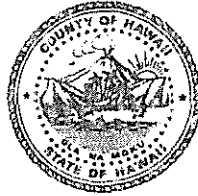


Harry Kim  
Mayor



SP 1122  
Christopher J. Yuen  
Director  
Brad Kurokawa, ASLA  
LEED™ AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT  
101 Aupuni Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

February 27, 2006

Mr. Graham Ellis  
Executive Director - S.P.A.C.E  
(Seaview Performing Arts Center for Education)  
H.V.C. (Hawaii's Volcano Circus) – Hiccup Circus  
RR2 Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

Re: S.P.A.C.E. - H.V.C. Report Letter re:  
Special Permit No. 1122 (February 1, 2006) for  
Performing Arts Educational Center  
Kalapana Seaview Estates Subdivision, Keekee Homestead, Puna  
TMK: 1-2-09: 34 & 1-2-38: 50

We received SPACE-HVC's report letter, referenced above. The report is accepted and confirms compliance with two of the stated conditions of SP 1122:

- Condition 4, building permits have been obtained for all existing farm dwellings and buildings; and, these were identified to be farm dwellings # 1 – 4 and farm buildings #1 – 3.
- Condition 7: Securing the reported building permits also indicated compliance with the government laws, rules, regulations and requirements germane to the building permit process for the proposed use.

**REMINDER: September 21, 2006 – Deadline Date to Perform SP 1122**

HVC has until the stated date to perform SP 1122 and establish the performing arts educational center, approximately a six to seven month period from now. This matter was first raised in Planning Director's Letter (February 8, 2006).

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Mr. Graham Ellis  
H.V.C. (Hawaii's Volcano Circus) – Hiccup Circus  
Page 2  
February 27, 2006

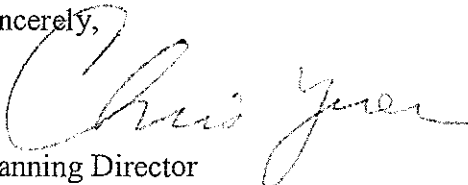
- Please Submit a Written Request for a One-Time, only, Five-Year Administrative Time Extension.** Subject to criteria stipulated in Special Permit condition 9, the Planning Director is authorized to grant only one administrative time extension of five years for HVC. The administrative time extension would allow SP 1122 to be completed by September 21, 2011.
- To request the administrative time extension: PLEASE READ SP 1122 condition 9, criteria –A, -B, and –C.** A copy of SP 1122 and condition 9 is enclosed with this letter. See highlighted information. If there should be any questions or clarification needed on the given criteria , please consult with staff planner, Earl Lucero. Ph: 961-8288.

Please submit the written request for the time extension eight weeks before September 21, 2006.

- Preparation of Site Plan for Plan Approval: Performing Arts Educational Center.** The architect retained for this project, Valerie Simpson, has had a general informal discussion with department staff on the plans that will be submitted for the project's plan approval process.

For the site plan information of the existing structures, please have the plan identify the structure or building: Specifically, the project site plan will need to identify the respective locations of **Farm Dwellings #1 – 4 and Farm Buildings #1 – 3 in addition to the center building and any other additional structure.**

Sincerely,

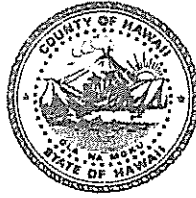


Planning Director  
CHRISTOPHER J. YUEN

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cc: Valerie C. Simpson  
McKeague & Simpson Architects  
55 Kalakaua Street  
Hilo, HI 96720

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED™ AP  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

101 Aupuni Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

February 8, 2006

Mr. Graham Ellis  
Hawaii's Volcano Circus  
P.O. Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

Request for Time Extension  
Re: **Special Permit No. 1122 (approved: September 21, 2001)**  
For Performing Arts Educational Center (2.5 acs.)  
Kalapana Seaview Estates Subdivision, Keekee Homestead, Puna  
TMK: 1-2-09: 34 (10.352 acs.)

In a recent phone discussion (January 31, '06) with staff planner, Earl Lucero, you provided an update on the efforts of HVC to fulfill SP (Special Permit) 1122.

