CERTIFIED MAIL

April 4, 1989

Rev. James Y. Sanbei
Big Island Baptist Association
2159-A Kinoole Street
Hilo, HI 96720

Dear Rev. Sanbei:

Amendments to Use Permit No. 59
Issued to Transcontinental Development Co.
Tax Map Key: 6-8-03:Portion of 32

The Planning Commission at its duly held public hearing on March 28, 1989, voted to approve an amendment to Use Permit No. 59 to allow the establishment of an interim day care facility on land within the Multiple Family Residential (RM) zoned district. The amendment will also allow the establishment of a church and related improvements on the property. The Commission also voted to approve the amendment to Condition No. 5 (life of permit) of the existing Use Permit. The property is located at Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

The proposed amendment to include the establishment of a church would still be consistent with the reasons originally used in granting the Use Permit which allowed the interim day care facility on the property. The granting of the church use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, and the General Plan. A church use, along with the day care facility, would be most appropriate as a needed facility to Waikoloa Village residents. The proposed site is conveniently serviced by all essential utilities and services. Thus, the granting of this request would be in the direction of fulfilling the land use policy of the General Plan which is to promote and encourage

APR - 4 1989

the utilization of urban areas which are serviced by basic community facilities and utilities. The establishment of a church facility would serve a growing need for such services, particularly for this area of the island. Further, from an impact standpoint, the introduction of a church facility into this multiple residential zoned area should not create any major physical, cultural, or social disruption.

The proposed church use also will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties. With the exception of surrounding vacant lands, the character of the area is urban in nature. The Waikoloa General Store, a golf course, residences, and the Waikoloa Villas and Hills projects are within the general vicinity of the project site. At the same time, it is felt that the project's considerable distance from Waikoloa Road and other adjacent land uses assures an adequate buffer to minimize associated negative impacts. The proposed site has been previously improved to accommodate construction offices, parking, and a recreational area. Minimal site work will be required to provide for the church and day care center. The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community, or region. This new church facility would be tailored to accommodate individual religious needs of the Waikoloa community.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police, and fire protection and other related infrastructure. The property is provided with all essential utilities and services. While traffic in this area will increase, it is expected to be quite negligible. This section of Waikoloa Road has a 120-foot wide right-of-way. It should be noted that no objections were raised by any of the cooperating agencies.

With regards to the request to amend Condition No. 5, this condition is amended to run concurrent with the lease agreement which the applicant has with the landowner.

Approval of this request is subject to the following conditions:

(Note: Bracketed material to be deleted. New material is underscored.):

1. The petitioner, successors or its assigns shall comply with all of the stated conditions of approval.

2. Plans, including striped parking, shall be submitted for Plan Approval review within one year from the effective date of [the Use Permit] <u>this amendment</u>.

3. Construction shall commence within one year from the date of receipt of Final Plan approval and be completed within two years thereafter.

4. Buildings shall conform to current Building and Fire Codes for occupancy type.

5. The life of this Use Permit shall be for a period [of two years starting from the date of issuance of the Occupancy Permit] <u>running concurrently with the terms of the lease agreement between the applicant and the landowner</u>.

6. Comply with all other applicable laws, rules, regulations, and requirements, including those of the State Department of Health and the Department of Public Works.

7. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

8. An 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; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

Gary Mizuno
Chairman, Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
Transcontinental Development Co.

bcc: Plan Approval Section