

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
KAMEHAMEHA SCHOOLS BERNICE PAUAAHI)
BISHOP ESTATE)
)
For a Special Permit to Establish)
and Operate an Elementary and)
Secondary School Campus on)
Approximately 265.25 Acres Within)
the State Land Use Agricultural)
District in Kea'au, Puna, Hawaii;)
Tax Map Key No.: 1-6-03: 012 (por.))
_____)

DOCKET NO. SP00-393
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

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.
APR 07 2000 by *[Signature]*
Date Executive Officer

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AND DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
2000 APR -7 A 11:39

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KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE

(hereinafter "Applicant" or "Kamehameha Schools"), initiated this proceeding pursuant to Section 205-6, Hawai'i Revised Statutes (hereinafter "HRS") and Sections 15-15-95 and 15-15-96 of the Hawai'i Administrative Rules (hereinafter "HRS"). The Land Use Commission (hereinafter "LUC"), having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On October 29, 1999, the Applicant filed a special use permit application (hereinafter "Application") and a use permit application with the County of Hawaii Planning Department (hereinafter "Planning Department") to allow the construction and operation of an elementary, middle, and high school on a project

area comprising of approximately 300 acres at Kea'au, Puna, Hawaii. The Special Permit Area comprised of approximately 236 acres, and the use permit area comprised of approximately 64 acres of adjoining land.

2. On October 29, 1999, the landowner of the project area, W. H. Shipman, Limited, a Hawaii corporation (hereinafter "Shipman") filed a letter with the County of Hawaii Planning Department (hereinafter "Planning Department") authorizing the filing of the Application.

3. On November 11, 1999, the Planning Department deemed both the Application and the use permit application complete.

4. On January 21, 2000, the County of Hawaii Planning Commission (hereinafter "Planning Commission") conducted a public hearing on both the Application and the use permit application. The Planning Commission received oral testimony from Dr. Rockne Freitas, Barbara Robertson and Yukio Takemoto as Applicant's witnesses, oral testimony from Frank Brandt, Randall S. Okaneku and Gordon Y. Imata, as Applicant's expert witnesses, and oral testimony from six public witnesses: Nathan Chang, Steve Hurt, Robert Yamada, Marilyn Haymore, Beverly Akimseu, and John Santangelo.

5. On January 21, 2000, after due deliberation, the Planning Commission voted to approve the use permit subject to fifteen (15) conditions, and recommended approval of the Application to the LUC subject to fifteen (15) conditions.

6. On February 7, 2000, the Applicant submitted to the LUC a motion to release conditions on approximately 64 acres of adjoining land for the same school use in the State Land Use Urban District involved in LUC Docket No. BR93-699/Office of State Planning (hereinafter "Motion Area"), and the area approved by the Planning Commission for the use permit.

7. On February 10, 2000, staff informed the Applicant of inconsistencies in the configuration of the special permit and use permit areas, and requested clarification from the Applicant regarding the configuration and acreage of the Motion Area, a copy of the purchase agreement with the landowner W. H. Shipman, Limited, a Hawaii corporation (hereinafter "Shipman"), and status of the transfer of lands to the State Department of Education in compliance with conditions.

8. On February 15, 2000, the LUC received the record of the proceedings for the Application before the Planning Commission.

9. On February 22, 2000, the staff received the Applicant's responses to the requested clarification on the Motion Area which included a metes and bounds map that revised the acreage of the area in the special permit from approximately 236 acres to 265.25 acres, and amended the area in the use permit from approximately 64 acres to 36.75 acres. The Applicant had notified the Planning Department of the amended acreage.

10. On February 22, 2000, staff informed the Planning Department of numerous errors in the mailing list of surrounding landowners and requested clarification from the Planning

Department on verification of the correct names and mailing addresses of surrounding property owners through return certified mail receipts, identification of agencies that were given notice of the Planning Commission's meeting on January 21, 2000, and the omission of a start date of the Applicant's project in the Planning Commission's recommendations.

11. On February 28, 2000, staff received the Planning Department's responses which stated that the petitioner is not required to file return receipts to the Planning Commission; the Planning Department had notified the following agencies of the hearing, Mayor's Office (Hilo and Kona), Department of Water Supply, Fire Department, Police Department (Administration), Housing, Department of Public Works (Hilo and Kona), Corporation Counsel, County Council, Liquor Control, Legislative Auditor's Office; and the Planning Department acknowledged the omission of a commencement date for the development of the project.

12. On March 1, 2000, staff received the Office of Planning's response to the Application.

13. On March 2, 2000, the Commission conducted a field trip to the Project Area and surrounding properties.

14. On March 3, 2000, staff received the Applicant's memorandum in support of the Application.

15. On March 3, 2000, the Applicant provided the Commission with additional exhibits that were part of the record in the proceedings for the Application before the Planning Commission. The exhibits included a current layout of the

proposed development, an aerial photo of the project site, and a figure depicting Volcano Highway improvements.

16. On March 3, 2000, the Commission held its action meeting on the Application. Testimony was received from Frank Brandt, Dr. Rockne Freitas, Yukio Takemoto, and Barbara Robertson on behalf of Applicant. Other public witnesses included: Diane Gentry, a resident of the Hawaiian Paradise Park subdivision; Ann Ogata-Deal on behalf of the Office of Planning; and Marilyn Haymore.

DESCRIPTION OF SUBJECT PROPERTY AND SURROUNDING AREA

17. The area involved in the Application consists of approximately 265.25 acres located at Kea'au, Puna, Hawaii, and is identified as Tax Map Key No.: 1-06-003: portion of 012 (hereinafter the "Permit Area"). The Permit Area is within an overall project area comprising of approximately 302 acres, and is identified as Tax Map Key No.: 1-06-003: portion of 012 (hereinafter the "Project Area").

18. The Permit Area is located within the State Land Use Agricultural District.

19. The Project Area is currently owned by Shipman. Applicant has executed an agreement with Shipman to purchase the Project Area in fee simple.

20. The Permit Area is located approximately 1.5 miles southwest of Keaau Town and is 8.5 miles south from downtown Hilo.

21. The Project Area is relatively level with an overall slope of about three percent (3%) and elevations ranging

from 540± feet above mean sea level in the northeast corner to approximately 650± feet above mean sea level at the southwest boundary. The geology of the Project Area is classified as Ka'u Basalt which consist of lava flows, vent deposits, littoral deposits, and tephra fall deposits of tholeiitic basalt, and rare transitional basalt of Mauna Loa volcano. The topography of the Project Area is characterized as being gently undulating pasture lands with the central portion containing the flattest areas of the Project Area.

22. The United States Department of Agriculture, Soil Conservation Service Soil Survey Report identifies the soils on the Permit Area as four types: Ola'a silty clay loam (OaC), Panaewa very rocky silty clay loam (PeC), Papai extremely stony muck (rPAE), and Keaukaha extremely rocky muck (rKFD). The Papai series consists of well-drained, thin, extremely stony organic soils over fragmental Aa lava. Permeability is rapid, runoff is slow and the erosion hazard is slight. Panaewa, Keaukaha and Olaa series consist of shallow, moderately well drained silty clay loams that formed in volcanic ash.

23. The Land Study Bureau Detailed Land Classification System (with "A" being the best and "E" being the worst) classifies the soils on the Permit Area as D-181 and D-182 with smaller portions of the Permit Area being classified as C-178, and D48.

24. The State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) System classifies the western third of the Permit Area as "Prime"

agricultural lands, a small portion of the Permit Area as "Other Important" agricultural lands, and the remainder in "Unclassified" agricultural lands. Prior uses included pasture and sugarcane production.