Recently, the circus received a challenge matching grant of \$250,000. With this infusion of funds, the organization has been able to proceed to complete work approved under building permit. The circus has four building permits (BP) for build-it-to-code corrective work; one BP is finalized; the circus also plans to demolish several out buildings used for storage and a temporary kitchen.

#### **Time Frame Deadlines to Fulfill SP 1122 (approved: September 21, 2001)**

##### **September 21, 2006:**

HVC has five years from SP 1122's effective date (the date the permit was approved) to perform and establish the performing arts educational center or by September 21, 2006. Permit condition 3 states the five year performance period (see p. 6 of the permit).

Mr. Graham Ellis  
Hawaii's Volcano Circus  
Page 2  
February 8, 2006

**September 21, 2011: Please Request for a One-time Administrative Time Extension.**  
SP condition 9 authorizes the Planning Director to grant only one, five year time extension for HVC to fulfill the permit's performance conditions.

- ⊗ To obtain the one-time administrative time extension, HVC will need to **submit a written request** to the Planning Director. Please request for an initial extension of time for five years: To extend performance of the SP until September 21, 2011.
- ⊗ **Please read SP condition 9 (at p. 7 of the permit letter).** The Planning Director's approval of a time extension is subject to the criteria stated in condition 9, see criteria A, B, and C. Therefore, HVC's request letter will need to state an explanation addressing permit condition 9-A, -B, and -C.
- ⊗ **Please note:** After September 2011, any additional time extension needed by HVC will require submitting a written application to the County Planning Commission. At that stage, an application is needed to request the commission to amend the special permit condition on the time to fulfill the permit's performance requirements; and, this will require HVC to repeat and comply with the public notice, hearing, and other procedural criteria to appear before the County Planning Commission.

### **Recommended Next Steps**

**Annual Progress Reports.** Previous reports have been submitted in October and please continue along that timeframe. **The next annual report is due October 2006.**

**What to report on:** Please report specifics. In the recent phone discussion, you were asked to supply a letter report on three matters:

- (1) the outstanding and
- (2) finalized building permits, and
- (3) the structures HVC proposes to demolish.

- Please identify the BP (building permit) number to the work proposed or completed and to the specific structure.
- According to the information in SP 1122's file, the October 2006 report should cover **farm dwellings - #s 1- 4** and **farm buildings - #s 1 – 3**. Please explain any discrepancies.

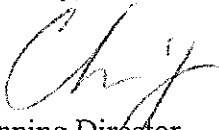
Mr. Graham Ellis  
Hawaii's Volcano Circus  
Page 3  
February 8, 2006

- For structures to be demolished**, please identify the building's use or function (e.g., storage building or unapproved kitchen); secondly, to document the demolition, please **take out a demolition permit** from the County DPW (Department of Public Works) – Building Division (generally, staff has seen DPW use the standard BP application to document and issue a demolition permit).
- Enclosure: List of 7 Building Permits:** Enclosed with this letter is a printout of the opened building permits listed for parcel 34. This information, however, is dated and only current until 2004. Please use it as an aid to organize and update the October 2006 report. Please check with DPW-Building Division (961-8331) to see if a more current list can be provided.

We wish to thank you for contacting Planning staff to discuss matters pertaining to HVC's compliance with SP 1122. For the October 2006 report, please use this letter as a **checklist aid** to complete and supply the information for the report.

Please contact Earl Lucero of my staff for any further discussion on the matters reviewed here. Ph: 961-8288.

Sincerely,



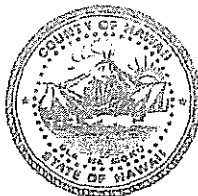
Planning Director  
CHRISTOPHER J. YUEN

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cc: Valerie C. Simpson,  
McKeague & Simpson Architects  
55 Kalakaua Street,  
Hilo, HI 96720

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED™ AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

101 Aupuni Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

March 7, 2006

Mr. Graham Ellis, Executive Director  
S.P.A.C.E – Hawaii's Volcano Circus  
RR2 Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

Re: S.P.A.C.E. - H.V.C.'s Request for an  
Administrative Five-year Time Extension (letter - February 21, 2006)  
Special Permit No. 1122 (issued: September 21, 2001) for  
Performing Arts Educational Center  
Kalapana Seaview Estates Subdivision, Keekee Homestead, Puna  
TMK: 1-2-09: 34 & 1-2-38: 50

Thank you for submitting the above-referenced request for a time extension. Subject to criteria stipulated in Special Permit 1122 condition 9A, B, and C, the Planning Director is authorized to consider and grant to HVC one administrative time extension.

