



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. SP87-364
)	
KAHILI ADVENTIST SCHOOL)	DECISION AND ORDER
)	APPROVING AMENDMENT
For An Amendment To The Special Use)	TO SPECIAL USE PERMIT
Permit Which Establishes A Church,)	
School, And Related Uses On)	
Approximately 195.673 Acres Of Land)	
Within The Agricultural District, Koloa,)	
Kaua`i, Hawai`i, Tax Map Key: 2-7-01:)	
Por. 3)	
_____)	

DECISION AND ORDER APPROVING AMENDMENT
TO SPECIAL USE PERMIT

This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawai`i.

April 26, 2010 by


Executive Officer



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DECISION AND ORDER APPROVING AMENDMENT
TO SPECIAL USE PERMIT

On November 25, 2009, Gregg Kamm, authorized agent for Kahili Adventist School ("Applicant"), filed a request to amend Condition Numbers 1 and 2 of County Special Permit SP-87-13¹ with the County of Kaua`i Planning Department, pursuant to section 205-6, Hawai`i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai`i Administrative Rules ("HAR").

¹ The Land Use Commission ("LUC") had previously designated the special use permit as LUC Docket No. SP87-364 when it initially considered the establishment of the church, school and related uses on the subject property in 1987.

The LUC has jurisdiction over the Applicant's request. Section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, authorize the LUC to approve special use permits and amendments thereto for areas greater than 15 acres.

On January 26, 2010, the County of Kaua'i Planning Commission ("Planning Commission") conducted a hearing on the Applicant's request. There was no public testimony provided on the request. After due deliberation, the Planning Commission recommended approval of the following amendments to Condition Numbers 1, 2, and 3:

1. Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property, as may be required by the Fire Department, Water Department, and/or the Department of Public Works.
2. The applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. and adjacent drainage ditches to ensure their drainage function. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways and drainage ditches, from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The applicant shall conduct a Traffic Operational Analysis at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park and submit said report to SDOT-Highways one month prior to December 2014. Thereafter, a TOA shall be conducted every five years and be submitted to SDOT-Highways in order to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis.

On March 1, 2010, the LUC received copies of the Planning Commission's decision and the complete record on the Applicant's request.

On April 9, 2010, by videoconference, commissioner and presiding officer Thomas Contrades conducted a hearing to consider the Applicant's request in the video conference room at the Lihue Airport, Kaua'i, Hawai'i, and at the Kalanimoku Building, Room B10, in Honolulu, Hawai'i. Mark Valencia, Esq.; Greg Kamm; and Rob Lloyd appeared on behalf of the Applicant. Ian Jung, Esq., appeared on behalf of the County of Kaua'i. Bryan C. Yee, Esq., and Abe Mitsuda were also present on behalf of the State Office of Planning ("OP"). At the meeting, the Applicant apprised the LUC of the existing uses and facilities on the subject property

The OP expressed support for the proposed amendments to the special use permit. The OP requested that the Traffic Operational Analysis ("TOA") referenced in Condition Number 3 also be approved by the State Department of Transportation ("DOT"). The OP further recommended that a time limit be imposed for the duration of the special use permit with the possibility of a time extension. In response to the OP's comments, the Applicant noted that while a time limit on the expansion of existing or otherwise previously approved uses is appropriate, the Applicant built the school and cabins based on the permits issued at that time, and therefore they should be allowed to continue.

The Applicant also pointed out the ongoing agricultural activities on the subject property. Finally, the Applicant noted that it had approximately 36 years remaining on the lease with the landlord.

Upon questioning by the LUC, the Applicant stated that it had no objections to the OP's proposed amendment to Condition Number 3 requiring DOT approval of the TOA and to an additional condition requiring the Applicant to file annual reports.

The County of Kaua'i also had no objection to the proposed amendment to Condition Number 3.

Upon questioning by the LUC, Raymond J. McCormick, District Engineer, DOT, provided additional information to clarify the status of the roadway improvements in the vicinity of the subject property.

