

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

March 14, 2025

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Second Time Extension Request for Conservation District Use Permit (CDUP) HA-3868 for a Single-Family Residence; Agricultural Use; Landscaping and Associated Improvements

PERMITTEE: Robert Garrett representing Kamahale Farms LLC

LOCATION: 15-2145 Government Beach Road, Maku'u, Puna, Hawaii

TMK: (3) 1-5-010:009

AREA OF USE: **Single-Family Residence:** 4,695 sf and **Farm/utility shed:** 680 sf

SUBZONE: Resource

EXHIBITS: **Exhibit 1:** CDUP HA 3868

Exhibit 2: Location Map

Exhibit 3: First time extension approval

Exhibit 4: Second time extension request

BACKGROUND

On October 9, 2020, the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-3868 to Robert Garrett representing Kamahale Farms LLC for a single-family residence; agricultural use; landscaping and associated improvements located at Maku'u, Puna, Hawaii. **(Exhibit 1 & 2).**

On December 10, 2021, the Board approved a one-year time extension to initiate and complete construction. Construction was to be initiated by October 9, 2022, and completed by October 9, 2024. **(Exhibit 3).**

SECOND TIME EXTENSION REQUEST (Exhibit 4)

ITEM K-1

Condition No. 7 of CDUP HA-3868 states *“Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed.”*

By correspondence dated December 17, 2024, the permittee is now requesting a second time extension to complete work. The deadline to complete construction was October 9, 2024. According to the submitted information, work was initiated to clear some trees and rubbish on the land. The permittee is requesting a 2-year time extension to complete construction.

AUTHORITY FOR GRANTING TIME EXTENSIONS

The authority for granting of time extension is provided in the Hawai'i Administrative Rules (HAR) §13-5-43, which allow for a permittee to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. As this is the permittee's second time extension request and the request has been received after the permit deadline, this request is being forwarded to the Board of Land and Natural Resources pursuant to HAR §13-5-43(c) and (e).

HAR §13-5-43 Time extensions.

(c) Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant.

(e) If a time extension request is received after the expiration deadline, it shall be forwarded to the board for review. If a request for a time extension is not received within one year after the expiration deadline, the permit shall be void.

BASIS FOR TIME EXTENSIONS

A time extension may be sought when a permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a permittee demonstrates some sort of hardship or delay in initiating work on a particular project. The permittee should be able to demonstrate that the hardship or delay was not self-imposed and that a good faith effort had been made to undertake the project.

DISCUSSION

Staff reviewed the file of CDUP HA-3868 and notes that all conditions appear to be fulfilled such as the Burial Treatment Plan and Archaeological Preservation Plan with approval from the State Historic Preservation Division (SHPD).

Further, the OCCL understands the difficulty and financial hardship of moving projects forward in a timely manner.

Staff therefore recommends the following:

RECOMMENDATION

That the Board of Land and Natural Resources approve the second time extension of CDUP HA-3868 to complete the Garrett single-family residence; agricultural use; landscaping and associated improvements subject to the following conditions:

1. That Condition No. 7 of CDUP HA-3868 is amended to provide that the Permittee has until October 9, 2027, to complete any work or construction to be done on the land; and
2. That all other conditions imposed by the Board under CDUP HA-3868, as amended, shall remain in effect.

Based on the above, the OCCL recommends that the Board of Land and Natural Resources approve the request for a time extension of CDUP HA-3868 for the Garrett Single-Family Residence; Agricultural Use; Landscaping and Associated Improvements in Maku'u, Puna District, Hawai'i, TMK (3) 1-5-010:009. The new deadline for initiating the project will be October 9, 2025, The new deadline for project completion will be October 9, 2027.

Respectfully submitted,

Alyssa Accardo

mc

Alyssa Accardo, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KABOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:RB

CDUP: HA-3868

James Leonard
JM Leonard Planning, LLC
56 Laukona St.
Hilo, HI 96720

OCT 13 2020

SUBJECT: Conservation District Use Permit (CDUP) HA-3868

Dear Mr. Leonard:

On October 9, 2020, the Board of Land and Natural Resources approved Conservation District Use Application HA-3868 for a Single-Family Residence; Agricultural use/farm with associated farm/utility shed; and Landscaping and Associated Improvements located at Maku'u, Puna, Hawai'i, Tax Map Key: (3) 1-5-010:009 subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i 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, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall comply with all applicable Department of Health administrative rules;
4. The single family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;

6. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
7. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
8. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
9. The permittee shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
10. The permittee shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;
11. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
12. The applicant shall develop an appropriate burial treatment plan in consultation with the lineal descendants for the identified burial plot on the property and shall obtain a SHPD determination and shall consult with the HIBC prior to County grading and/or building permit approval, whichever occurs first;
13. The applicant shall develop an archaeological preservation plan for the agricultural complex (Site 18980) and shall obtain a SHPD determination prior to County grading and/or building permit approval, whichever occurs first;
14. The permittee shall utilize Best Management Practices for the proposed project;

15. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
16. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawai'i Administrative Rules, Chapter 13-5;
17. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
18. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
19. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
20. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
21. Obstruction of public roads, trails, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, or pathways acceptable to the department;
22. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
23. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
24. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
25. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawai'i, and by Hawai'i statutory and case law;

26. Any landscaping shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. The introduction of invasive plant species is prohibited;
27. Trees taller than 15 feet shall not be removed or trimmed during the Hawai'i Hoary bat birthing and pup rearing season from June 1st to September 15th and no barbed wire shall be constructed;
28. The applicant shall encircle the Ischaemum byrone clumps with rock curbs to protect the endangered grass by encouraging people to walk around it;
29. If land clearing occurs between March 1 and September 30, a pre-construction hawk nest search by a qualified ornithologist using standard methods will be conducted. If Hawaiian Hawks are present, no land clearing will be allowed until October, when hawk nestlings will have fledged;
30. Other terms and conditions as may be prescribed by the Chairperson; and
31. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under Chapter 13-5, as determined by the chairperson or board

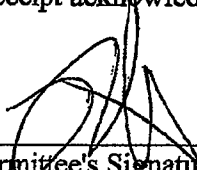
Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, contact Rachel Beasley at (808) 798-6481.

Sincerely,

Sam Lemmo

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:



Permittee's Signature

Date _____

c: Chairperson
HDLO
County of Hawaii—Department of Planning

GARRETT SINGLE FAMILY RESIDENCE - CONSERVATION DISTRICT USE PERMIT APPLICATION



Exhibit 2: Location Map

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref: OCCL:RB

Time Ext: HA-22-3
CDUP HA-3868

Dec 16, 2021

Robert Garrett
3333E. Camelback Rd.
Suite 275
Phoenix, AZ 85018

SUBJECT: Time Extension for Conservation District Use Permit (CDUP) HA-3868 for a Single-Family Residence (SFR) and Related Improvements Located at Maku'u, Puna, Hawai'i
Tax Map Key: (3) 1-5-010:009

Dear Garrett:

This is to inform you that on December 10, 2021, the Board of Land and Natural Resources (BLNR) approved your request for a time extension to October 9, 2022, to initiate and October 9, 2024, to complete construction of the SFR and related improvements, subject to the following conditions:

1. That condition 7 of CDUA HA-3868 is amended to provide that the Permittee has until October 9, 2022, to initiate construction and October 9, 2024, to complete construction; and
2. That all other conditions imposed by the Board under CDUP HA-3868, as amended, shall remain in effect.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions, please feel free to contact Rachel Beasley at 808-798-6481.

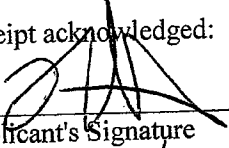
Sincerely,

pp: *S Michael Cain*
Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Robert Garrett
Kamahele Farms LLC

Time Extension: HA-22-3
CDUP HA-3868

Receipt acknowledged:


Applicant's Signature

Date 1/15/2022

cc: Chairperson
HDLO/DOCARE/DOFAW
County of Hawaii, Planning Department

Extension HA-25-07

December 17, 2024

Attn: Michael Cain

Office of Conservation and Coastal Lands
Kalanimoku Building
1151 Punchbowl St., Room 131
Honolulu, HI 96813

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2024 DEC 23 A 11:07

Subject: Time Extension for Conservation District Use Permit (CDUP) HA-3868 for a Single Family Residence (SFR) and Related Improvements Located at Maku'u, Puna, Hawai'i
Tax Map Key (3) 1-5-010:009
Address: 15-2145 Government Beach Rd

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

To Whom It May Concern:

Aloha,

I am writing to request a time extension for Conservation District Use Permit (CDUP) HA-3868... Our time to initiate had previously been extended to October 9, 2022, and the time to complete construction to October 9, 2024. I preferably would like to request a 2 year extension to complete construction, to October 9, 2026.

I did initiate work on the property in 2022—I paid Kaleo Waipa and Ray McGee \$4000 to clear some trees and rubbish on the land to get ready to build my home to live in Hawaii full time. It has been hard for me to focus on this project because I was hit by a car in a crosswalk in Phoenix, Arizona (Arizona Crash Report 2021000352799). I was bedridden/house ridden for awhile, and the medical expenses were stressful.

I know that the previous time extension to complete construction expired on October 9, 2024 and this letter is written past the expiration, but I would be very grateful to have this extension considered.

Thank you and I hope you have a wonderful holiday season.

Mahalo,
Bob Garrett
3333 E. Camelback Rd Suite 275
Phoenix, Arizona 85018
808-938-7534
Bellgroup4930@yahoo.com

See Extension HA-22-03