

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of the )  
)  
DEPARTMENT OF ACCOUNTING AND )  
GENERAL SERVICES - HAWAII ARMY )  
NATIONAL GUARD AND HAWAII AIR )  
NATIONAL GUARD )  
)  
To Construct A New Armory, Organizational )  
Maintenance Shop, Service, Storage, Parking, )  
And Helipad Improvements, Other Related )  
Improvements, And Future Spaces For A Post )  
Exchange And The Hawai'i Air National Guard )  
Facilities On Approximately 30 Acres Of Land )  
Within The State Land Use Agricultural District )  
At Pulehunui, Maui, Hawai'i, TMK No.: 3-8-08: )  
por. 1 )  
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DOCKET NO. SP01-394  
DECISION AND ORDER APPROVING  
SPECIAL USE PERMIT

LAND USE COMMISSION  
STATE OF HAWAII  
2001 OCT 30 A 9:40

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DECISION AND ORDER APPROVING SPECIAL USE PERMIT

On June 29, 2000, the Department of Accounting and General Services – Hawaii Army National Guard (“HIARNG”) and Hawaii Air National Guard (“HIANG”) (collectively “Applicant”) filed a Special Use Permit Application (“Application”) with the County of Maui Planning Department (“Planning Department”), pursuant to section 205-6, Hawaii Revised Statutes (“HRS”), and sections 15-15-95 and 15-15-96, Hawaii Administrative Rules. The Applicant proposes to establish a new armory, organizational maintenance shop (“OMS”), service, storage, parking, and helipad improvements, other related improvements, and future spaces for

a post exchange and the HIANG facilities ("Project") on approximately 30 acres of land within the State Land Use Agricultural District at Pulehunui, Maui, Hawai`i, identified as TMK No.: 3-8-08: por. 1 ("Property"). The Property is owned by the State of Hawai`i.<sup>1</sup>

On June 29, 2000, in conjunction with the Application, the Applicant filed a Conditional Permit Application with the Planning Department.<sup>2</sup>

On July 5, 2000, the County of Maui Department of Public Works and Waste Management certified the Application as complete and ready for processing.

On May 22, 2001, the County of Maui Planning Commission ("Planning Commission") conducted a hearing on the Application, pursuant to a public notice published in the Maui News on April 24, 2001. At the hearing, there was one public witness who provided testimony. After due deliberation, the Planning Commission recommended approval of the Application to the Land Use Commission ("Commission"), subject to 14 conditions.

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<sup>1</sup> On October 10, 1997, the Board of Land and Natural Resources approved the withdrawal of the Property from General Lease S-4197 and to set aside the Property by Governor's Executive Order to the HIARNG for armory and other related purposes.

<sup>2</sup> The intent of a Conditional Permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.



On July 19, 2001, the Commission received a copy of the decision and a portion of the record of the Planning Commission's proceedings on the Application. On August 27, 2001, the Commission received the remaining portion of the record.

The Commission has jurisdiction over the Application. Section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, authorize the Commission to approve special permits for areas greater than 15 acres where application for Commission approval is made within 60 days after the decision is rendered on the application to the Planning Commission

On October 4, 2001, the Commission met in Hilo, Hawai'i, to consider the Application. Colonels Richard Young, Vern Miyagi, Gary Hara, and Orlan Peterson, Richard Miyabara, Lance Maja, and Michael Munekiyo appeared on behalf of the Applicant. Richard Minatoya, Esq., and Julie Higa appeared on behalf of the Planning Department. At the meeting, the Applicant pointed out, among other things, that a 7-acre site for future HIANG uses will be provided on the Property.

#### Conformance With Special Use Permit Criteria

Following discussion by the Commissioners, a motion was made and seconded to grant the Application, subject to the conditions as recommended by the Planning Commission and to an additional condition that the Applicant shall appear before the Commission and report on the specific plans for the HIANG 7-acre site prior to commencement of construction on the site. The Commission found that i) The

