

BEFORE THE LAND USE COMMISSION

2002 DEC 19 PM 12 43

OF THE STATE OF HAWAII

PLANNING DEPARTMENT  
COUNTY OF HAWAII

In the Matter of the Application of the )  
 )  
 HAWAII UNITED METHODIST )  
 UNION )  
 )  
 To Establish An Educational Retreat )  
 Center On Approximately 36.5 Acres )  
 Of Land Within The State Land Use )  
 Agricultural District At Ka'apahu )  
 Homesteads, Hamakua, Hawai'i, )  
 TMK No: 4-4-11: 15 )  
 \_\_\_\_\_ )

DOCKET NO. SP02-397  
 DECISION AND ORDER  
 APPROVING SPECIAL USE  
 PERMIT

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

DEC 18 2002 by Anthony J. [Signature]  
 Date Executive Officer

DECISION AND ORDER APPROVING SPECIAL USE PERMIT

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DECISION AND ORDER APPROVING SPECIAL USE PERMIT

On June 25, 2002, the Hawaii United Methodist Union ("Applicant") filed a Special Use Permit Application ("Application") with the County of Hawai`i Planning Department ("Planning Department"), pursuant to section 205-6, Hawai`i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai`i Administrative Rules. The Applicant proposes to establish an educational retreat center ("Project") on approximately 36.5 acres of land within the State Land Use Agricultural District at Ka`apahu Homesteads, Hamakua, Hawai`i, identified as TMK No: 4-4-11: 15 ("Property").<sup>1</sup> The Property is owned

<sup>1</sup> Since the mid-1960s, the Applicant has used the Property as a retreat for its members and other affiliated with the church. Known as Camp Mekokiko, most of the retreats involved overnight stays where members either resided in dwellings or camped outdoors. Presently, the Property

by the Applicant and is currently leased to a group that assists with the maintenance of the Property and with the cultivation of orchards and native Hawaiian trees. The lease expires in 2005.

On August 15, 2002, the County of Hawai'i Planning Commission ("Planning Commission") conducted a hearing on the Application, pursuant to a public notice published in the Hawai'i Tribune-Herald on July 16, 2002. At the hearing, there was one public witness who provided testimony in support of the Project. After due deliberation, the Planning Commission recommended approval of the Application to the Land Use Commission ("Commission"), subject to ten conditions.

On September 26, 2002, the Commission received a copy of the decision and the record of the Planning Commission's proceedings on the Application.

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 use 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.

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contains two single-family dwellings, a detached bathhouse, and a storage shed. There are also three miles of trails, a ¾-acre playfield, a pasture, an arboretum, orchards, and native Hawaiian trees on the Property. The Applicant desires to continue the operations of the retreat by improving the existing structures and constructing new facilities.

On October 31, 2002, the Commission met in Honolulu, Hawai'i, to consider the Application. Sidney M. Fuke and Dr. Theodore Lesnett appeared on behalf of the Applicant. Patricia O'Toole, Esq., and Norman Hayashi appeared on behalf of the Planning Department. John W.K. Chang, Esq., and Abe Mitsuda appeared on behalf of the Office of Planning to testify as public witnesses.

At the meeting, the Applicant represented, among other things, that it would i) limit the operation of the Project to a non-profit organization; ii) construct no more than four 1,200-square-foot, single-story dormitories and no more than six 600-square-foot, single-story cottages; and iii) limit the maximum number of beds to 40 exclusive of staff quarters.

#### 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 with amendments to Condition Numbers 2, 4, 9, and 10 as reflected in the transcripts. The Commission found that i) The Project will not displace any agricultural activity nor diminish the agricultural potential of the area. The majority of the Project will be situated in areas that are already cleared. The existing arboretum, orchards, and pasture will be allowed to continue; ii) Five archaeological sites with six features were identified on the Property. These sites were assessed as significant under

Criterion "D" as outlined in the Rules Governing Procedures for Historic Preservation Review, which means that these sites yield information important for understanding historic land use on the Property. The Applicant will secure an archaeological letter of clearance from the Department of Land and Natural Resources, Historic Preservation Division, prior to any land clearing activities;

iii) There is no designated public access to the mountain areas or the shoreline over the Property; iv) There were no observed threatened or endangered species of flora and fauna on the Property; v) The Property is designated to be outside of the 500-year flood plain; vi) The Project is not anticipated to generate significant long-term air and noise quality impacts nor to adversely impact recreational, scenic, open space, and marine and coastal resources; vii) Surrounding uses include primarily rural residences and agricultural activities. The Property is sufficiently large enough with existing forested areas and buffers to accommodate the Project without adversely impacting surrounding properties;