25. The Permit Area is outside of the 500-year flood plain (Zone X) and does not appear on flood insurance rate maps. Due to the geology of the site, permeability of the Permit Area is generally rapid and any runoff will move in a sheet flow pattern in the easterly direction.

26. The Permit Area has a Zone 3 Seismic Probability Rating which indicates that the area is at risk from major earthquake damage.

27. The United States Geologic Survey has identified the Permit Area to be located in Lava Flow Hazard Zone 3. The Permit Area is situated on a lava flow that occurred between 750 and 1500 years ago. The nearest historic lava flow approached Hilo in 1880, terminating in the vicinity of the University of Hawaii at Hilo Research and Technology Park, approximately six miles from the Permit Area.

28. The Permit Area, along its northern boundary abuts pasture land and a portion of the Project Area which was reclassified to the Urban District pursuant to LUC Docket No. BR93-699. The eastern boundary of the Permit Area runs along Volcano Highway and contains a two-acre parcel for the County Department of Water Supply Ola'a Station No. 3 production well and million-gallon reservoir and a 0.2 acre site containing a Hawaii Electric Company electrical substation. Across Volcano

Highway are nearby residential areas including the Kea'au Agricultural Lots (zoned A-1a) with 202 of the 322 lots improved, and the Ola'a subdivision (zoned RS-20) with 36 of the 40 lots improved. The southern boundary runs along North Road and land uses in this vicinity include a cluster of eight dwelling units, the Hilo Christian Church, the "Iwasaki Camp" settlement (zoned A-20a) with 45 of the 47 lots improved, the Happy Homes Agricultural Lots subdivision, and various agricultural lots.

DESCRIPTION OF PROPOSED USE

29. Applicant is requesting a special permit to construct and operate a Kamehameha Schools East Hawaii Campus in the Project Area. Kamehameha Schools will give priority to applicants of Native Hawaiian ancestry from the Island of Hawaii.

30. The proposed campus is planned to initially serve approximately 1,120 students within five years, and approximately 2,300 students at full buildout with 230 faculty and staff.

31. The master plan for the proposed campus is still undergoing changes based on input from an advisory committee organized by the Applicant. The first phase of the campus development is planned to accommodate:

- two classes per grade in the elementary school (Kindergarten through Grade 5);
- four classes per grade in the middle school (Grades 6-8), along with art, science, teen health and computer lab facilities;
- six classes per grade in the high school with approximately 144 students in each grade;

- a media center;
- administration building;
- gymnasium, locker rooms, and support spaces for campus functions;
- cafetorium with kitchen facilities, a custodial service center, a multi-purpose student dining room and auditorium facility; and
- caretaker's house at the entry for security.

32. Applicant proposes to first construct facilities for grades six, seven and eight to open in August 2001.

NEED FOR PROPOSED USE

33. In 1996, Applicant's trustees decided to extend the reach of the Kamehameha Schools to Hawaiian students on Maui and East Hawaii. In August 1996, Applicant opened a temporary campus in Keaukaha, serving approximately 80 children from kindergarten through grade three. The temporary campus resides on 5-acres of lands owned by the State Department of Hawaiian Home Lands (hereinafter "DHHL") currently accommodates 153 students from kindergarten through grade six.

34. Applicant has received an average of 100 applications for each 20-student kindergarten class since 1996.

35. Applicant has stated that the lease terms with DHHL and a growing student population on a small piece of property has forced the need for a larger, permanent campus.

36. Applicant has not established any timetable to expand the Hawaii campus beyond the first phase. The timing of such expansion will depend on Applicant's resources and

implementation of educational initiatives on Applicant's other campuses.

37. Applicant has stated that the parents, alumni and members of the Native Hawaiian community have expressed support for Kamehameha School's decision to open an East Hawaii campus.

STATE AND COUNTY PLANS AND PROGRAMS

38. The Project Area is situated in the State Land Use Agricultural and Urban Districts. The Permit Area is situated in the State Agricultural District, as depicted on the official State Land Use Map H-67 (Mountain View). The County of Hawaii zoning designation for the Permit Area is A-20 Agricultural Zoning district (20 acre lots). Section 25-5-72 (d) of the County Zoning Code permits schools in the Agricultural Zoning district if a special permit is issued for the school use.

39. The Project Area is designated for Urban Expansion by the County of Hawaii General Plan Land Use Pattern Allocation Guide (hereinafter "LUPAG").

40. The Planning Department has stated that the project is consistent with the County of Hawaii General Plan Land Use Element, Public Facilities element, Public Facilities (Education) element, and Economic element.

41. There is no land use designation for private educational facilities on the LUPAG map, as other public facilities for schools are sited in relation to the public educational needs of the community. The General Plan standards for educational facilities states:

In proposed communities, sufficient acreage shall be reserved for school facilities. Sites shall be free from flooding and drainage problems, excessive slope and shall incorporate appropriate street and driveway design and location to minimize traffic interference, pedestrian hazard and to enable safe and easy access for vehicles, bicycles and pedestrians.

42. The Project Area is located within the Coastal Zone Management Area, but is not located within the Special Management Area of the County of Hawaii.

43. Additional permits that may be required include those required by County and State agencies, including but not limited to, subdivision approval, Final Plan approval, building permits, grading and grubbing permits, wastewater disposal and treatment plan approvals, roadway improvement permits, and work within a State highway.

44. A portion of the Project Area, along the north boundary of the Permit Area comprised of approximately 36.75 acres, is in the Urban District on lands reclassified under LUC Docket No. BR93-699/Office of State Planning.

SUMMARY OF COUNTY, STATE AND FEDERAL AGENCY COMMENTS

County Agencies

45. The County Department of Public Works (hereinafter "DPW") commented on a number of items including, conformance with statutes and codes relating to building construction; disposal of development generated runoff, drainage, grading, erosion and sediment control; compliance with wastewater regulations of the

State Department of Health (hereinafter "DOH"); consultation with the State Department of Transportation (hereinafter "DOT") on improvements to Volcano Highway; verification that the Project Area is in Zone X, the 500 year flood plain; and the signalization of the intersection of Volcano Highway and Pa'ahana Street. The DPW recommended the Applicant to conduct a drainage study and design a drainage system meeting the approval of the DPW.

46. The County Department of Water Supply commented that water supply can be made available to the Project Area from an existing eight-inch waterline along Volcano Highway subject to consultation with the County Fire Department regarding fire protection requirements and payment of a water commitment deposit.

47. The County Police Department commented that the project will require the increase of their patrol force and redistribution of resources.

State Agencies

48. The DOH commented that the use of septic systems in lieu of a wastewater system for disposal will require approval from the DOH and a 1,000 foot setback is required for leach field from any potable well; any use of underground injection wells for wastewater or storm run-off must comply with underground injection control regulations; and the proposed cafeteria and the project's restroom facilities must comply with DOH sanitation requirements. The Wastewater Branch, DOH, added in their letter to the Applicant dated February 16, 2000, that the Project Area

is located in the critical wastewater disposal area and new cesspools for public buildings are prohibited. DOH stated all wastewater plans must conform to applicable provisions of Chapter 11-62, Hawaii Administrative Rules, and they reserve the right to review the detailed wastewater plans for conformance to applicable rules.

49. The State Historic Preservation Division, State Department of Land and Natural Resources, verified that the proposed project would have "no effect" on significant historic sites, but advised the Applicant's consultants that revisions should be made on the report of the archaeological inventory survey before they approve the report as acceptable.

