Map Key 9-2-002:012 is approved.