Thereafter, a motion was made and seconded to amend Condition Numbers 1, 2, 3, and 8, and to add an additional condition as follows:

1. Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property.
2. The Applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The Applicant shall conduct a Traffic Operational Analysis as approved by the DOT at the intersection of Kaumuali'i Highway

and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The Applicant shall be required to pay for and construct all improvements recommended by the analysis.

8. The Applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

13. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the Land Use Commission and the County of Kaua'i Planning Department in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Following deliberation by the Commissioners, a vote was taken on the motion. There being a vote tally of 6 ayes, 0 nays, and 3 absent, the motion carried.

ORDER

The LUC, having duly considered the complete record of the Applicant's request and the oral arguments presented in this matter, and a motion having been made at a video teleconference meeting on April 9, 2010, in the video conference room at the Līhu'e Airport, Kaua'i, Hawai'i, and at the Kalanimoku Building, Room B10, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

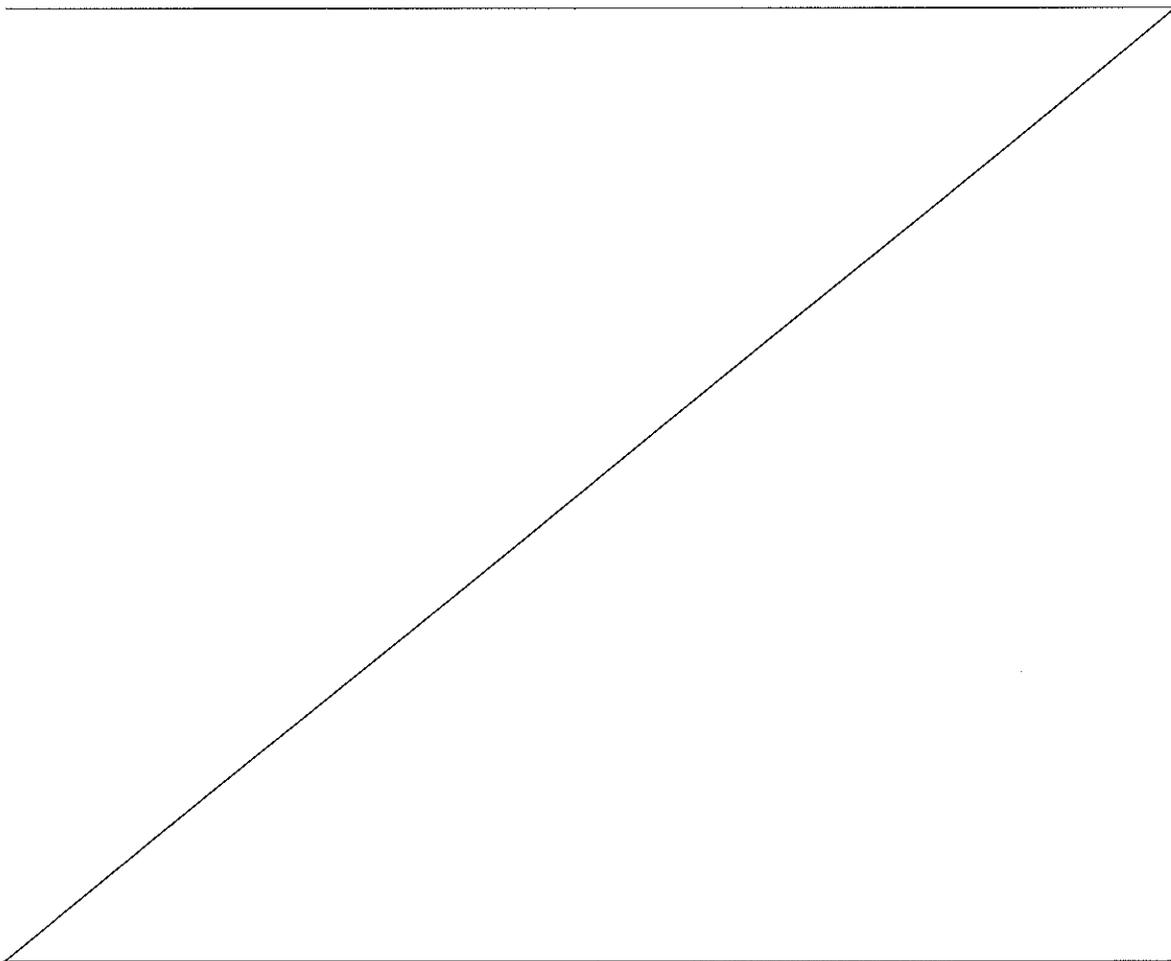
HEREBY ORDERS that the Applicant's request to amend the special use permit to establish a church, school, and related uses on approximately 195.673 acres of land² within the State Land Use Agricultural District, Koloa, Kaua'i, Hawai'i, identified as Tax Map Key: 2-7-01: por. 3, be APPROVED, subject to the following conditions:

1. Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property.
2. The Applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The Applicant shall conduct a Traffic Operational Analysis as approved by the DOT at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The Applicant shall be required to pay for and construct all improvements recommended by the analysis.
8. The Applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

² Tax Map Key: 2-7-01: 3 consists of approximately 197.463 acres. At the time the LUC initially considered the special use permit in 1987, it was believed that approximately 1.79 acres of the parcel was designated within the State Land Use Conservation District, and therefore was specifically excluded from the special use permit. Pursuant to Boundary Interpretation No. 08-18 dated September 22, 2009, the LUC staff subsequently determined that the parcel (Lot 396) is entirely designated within the State Land Use Agricultural District.

13. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the Land Use Commission and the County of Kaua'i Planning Department in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

All other conditions to the Findings Of Fact, Conclusions Of Law, And Decision And Order dated July 17, 1990, are hereby reaffirmed and shall continue in effect.



Done at Honolulu, Hawai'i, this 26th, day of April, 2010, per motion on
April 9.

LAND USE COMMISSION

APPROVED AS TO FORM

Diane Luckin
Deputy Attorney General

STATE OF HAWAII

By 
RANSOM PILTZ
Chairperson and Commissioner

By 
VLADIMIR PAUL DEVENS
Vice- Chairperson and Commissioner

By 
REUBEN S.F. WONG
Vice- Chairperson and Commissioner

By 
KYLE CHOCK
Commissioner

By 
THOMAS CONTRADES
Commissioner

By (absent)
LISA JUDGE
Commissioner

By 
DUANE KANUHA
Commissioner

Filed and effective on:

April 26, 2010

By (absent)
NORMAND LEZY
Commissioner

Certified by:


ORLANDO DAVIDSON
Executive Officer

By (absent)
NICHOLAS W. TEVES JR.
Commissioner



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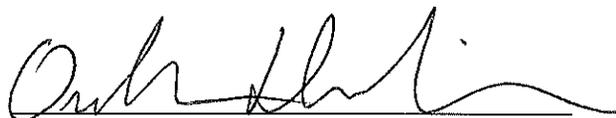
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order granting Petition For An Amendment to the Special Use Permit Which Establishes A Church School and Related Uses was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
ABBEY SETH MAYER, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawaii 96813	X		

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawaii 96813		X	
Ian Costa, Director County of Kauai Planning Dept. 4444 Rice Street, Suite A473 Lihue, Hawaii 96766		X	
LANI NAKAZAWA, Esq. Corporation Counsel County of Kauai 4444 Rice Street, Suite 220 Kauai, Hawaii 96766		X	
MARK VALENCIA, Esq. Case Lombardi & Pettie Pacific Guardian Center 737 Bishop St. #2600 Honolulu, Hawaii 9681			X

Honolulu, Hawai'i, April 26, 2010.


ORLANDO DAVIDSON