50. The State Department of Education did not have any comments.

51. The DOT commented that the Applicant should make the improvements as recommended in the traffic impact analysis report as prepared by Randall S. Okaneku, Applicant's traffic consultant, at their own expense, including, the establishment of a 40-foot-wide setback along the highway right-of-way frontage to allow for future highway widening; the construction of a shared through/right turn lane extending through the intersection to accommodate two Volcano-bound lanes; and, improvements to Hilo-bound Volcano Highway at the project access road should be extended as far as possible to ensure that any congestion does not interfere with traffic operations.

52. Public testifiers at the Commission's action meeting on March 3, 2000, expressed support for the project, but

had various concerns regarding impacts upon the local and regional traffic, increase in traffic congestion, the inability of current roadways to accommodate the increase in projected traffic, and the estimates that were used in the Applicant's traffic impact analysis report.

53. The Commission staff informed the Planning Department that the Project Area is in the State Land Use Urban and Agricultural Districts and that the Urban portion of the Project Area was subject of LUC Docket No. BR93-699/Office of State Planning, and that the conditions for the reclassification were still in effect for the Urban portion.

SOCIO-ECONOMIC IMPACTS

54. The East Hawaii Campus will expand educational opportunities for Native Hawaiian students on the Island of Hawaii.

55. Because the Project Area is presently used for pasture, construction of the campus will not result in the displacement of any residences. It is anticipated that the construction of a school will have minimal impact on surrounding lands because the campus will be developed with a low density and significant open space and landscape buffers. Construction of the campus will also alleviate the overcrowded conditions at Applicant's temporary campus in Keaukaha.

56. Construction of the first phase of the campus will generate employment in construction related sectors. Operation of the first phase of the campus is expected to be a significant employment generator as Applicant expects to employ 110 faculty

and staff by 2005. Future expansion of the campus will provide additional employment opportunities.

IMPACTS UPON THE RESOURCES OF THE AREA

Agricultural Resources

57. The Project Area is not presently being cultivated. The Project Area was formerly cultivated in sugar cane by Puna Sugar Company, which ceased production in the early 1980's. Since that time most of the Property has been used for pasture.

Scenic Resources

58. The Project Area presently has little scenic value other than as an open space area. When developed with open space and landscape the campus may provide new view opportunities from Volcano Highway to Mauna Kea and Mauna Loa.

Archaeological and Cultural Resources

59. One historic site with seven surface archaeological features, a sugar cane era rock clearance feature, was identified on the Project Area. All of the features have been recorded, mapped and photographed. Prehistoric land use patterns indicate that portions of the Project Area may have been used for dry land agricultural practices. In historic times the Project Area was used for intensive sugar cane cultivation.

60. The State Historic Preservation Division, State Department of Land and Natural Resources stated they can agree that the development will have "no effect" on significant historic sites if various revisions are made to the Applicant's archaeological report.

Flora and Fauna Resources

61. The original vegetation of the Project Area was lowland wet forest, but the entire area was cleared for sugar cane cultivation in the early 1900's. Since the 1980's, the Project Area has been leased for cattle grazing, which altered the invaded cane into the appearance of a woodland or savannah. There are barely dense forests in some areas. The flora consists of pasture grasses, residual sugar cane, and secondary forest trees including albizia, melochia, guarmo, and gunpowder trees. Various grasses and other herbs and shrubs form a dense ground cover beneath the tree canopy. Thickets of vegetation are dominated by wai'wai and guava, but also include 'ohi'a, ferns and sedges, occasionally found in the undisturbed areas of rock croppings, clearing mounds, and an abandoned quarry. No plant species classified as an endangered or threatened species by the U.S. Fish and Wildlife Service or the State of Hawaii, no critical habitat for any endangered or threatened plant species nor any plant species proposed as a candidate for listing as an endangered or threatened species was detected on the Project Area.

62. No native Pueo (short-eared owl), I'o or the Hawaiian hawk, or hoary bat, or any nesting site for these species was detected on the Project Area. Two endangered Koloa or Hawaiian duck (*Anas Wyvilliana*) were observed in the northeast corner of the Project Area. No other species of bird, insect or mammal classified as endangered or threatened by the U.S. Fish and Wildlife Service, no critical habitat for any other

endangered or threatened species of bird, insect or mammal nor any species of bird, insect or mammal proposed as a candidate listing as an endangered or threatened species was detected on the Project Area.

ADEQUACY OF PUBLIC FACILITIES AND UTILITIES

Highway and Roadways

63. The primary access to the Project Area will be a project access road to be constructed at the intersection of Volcano Highway and Pa'ahana Street. The project access road will lead to an interior loop road that will connect various school components. A controlled secondary access road will be constructed at a location to be determined.

64. The Applicant acknowledged that the project will increase congestion on existing roadways. Randall S. Okaneku, the Applicant's traffic consultant, prepared a traffic impact analysis report that stated that the level of service "F" conditions currently exist at various locations around the Project Area and recommended the following traffic improvements:

- Signalize the intersection of the Volcano Highway and Pa'ahana Street intersection;
- Provide an exclusive right turn lane on Volcano-bound Volcano Highway to Pa'ahana Street;
- Provide an exclusive left turn lane on Hilo-bound Volcano Highway at Pa'ahana Street;
- Reconfigure the existing right turn lane on Hilo-bound Volcano Highway at Pa'ahana Street to provide a shared through/right turn lane, and
- Project Access Road should provide a shared left turn lane/through lane and an exclusive right turn lane at Volcano Highway.

65. The DOT commented that the traffic improvements recommended by the Applicant's traffic consultant, with the exception of "Future Roadway Improvements," should be constructed by the applicant at its own expense; a traffic signal warrant study must be submitted for the DOT review and approval; the Applicant must help mitigate the impacts of their development along Volcano Highway; the Applicant should make improvements of project roads accessing Volcano Highway, including a 40-foot-wide setback; improvement to Hilo-bound Volcano Highway at the project access should be extended as far as possible to ensure that congestion at the merge does not interfere with traffic operations. DOT has reservations about the capacity of the highway facilities to handle the development of the project, and recommends the exclusive right-turn lane on Volcano-bound Volcano Highway to the Project Access Road should be a shared through/right-turn lane and be extended through the intersection to accommodate two Volcano-bound lanes, which would eventually merge into the existing single Volcano-bound lane.

Drainage

66. Existing drainage patterns on the Project Area will be maintained. Concrete drain inlets will be installed to collect and transport storm runoff within the Project Area. The collected runoff will be dispersed on site by means of drywells and drainage retention areas integrated into the campus design. No additional runoff due to development will be allowed to flow away from the project.

Water

67. County water service is available from an existing eight-inch water line that extends along the Volcano Highway. The Applicant intends to install a 12-inch water line running parallel to the existing eight-inch water line. The new water line should provide sufficient capacity to meet fire protection and domestic water requirements of the campus at full development. The County Department of Water Supply has sufficient water resources in the service area to meet the service requirements of the campus at full development.

Sewers

68. No municipal sewer system is available at the site. Wastewater generated within the Project Area is proposed to be processed through septic tanks and disposed of by leaching fields. The DOH regulations state septic systems cannot be located within 1,000 feet of an existing drinking water well and if injection wells are used they are not allowed within a $\frac{1}{2}$ mile radius of the well. As mentioned previously, the Ola'a Station production well is adjacent to the Project Area.

Solid Waste

69. Applicant will use a private contractor to transport all solid waste from the Project Area for disposal.

Electricity and Communication Systems

70. Electrical service, telephone service, CATV and fiber optic communications service are available to the Project Area.

Air Quality

71. Potential sources of air pollution that may affect the Project Area are motor vehicles using the Volcano Highway and Volcanic haze or "vog" from Kilauea Volcano. Due to normally breezy conditions, the Project Area has generally good air quality.

