

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit of) SP80-348
MALAMALAMA SCHOOL, INC.)
_____)

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition) SP80-348
for Special Permit of)
MALAMALAMA SCHOOL, INC.) FINDINGS OF FACT, 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 on December 2, 1980 at 9:00 a.m. of the
Kahului Library, Kahului, Maui, makes the following findings
of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS AND DESCRIPTION OF THE SUBJECT PROPERTY

1. The Petition for Special Permit was filed by MALAMALAMA SCHOOL, INC. pursuant to Section 205-6, Hawaii Revised Statutes and Rule 6 of the Hawaii County Planning Commission Rules relating to Administrative Procedure, to allow the establishment of a private educational facility on approximately twenty (20) acres of land situated within the State Land Use Agricultural District at Keaau, Puna, Hawaii; Tax Map Key 1-5-19: 22.
2. The subdivision in which the subject property is located consists of more than 8,000 lots, most of them approximately one (1) acre in size. The predominant County zoning in the area is Agriculture-1 acre.
3. A majority of the lots in the subdivision are vacant, but approximately 500 single family dwellings are scattered throughout, and more are being constructed such that the area is rapidly becoming more of a rural/residential neighborhood.

4. The Hawaii County Planning Commission opened a public hearing on the subject Special Permit petition on September 11, 1980. The Petitioner was represented by David Gradwohl, its President, and Aza Summers, its consulting architect. The County Planning Department was represented by Duane Kanuha, Deputy Planning Director, and Staff Planner Brian Nishimura.

5. The County Planning Department recommended denial of the request, citing concerns for student safety due to limited driver sight distances and inadequate shoulder space for pedestrian thoroughfare along roadways; and the lack of a public water system to handle fire emergencies.

6. Two persons testified in favor of approving the Special Permit: Cindy Holmes, current president of the community association Paradise Hui Hanalike; and Michael Greenlot, a school teacher familiar with the Waldorf education system.

7. Discussion on the subject petition by the County Planning Commission was continued to meetings on September 29 and October 15, 1980.

8. On October 15, 1980, the Hawaii County Planning Commission voted to make a recommendation to the Land Use Commission for approval of the subject Special Permit, subject to conditions aimed at alleviating the safety concerns underscored by the Planning staff.

9. The subject property is located within the Hawaiian Paradise Park Subdivision, on the northwest side of Makuu Drive between 26th and 27th Streets, approximately 0.8 of a mile makai of the Pahoia Road-Makuu Drive intersection. It is rectangular in shape, and is presently unimproved and overgrown with shrubs and trees.

PROPOSED USE

10. Petitioner proposes to develop the educational facility over a number of years to eventually service students from pre-school through high school. According to a schematic plan submitted by the Petitioner, the project will include play fields, tennis courts, a gymnasium, orchards, amphitheater, faculty residences, offices, parking lots, and separate structures for the pre-school, grade school and high school.

11. The Petitioner, Malamalama School, Inc. was incorporated in January 1979 under the laws of the State of Hawaii and is a legal non-profit, tax-exempt organization.

12. The school is affiliated with the Association of Waldorf Schools, an independent international school system based on the educational concepts of Rudolph Steiner, a prominent philosopher, scientist and educator of the early 1900's.

13. The policy of the School is to welcome students of any denomination, race, color, national or ethnic origin.

14. Malamalama School, Inc. has leased the subject property for 99 years from the fee simple owner, Paradise Hui Hanalike, the subdivision's community association.

STATE AND COUNTY PLANS

15. The subject 20-acre parcel is zoned "Open" by the County, and is also designated as "Open" in the general plan. The parcel is designated as a park site in the final subdivision plan approved for the Hawaiian Paradise Park Subdivision.

16. The Soil Conservation Service lists the soils on the site as pahoehoe lava. The Land Study Bureau's overall rating for the area is Class "E," or "Very Poor" for agricultural productivity. The subject property is not

included in the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

PUBLIC SERVICES AND FACILITIES

17. Access to the subject property would be from frontage along Makuu Drive which has a 60-foot right-of-way with a pavement width of 20 feet; 26th and 27th Streets which have 40-foot wide rights-of-way and 16-foot wide gravel surfaces, are available for secondary access.

18. Public electrical and telephone services are available at the subject site.

19. The County Department of Public Works noted that the roads in Paradise Park are privately owned and not up to County standards. They further commented that there might be areas where the sight distances are inadequate.

20. The County Department of Research and Development made note of the substantial growth in population of the Puna district, an increase of 6,564 persons or a 127.4% increase since the 1970 census.

21. The County Fire Department commented that fire stations at Keaau and Pahoia would respond to any alarms involving the subject property, but that they would need to rely on water from private tanks.

22. There is no public water system in the area of the proposed project. The Petitioner would develop a system of water catchment and storage to satisfy all requirements. Rainfall in the area averages 200 inches per year.

23. The State Department of Health requires that sanitary, sewage, and food service facilities must all conform to Public Health Regulations.

