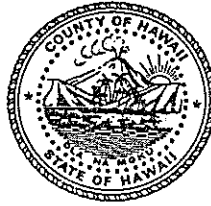


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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April 19, 2004

The Church of Jesus Christ of Latter-Day Saints
Stockton California Office
8393 Toulouse Way
Stockton, CA 95210

Gentlemen:

Use Permit Application (USE 04-001)
Applicant: Edmond Akiona-Architect
Request: Church Meeting House and Related Improvements
Tax Map Key: 2-3-36:19

The Planning Commission at its duly held public hearing on April 2, 2004, voted to approve the above-referenced application. Use Permit No. 199 is hereby issued to allow the establishment of a church (The Church of Jesus Christ of Latter-Day Saints) and related improvements on 4 acres of land zoned Agricultural 1-acre (A-1a) and situated within the State Land Use Urban district. The property is located along the northwest side of Ponahawai Street, approximately 1,360 feet east (makai) of the Ponahawai Street-Komohana Street intersection, Ponahawai, South Hilo, Hawaii.

Approval of this request is based on the following:

The request includes the following:

- chapel and cultural hall approximately 4,538 square feet, and approximately 8,144 square feet for classrooms, offices and restrooms. The total proposed facility will be approximately 12,682 square feet for the first phase.
- future expansion of approximately 4,373 square feet.
- facility maintenance building approximately 280 square feet.

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- approximately 156 standard paved parking stalls for the required 61 stalls for the first phase, and 95 stalls for overflow and future expansion needs.
- two driveway entry/exit driveways.
- no off-street parking.

The applicant states that the new church and related improvements will alleviate overcrowding at the church's present facility on Kilauea Avenue (TMK: 2-2-28: 19, PA 2664, approved December 19, 1990). The new meeting house will accommodate the Kilauea and Kaumana Wards. The facility will be used for Sunday church services, weekday morning seminary classes, meetings, and related social activities. The proposed Sunday services will be from 9:00 a.m. to 12:00 noon for Ward Number 1 and 10:00 a.m. to 1:00 p.m. for Ward No. 2. Also planned are weekday student seminary meetings from 6:30 a.m. to 7:00 a.m. Ward No. 1 will have one weekly night activity on Tuesdays from 6:00 p.m. to 9:00 p.m., and Ward No. 2, weekly night activity on Wednesdays from 6:00 p.m. to 9:00 p.m. Other activities such as parties, funerals and special meetings will be sporadic. No day care or pre-school programs are proposed, and there will be no employees.

The approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given the specific code and regulatory requirements of the affected agencies. The approval is based on the following findings:

Rule 7 (Use Permits) of the Planning Commission's Rules of Practice and Procedure states that the Planning Commission may approve a Use Permit based on the certain criteria. Section 7-6, Criteria for Granting a Use Permit, states:

"The Commission may approve a use permit upon finding that:

- "(a) The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the County General Plan;
- "(b) The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties; and
- "(c) The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure."

The granting of these requests will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The development of a church and related improvements in the State Land Use Urban district and Agricultural (A-1a) zoned district may be allowed through the granting of a Use Permit. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the goals and policies of the General Plan.

The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes.

The proposed project will complement the goals, policies and standards of, among others, the Land Use and Economic Elements of the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject property as Medium Density Urban, which includes village and neighborhood commercial and residential and related functions. The Land Study Bureau's Detailed Land Classification System classifies soils within the project area as Urban.

The desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties. The proposed request, if approved, will allow the development of a church and related improvements within the Agricultural (A-1a) zoned district. Surrounding properties to the west and south are zoned Agricultural (A-1a) and are vacant. A nursery is located adjacent to the property to the east (makai). The property to the north, zoned Open, is the site of the Veteran's Cemetary. The Ka Waena Lapaau Medical Center and other medical complexes and offices are located at the corner of Komohana Street and Ponahawai Street and zoned Neighborhood Commercial - 20,000 square feet (CN-20). Therefore, the proposed use will not detract from the present character of the area. Due to the noise and traffic inherent to the activities already established in the area, it is not anticipated that noise and traffic associated with the proposed use will adversely impact surrounding properties. The applicant intends to limit their activities to mitigate potential noise emanating from the church. The proposed setbacks are greater than those required for development on a property zoned Agricultural. Landscaping buffers of trees and other groundcover are also proposed. Additional landscaping may be required during Final Plan Approval. The services offered by the proposed use will continue to supplement existing religious services in the community. The project site is currently undeveloped, therefore existing noise from the site is minimal. Existing noise sources that currently impact the project site are also minimal. Short-term potential noise impacts are limited to construction noise associated with earthmoving equipment.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection, and other related infrastructure. The Department of Water Supply (DWS) states that there is an 8-inch waterline along Ponahawai Street fronting the subject property. However, the waterline is not adequate to meet fire-flow requirements. The DWS recommends that the waterline "be upgraded to meet the 2,000 gallons per minute fire-flow requirement for the proposed use. Therefore, until such time the waterline is upgraded, water is not available for the proposed use." The applicant has stated that preliminary plans will be reviewed by the Fire Department and if the plans are unacceptable, the applicant will explore the possibility of connecting to the water main on Komohana Street or bring a new main to the site.