Noise

72. Construction of the campus will have a short-term adverse impact on noise and air quality during the construction period. Once construction is completed the school will generate noise that will typically consist of children playing during daylight hours on weekdays. Perimeter open areas and landscaping will provide a buffer between the campus on the Project Area and adjacent properties.

73. The Hilo International Airport is located approximately eight miles north of the Project Area. Existing flight patterns will not result in aircraft noise adversely impacting the Project Area.

PLANNING COMMISSION RECOMMENDATION

74. At its meeting on January 21, 2000, the Planning Commission recommended approval of the Special Permit Application subject to the following conditions:

- 1) The applicant, successors or assigns shall be responsible for complying 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 property damage, personal injury and death arising out of any act or omission of the

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

- 3) Prior to the start of construction, Final Plan Approval for the initial campus development and subsequent campus expansion shall be secured from the Planning Director in accordance with the Zoning Code Section 25-2-72. Plans shall identify existing and proposed structures, fire protection measures, paved driveways and paved parking stalls (asphalt or asphalt-concrete), fencing, construction fencing and detailed landscaping associated with the proposed uses.
- 4) Final Subdivision Approval shall be secured from the Planning Director within five (5) years from the effective date of this permit.
- 5) The applicant shall submit a Traffic Signal Warrant Study for review and approval by the Department of Transportation and Department of Public Works with a copy to the Planning Director prior to the submittal of plans for Final Plan Approval.
- 6) The applicant shall submit a Traffic Impact Analysis Report (TIAR) for review and approval by the Department of Transportation, Department of Public Works and the Planning Director prior to the submittal of plans for Final Plan Approval for any development of classroom facilities beyond the initial student population of 1,120 students.
- 7) The applicant shall provide the following roadway improvements at the intersection of Volcano Highway and Project Access Road/Pa'ahana Street, meeting with the approval of the Department of Transportation:
 - a. Construction of a signalized intersection.
 - b. Construction of an exclusive right turn lane on Volcano-bound Volcano Highway to the Project Access Road/Pa'ahana Street.
 - c. Construction of an exclusive left turn lane on Hilo-bound Volcano Highway to the proposed Project Access Road/Pa'ahana Street.
 - d. Reconfigure the existing right turn lane on Hilo-bound Volcano Highway at Pa'ahana Street to provide a shared through/right turn lane. The shared through/right turn lane on the

- Hilo side of the intersection should merge into the existing Hilo-bound traffic lane.
- e. Construct a shared left turn lane/through lane and an exclusive right turn lane at the Project Access Road and Volcano Highway.
 - f. Construction of a striped six-foot wide median strip on Volcano Highway on both sides of the intersection.
 - g. Other roadway improvements to Volcano Highway as required by the State Department of Transportation.
- 8) The applicant shall install a chain link fence surrounding the proposed development area, with construction barriers between the operating areas and the remaining areas to be developed prior to the issuance of a certificate of occupancy for any portion of the initial campus development. The height of the fence shall be determined during Final Plan Approval.
- 9) The applicant shall submit a Drainage Report and all recommended improvements to the Department of Public Works in conjunction with Final Plan Approval.
- 10) The applicant shall submit a Solid Waste Management Plan for review and approval by the Department of Public Works prior to occupancy.
- 11) Should any unanticipated sites, including subsurface remains such as burial or cave shelters, be encountered on the property, work within the immediate affected area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work within the affected area shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- 12) The applicant shall comply with all applicable rules, regulations and requirements of the affected agencies for the development of the subject property, including the State Department of Transportation.
- 13) Upon compliance with applicable condition of approval, and prior to the issuance of a certificate of occupancy for any portion of the development, the applicant shall submit a status report, in writing, to the Planning Director.

- 14) The applicant shall timely provide, without any prior notice, annual reports to the County of Hawaii Planning Commission and the Land Use Commission in connection with the status of the subject property and the applicant's progress in complying with the conditions enclosed herein. The annual report shall be due prior to or on the anniversary date of the issuance of the State Land Use Commission's decision and order. The annual report shall be submitted in a form prescribed by the executive officer of the Land Use Commission.
- 15) An extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
 - A. 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.
 - B. Granting of the time extension would not be contrary to the General Plan or the Zoning Code.
 - C. Granting of the extension would not be contrary to the original reasons for the granting of the permit.
 - D. 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 extended for up to one additional year).

CONFORMANCE WITH SPECIAL PERMIT CRITERIA

75. Applicant's proposal meets the guidelines for an "unusual and reasonable use" as defined in Section 15-15-95 (b), HAR as follows:

- (A) The use shall not be contrary to the objectives sought to be accomplished by the Land Use Law, chapters 205 and 205A, HRS, and the rules of the Land Use Commission.

The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands from those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The Applicant proposes to construct and operate a permanent Kamehameha Schools Bernice Pauahi Bishop Estate East Hawaii campus for an elementary, middle and secondary school to accommodate approximately 1,120 students with an overall enrollment of 2,300 students on the Project Area. In order to meet the needs of the elementary and middle schools, the Applicant plans to phase the construction of the permanent campus over a 5-year timeframe. The Permit Area is owned by Shipman and located in an area with soils classified by the Land Study Bureau's Detailed Land Classification System as having a productivity rating of "D". The State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) System classifies the western third of the Permit Area as "Prime" agricultural lands, a small portion of the Permit Area as "Other Important" agricultural lands, and the remainder as "Unclassified" agricultural lands. The approximately 265.25 acres of the Permit Area within the Agricultural District is vacant and used as pasture for cattle. No active agricultural activities are ongoing in the Permit Area.

The Office of Planning (hereinafter "OP") raised concerns regarding the appropriateness of the Special Permit

process to implement the project due to the size, scope, and impacts of the proposed East Hawaii campus.

The Applicant stated that the Special Permit process was used because it provided a means to retain the agricultural/rural character of the Kea'au area and reduce the urban pressures that may be imposed if the project had been submitted as a district boundary amendment reclassifying the Project Area from the Agricultural to the Urban District. The larger campus size would enable the Applicant to maintain a lower density and include agriculture facilities and retain the essential agricultural character of the surrounding community. The campus will include a ribbon of green open spaces comprised of cultural gardens, cultural agriculture, vocational agriculture and open space buffers extending from the periphery of the campus into the central portion of the campus, creating an interconnected open space system through the campus.

Also, special permits have been previously approved for the construction of other schools on the Island of Hawaii in the State and County Agricultural Districts. These campuses include the approximately 10-acre Henry Opukahaia School, the approximately 15-acre Keaau II Elementary School, the 20-acre Malamalama School, and the 38-acre Keaau High School.

The construction and operation of a permanent East Hawaii campus is consistent with the policies and objectives of Chapter 205A, HRS.

Historic resource issues have been addressed in the Applicant's archaeological report.

The open space and landscape developments of the campus will provide new view opportunities.

Water quality issues relating to run-off from draining and construction activities, and leaching from wastewater disposal will be addressed as the Applicant works with County and State agencies in respective plan reviews and approvals.

The construction and operation of the campus will generate employment in construction related sectors, employ 110 faculty and staff by 2005, and additional employment opportunities with future campus expansion.

The proposed campus will be self-contained and any future expansion will occur within the Project Area.

The proposed project is located outside the County's Special Management Area, and not within a coastal hazard area subject to tsunami inundation or storm waves.

(B) The desired use would not adversely affect surrounding property.

