

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

May 9, 2005

Ms. Barbara Woerner
76-147A Royal Poinciana Drive
Kailua-Kona, HI 96740

Dear Ms. Woerner:

Special Permit Application (SPP 05-002)
Applicant: Innovations Public Charter School
Request: Establishment of a Public Charter School
Tax Map Key: 7-5-10:portion 1

The Planning Commission at its duly held public hearing on April 22, 2005, voted to approve the above-referenced application. Special Permit No. 1262 is hereby issued to allow the establishment of a public charter school (elementary school – grades 1-6), including limited before and after school care program, and related facilities on 5 acres of land situated within the State Land Use Agricultural District. The area involved is located along the east (mauka) side of Queen Kaahumanu Highway, approximately 1,500 feet north of the Queen Kaahumanu Highway-Hualalai Road intersection, Puaa 3rd, North Kona, Hawaii.

Approval of this request is based on the following:

The applicant, Innovations Public Charter School (IPCS), is proposing to establish a public charter school (elementary school – grades 1 to 6), including limited before and after school care program, and related facilities on approximately 5 acres of land of an approximate 15-acre parcel situated within the State Land Use Agricultural District. The 5-acre portion of the property contains a single-family dwelling, garage and several outbuildings. The applicant proposes to convert the existing structures into administrative offices, which will include a parent/faculty center, health room, media room, resource classrooms, library and a small kitchen. Lastly, the applicant is requesting to allow for the future development of the subject area to include two additional classrooms and a multi-purpose building for school community gatherings. This will allow the amount of students to increase from 120 to 200.

The proposed public charter school is an unusual and reasonable use of land situated within the State Land Use Agricultural District. In recognizing that lands within

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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 applicant proposes to utilize approximately 5 acres of a 15-acre property. The proposed public charter school will utilize an existing single-family dwelling located on site and develop several hale-type structures to be used as classrooms. The proposed use would not, in itself, displace agricultural activity nor diminish the agricultural potential of the area since a portion of this parcel has already been developed with the existing single-family dwelling and several accessory structures. It is therefore determined that the proposed use is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

The granting of this request would promote the effectiveness and objectives of Chapter 205 and 205A, 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 ALISH Map does not classify the subject property as having any agricultural importance.

The subject property is situated within the County's Agricultural-5 acre (A-5a) zoned district. A school is a permitted use within the State Agricultural District provided a Special Permit is secured. The school will be confined to the 5-acre area surrounding the existing single-family dwelling and accessory structures. Soils within the project site are of limited agricultural value and are generally used for grazing. The proposed charter school, in itself, would not adversely affect the agricultural potential of the project site or its surrounding area. The subject property is located approximately 1 mile from the shoreline and thus the subject request is not expected to adversely impact coastal recreational, historic, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, managing development, beach protection or marine resources. 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 surrounding land uses include agricultural/pasture uses, residences and vacant lands. Lands immediately adjacent to the subject property are zoned Agricultural (A-5a) and Single-Family Residential (RS-15). Lands further to the east are zoned Residential-Agricultural (RA-.5a) and Agricultural (A-1a). The Kailua View Estates Subdivision,

which is zoned Single-Family Residential (RS-15), is located further to the north. Further north is the Kona Heights Subdivision, which is zoned Agricultural (A-5a) and consists of lots ranging in size between 7,500 to 10,000 square feet. West of the property, on the makai side of the Hawaii Belt Road, a few properties are zoned Agricultural (A-5a), and further to the west is the University of the Nations campus, which is zoned Multiple-Family Residential (RM-4). Further to the northwest of the property, also makai of the Hawaii Belt Road, are the Pines I & II Subdivisions, which are also zoned Multiple-Family Residential (RM-4). Properties further to the south are zoned Agricultural (A-1a and A-5a). Further to the southwest, also on the makai side of the Hawaii Belt Road, is the Kona Hillcrest Subdivision, which is zoned Single-Family Residential (RS-7.5).

Access to the property will be provided from the Hawaii Belt Road, a State-maintained roadway. The school year will operate from the months of August to June. Hours of operation are from 8:30 a.m. to 3:30 p.m. Monday through Friday. In the future, a limited before and after school care program will be available and a summer school program may be developed. As the proposed use will only be conducted during these times and is directly adjacent to the Hawaii Belt Road, which allows for immediate ingress and egress, it is not expected to impact surrounding properties. Therefore, it is not expected that the establishment and operation of the proposed charter school will adversely affect the surrounding properties.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. The proposed use will have access from the Queen Kaahumanu Highway, which is a two-lane State highway with a 150-foot right-of-way and 32-foot pavement width. There are two existing driveways that the applicant proposes to use for a one-way flow pattern for ingress and egress. Ingress from Queen Kaahumanu Highway will be on the existing driveway that is located on TMK:7-5-10:1. The driveway will curve back towards the highway fronting the proposed administration building for a drop off area for students. The driveway will then connect to an existing access easement that is located on TMK: 7-5-10:4, 76 & 77, which is also owned by the same landowner of parcel 1, to allow egress onto Queen Kaahumanu Highway.

