

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

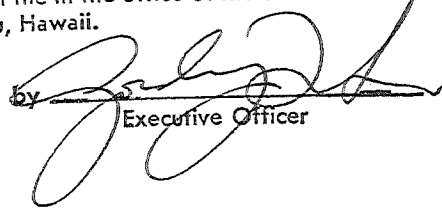
In the Matter of the)
Petition for Special Permit)
of HENRY OPUKAHAIA)
SCHOOL)
_____)

SP79-334

HENRY OPUKAHAIA SCHOOL

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

JUN 1 1979
Date

by 
Executive Officer

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the) SP79-334
Petition for Special Permit)
of HENRY OPUKAHAIA) FINDINGS OF FACT,
SCHOOL) CONCLUSIONS OF LAW AND
) DECISION AND ORDER
)
_____)

The Land Use Commission of the State of Hawaii,
having duly considered the entire record in the above entitled
matter, makes the following findings of fact and conclusions
of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by HENRY OPUKAHAIA SCHOOL to allow the establishment of a private school on approximately ten (10) acres of land situated within the State Land Use Agricultural District at Keaau, Puna, Hawaii, Tax Map Key 1-6-04: portion of 11 (new Tax Map Key: 1-6-04: 53).
2. The subject property is located off the southwestern side of the Keaau-Pahoa Road, in the vicinity of the Humane Society Compound and the County Rubbish Dump.
3. The proposed school is to include four (4) classroom buildings, a multi-purpose building including offices, a gymnasium, a track and game field and other related improvements. The school would serve students from pre-school through high school.
4. The granting of this permit would allow the existing Henry Opukahaia School in Hilo to be relocated to the Keaau area.

5. The Petitioner had been previously granted a Special Permit for the proposed use by the Land Use Commission on May 1, 1975. However, the Petitioner's failure to comply with a stipulated time condition resulted in the expiration of the permit.

6. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the area as Orchards. The County's Zoning designation is Agricultural - 20 acres (A-20a).

7. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "E" or "Very Poor" for the subject site.

8. The site is not designated as Agricultural Lands of Importance to the State of Hawaii by the State Department of Agriculture.

9. The subject property is presently vacant of any use. Surrounding lands uses include the Keaau Solid Waste Transfer Station, the Hawaii Island Humane Society Compound, the Girl Scout Service Center, the proposed fraternal home of the Fraternal Order of Eagles, and vacant lands. Two (2) single family dwellings are situated adjacent to the subject area along the Keaau-Pahoa Road.

10. Access to the site is proposed to be off the Keaau-Pahoa Road via the Girl Scout Services Center access road which has a 20-foot pavement width.

11. The Petitioner has in part stated that the proposed use would not adversely affect surrounding property nor unreasonably burden public agencies to provide services and facilities.

12. The State Department of Transportation noted that access to the property would be limited to the common access roadway along the easterly boundary.

13. The Department of Water Supply commented that water is available from an 8-inch waterline along the Keaau-Pahoa Road.

14. The U.S.D.A. Soil Conservation Service noted that no soil or water problems are anticipated at the subject site.

15. The State Health Department has cited applicable health regulations to which the petitioner must comply.

16. Other cooperating agencies including the County Fire Department, Department of Public Works, Police Department, Department of Parks and Recreation, State Department of Agriculture, Department of Education and Hawaii Electric Light Co., Ltd., had no objections to the permit application.

17. The Hawaii County Planning Department has recommended approval of the application for Special Permit.

18. The Hawaii County Planning Commission conducted a public hearing on the application for Special Permit on November 30, 1978. Two (2) representatives of the Petitioner were the only persons to testify concerning the Special Permit at that time.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in an Agricultural District may be permitted by Special Permit pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the subject request will be consistent with the Land Use Law and Regulations. The intent of the Land Use Law and Regulations is to preserve, protect, and encourage the development of lands in the State for those

uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The Land Use Regulations state that lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils and other related characteristics may be included in the Agricultural District. The area under consideration consists primarily of pahoehoe lava. The Land Study Bureau has classified this land as "E" or "Very Poor". Further, the property in question is not designated as Unique, Important or Other Important Land under the Lands of Agricultural Importance to the State of Hawaii classification system. Although there may be certain agricultural activities which could be undertaken on the subject property, it is determined that the requested use will not be detrimental to the island's agricultural resource base nor will it have an adverse impact on the overall agricultural activity of the region and the island.