Surrounding parcels are primarily used for pasture, and an adjacent two-acre parcel along Volcano Highway is the site of the Olaa Station No. 3 production well and a million gallon reservoir. A HELCO electrical substation is located on another .2-acre site near the project area. Across the Project Area's eastern boundary and Volcano Highway, nearby residential subdivisions include the Kea'au Agricultural Subdivision (zoned A-1a) with 202 of 322 lots improved, and the Ola'a House Lots Subdivision (zoned RS-20) with 36 of 40 lots improved. There are 8 dwellings located along Old Volcano Road near the southeast

corner of the property. Land uses in the vicinity of the southern project boundary include Hilo Christian Church and agricultural lots of various sizes located south of North Road. Also nearby this boundary is the Iwasaki Camp (zoned A-20a) with 45 of 47 lots improved, located on Middle Road, approximately 1/8 mile southwest of the project site, and the Happy Homes Agricultural Lot subdivision is located approximately a mile to the west, at the end of North Road.

The Project Area will be developed to accommodate the proposed school and the entrance to the campus at the intersection of the Volcano Highway and the Project Access Road/Pa'ahana Street. As immediate surrounding properties are vacant or used as pasture, it is not expected that the school would cause significant adverse impacts to surrounding properties. Any detailed landscaping or safety buffers can be reviewed during Final Plan Approval.

The Applicant intends to develop the proposed campus in a manner consistent with the natural terrain and the proposed school will be fenced and self contained with on-site parking areas located throughout the campus. There will be on-site security and a caretaker's residence located near the entrance. Open space will serve as a buffer between the campus and adjacent uses along the perimeter of the property. Construction of the East Hawaii campus will not result in the displacement of any residences.

Based on the above, the Applicant does not anticipate that the proposed school will adversely affect the surrounding

properties and the immediate surrounding parcels by the development of the school.

(C) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.

The Project Area is located along the Volcano Highway and primary access will be through a proposed Project Access Road that will intersect with the highway and Pa'ahana Street. The project will increase traffic congestion in local and regional areas and various improvements will be needed. The Applicant's traffic impact analysis report for the project indicates that level of service condition "F" exists at certain locations near the project area. The Planning Commission recommended a condition which requires the Applicant to make certain improvements including:

- Construction of a signalized intersection.
- Construction of an exclusive right turn lane on Volcano-bound Volcano Highway to the Project Access Road/Pa'ahana Street.
- Construction of an exclusive left turn lane on Hilo-bound Volcano Highway to the proposed Project Access Road/Pa'ahana Street.
- Reconfigure the existing right turn lane on Hilo-bound Volcano Highway at Pa'ahana Street to provide a shared through/right turn lane. The shared through/right turn lane on the Hilo side of

the intersection should merge into the existing Hilo-bound traffic lane.

- Construct a shared left turn lane/through lane and an exclusive right turn lane at the Project Access Road and Volcano Highway.
- Construction of a striped six-foot wide median strip on Volcano Highway on both sides of the intersection.
- Other roadway improvements to Volcano Highway as required by the State Department of Transportation.

The DOT stated that improvements that the Applicant should, at their own expense, include the following:

- A traffic signal warrant study for DOT review and approval.
- Mitigation of impacts of the development along Volcano Highway.
- Improvements of project roads accessing Volcano Highway, including a 40-foot-wide setback.
- Improvement to Hilo-bound Volcano Highway at the project access should be extended as far as possible to mitigate congestion at the merge of the access road.
- Improvements to Volcano Highway at the Project Access Road/Pa'ahana Street intersection.

The Applicant stated they are prepared to make the necessary intersection improvements to mitigate potential impacts to

existing traffic conditions. In addition, the Applicant will continue to provide bus transportation from Puna, Hilo and Keaukaha to students.

The Applicant stated that they will maintain existing drainage patterns. Concrete drain inlets will be installed to collect and transport storm runoff within the Project Area. The Planning Commission has required the applicant to submit a Drainage Report and all recommended improvements to the Department of Public Works in conjunction with Final Plan Approval.

No municipal sewer system is available at the Project Area, but the Applicant proposes to process wastewater generated from the project through septic tanks and disposed of by a leaching field. The DOH regulations state septic systems cannot be located within a 1,000 feet of an existing drinking water well and if injection wells are used they are not allowed within a $\frac{1}{4}$ mile radius of the well. The Applicant stated they will provide for wastewater disposal on site in accordance with State and County regulations.

County water service is available from an existing eight-inch water line that extends along the Volcano Highway. The Applicant intends to construct a 12-inch water line parallel to the existing eight-inch waster line along Volcano Highway to provide adequate fire flow are required by County regulations.

Both fire and police protection services are located in relatively close proximity to the Project Area. The Applicant

will retain private security personnel to provide additional on-campus security both during and after school hours.

Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the proposed school and related improvements.

(D) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established.

A temporary campus for Kamehameha Schools with an enrollment of 153 students is located on Department of Hawaiian of Home Lands in Keaukaha, approximately 9.5 miles from the project site. However, due to the lease terms with DHHL, a growing student population, and size of the campus, the applicant's options for the continued use of the Keaukaha site are severely limited. KSBE has added additional classrooms to the elementary school campus, but the temporary campus is nearly completely built out.

The establishment of a permanent East Hawaii campus will provide new educational opportunities for children of Native Hawaiian ancestry residing on the Island of Hawaii, without their having to leave their home island for Oahu. In addition, the campus may be expanded to include dormitories to accommodate students from West Hawaii or off-island as well. The proposed new development would also lessen the burden on the State to provide additional educational facilities to meet the dynamic educational needs of a growing population.

The Applicant pointed out that in establishing the original district boundaries, state planners could not identify

or locate all private and public school facilities necessary to meet the dynamic educational needs of Hawaii's growing population, particularly in rural areas.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The Land Study Bureau's Detailed Land Classification System (with "A" being the best and "E" being the worst) classifies the soils on the Permit Area as D-181 and D-182 with a small portion of the Permit Area being classified as C-178. The Agricultural Lands of Importance to the State of Hawaii (ALISH) System classifies the western third of the Permit Area as "Prime" agricultural land with a small portion of the Project Area classified as "Other Important" agricultural lands. Approximately two-thirds of the Permit Area is "Unclassified". These soil classifications indicate the Permit Area's marginal suitability for the primary permitted use of cultivation.

The Permit Area was formerly cultivated in sugar cane by Puna Sugar Company, which ceased production in the early 1980's. Since that time most of the Permit Area has been used for pasture.

RULING OF PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or the other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of

law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

The construction and operation of a school is not a permitted use within the State Land Use Agricultural District pursuant to Section 205-2, HRS. The Application to construct and operate an elementary, middle, and secondary school constitutes an "unusual and reasonable" use as provided in Section 205-6, HRS, and as established in Section 15-15-95 (b), HAR, and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect, and encourage development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

At a hearing conducted on March 3, 2000, in Hilo, Hawaii, a motion to approve the Special Permit with certain conditions was made and seconded. Following discussion, a vote on the motion was taken. There being a vote tally of 6 ayes, and 1 nay, with 2 excused, the motion was approved, having received the affirmative votes required by Section 15-15-13, HAR.

Accordingly, the Special Permit Application that is the subject of LUC Docket No. SP00-393 requesting the construction and operation of a permanent Kamehameha Schools Bernice Pauahi Bishop Estate East Hawaii Campus on approximately 265.25 acres of

land designated within the State Land Use Agricultural District, and identified as Tax Map Key No.: 1-06-003: portion of 012 situated at Kea'au, Puna, Hawai'i, and approximately identified on "Exhibit A" attached hereto and incorporated by reference herein, is APPROVED and subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.