24. The State Department of Education has no objection to the proposed project.

25. Other agencies cooperating in the review of the subject permit request had no objections to the proposed use.

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 Chapter 205-6, Hawaii Revised Statutes, and State Land Use Commission District Regulations, Part V.

2. The proposed use will not be contrary to the objectives sought to be accomplished by the State 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. The Land Study Bureau has classified the subject land as "E" or "Very Poor" for agricultural productivity. 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 agricultural resource base of the County, and of the State of Hawaii.

3. The proposed use will not adversely affect surrounding properties. The subject property is twenty (20) acres in size, rectangular in shape, and bounded by roadways on three sides. Although the subdivision in which the subject property is located is designated Agricultural, most of the other lots are approximately one (1) acre in size, and the rate of single family dwelling construction is fast transforming the area into more of a rural/residential neighborhood.

The establishment of a school in such an area should not pose a conflict.

4. The proposed use will not unreasonably burden public agencies to provide additional facilities and services. Although concerns were expressed regarding the adequacy of existing roadways and the lack of a public water system, these concerns can be mitigated. In addition, the establishment of the proposed school will relieve some public agencies of providing these services.

5. Unusual conditions, trends and needs have arisen since the District Boundaries and Regulations were established which justify the granting of this particular special permit request. As evidenced by 1980 Census figures, the Puna District has experienced a rapid growth in population. Establishment of the proposed school on the subject property will provide additional education opportunities for children in the Puna and Hilo areas, and will alleviate some of the pressures on the public school system.

6. The use described in the petition is in the public interest, and is an unusual and reasonable use pursuant to HRS Section 205-6, and State Land Use Commission District Regulations, Part V.

DECISION AND ORDER


IT IS HEREBY ORDERED that Special Permit Number 80-348 for the establishment of an educational facility by MALAMALAMA SCHOOL, INC., on approximately twenty (20) acres of land situated within the State Land Use Agricultural District at Keeau, Puna, Hawaii, Tax Map Key 1-5-19: 22 be and is hereby approved subject to the following conditions:

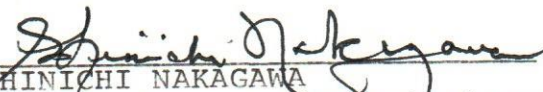
1. That the Petitioner or its authorized representative submit plans for and secure plan approval within one (1) year from the effective date of the Special Permit.
2. That construction of the proposed administration, pre-school, and elementary school buildings shall commence within one (1) year from the date of receipt of final plan approval and be completed within three (3) years thereafter.
3. That improvements relative to sight distance, shoulders, etc., shall be made to Makuu Drive meeting with the approval of the Department of Public Works.
4. That should access(es) be provided from 26th and 27th Streets, these roadways shall be improved with a 20-foot pavement with adequate shoulders from Makuu Drive to the driveway access(es) meeting with the approval of the Department of Public Works.
5. That a water tank, using the standards of the Department of Water Supply, shall be constructed and made operable prior to the issuance of occupancy permit for each building.
6. That occupancy permits shall not be issued until such time that condition nos. 3, 4, and 5 and complied with.
7. That the requirements of the State Department of Health be complied with.
8. That all other applicable rules, regulations and requirements be complied with.

DATED: Honolulu, Hawaii, February 19, 1981.

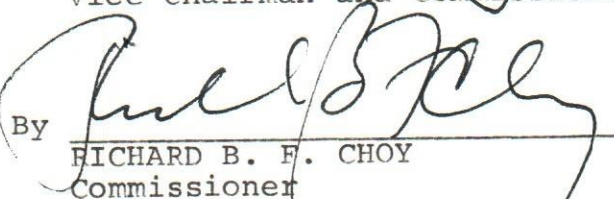
LAND USE COMMISSION

By 
 C. W. DUKE
 Chairman and Commissioner

By 
 MITSUO OURA
 Commissioner

By 
 SHINICHI NAKAGAWA
 Vice Chairman and Commissioner

By 
 CAROL WHITESELL
 Commissioner

By 
 RICHARD B. F. CHOY
 Commissioner

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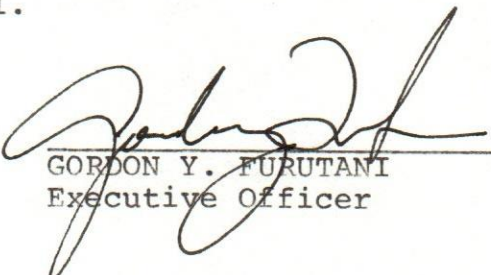
CERTIFICATE OF SERVICE

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

SIDNEY FUKU, Planning Director
County of Hawaii Planning Department
75 Aupuni Street
Hilo, Hawaii 96720

DAVID GRADWOHL, President
Malamalama School, Inc.
P. O. Box 1045
Pahoa, Hawaii 96778

DATED: Honolulu, Hawaii, this 19th day of
February, 1981.



GORDON Y. FURUTANI
Executive Officer