Project is consistent with the uses established for the area by the Pu`unene Airport Master Plan and the Kihei-Makena Community Plan; ii) The Property was originally used for the military air operations during World War II. Since the war, the Property has been underutilized; iii) No agricultural production occurs on the Property; iv) The Project will not adversely impact any archaeological features on the Property, and there are no native Hawaiian remains located on the Property; v) There are no known sensitive habitats or rare, threatened or endangered species of flora and fauna on the Property or adjacent areas; vi) The Project will result in minimal construction-related impacts to air quality and noise levels. Flight tracks for approaching and departing helicopters will be formulated to avoid residential areas; vii) The Project will not detract from the existing scenic and open space resources of the surrounding environs; viii) The use of herbicides on the Property will generally be limited to the initial plan establishment period and used only as a treatment, not as a preventive measure. As a treatment, the Applicant expects application usage to be minimal. With proper irrigation management practices, the leaching of fertilizers that are applied to landscaped areas should be negligible. Adverse impacts on surface, underground, and marine water resources are not anticipated; ix) The Department of Health's Underground Injection Control line is located approximately one mile upslope of the master plan area. As such, the Property is not considered to be located over underground sources of potable water; x) Erosion control measures and Best



Management Practices will be implemented during the construction period to minimize soil loss and erosion; xi) The Project will have minimal impact on existing public facilities and services, and will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection; xii) Since the district boundaries and rules were established, the HIARNG's existing facilities in Paukukalo and Kahului have become inadequate to meet its training and operational readiness objectives because of their size, age, and lack of expansion space; and xiii) The Property is unsuited for agricultural cultivation due to remnants of the old Pu`unene Airport and Naval Air Station. Utilizing the Property for the Project provides for the beneficial use of a site which would otherwise have no agricultural use and value. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 5 ayes and 0 nays, the motion carried.

#### ORDER

Having duly considered the complete record of the Application and the oral arguments presented by the parties in the proceeding, and a motion having been made at a hearing conducted on October 4, 2001, in Hilo, 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, the Commission hereby APPROVES the Special Use Permit granted by the Planning Commission to establish a new armory, OMS, service, storage, parking, and helipad improvements, other related improvements, and future

spaces for a post exchange and the HIANG facilities on approximately 30 acres of land within the State Land Use Agricultural District at Pulehunui, Maui, Hawai`i, identified as TMK No.: 3-8-08: por. 1, and approximately identified on Exhibit "A," attached hereto and incorporated by reference herein, subject to the following conditions:

1. That the Land Use Commission Special Use Permit shall be valid for two years from the date of approval, or for the period of the Conditional Permit, whichever is greater, subject to extension by the State Land Use Commission upon a timely request for extension filed at least ninety (90) days prior to its expiration.

2. That the conditions of this State Special Use Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawai`i Revised Statutes. Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation and providing the permit holder no more than sixty days to cure the violation. If the permit holder fails to cure the violation within sixty days of said notice, the appropriate enforcement agency shall issue an order which may require one or more of the following: that the violative activity cease; that the violative development be removed; that a civil fine be paid not to exceed \$1,000 per violation; that a civil fine not to exceed \$5,000 shall be issued if violation not cured within six months of the issuance of the order. The order shall become final thirty days after the date of its mailing or hand delivery unless written request for a hearing is mailed or delivered to the



Planning Department within said thirty days. Upon receipt of a request for a hearing, the Planning Department shall specify a time and place for the permit holder to appear and be heard. The hearing shall be conducted by the Planning Director or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

3. That the subject Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Maui Planning Commission and the State Land Use Commission. However, in the event that a contested case hearing preceded issuance of said Land Use Commission Special Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

4. That the Applicant, its successors and permitted assigns shall exercise reasonable care as to third parties with respect to all areas affected by subject Land Use Commission Special Use Permit.

5. That full compliance with all applicable governmental requirements shall be rendered.

6. That the Applicant shall submit to the Planning Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject Land Use Commission Special Use Permit. The compliance report shall be reviewed and approved by the Planning Department prior to establishment of the special use.



7. That the Applicant shall develop the Property in substantial compliance with the representations made in obtaining the Special Use Permit. Failure to so develop the Property may result in the revocation of the permit.

8. That should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor and/or landowner shall immediately contact the State Historic Preservation Division of the Department of Land and Natural Resources which shall assess the significance of the find and recommend an appropriate mitigation measure, if necessary.

9. If demolition of any of the four (4) bunkers located within the Project area is desired, the Applicant shall consult with the Architecture Branch of the State Historic Preservation Division to ensure that appropriate mitigation measures are implemented. The request for demolition shall be brought before the Maui County Cultural Resources Commission for review and approval.