2. Prior to the start of construction, Final Plan Approval for the initial campus development and subsequent campus expansion shall be secured from the Planning Director in accordance with the Zoning Code Section 25-2-72. Plans shall identify existing and proposed structures, fire protection measures, paved driveways and paved parking stalls (asphalt or asphalt-concrete), fencing, construction fencing and detailed landscaping associated with the proposed uses.

3. The applicant shall install a chain link fence surrounding the proposed development area, with construction barriers between the operating areas and the remaining areas to be developed prior to the issuance of a certificate of occupancy for any portion of the initial campus development. The height of the fence shall be determined during Final Plan Approval.

4. Final Subdivision Approval shall be secured from the Planning Director within five (5) years from the effective date of this permit.

5. The applicant shall submit a Traffic Signal Warrant Study for review and approval by the Department of

Transportation and Department of Public Works with a copy to the Planning Director prior to the submittal of plans for Final Plan Approval.

6. The applicant shall submit a Traffic Impact Analysis Report (TIAR) for review and approval by the Department of Transportation, Department of Public Works and the Planning Director prior to the submittal of plans for Final Plan Approval for any development of classroom facilities beyond the initial student population of 1,120 students.

✓ 7. The applicant shall provide the following roadway improvements at the intersection of Volcano Highway and Project Access Road/Pa'ahana Street, meeting with the approval of the Department of Transportation:

- a. Construction of a signalized intersection.
- b. Construction of an exclusive right turn lane on Volcano-bound Volcano Highway to the Project Access Road/Pa'ahana Street.
- c. Construction of an exclusive left turn lane on Hilo-bound Volcano Highway to the proposed Project Access Road/Pa'ahana Street.
- d. Reconfigure the existing right turn lane on Hilo-bound Volcano Highway at Pa'ahana Street to provide a shared through/right turn lane. The shared through/right turn lane on the Hilo side of the intersection should merge into the existing Hilo-bound traffic lane.

e. Construct a shared left turn lane/through lane and an exclusive right turn lane at the Project Access Road and Volcano Highway.

f. Construction of a striped six-foot wide median strip on Volcano Highway on both sides of the intersection.

g. Other roadway improvements to Volcano Highway as required by the State Department of Transportation.

8. At any time within two years from the date of this Decision and Order, the Commission may review the actual impact of the development on traffic conditions and the effectiveness of applicant's mitigation measures. If requested by the Commission, the applicant shall submit a current status report on the traffic conditions to assist the Commission's review. Based on its review and on the information submitted by the applicant, the Commission may require additional traffic mitigation measures and may schedule further reviews.

9. The applicant shall be responsible for implementing sound attenuation measures to bring noise levels from vehicular traffic on the Property down to levels acceptable to the State Department of Health and the State Department of Transportation.

10. The applicant shall submit a Drainage Report and all recommended improvements to the Department of Public Works in conjunction with the Final Plan Approval.

11. The applicant shall fund the design and construction of drainage improvements required as a result of the

development of the property to the satisfaction of the appropriate State and County agencies.

✓12. The applicant shall submit a Solid Waste Management Plan for review and approval by the Department of Health and the Department of Public Works prior to occupancy.

✓13. The applicant shall consult with the Department of Health regarding the proposed wastewater system and if deemed necessary by the Department of Health, conduct monitoring for any potential impacts to groundwater resources.

✓14. The applicant shall have an archaeological inventory survey conducted by a professional archaeologist prior to submitting an application to the County of Hawaii for rezoning or prior to applying for a building permit if county rezoning is not required. The findings of this survey shall be submitted to the State Historic Preservation Division, Department of Land and Natural Resources ("HPD-DLNR") in report format for adequacy review. The HPD-DLNR must verify that the survey report is acceptable, must approve significance evaluations, and must approve mitigation commitments for significant historic sites prior to the applicant submitting an application to the county for rezoning or prior to applying for a building permit if county rezoning is not required.

15. If significant historic sites are present, then the applicant shall agree to develop and execute a detailed historic preservation mitigation plan prior to any ground

altering construction in the area. The HPD-DLNR must approve this plan, and must verify in writing to the Land Use Commission that the plan has been successfully executed.

16. Should any unanticipated sites, including subsurface remains such as burial or cave shelters, be encountered on the property, work within the immediate affected area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work within the affected area shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.

✓ 17. The applicant shall conduct a flora and fauna survey and prepare and agree to execute a mitigation plan which meets the requirements of the Department of Land and Natural Resources. The Department of Land and Natural Resources must approve the plan and a copy of the approved plan must be submitted to the Land Use Commission prior to the developer and/or landowner applying for county zoning or prior to the applicant applying for county building permits if county rezoning is not required.

✓ 18. The applicant shall establish the special permit use within 5 years of the effective date of the special permit.

19. The applicant shall comply with all applicable rules, regulations and requirements of the affected agencies for

the development of the subject property, including the State Department of Transportation, the Department of Health, and the Department of Land and Natural Resources.

20. Upon compliance with applicable condition of approval, and prior to the issuance of a certificate of occupancy for any portion of the development, the applicant shall submit a status report, in writing, to the Planning Director and the Land Use Commission.

21. The applicant shall timely provide, without any prior notice, annual reports to the County of Hawaii Planning Commission and the Land Use Commission in connection with the status of the subject property and the applicant's progress in complying with the conditions enclosed herein. The annual report shall be due prior to or on the anniversary date of the issuance of the State Land Use Commission's decision and order. The annual report shall be submitted in a form prescribed by the executive officer of the Land Use Commission.

22. An extension of time for the performance of conditions of the permit may be granted by the Planning Director subject to the approval by the Commission upon the following circumstances:

A) 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.

B) Granting of the time extension would not be contrary to the General Plan or the Zoning Code.

C) Granting of the extension would not be contrary to the original reasons for the granting of the permit.

D) 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 extended for up to one additional year).

23. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii and State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.

24. The applicant shall develop the area in substantial compliance with the representations made to the Commission.


25. The Land Use Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the applicant.


ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 6th day of April 2000, in Honolulu, Hawaii.

The ORDER and its ADOPTION shall take effect upon the date this Order and Adoption are filed and certified by the executive officer of the Commission.

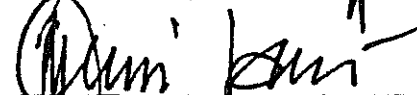
LAND USE COMMISSION
STATE OF HAWAII


By 
MERLE A. K. KELAI
Chairperson and Commissioner

By 
LAWRENCE N. C. ING
Vice Chairperson and Commissioner

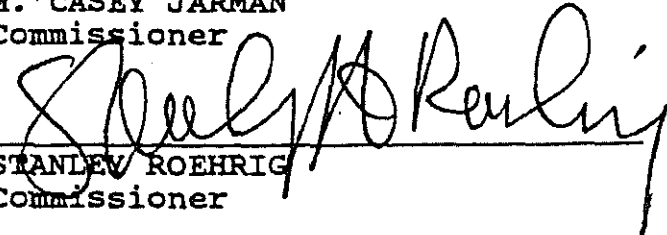
By 
P. ROY CATALANI
Commissioner

By 
BRUCE A. COPPA
Commissioner

By 
PRAVIN DESAI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

By (absent)
M. CASEY JARMAN
Commissioner

By 
STANLEY ROHRIG
Commissioner

Filed and effective on
April 7, 2000

Certified by:


Executive Officer

By 
PETER YUKIMURA
Commissioner



BR93-699 Office
of State Planning
(Motion Area)

PERMIT
AREA

Volcano Highway

KEA'AU

KEA'AU BYPASS

Kea'au - Pahoehoe Road

KURTISTOWN

**SP00-393 KAMEHAMEHA
SCHOOLS BERNICE PAUAI
BISHOP ESTATES**

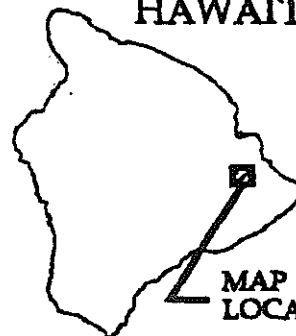
LOCATION MAP

Tax Map Key: 1-6-03: por. 3
Kea'au, Puna, Hawai'i

Scale: 1" = 2,000 ft.