**Granted - A One-Time, only, Five-Year Administrative Time Extension to Perform SP 1122 by September 21, 2011.** Pursuant to SP condition 9, the Planning Director grants to HVC an administrative time extension until the above stated date to complete the performance conditions of SP 1122.

**Planning Director's Findings.** The Planning Director grants this initial time extension upon finding that HVC's nonperformance is the result of conditions (financial, economic, and the requirement by grant funding sources that HVC officers perform qualification standards to be eligible to receive funding) that are beyond the permit holder's control and are not the result of fault or negligence.

MAR 07 2006

Mr. Graham Ellis, Executive Director  
S.P.A.C.E – Hawaii's Volcano Circus  
Page 2  
March 7, 2006

Secondly, granting the time extension is not contrary to the General Plan or the Zoning Code criteria discussed in SP 1122 (at pp. 3 & 5-6). And finally, granting the initial time extension is not contrary to the original reasons for granting SP 1122 (discussed in the SP at pp. 1-6) to establish a performing arts educational center at Kalapana Seaview Estates Subdivision, Puna.

**Next Report Due: October 2007.** HVC's letter report (February 1, 2006) satisfies the report for 2006; *therefore, a report is not due for October 2006.* Please note that your *next* report is due October 2007.

On behalf of Planning Department staff, I would like to thank you for HVC's cooperation in seeking the initial time extension provided for by SP 1122. We hope the five-year extension will provide sufficient time to complete the open building permits and to establish the performing arts educational center. A second time extension after September 2011 will require an amendment to SP 1122 and an application before the County Planning Commission.

Sincerely,



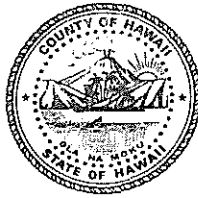
Planning Director  
CHRISTOPHER J. YUEN

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cc: Valerie C. Simpson  
McKeague & Simpson Architects  
55 Kalakaua Street  
Hilo, HI 96720

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

November 8, 2002

Mr. Graham Ellis, Executive Director  
Hawaii's Volcano Circus  
RR2, Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

**SUBJECT: Special Permit No. 1122**  
**Applicant: Hawaii's Volcano Circus**  
**Subject: Initial Extension of Time to Condition No. 4**  
**Tax Map Key: 1-2-09:34 and 1-2-38:50**

This is in response to your letter dated October 28, 2002 requesting an initial extension of time to Condition No. 4.

Condition No. 4 states:

- "4. The applicant shall secure all building permits, for all existing farm dwellings/buildings, on the remainder of the property within one (1) year from the effective date of this permit.

You have explained that you incurred a considerable delay due to your absence in Europe for six months due to family bereavement. Further, progress is being made by the hiring of Valerie C. Simpson to proceed with securing all necessary permits. The Planning Director has determined that non-performance is a result of conditions that could not have been foreseen and were beyond your control. Further, granting of the time extension would not be contrary to the General Plan or Zoning Code nor be contrary to the original reasons for the granting of the permit. **A time extension shall be granted until October 22, 2003.**

Please make every effort to comply with this condition, as complying with building permits for your existing uses is fundamental to establishing any new uses on your property.