Access to the project site is Ponahawai Street, a County right-of-way approximately 60-feet wide with a pavement width of 24 feet, in good condition. The site plan indicates two driveway accesses from Ponahawai Street. Approximately 156 standard paved parking stalls for the required 61 stalls for the first phase, and 95 stalls for overflow and future expansion needs are proposed. No off-street parking is proposed along Ponahawai Street. According to the applicant, this area is not served by a public sewer system and the project will have an on-site septic tank system for wastewater, meeting the standards of the Department of Health. The Department of Health states that individual wastewater systems are allowed. However, the applicant notes that "as a condition to the Use Permit, the Church will abandon its system and tie into the public system when available along Ponahawai Street." The Department of Environmental Management (DEM) requires connection to the public sewer via an extension of the sewer system to service the proposed development. The DEM also states, "the proposed development mauka of Komohana may be installing [a] sewer extension. Applicant may want to share costs."

According to the applicant, there are no storm drainage systems in this area. The applicant proposes to construct on-site dry wells and/or storm water retention pond systems. A stormwater retention lawn area is indicated on the easternmost portion of the property. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing County erosion and sedimentation control regulations as well as standard construction practices, and additional conditions proposed in this permit.

All other utilities are available to the site. Police and fire stations are in close proximity to the property. Hilo Medical Center is located less than one mile from the site.

The subject request is not contrary to Chapter 205A, Hawaii Revised Statutes, relating to Coastal Zone Management Area. The property is not located in the Special

Management Area. There 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. Thus, the proposed request and use of the properties will not adversely impact those resources. An Archaeological Assessment Survey for TMK: 3-2-3-36: 19 was conducted by Rechtman Consulting, LLC in January 2004 (Exhibit E within the application). No archaeological resources were discovered in the area. The survey concluded that the development will not adversely affect any historic properties, and no further work is required prior to construction. By letter dated February 17, 2004, the DLNR-HPD has stated that "we believe that the archaeological assessment of the proposed project area was adequate...your report meets with our approval, and we believe no further archaeological work is needed."

A Survey of Avian, Terrestrial Mammalian and Botanical Resources was conducted in January 2004 by Rana Productions, Ltd. (Exhibit F within the application). The study concluded that "the history of continuous disturbance coupled with the site's lowland context suggests that the property has little value in terms of conserving native species. No impact on native plant species or habitat is expected to result from the continuation of human activity on the site."

There is no record of a designated public access to the shoreline or mountain areas that traverses the property. According to the Flood Insurance Rate Map (FIRM), the subject property is located in Zone "X", area outside of the 500-year flood plain. There are no valued cultural, historical or natural resources on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site. Thus, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

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: The Planning Commission has the following information from which it can determine the valued cultural, historical, and natural resources within the project area:

- An Archaeological Assessment Survey for TMK: 3-2-3-36:19 by Rechtman Consulting, LLC, January 2004 (Exhibit E in the application).

- *A Survey of Avian, Terrestrial Mammalian and Botanical Resources on the L.D.S. Kilauea/Kaumana Wards, Ponahawai Street Site, TMK: 2-3-36: 19*, by Rana Productions, Ltd., January, 2004 (Exhibit F in the application).

The valuable cultural, historical, and natural resources found in the project area:

According to the archaeological assessment by Rechtman Consulting, LLC, there are no archaeological resources in the area. The DLNR-HPD has concurred with the assessment. However, a condition will be included to require the applicant to notify the DLNR-HPD should any archaeological sites be encountered during the course of development. The avian and botanical survey by Rana Productions, Ltd. concluded that the property has little value in terms of conserving native species.

Possible adverse effect or impairment of valued resources: The proposed development will require site grading and grubbing, and construction of various improvements. Native plants could be destroyed by construction and ground alteration. The proposed development will also alter the existing fauna on the site.

Feasible actions to protect native Hawaiian rights: There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. Therefore, no action is necessary to protect these rights.

Based on the above, the construction of a church and related improvements would be compatible with the existing land uses and the physical and social environment of the area and would promote the effectiveness and objectives of the Zoning Code and General Plan. Approval of the request is subject to the following conditions. Should any of the 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 successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed development 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 Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway accesses and parking stalls associated with the proposed development. Landscaping shall be included on the 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. All driveway connections to Ponahawai Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
4. A drainage study of the subject property, if required, shall be prepared and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
5. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
6. 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. The applicant shall abandon the septic system and connect to the County sewer line along Ponahawai Street when available.
7. 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.
8. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
9. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this permit. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
10. The applicant shall comply with all other applicable laws, rules, regulations and requirements of affected agencies for development of the proposed project, including the Department of Public Works and Department of Water Supply.

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. 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 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).

12. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

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
Rodney Haraga, Director/DOT-Highways, Honolulu
Edmond Akiona-Architect

by Leonard Tanaka 4/19/04