10. That the Applicant shall use native drought-tolerant plants in its landscaping.

11. That the Applicant shall comply with the requirements of the Department of Water Supply to conserve water and to utilize Best Management Practices (BMPs) and that the Applicant will construct a waterline to provide temporary

domestic and fire protection service to the Project, pay water system development fees prior to issuing water service, enter into an agreement to defer the construction of the permanent water system improvements and participation in the construction of water system improvements including a storage tank, transmission line, distribution line, fire hydrants, service laterals and other appurtenances.

12. That the Applicant acknowledges that lands surrounding the subject Property is actively used for the growing and harvesting of sugar cane. Accordingly, the Applicant shall coordinate with Hawaiian Commercial & Sugar Company (HC&S) to consider and develop, as appropriate, agreements which may be required to ensure the compatible coexistence of both the HIARNG facility and HC&S' agricultural operations.

13. That the height of the structures shall be limited to 55 feet until such time that development standards are adopted by zoning ordinance for Project District 10 (as designated by the Kihei-Makena Community Plan).

14. Pending final construction of a permanent access to Mokulele Highway in concert with the reconstruction of said highway by the State Department of Transportation, the Applicant shall utilize the proposed highway access installed by Parsons UXB for access to the Applicant's Project. Should Parsons UXB not construct its proposed access within the timeframe needed by the Applicant, the Applicant shall

construct an access to the Mokulele Highway at the original access point, all to the satisfaction of the State Department of Transportation.

15. That the Applicant shall appear before the Land Use Commission and report on the specific plans for the HIANG 7-acre site prior to commencement of construction on the site to demonstrate consistency with the representations made before the Commission.

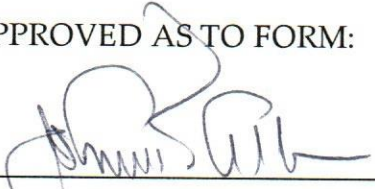
Dated: Honolulu, Hawai'i, October 30, 2001

LAND USE COMMISSION  
STATE OF HAWAI'I



By MERLE A.K. KELAI  
Chairperson and Commissioner

APPROVED AS TO FORM:



Deputy Attorney General

Filed and effective on  
October 30, 2001

Certified by:



Executive Officer





To Kahului

Mokulele Highway



To Kihei

SP01-394 DEPARTMENT OF ACCOUNTING AND  
GENERAL SERVICES,  
HAWAII ARMY NATIONAL GUARD  
AND HAWAII AIR NATIONAL GUARD

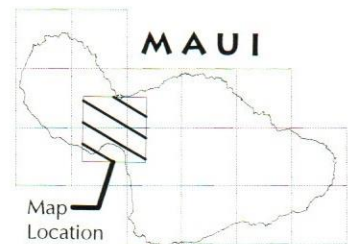
LOCATION MAP

Tax Map Key: 3-8-08: por. 1  
Pulehunui, Maui, Hawai'i  
Scale 1"= 2,000 ft.

EXHIBIT "A"



APPROVED PERMIT AREA



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of the ) DOCKET NO. SP01-394  
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DEPARTMENT OF ACCOUNTING AND ) CERTIFICATE OF SERVICE  
GENERAL SERVICES - HAWAII ARMY )  
NATIONAL GUARD AND HAWAII AIR )  
NATIONAL GUARD )  
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To Construct A New Armory, Organizational )  
Maintenance Shop, Service, Storage, Parking, )  
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Exchange And The Hawaii Air National Guard )  
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CERTIFICATE OF SERVICE

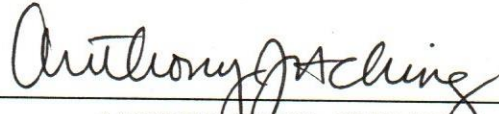
I hereby certify that a copy of the Decision And Order Approving Special Use Permit was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. GORDON MATSUOKA  
Public Works Administrator  
Department of Accounting and General Services  
P. O. Box 119  
Honolulu, Hawaii 96810

CERT. JOHN E. MIN, Director of Planning  
County of Maui  
250 South High Street  
Wailuku, Hawaii 96793

CERT. JAMES B. TAKAYESU, ESQ.  
Corporation Counsel  
Office of the Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Hawai`i 96793

DATED: Honolulu, Hawai`i, this 30<sup>th</sup> day of October 2001.



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ANTHONY J.H. CHING

Executive Officer