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# 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

JUL 14 2016

Mr. Roy Cornella
815 Ko'ele Street
Hilo, HI 96720

Dear Mr. Cornella:

**SUBJECT: Use Permit No. 202 (Docket No. 04-000004)**
**Applicant: Berean Bible Church (formerly Louis and Helena Deetman)**
**Request: Amendment to Condition No. 2 (Remove 50-foot "No Construction" Setback from all Property Lines) in Order to Construct Five 400-Square Foot Structures Within the Minimum 50-Foot Setback**
**Tax Map Key: 2-2-051:009**

The Windward Planning Commission, at its duly held public hearing on July 7, 2016, voted to approve the above-referenced request to amend Condition No. 2 of Use Permit No. 202 removing the requirement for a 50-foot minimum building setback from all property lines in order to accommodate the construction of five (5) 400-square foot structures within the minimum 50-foot building setback area. The project site is located along the south side of Lama Street, approximately 660 feet east of its intersection with Awa Street, Pana'ewa House Lots, Waiākea, South Hilo, Hawai'i.

Approval of this amendment is subject to the following conditions:

1. The applicants, its successor or assigns shall be responsible for complying with all stated conditions of approval.

2. Construction of the proposed development, as substantially represented by the applicant, shall be completed within five (5) years from the effective date this amended 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), Hawai'i County Code. Plans shall identify existing and proposed structures, interior driveway circulation, fire protection measures and paved parking stalls associated with the proposed church facilities. Plans shall also include detailed landscaping



JUL 14 2016

plans with sufficient landscaping elements along the perimeter of the subject property to provide reasonable visual and noise buffers from the adjacent properties and Lama Street. Parking shall comply with the requirements of Chapter 25 (Zoning Code).

3. Should the applicant extend water to any of the new structures, they shall submit water usage calculations to the Department of Water Supply (DWS) that include the total estimated daily water usage in gallons per day and the estimated peak flow in gallons per minute for the church, prepared by a professional engineer licensed in the State of Hawai'i. The water usage calculations shall ensure, to the satisfaction of DWS, that average daily water usage by the church will not exceed the maximum water allocation as determined by the DWS.

4. The applicant shall provide additional fire protection measures, if required, meeting with the approval of the Fire Department prior to commencement of use of new structures.

5. As agreed to by the Applicant in order to minimize the potential for excessive noise from affecting adjoining properties, live or recorded music and use of amplified devices shall be prohibited in any structure situated within 50 feet of any property boundary.

6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks 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-SHPD when it finds that sufficient mitigative measures have been taken.

7. The applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected government agencies including, but not limited to, the Department of Health, Department of Public Works-Building Division, the Department of Water Supply and Fire Department.

8. An initial extension of time for the performance of conditions within this 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, successor, 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 original reasons for granting of the permit.

C. Granting of the time extension would not be contrary to the General Plan or Zoning Code.

D. The time extension granted does not 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).

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.

*[Note: Ramseyer version available upon request.]*

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 Christian Kay of the Planning Department at 961-8136.

Sincerely,

Gregory Henkel, Chairman
Windward Planning Commission

LBereanbiblechurchamendUSE202wpc
Enclosure: PC Findings Report

cc w/enclosures: Berean Bible Church
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources - HPD
DOT Highways, Honolulu
GIS Section

# COUNTY OF HAWAI'I
## PLANNING COMMISSION FINDINGS

**BEREAN BIBLE CHURCH**
**AMENDMENT TO USE PERMIT NO. 202**

Based on the following considerations, an amendment to Condition No. 2 of Use Permit No. 202 to remove the requirement for a 50 foot minimum building setback from all property lines is approved.

BEREAN BIBLE CHURCH has submitted a request to amend Condition No. 2 of Use Permit No. 202 to remove the requirement for a 50 foot minimum building setback from all property lines in order to accommodate the construction of five (5) 400-square foot structures within the minimum 50-foot building setback area. Use Permit No. 202 was originally approved to allow the establishment of a church and related improvement on 2.73 acres of land situated within the Agricultural-3 acre (A-3a) zoning district. The property is located along the south side of Lama Street, approximately 660 feet east of its intersection with Awa street, Pana'ewa House Lots, Waiākea, South Hilo, Hawai'i, TMK: 2-2-051:009.

Use Permit No. 202 was originally approved to allow the establishment of a church and related improvements on 2.73 acres of land situated in the within the Agricultural-3 acre (A-3a) zoning district. Berean Bible Church has submitted a request to amend Condition No. 2 of Use Permit No. 202 to remove the requirement for a 50 foot minimum building setback from all property lines. Removing this setback requirement will accommodate the construction of five (5) 400 square-foot structures on the north side of the subject property, which will conform to the 20-foot side yard building setback as prescribed by the A-3a zoning designation. The proposed building nearest to Lama Street will be an open air pavilion. While the application indicated that it would be used as a rain shelter for children using a playground, follow-up conversations with the applicant revealed that it is likely that no playground will be built. The next building is proposed as a storage structure for grounds maintenance equipment, and the other three proposed buildings are planned for meeting space/classrooms which will be situated towards the rear of the property behind an existing single family dwelling. Removing the 50 foot minimum building setback from all property lines will provide space to develop the additional structures, three of which would more comfortable meeting space for the five (5) concurrent classes currently offered on Sundays.