viii) The Property is located within an area adequately served with essential services and facilities. The Applicant will comply with all requirements as specified by the reviewing agencies; and ix) With the demise of extensive plantation-style agriculture, many large landowners no longer have the resources necessary to conduct intensive agricultural activities over vast expanses of land. Integrating non-agricultural uses with existing agricultural

activities provides a mutually beneficial relationship that enhances the ability of landowners to utilize their land in a productive manner. The Project represents an example of a non-agricultural use that will enhance and complement the existing agricultural activity on the Property. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 7 ayes, 0 nays, and 2 absent, 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 meeting conducted on October 31, 2002, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion, the Commission hereby APPROVES the Special Use Permit granted by the Planning Commission to establish an educational retreat center on approximately 36.5 acres of land within the State Land Use Agricultural District at Ka'apahu Homesteads, Hamakua, Hawai'i, identified as TMK No: 4-4-11: 15 and approximately identified on Exhibit "A," attached hereto and incorporated by reference herein, 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 shall complete the development in keeping with substantial representations made in the Application and to the Land Use Commission. These representations include, but are not limited to: i) limiting the operation of the Project to a non-profit organization; ii) constructing no more than four 1,200-square-foot, single-story dormitories and no more than six 600-square-foot, single-story cottages; and iii) limiting the maximum number of beds to 40 exclusive of staff quarters.

3. An archaeological letter of clearance be secured from the Department of Land and Natural Resources – Historic Preservation Division with a copy submitted to the Planning Director prior to any land clearing activities.

4. All construction for the proposed expanded retreat shall be completed in ten (10) years from the effective date of this permit. Prior to the start of any new construction, Final Plan Approval shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-71(f), 25-2-72, 25-2-76 and 25-2-77. Plans shall identify all proposed structures, parking area(s), access driveway(s) and landscaping associated with the proposed use.

5. The Applicant shall secure and finalize all existing permits as required by the Department of Public Works, Building Division prior to securing any new building permits for the proposed development.

6. Access shall meet with the requirements of the Department of Public Works.

7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.

8. The Applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected government agencies, including the Department of Health, Department of Public Works – Building Division, and Department of Water Supply and Fire Department.

9. A written annual status report shall be submitted to the Planning Director and the Land Use Commission in connection with the status of the Project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be due prior to or on the anniversary date of the issuance of this Decision and Order. The annual report shall be submitted in a form prescribed by the Executive Officer of the Land Use Commission.

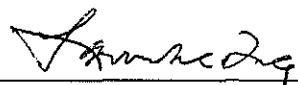


10. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director and Land Use Commission upon the following circumstances:


- 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 Zoning Code.
- C. Granting of the time 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 be extended for up to one additional year).