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Mr. Graham Ellis, Executive Director  
Hawaii's Volcano Circus  
Page 2  
November 8, 2002

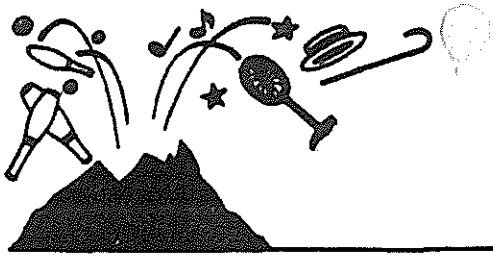
Further, please be informed that should you need any further extensions, your request with reasons (20 copies) and a \$100 filing fee shall be submitted to the Planning Commission. A public hearing would be scheduled by the Planning Commission to hear your request.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

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# HAWAII'S VOLCANO CIRCUS

A non-profit educational organization  
P.O. Box 4524 Pahoehoe, HI 96778 (808) 965-8756

3P1122

Christopher Yuen  
Planning Director  
County of Hawaii  
Hilo 96720

October 28<sup>th</sup> 2002

Dear Mr Yuen,

Progress Report  
Special Permit Application (SPP 01-013)  
Performing Arts Education Center  
Tax Map Key: 1-2-9:34 & 1-2-38:50

We are pleased to report that we have made significant progress towards this community development since the granting of our Special Permit on October 22<sup>nd</sup> 2001. With the addition of experienced community members to our Board of Directors we have established an active fundraising committee under the chairmanship of Keiko Bonk.

We have hired a professional fundraising consultant, Mark Glick, who is in the final stages in the development of our business and financial plan. We recently secured a \$30,000 'organizational capacity building' grant from the Hawaii Community Foundation to support our fundraising efforts for this project.

We have made progress in bringing all existing buildings on our land into compliance with County regulations. To this effect we have hired the firm of Valerie C. Simpson, architect and assoc. to proceed with securing all necessary permits in accordance with condition # 4. (~~See letter attached~~). We will be submitting applications for additional necessary building permits in the very near future.

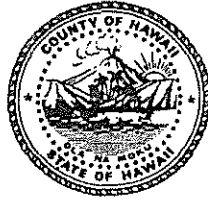
We incurred a considerable delay in this endeavor due to my absence in Europe for six months owing to a family bereavement. We therefore need to respectfully request a one year extension for this part of the process as outlined in condition # 9.

Sincerely yours,

Graham Ellis  
Executive Director

026457

Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

7000 0600 0024 2903 7325

OCT 22 2001

Mr. Graham Ellis, Secretary  
Hawaii's Volcano Circus  
RR2, Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

Special Permit Application (SPP 01-013)  
Applicant: Hawaii's Volcano Circus  
Request: Establish a Performing Arts Educational Center  
Tax Map Key: 1-2-9:34 & 1-2-38:50

The Planning Commission at its duly held public hearing on September 21, 2001, voted to approve the above-referenced application. Special Permit No. 1122 is hereby issued to allow the establishment of a performing arts educational center on 2.5 acres of land in the State Land Use Agricultural District. The property is located within and adjacent (west) to the Kalapana Seaview Estates Subdivision, near the intersection of West Pohakupele Loop and Kehauopuna Street, Puna, Hawaii.

Approval of this request is based on the following:

The applicant, Hawaii's Volcano Circus (H.V.C.), is requesting to establish a performing arts educational center on approximately 2.5 acres of a 10-acre lot on TMK: 1-2-9:34. Access is proposed from a separate parcel, TMK: 1-2-38:50, which is a 7,938 square foot parcel adjacent to the subject parcel. The mission of H.V.C. is to promote the healthy development of children and the community using the skills and fun of the circus. Programs have been developed in three ways – 1) by providing elementary schools with self-esteem programs using juggling as a means for teaching success, coordination, cooperation and concentration; 2) by offering afterschool and summer

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OCT 22 2001

Mr. Graham Ellis, Secretary  
Hawaii's Volcano Circus  
Page 2

programs training children in fun circus skills such as juggling, unicycling, stiltwalking, acrobatics and music; and 3) through performances presented by the Hiccup Children's Circus in schools, libraries and community events. Members of the corporation are mainly professional entertainers or circus arts teachers. The H.V.C. has been in operation for approximately 15 years providing programs and services in schools, libraries, churches, festivals, fairs, benefits and other community events. Programs include the "Hiccup Children's Circus" which is a regular feature at Big Island festivals and parades; and "Juggling for Success" programs in eight (8) Big Island and two (2) Kauai schools. Classes have been held in different locations without a dedicated headquarters. With the receipt of major funding for its programs, there is a need to have an on-site training center to maintain and develop their educational program. The proposed location, will assist in serving one of the most needy areas of the Puna district by providing additional educational, cultural and recreational benefits for the immediate community and the island as a whole.