3. The proposed use will not unreasonably burden public agencies to provide additional facilities and services. All essential utilities and services are available to the subject area. Although some increase in the need for services may be generated by the proposed use, it is not expected that the increase will be of a substantial nature. In addition, the establishment of the proposed school will aid some public agencies by relieving them of providing certain services. As presented earlier, the proposed school will alleviate some of the pressure on public schools in the area brought about by an increase in population. Other public services such as school transportation which are provided by the government will probably

be undertaken by the petitioner. Further, there are no known problems with the access road, water, or drainage which would require government to provide these additional services.

4. The proposed use will not adversely affect the surrounding properties. The proposed school site is a 10-acre portion of a parcel containing more than 1,000 acres. Surrounding uses include some sugarcane fields, the Hawaii Island Humane Society, the Kea'au Solid Waste Transfer Station site, the Girl Scout Services Center, the recently approved Fraternal Order of Eagles complex and vacant lands. The proposed school use is not anticipated to adversely affect these uses.

5. The use described in the Petition is an unusual and reasonable use pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 79-334 for the establishment of a private school on approximately ten (10) acres of land situated within the State Land Use Agricultural District at Keaau, Puna, Hawaii, Tax Map Key 1-6-04: portion of 11 (new Tax Map Key 1-6-04: 53), be approved subject to the following conditions:

1. That the landowner or the petitioner shall submit subdivision plans for the 10-acre area and secure tentative approval within one (1) year from the effective date of approval of the Special Permit. The landowner/petitioner shall also be responsible for securing final subdivision approval. Further, the minimum area of the lot shall be ten (10) acres.

2. That the petitioner or its authorized representative shall submit plans for plan approval within one (1) year from the

date of receipt of final subdivision approval. The petitioner/representative shall also be responsible for securing final plan approval.

3. That construction of the proposed facility shall commence within one (1) year from the date of receipt of final plan approval and be completed within two (2) years thereafter.

4. That no direct access will be allowed from the Keaau- Pahoa Road. Access shall be from the existing 80-foot common access roadway located along the easterly boundary.

5. That all other applicable rules, regulations and requirements, including those of the State Department of Health and the County Department of Water Supply shall be complied with.

6. Failure to comply with any of the delineated conditions of approval, particularly those relating to time commencement and expiration, shall be reason for termination of the Special Permit, unless an extension is requested prior to the expiration date and approved.

DATED: Honolulu, Hawaii, May 30, 1979.

LAND USE COMMISSION

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Myasato
SHINSEI MYASATO
Commissioner

By *Mitsuo Oura*
MITSUO OURA
Commissioner

By *George R. Pascua*
GEORGE R. PASCUA
Commissioner

By *Carol B. Whitesell*
CAROL B. WHITESELL
Commissioner

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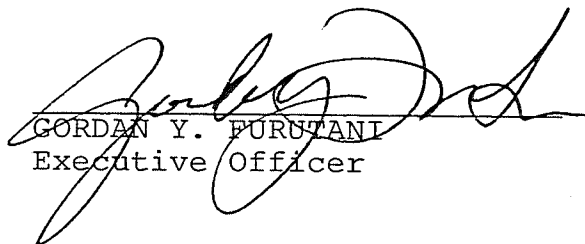
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's Decision and Order was served upon the follow-
ing by certified mail:

SIDNEY FUKE, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

TERRY OVERSTREET, Principal
The Henry Opukahaia School
P. O. Box 1717
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 1st day of June, 1979.


GORDAN Y. FURUTANI
Executive Officer