Dated: Honolulu, Hawai'i, DEC 18 2002

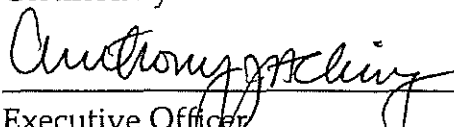
LAND USE COMMISSION  
STATE OF HAWAII

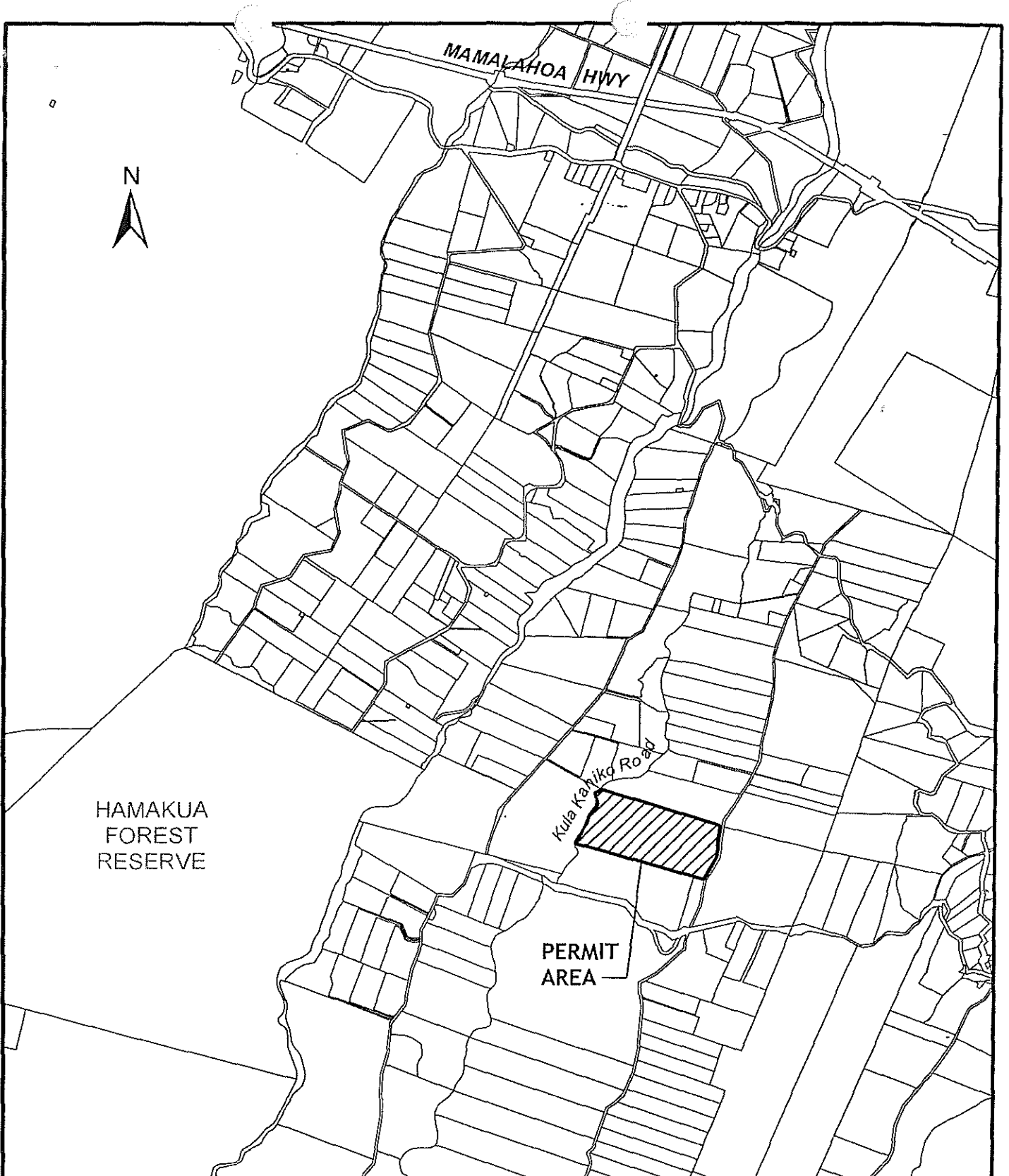
  
By LAWRENCE N. KING  
Chairperson and Commissioner

APPROVED AS TO FORM:

  
Deputy Attorney General

Filed and effective on  
DEC 18 2002, 2002

Certified by:  
  
Executive Officer

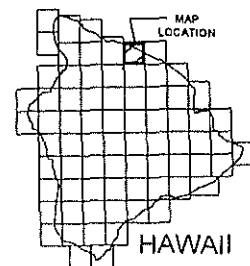


**SP02-397 HAWAII UNITED METHODIST UNION**

LOCATION MAP

TMK No: 4-4-11: 15  
Ka'apahu Homesteads, Hamakua, Hawaii'i  
Scale: 1"=2,000 ft.

**EXHIBIT "A"**



BEFORE THE LAND USE COMMISSION

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In the Matter of the Application of the	)	DOCKET NO. SP02-397
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Agricultural District At Ka`apahu	)	
Homesteads, Hamakua, Hawai`i,	)	
TMK No: 4-4-11: 15	)	
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Decision and Order Approving Special Use Permit in LUC Docket No. SP02-397/Hawaii United Methodist Union was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

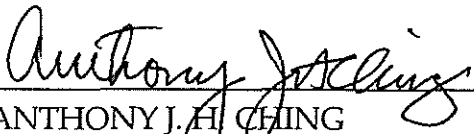
CERT.        CHRISTOPHER YUEN  
                 Planning Director  
                 Hawaii County Planning Department  
                 101 Pauahi Street, Suite 3  
                 Hilo, HI 96720

CERT.        MR. SIDNEY FUKE  
                 100 Pauahi Street, Suite 212  
                 Hilo, HI 96720

CERT.

LINCOLN ASHIDA, ESQ.  
Corporation Counsel  
101 Aupuni Street, Suite 325  
Hilo, HI 96720

DATED: Honolulu, Hawaii, DEC 18 2002.

  
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ANTHONY J. H. CHING  
Executive Officer