The proposed performing arts educational center is an unusual and reasonable use of land situated within the State Land Use Agricultural District. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. The proposed development would occur on an approximately 2.5-acre portion of a 10.35-acre lot. The applicant has provided the community with a major community resource through their circus programs. It has performed at different locations and are in need of an on-site training center where it can maintain and develop its programs. A majority of the subject property is presently used for agricultural activities, so no active lands will be taken out of production to provide the area necessary to establish the educational center. Further, the proposed use would not displace agricultural activity nor diminish the agricultural potential of the area.

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 in the State for those uses to which they are best suited in the interest of the public health and 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 proposed use will be located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating. The Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii Map considers the lands unclassified. The area of use has already been cleared and is part of a 1955 lava flow. The proposal is to construct an administrative building/pavilion approximately

7,920 square feet in size (110 feet x 72 feet) for rehearsals and training. The space will be divided into a rehearsal and training area, two offices, costume and prop storage, workshops, lanais, certified kitchen, bathrooms, showers, equipment storage and vehicle parking. Overnight shelter for resident participants attending the circus camps will consist of tents in the area adjacent to the center. The applicant has stated that it will not be presenting public performances in the building.

Thus, the proposed use will not take any active agricultural lands out of production nor will it diminish the agricultural potential of this important agricultural land. Existing agricultural activity will continue on the remaining 8 acres of land. The subject property is situated within the County's Agricultural-3 acre zoned district. The proposed use may be permitted within the County's Agricultural zone district provided a Special Permit is secured. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The desired use shall not adversely affect the surrounding properties. The subject property is approximately 10 acres of which 2.5 acres will be used for the performing arts educational center. Access is proposed through an adjacent lot approximately 7,938 square feet in size, which the applicant also owns. The surrounding area consists of a mixture of agricultural activities, farm dwellings and vacant lots. The majority of the surrounding properties are also zoned Agricultural-3 acres (A-3a). There are neighboring dwellings located on four of the adjacent lots. The number of people using the facility would vary during the year. Weekly classes, workshops and rehearsals would involve approximately 25 people; approximately six (6) times a week between the hours of 10:00 a.m. to 9:00 p.m. Most students would be transported in the company vans, some would arrive on foot or by bicycle and a few in cars. The maximum number of people using the facility would be during workshops and annual winter and summer camps with about 40 student participants and ten (10) staff. To minimize impacts to surrounding residents, a condition shall be included to prohibit public performances on site. Further, to minimize any further impacts to surrounding properties, a landscaping plan around properties adjacent to the proposed development area and the access driveway lot shall be submitted with plans for Final Plan Approval. No objections have been received to date from the community. A letter of support from the Kalapana Seaview Estates Community Association was included with the application.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the subject property is from the Pahoa-Kalapana Road (Highway 130), onto Maupuana Street, which is the entry road into the Kalapana Seaview Estates. From Maupuana Street, turn left and travel on Kehauopuna Street until you arrive at West