EXHIBIT "A"

HAWAII



MAP
LOCATION

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KAMEHAMEHA SCHOOLS BERNICE PAUHI)
BISHOP ESTATE)
For a Special Permit to Establish)
and Operate an Elementary and)
Secondary School Campus on)
Approximately 265.25 Acres Within)
the State Land Use Agricultural)
District in Kea'au, Puna, Hawaii;)
Tax Map Key No.: 1-6-03: 012 (por.))

DOCKET NO. SP00-393
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings Of Fact, Conclusions Of Law, And Decision And Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. VIRGINIA GOLDSTEIN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. RICHARD D. WURDEMAN, ESQ.
Corporation Counsel
County of Hawaii
The Hilo Lagoon Center
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

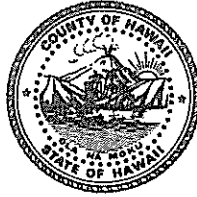
CERT. WILLIAM W. L. YUEN, ESQ., Attorney for Petitioner
Ching, Yuen & Morikawa
1001 Bishop Street, Suite 2700
Honolulu, Hawaii 96813

CERT. ROBERT E. SAUNDERS
W. H. Shipman, Limited
P. O. Box 950
Kea'au, Hawaii 96749

DATED: Honolulu, Hawaii, this 7th day of April 2000.


ESTHER UEDA
Executive Officer

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
7099 3220 0000 4869 7527

FEB 14 2000

Mr. James Leonard
PBR Hawaii – Hilo Office
101 Aupuni Street, Suite 310
Hilo, HI 96720

Dear Mr. Leonard:

Special Permit Application (SPP 99-014)
Applicant: Kamehameha Schools Bernice Pauahi Bishop Estate (KSBE)
Request: Development of a Permanent East Hawaii Campus
Tax Map Key: 1-6-003:Portion of 12

The Planning Commission at its duly held public hearing on January 21, 2000, voted to send a favorable recommendation to the State Land Use Commission relative to the above-referenced application to allow the development of a permanent East Hawaii Campus and related uses on approximately 300 acres of land. The project area is bordered on the east side by the Volcano Highway and on the south side by North Road, approximately 1.5 miles southwest of Keaau Town, Keaau, Puna, Hawaii.

The favorable recommendation is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The applicant proposes to develop a permanent Kamehameha Schools Bernice Pauahi Bishop Estate East Hawaii campus. Although the school's initial campus development will accommodate Grades K-12 with approximately 1,120 students and 110 faculty and staff members, the Campus Master Plan has a potential for a future K-12 Campus for approximately 2,300 students. In order to meet the needs for the elementary and middle schools, the applicant plans to

001550

EXHIBIT II

FEB 14 2000

phase the construction of the permanent campus over a 5-year time frame. The subject property is owned by W.H. Shipman, Ltd. and located in an area with soils classified as "D" or Poor. The approximately 236-acre parcel within the State Land Use Agricultural district is vacant and will be fully developed. Although the ALISH designation for the property is Prime and Other Important Agricultural lands, portions of the property have been previously cleared and are currently vacant and used as pasture for cattle. No active agricultural activities are ongoing on the property. Therefore, the proposed development would not remove significant lands from agricultural use and would not be contrary to the objectives of the State Land Use Law for the Agricultural District.

The desired use will not adversely affect the surrounding properties. Surrounding parcels are primarily used for pasture, and an adjacent two-acre parcel along Volcano Highway is the site of the Ola'a Station No. 3 production well and a million gallon reservoir. A HELCO electrical substation is located on another .2-acre site near the project area. Nearby residential subdivisions include the 322-lot Kea'au Agricultural Lots Subdivision (zoned A-1a,) and the 40-lot Ola'a House Lots Subdivision (zoned RS-20) across the highway from the subject property. According to Building Permit records, 36 lots in the Ola'a House Lots Subdivision have been improved with dwellings, and 202 lots in Kea'au Agricultural Lots have been improved. There are 8 dwellings located along Old Volcano Road near the southeast corner of the property. Land uses in the vicinity of the southern portion of the property include Hilo Korean Christian Church and agricultural lots of various sizes located south of North Road. Iwasaki Camp (45 of 47 lots improved, zoned A-20a) is located on Middle Road, approximately 1/8 mile southwest of the project site, and the Happy Homes Agricultural Lot subdivision is located approximately a mile to the west, at the end of North Road.

The subject site is located approximately 1.5 miles southwest of Keaau Town and 8.5 miles south of downtown Hilo. The parcel will be developed to accommodate the proposed school and the entrance to the campus at the intersection of the Volcano Highway and the Project Access Road/Pa'ahana Street. The school will be fenced and self-contained with on-site parking areas located throughout the campus. There will be on-site security and a caretaker's residence located near the entrance. Open space will serve as a buffer between the campus and adjacent uses along the perimeter of the property. Based on the above, it is not anticipated that the proposed school will adversely affect the surrounding properties. The existing KSBE Elementary School facilities are inadequate, and the proposed new school has been planned to initially accommodate an elementary, middle, and high school, with approximately 1,120 students and 110 faculty and staff members. The future K-12 Campus has a potential to accommodate approximately 2,300 students. As immediate surrounding properties are vacant or used as pasture, it is not expected that the school would cause significant adverse impacts to

surrounding properties. Any detailed landscaping or safety buffers can be reviewed during Final Plan Approval. Overall, it is not anticipated that the immediate surrounding parcels would be impacted by the development of the school.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The project site is located within an area adequately served with essential services and facilities such as water, transportation systems and other utilities. Existing access to the subject property is from a dirt road immediately south of and bordering the 2-acre parcel containing the Ola'a Station No. 3 production well and the million gallon reservoir, and from North Road, which borders the site. The entry to the campus is proposed from the intersection of Highway 11 (Volcano Highway), a State highway, and the Project Access Road/Pa'ahana Street. Since this is a school that will cover all of East Hawaii, it is not anticipated that a substantially large number of students will come from the existing neighborhood in the area. According to a Traffic Impact Analysis Report dated October 29, 1999 and conducted by Randall S. Okaneku of The Traffic Management Consultant, the proposed project is not expected to have a significant impact on traffic operations in the area, if traffic improvements are implemented as recommended in the study. Proposed traffic improvements include (1) signalizing the intersection of the Volcano Highway and Pa'ahana Street, (2) providing an exclusive right turn lane on Volcano-bound Volcano Highway to Pa'ahana Street, (3) providing an exclusive left turn lane on Hilo-bound Volcano Highway to Pa'ahana Street, (4) reconfiguring the existing right turn lane on Hilo-bound Volcano Highway at Pa'ahana Street, and (5) improving Pa'ahana Street to a shared left turn/through lane and an exclusive right turn lane at Volcano Highway.

Sewage is proposed to be treated by a septic tank and ground disposal on-site via a leaching field meeting with the approval of the Department of Health. To ensure the safety of the school children and to separate the campus from existing lots, a condition is being included to require the applicant to construct a chain link fence surrounding the initial campus development prior to the opening of any portion of the proposed development. In addition, construction barriers shall also be constructed between the existing school and any ongoing construction on the property. Other agencies reviewing the request had no objections to the proposed development.

Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the proposed school and related improvements.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. A temporary campus with an enrollment of 153 students is

located on Department of Hawaiian Home Lands in Keaukaha, approximately 9.5 miles from the project site. However, due to terms of the lease agreement and size of the campus, the applicant's options for the continued use of the Keaukaha site are severely limited. KSBE has added additional classrooms to the elementary school campus, but the temporary campus is nearly completely built out.

Allowing for the development of an East Hawaii KSBE campus on this island will provide new educational opportunities for Big Island children of Hawaiian ancestry, without their having to leave their home island for Oahu. In addition, the campus may be expanded to include dormitories to accommodate students from West Hawaii or off-island as well. The proposed new development would also lessen the burden on the State to provide additional educational facilities to meet the dynamic educational needs of a growing population. The Special Permit is an option for establishing a school within the State Land Use Agricultural District.

The use will not substantially alter or change the essential character of the land and the present use. The subject property is vacant and undeveloped. The proposed KSBE development has been planned to fit with the natural terrain and existing environment, to maintain the essential character of the land to the greatest possible extent. While a significant portion of the property will be changed from a heavily vegetated environment to that of a master planned, landscaped environment, vegetative buffers and construction setbacks will mitigate potential noise and visual impacts to the surrounding properties. According to the applicant, a permanent East Hawaii Campus would be developed with the initial campus providing facilities for approximately 1,120 students in grades K-12. Should the need arise, the Campus Master Plan has a potential for a future K-12 Campus for approximately 2,300 students. The applicant envisions that certain structures within the campus will exceed 45 feet in height; therefore, exceptions from the height limit of 45 feet will be necessary. Therefore, the applicant will be required to secure Final Plan Approval for each phase of the planned campus development. Thus, this will assure that plans for campus improvements are consistent with the visual character of the surrounding environment and will not adversely impact existing views from surrounding areas. To further minimize any visual impact to the surrounding area, the applicant proposes significant setbacks and open space for the development of the Campus Master Plan. In terms of visual quality of the school facilities, the applicant will be implementing design guidelines as part of the phased development of the campus to ensure that a visual cohesiveness and compatibility with the surrounding environment is maintained.

The lands upon which the proposed use is sought is unsuited for the uses permitted in the district, however, the proposed uses will not interfere with permitted

uses. The property is presently used for pasture, and is not intensively used for agricultural purposes. Therefore, no agricultural activity will be diminished and no significant lands will be taken out of use. The fallow condition of the proposed campus site indicates a limited economic feasibility for agricultural use of the land.

The proposed use is consistent with the following goals, policies and standards of the General Plan. The subject parcel falls within an area designated as Urban Expansion on the General Plan LUPAG Map. The property is zoned Agricultural-20 acres (A-20a), with a State Land Use designation of Agricultural. The request would require a Special Permit to allow for uses other than agricultural uses on the property. The proposed request would complement and be consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- * Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural and physical environments of the County.
- * The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Public Facilities

- * Encourage the provision of public facilities that effectively service community needs and seek ways of improving public service through better and more functional facilities which are in keeping with the environmental and aesthetic concerns of the community.
- * The County shall coordinate with appropriate State agencies for the provision of public facilities to serve the needs of the community.

Public Facilities (Education)

- * In proposed communities, sufficient acreage shall be reserved for school facilities. Sites shall be free from flooding and drainage problems, excessive slope and shall incorporate appropriate street and driveway design and location to minimize traffic interference, pedestrian hazard, and to enable safe and easy access for vehicles, bicycles and pedestrians.

Economic Element

- * The County shall support all levels of educational opportunities and institutions for its residents.

Based on the above considerations, the request to establish the KSBE East Hawaii Campus and related improvements would be an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

It is recommended that a favorable recommendation of this Special Permit request be forwarded to the State Land Use Commission subject to the following conditions. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

1. The applicant, successors or assigns shall be responsible for complying 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 property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
3. Prior to the start of construction, Final Plan Approval for the initial campus development and subsequent campus expansion shall be secured from the Planning Director in accordance with the Zoning Code Section 25-2-72. Plans shall identify existing and proposed structures, fire protection measures, paved driveways and paved parking stalls (asphalt or asphalt-concrete), fencing, construction fencing and detailed landscaping associated with the proposed uses.
4. Final Subdivision Approval shall be secured from the Planning Director within five (5) years from the effective date of this permit.
5. The applicant shall submit a Traffic Signal Warrant Study for review and approval by the Department of Transportation and Department of Public Works with a copy to the Planning Director prior to the submittal of plans for Final Plan Approval.
6. The applicant shall submit a Traffic Impact Analysis Report (TIAR) for review and approval by the Department of Transportation, Department of Public Works

and the Planning Director prior to the submittal of plans for Final Plan Approval for any development of classroom facilities beyond the initial student population of 1,120 students.

7. The applicant shall provide the following roadway improvements at the intersection of Volcano Highway and Project Access Road/Pa'ahana Street, meeting with the approval of the Department of Transportation:
 - a. Construction of a signalized intersection.
 - b. Construction of an exclusive right turn lane on Volcano-bound Volcano Highway to the Project Access Road/Pa'ahana Street.
 - c. Construction of an exclusive left turn lane on Hilo-bound Volcano Highway to the proposed Project Access Road/Pa'ahana Street.
 - d. Reconfigure the existing right turn lane on Hilo-bound Volcano Highway at Pa'ahana Street to provide a shared through/right turn lane. The shared through/right turn lane on the Hilo side of the intersection should merge into the existing Hilo-bound traffic lane.
 - e. Construct a shared left turn/through lane and an exclusive right turn lane at the Project Access Road and Volcano Highway.
 - f. Construction of a striped six-foot wide median strip on Volcano Highway on both sides of the intersection.
 - g. Other roadway improvements to Volcano Highway as required by the State Department of Transportation.
8. The applicant shall install a chain link fence surrounding the proposed development area, with construction barriers between the operating areas and the remaining areas to be developed prior to the issuance of a certificate of occupancy for any portion of the initial campus development. The height of the fence shall be determined during Final Plan Approval.
9. The applicant shall submit a Drainage Report and all recommended improvements to the Department of Public Works in conjunction with Final Plan Approval.

10. The applicant shall submit a Solid Waste Management Plan for review and approval by the Department of Public Works prior to occupancy.
11. Should any unanticipated sites, including subsurface remains such as burials or cave shelters, be encountered on the property, work within the immediate affected area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work within the affected area shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.
12. The applicant shall comply with all applicable rules, regulations and requirements of the affected agencies for the development of the subject property, including the State Department of Transportation.
13. Upon compliance with applicable conditions of approval, and prior to the issuance of a certificate of occupancy for any portion of the development, the applicant shall submit a status report, in writing, to the Planning Director.
14. The applicant shall timely provide, without any prior notice, annual reports to the County of Hawaii Planning Commission and the Land Use Commission in connection with the status of the subject property and the applicant's progress in complying with the conditions enclosed herein. The annual report shall be due prior to or on the anniversary date of the issuance of the State Land Use Commission's decision and order. The annual report shall be submitted in a form prescribed by the executive officer of the Land Use Commission.
15. An extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
 - A) 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.
 - B) Granting of the time extension would not be contrary to the General Plan or the Zoning Code.
 - C) Granting of the extension would not be contrary to the original reasons for the granting of the permit.

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- D) 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).

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Phyllis Fujimoto or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Richard B. Baker, Jr., Chairman
Planning Commission

Lksbespp01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Yukio Takemoto
William Yuen, Esq.