**Granting of the amendment request would not be contrary to the original reasons for granting the permit and the request would not be contrary to the General Plan or the Zoning Code.**

Use Permit No. 202 was originally approved to allow the establishment of a 4,800 square foot church and related improvements on 2.73 acres of land situated in the within the Agricultural-3 acre (A-3a) zoning district. The applicant is requesting to amend Condition No. 2 of the Use Permit to remove the requirement for a 50-foot minimum building setback from all property lines. Removing this setback requirement will accommodate the construction of five (5) 400 square-foot structures on the north side of the subject property, which will conform to the 20-

foot side yard building setback as prescribed by the A-3a zoning designation. At the time the original Use Permit was granted (2004), the Planning Department routinely included similar setback conditions to use permits for churches in areas with residential potential using the following justification: *"The size of the property is adequate to allow buffers to minimize noise and visual impacts to neighboring residences...The 50-foot setback has been imposed on other church structures where nearby residences could be affected. The recommended setback would also accommodate for future increases in residential density in the areas surrounding the subject property, given the General Plan LUPAG map designation of Low Density Urban for the surrounding area."* The Planning Department no longer consistently adds this setback requirement on churches in areas with potential for residential use. Instead, the Department uses the Use Permit process to review projects on a case-by-case basis to identify and address potential impacts upon infrastructure, surrounding properties and existing uses.

The subject property is zoned Agricultural (A-3a), however it is located in an area of Hilo designated Urban by the State Land Use Commission and for Low Density Urban development by the General Plan. Developing additional structures, including an open air pavilion, storage structure and classroom/meeting space accessory to the Church use on the property is consistent with the purpose of the Zoning Code because churches are permitted in State Land Use Urban district and the Agricultural zoning district through the issuance of a Use Permit.

The five accessory structures will be developed in compliance with Zoning Code regulations related to building height, yard setbacks, off-street parking and landscaping. Additionally, a church and accessory structures is considered a community use that is ancillary to a residential area and therefore is consistent with the General Plan's LUPAG Map designation of Low Density Urban for this area of Hilo.

**The proposed amendment will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties.**

Surrounding properties are similarly zoned Agricultural 3-acre (A-3a). There is a permitted church located on the property to the west of the subject property (Tenrikyo Hilo Church). Directly to the east of the subject property are two vacant lots and the closest dwelling in that direction is over 300 feet from the nearest proposed meeting/classroom structure. To the south is the County's Mālama Park and a State owned, wooded area. To the north, across Lama Street are single-family dwellings, the closest of which is approximately 100 feet from the proposed open air pavilion.

As stated above, the purpose of the 50-foot building setback requirement was to mitigate the potential for noise and visual impacts upon surrounding properties. The Planning Department has verified that there have been no complaints by surrounding property owners since the original Use Permit was granted. In addition, the three classroom/meeting structures will be situated toward the rear of the property away from the single-family dwellings across Lama Street and behind the existing single family dwelling on the subject property. In order to mitigate noise and visual impacts, the applicant has indicated that there will be no music or amplified voices in the classroom/meeting structures. In addition, the applicant will plant a hedge of Hibiscus, Heliconia, Birds of Paradise, and other fast growing flowering plants/shrubs as a sound/visual barrier along the north side of the property. The applicant has planted a similar hedge on the south side of the property as a requirement of Plan Approval for the original Use Permit. The restriction of music and

amplified voices in the proposed structures and the installation of a landscaping noise/visual buffer will be conditions of approval for this amended permit. These measures, as well as the standard 20-foot side yard building setback will combine to mitigate any potential noise and/or visual impacts of the proposed structures on the surrounding properties.

**The granting of the proposed amendment will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure.**

Access to the property is from Lama Street, which has a pavement width of 20 feet within a 50-foot right-of-way. According to the applicant, the church conducts five (5) concurrent classes on Sunday mornings and the three (3) classroom/meeting structures are being proposed but to provide a more comfortable environment to hold multiple classes at a time for the existing congregation to and not to accommodate an increase in church membership. Therefore proposed development is not anticipated to generate a significant amount of additional traffic during weekday peak hours of travel. Additionally, the Department of Public Works Engineering Division had no concerns about increased traffic.

According to the Department of Water Supply (DWS), County water is available via an existing waterline within Lama Street fronting the subject property and that the property is serviced by at 5/8-inch water meter. DWS requested that the applicant provide estimated maximum daily water usage calculations for the proposed uses. Those calculations will be used to determine if the water system can accommodate the proposed demand. The applicant also installed a reduced pressure type backflow prevention assembly which was inspected and approved by DWS. Finally, DWS indicated that the existing 3-inch water line in Lama Street does not meet the 2,000-gpm fire flow requirement for the proposed use and that the applicant should contact the fire department to determine fire protection requirements. According to the applicant, the proposed structures will not be connected to a water supply of any kind and have written DWS to waive the water calculation requirement as the proposed structures would have no impact on water usage. A condition of approval will require water calculations should the applicant wish to extend water service to the proposed structures. The applicant will also be required to consult with the Fire Department to ensure compliance with fire protection requirements through the building permit process.

The proposed structures are not intended to be connected to the existing wastewater system, therefore there will be no impact on the existing Department of Health approved wastewater system. Police, fire and medical services are located nearby in Hilo. All other utilities are available to the site.

**The request is not contrary to Chapter 205A, Hawai'i Revised Statues, relating to Coastal Zone Management.** The property is not located in the Special Management Area and is not proximate to the shoreline; therefore it will not be impacted by coastal hazards and beach erosion. There is no record of a designated public access to the shoreline or mountain areas that traverses the property. No valued cultural, historical or natural resources exist 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.

Lastly, this approval is made with the understanding that the applicants remain 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, 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.