County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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October 20, 2008

Mr. Jeffrey Melrose
Island Planning
1405 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Melrose:

Use Permit (USE 120)
Applicant: Puna Congregational Christian Church
Request: Amendment to Use Permit No. 120 – Condition Nos. 4 (Time Extension), 5 (Master Plan, 6 (Delete Second Driveway), 12 (Allow Future Administration Time Extension)
Tax Map Key: 1-6-3:95

The Planning Commission at its duly held public hearing on October 3, 2008, voted to partially approve the above-referenced request for an amendment to Use Permit No. 120, which allowed the development of a church and related uses on 4.9 acres of land within the Single Family Residential – 10,000 square feet (RS-10) district. The amendment request is to delete certain uses and activities which were previously granted, and to allow amendments to Condition Nos. 4 (time extension – construction time requirement), 5 (revision to original plans), 6 (deletion of second driveway access), and 12 (allow additional administrative time extensions).

The amendment request for Condition No. 5 (revision to original plans) includes the removal of the (1) hostel use, (2) parsonage residential use, (3) K-12 school use, and associated requirement to install a second driveway access to the property; and (4) the minor relocation of structures identified on the revised master plan. Several structures and uses, including a future sanctuary structure, a future classroom/office for youth ministry and related uses, and future recreational/multipurpose structure, were added to the revised master plan. Although the future K-12 school use is deleted by this permit amendment, the applicant is allowed by this permit to have educational uses and programs with up to 40 students on the entire premises at any time. However, the request to amend Condition No. 12 (allow additional administrative time extensions) is denied.

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The property is located along the southeast side of the Old Volcano Road, in close proximity to the Keaau Town Center, Keaau, Puna, Hawaii.

The partial approval of this request is based on the following:

Use Permit No. 120 was originally approved on January 20, 1994, to allow the establishment of a church with school, temporary hostel-type housings, residences and a recreation center on 4.949 acres of land in the RS-10 zoned district. The project was represented to be constructed in 6 phases within a fifteen-year period.

The applicant is requesting the deletion of the following uses from the Special Permit:

- Removal of the hostel use
- Removal of the parsonage residential use
- Remove of the K-12 School Use.

The applicant is submitting a revised master plan in which several structures are relocated. The following is a summary of permitted uses under this amended Special Permit:

- The existing structures and uses, including the multi-purpose building, classroom building, pavilion and gazebo.
- Future 2-story sanctuary building
- Future classroom/office building for youth ministry and related uses
- Future recreational/multipurpose building
- Parking improvements.

The applicant has submitted a request to amend several conditions of Use Permit No. 120. These include:

- Condition No. 4 (time to complete construction): The applicant is requesting a 15-year time extension to complete construction of the project. Several components of the project have been completed but more time is needed to complete construction.

- Condition No. 5 (revision to original plans): This condition required that the project be completed in substantial compliance with the representations made before the Planning Commission. The applicant has submitted a request to delete certain uses and activities previously represented and granted, which is addressed in the submittal of a revised master plan for the project.

- Condition No. 6 (requirement for second driveway access): As part of the revised master plan, the applicant is removing the request to construct a school for elementary to high school students. Condition No. 6 required that a second access be constructed prior to the issuance of a certificate of occupancy for the school. As the school is no longer part of the project, the applicant is requesting that Condition No. 6 be revised to delete the requirement of the second access.

- Condition No. 12 (administrative time extension): The applicant is requesting that Condition No. 12 be amended to allow an administrative time extension for Condition No. 4. Currently, Condition No. 12 does not allow for an administrative time extension for Condition No. 4. This will allow the applicant to request an administrative time extension for an additional 15 years to complete construction if the project is not completed rather than having to return to the Planning Commission for an additional time extension in 15 years.

The Planning Director is supportive of the amendment requests for the 15-year time extension to complete construction (Condition No. 4), to revise the master plan of the project (Condition No. 5), and to delete the requirement of the additional access since the applicant no longer plans to construct the K-12 grade school on the property (Condition No. 6).

The Planning Director is not in favor of allowing an administrative time extension for an additional 15 years (Condition No. 12). If the project is not completed the 15-year time period, the project should come back before the Planning Commission for review. The majority of large projects that have been granted permits have a 5-year construction time period with the allowance of an administrative time extension for an additional 5 years. If the project is not completed within the 10-year period, the applicant is required to go before the Planning Commission for all other additional time extensions. This project was originally granted a 15-year construction time period without the need to go back before the Planning Commission during that time period. The Planning Director understands that the means to secure financing for the construction of the church and related improvements comes from the donations of its members and that this process does take more time then commercial developments, but after 15 years the project should come back before the Planning Commission for review of its status and its compliance with conditions.