Pohakupele Loop. You will be facing Tax Map Key 1-2-38:50, a 7,938 square foot parcel also owned by the applicant, which is graveled to a width of approximately 10 feet and presently used as a driveway to the educational center. The applicant proposes to utilize this lot as its access to the performing arts educational center. The subject parcel is approximately one mile, in driving distance, from the entrance of Kalapana Seaview Estates. The roads within the Kalapana Seaview Estates are county roads with an approximate 20-foot wide pavement. The subject parcel is actually a flag lot with frontage along Kamoamo Homestead Road which terminates along the property frontage. This road, however, is located at the northwestern end of the property, whereas the subject development is proposed for the southeastern end of the property. If the Kamoamo Homestead Road were used as access, the participants would have to drive through portions of the property where existing dwellings and agricultural activities are located. There is also a stubout for Moaniala Street, further west of the proposed site, located approximately midway through the subject property. However, according to the applicant, if this were required as an access point, two large 100-year old mango trees would have to be removed in order to construct a driveway. Therefore, TMK: 1-2-38:50 is considered acceptable to access the subject development. All parking, however, shall be on site. Water will be provided by a catchment system via a 5,000-gallon water tank which will provide water for toilets and showers. A separate 5,000-gallon water tank will provide water for cooking and drinking purposes. An individual wastewater system will be installed meeting with the requirements of the Department of Health. The development will not generate a significant amount of waste. However, what is generated will be disposed of at one of the county's solid waste transfer stations in Puna. All electrical services will be provided by solar energy. Telephone and other services are available to the project site. The applicant shall meet all applicable agency requirements of the Department of Health, Department of Water Supply, Department of Public Works and the Fire Department prior to the establishment of the proposed use.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The purpose of this special permit request is to allow the establishment of a performing arts educational center. The H.V.C. has been in existence for over 15 years with significant public benefit. It has been providing programs in schools, libraries, churches, festivals, fairs, benefits and other community events. Programs include the "Hiccup Children's Circus" which is a regular feature at Big Island festivals and parades; and "Juggling for Success" programs in eight (8) Big Island and two (2) Kauai schools. Classes have been held in different locations without a dedicated headquarters. With the receipt of major funding for its programs, there is a need to have an on-site training center to maintain and develop its educational program. The proposed location will assist in serving one of the most needy areas of the Puna district by providing additional educational, cultural and recreational benefits for the immediate community and the island as a whole. This type of public benefit with

minimal impact to the surrounding community is consistent with the social and physical character of a rural-agricultural area, contributes to the economy of the County, and complements existing agricultural activities.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Further, the proposed use will not substantially alter or change the essential character of the land and the present use. While the subject properties are unclassified by the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii Map, the soils contained on the properties are also classified as "E" or "Very Poor" by the Land Study Bureau. Furthermore, the U.S. Soil Survey identifies the soils as Lava Flows, Aa, which have practically no soil covering. Further, the subject area is a part of a 1955 lava flow. The area has already been cleared. The remaining approximately 8 acres are in active agricultural use and includes Ohia tree farming, bee hives, diverse exotic fruit trees, palm nursery, coconut tree nursery, mango, avocado and noni production. None of the area currently used in this manner will be taken out of agricultural use. There are four farm dwellings that have secured building permits; however, there are also farm structures that have not been approved. A condition will be included to require the applicant to secure required building permits within one year of the effective date of this permit.

The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Orchards. The proposed use is consistent with the following goals and policies of the General Plan.

#### Land Use Element

- Designate and allocate land areas in appropriate proportions and mix 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.

#### Economic Element

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.

Mr. Graham Ellis, Secretary  
Hawaii's Volcano Circus  
Page 6

- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

Based on the above considerations, the approval of the proposed performing arts educational center is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request is subject to the following conditions. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The project shall be developed in substantial compliance with representations made by the applicant.
3. The performing arts educational center shall be established within five (5) years from the effective date of this permit. Prior to establishing this use, the applicant shall secure Final Plan Approval 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, fire protection measures, parking areas, access roadways and landscaping (along the proposed development area and access driveway) associated with the proposed use. The applicant shall notify the Planning Department, in writing, of the completion of required improvements prior to commencing operation of the proposed center.
4. The applicant shall secure building permits, for all existing farm dwellings/buildings, on the remainder of the property within one (1) year from the effective date of this permit.
5. No public performances shall be allowed on the subject property.
6. 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.

7. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed use, including the Department of Health requirements.
8. If the applicant fails to comply with the conditions of approval or causes complaint(s) relating to any interference or nuisance and is unable to resolve them with the surrounding community, the Planning Director shall investigate and, if necessary, suspend the permit. The Planning Director shall then refer the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the applicant fails to comply with the conditions of approval or has caused any unreasonable interference or nuisance on the surrounding community, the permit may be revoked.
9. An initial extension of time for the performance of conditions within 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 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).

Mr. Graham Ellis, Secretary  
Hawaii's Volcano Circus  
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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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

LHIVOLCANOCIRCUSPP01-013PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Brian Minaai, Director/DOT-Highways, Honolulu

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