Granting of the amendment requests would not be contrary to the original reasons for the granting of the permit. The approval of the amendment requests will not be contrary to the original reasons for the granting of the permit. The use has not been materially detrimental to the public welfare nor cause substantial, adverse impact to the

community's character or to surrounding properties. Since the approval of the Use Permit, the Planning Department has not received any complaints regarding the operation from surrounding properties. The use has not adversely affected similar or related exiting uses within the surrounding area, community or region. Lastly, the continued operation will not unreasonably burden public agencies to provide roads and streets, water, drainage, and police and fire protection. The amended requests will actually reduce the overall project by deleting the K-12 grade school, the temporary hostel-type housings and the parsonage residential use.

Approval of the requests would not be contrary to the General Plan or the Zoning Code. The amendment requests would not be contrary to the General Plan or the Zoning Code. The request would continue to be consistent with the Land Use Elements of the General Plan. The granting of this request at this particular location will provide a needed service to the growing community. Lastly, the applicant has previously received approval of a Use Permit to allow a church with school, temporary hostel-type housings, residences and a recreation center on 4.949 acres of land in the RS-10 zoned district for a 15-year time period, in compliance with the Zoning Code.

Based on the above, the amendment request for Condition No. 12 of Use Permit No. 120 is denied, and the amendment request for Condition Nos. 4, 5, and 6 of Use Permit No. 120 is approved.

In summary, the following structures and uses are permitted under this amended Special Permit:

- The existing structures and uses, including the multi-purpose building, classroom building, pavilion, and gazebo.
- Future 2-story sanctuary building.
- Future classroom/office building for youth ministry and related uses.
- Future recreational/multipurpose building.
- Parking improvements.
- Educational use up to only 40 students on the entire premises.

Use Permit No. 120 is amended as follows: (new material is underscored and deleted material is bracketed and struck through):

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

2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of

the applicant, its successors or assign, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.

3. Final Plan Approval, pursuant to [~~Section 25-242~~]Sections 25-2-71(f), 25-2-72, 25-2-76 and 25-2-77 of the Zoning Code, for [~~each phase of~~] the church and its related improvements shall be secured from the Planning Director. Plans shall identify existing and proposed structures, fire protection measures, paved driveways and paved parking stalls (asphalt or asphalt-concrete), and landscaping associated with the proposed uses. Parking for all functions shall be maintained on the subject property and comply with the requirements of Chapter 25 (Zoning Code). Detailed landscaping plans shall include landscaping buffers along the perimeter boundaries of the project site. Plans shall also indicate a 5-foot road widening setback along the Volcano Road frontage of the subject property.

4. Construction of the proposed church complex shall be completed and all certificates of occupancy issued within fifteen (15) years from the effective date of this [~~Use Permit~~]amendment.

5. The applicant shall complete the proposed project in substantial compliance with the representations made before the Planning Commission. Any proposed changes contrary to this shall be submitted to the Planning Commission as an amendment to this permit.

6. All driveway accesses shall meet with the approval of the Department of Public Works. [~~A second access shall be constructed prior to the issuance of a certificate of occupancy for the school or Phase IV of the proposed development.~~]

7. The applicant shall provide fire protection standards meeting with the approval of the Fire Department.

8. Should an improvement district or similar arrangement be initiated in the future for curb, gutter, sidewalk, drainage and related improvements to the Old Volcano Road, the property owner(s) shall participate automatically in such an arrangement. Written assurance for implementation of this condition, in the form of a deed covenant, shall be submitted to the Planning Director prior to the start of construction for Phase I.

9. Should any unanticipated archaeological or cultural sites or features be uncovered during land preparation activities, work with the affected area shall immediately cease and the Planning Director notified. No work within the affected area shall resume until clearance is obtained from the Planning Director.

10. [~~All other applicable laws, rules, regulations and requirements shall be complied with, including the Department of Health, Department of Water Supply and Department of Public Works~~]The applicant shall comply with all applicable laws, rules and regulations of the State, County and Federal agencies.

11. The applicant shall submit a status report, in writing to the Planning Director every three (3) years from the effective date of this [~~permit~~]amendment.

12. [~~An extension of time for the performance of conditions of the permit, with the exception of Condition No. 4, may be granted by the Planning Director upon the following circumstances:~~
    ~~1) 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.~~
    ~~2) granting of the time extension would not be contrary to the General Plan or Zoning Code.~~
    ~~3) granting of the time extension would not be contrary to the original reasons for the granting of the permit.~~
    ~~4) 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).~~]If the applicant should require an additional extension of time, the applicant shall submit the request to the Planning Commission for appropriate action.

    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.

This approval does not, however, sanction the specific plans submitted with the request 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,

Rodney Watanabe, Chairman
Planning Commission

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cc: Puna Congregational Church
Department of Public Works
Department of Water Supply
County Real Property Tax Division
DOT-Highways, Honolulu