Problems with the one-way ingress and egress traffic pattern will occur with people who live north of the school. They will either travel south on Queen Kaahumanu Highway and turn left at Hualalai Road or Pualani Estates Road, and turn around someplace to get back to the highway, or they will turn west (makai) on Nani Kailua to Hualalai Road, then turn left onto Queen Kaahumanu Highway at the Hualalai Road/Queen Kaahumanu Highway intersection. Another possibility for the traffic from the north is if the Puaa Development and Suffolk Investment projects (directly across Pualani Estates Subdivision) are approved, they would be required to build a connector road from Kuakini Highway to Queen Kaahumanu Highway at the Pualani Estates Road

intersection. This would allow people coming from the north to go through Kailua on Kuakini Highway, turn left on the connector road, then turn left at the Pualani Estates Road/Queen Kaahumanu Highway intersection, which will be signalized. This would create a safer and quicker alternative for people who live north of the school site.

The posted speed limit on Queen Kaahumanu Highway fronting the subject property is 55 miles per hour. It is anticipated, but not confirmed, that the speed limit will be reduced from 55 mph to 45 mph to accommodate for the school zone on the state highway. A condition of approval will be added to reflect that in the event the speed limit is required to be reduced lower than 45 mph by DOT, access cannot be taken directly from the highway, requiring the school to seek an alternate access other than Queen Kaahumanu Highway. This may effectively kill the project, but if the creation of this school causes a significant speed reduction on Queen Kaahumanu Highway, the major arterial, this is an unacceptable impact. If no other access is made available other than the highway, the school will have no alternative but to relocate.

There are several possible alternate accesses to the subject property. Access might be gained from the north by establishing an access easement across TMK: 7 5 10:4, owned by the same landowner (Welter), then through TMK 7-5-10:5, owned by Bishop Estate, and connecting to Welo Street or Kakalina Street in the Kailua View Estates Subdivision. This will allow ingress and egress from Queen Kaahumanu Highway at the Nani Kailua signalized intersection. Another alternative would be to establish an access easement to the south from the school property to Hualalai Road. This would require an access easement over two parcels owned by the Gomes Family Ltd Partnership. Lastly, access might be gained through Hualalai Colony Subdivision via Puai Road, which connects to the western boundary of the 15-acre property on which the proposed school is located. Puai Road is a private road that connects to Hienaloli Road. The preferable access would be to connect to Kailua View Estates. A condition of approval will require the applicant to make a good faith effort to establish this alternate access to Kailua View Estates. In addition, prior to building the easement, the applicant will be required to return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement to Nani Kailua Drive. This will allow them an opportunity to comment on the proposed access and allow the Planning Commission to address the concerns that owners may have regarding potential impacts.

A Traffic Impact Analysis Report (TIAR) was prepared by Witcher Engineering LLP for the proposed charter school. The TIAR concluded the "The school at this site on Queen Kaahumanu Highway will have an impact on traffic. This is particularly true at the intersection of Hualalai Road and QKH on the makai side of QKH. However, by changing the school hours so that the arrivals and departures at the school are during non peak hour traffic periods, traffic congestions, particularly at Hualalai Road, can be reduced. The 10 mph decrease in the speed limit would not significantly impact traffic

throughput.” The report suggested possible mitigation measures, as well. These measures are as follows:

- The school does not have to begin its day during the AM peak traffic hour, nor end it during the PM peak traffic hour. Traffic counts indicate that if school were to start at 7:00 AM – 7:15 AM, the level of service of the eastbound left turning movement at the intersection of Hualalai Road and QKH makai would go from an “F” to an “E”, and the approach delay would be 12.0 seconds. If the school let out before 3:00 PM, the same could be expected.
- Car pooling is another option. Parents should be encouraged to organize carpools. This could reduce the traffic by possibly 20% to 30%.
- The best mitigation measure would be to find another access to the school site, and the best of these seems to be across Bishop Estate land from Kailua View Estates and other privately owned parcels. This would take considerable time and very likely could not be accomplished for the fall 2005 school session. However, the Innovations School is willing to pursue this option and is in the planning process of pursuing discussion with Bishop Estate concerning the possibilities.

The Kona Traffic Safety Committee suggested that “the applicant and county be required to explore establishing access to the property from Hualalai Road, or preferably, from Kailua View Estates via an extension of Welo Street. The former would entail obtaining an agreement with the owner of the property on the southern boundary, while the latter would involve crossing property owned by Bishop Estate, a lot owned by the owner of the 5 acres, and two lots owned by another common owner on the northern boundary. Both would entail construction of a road less than 1/3 of a mile long. We suggest a preference for access from Kailua View Estates because: 1) the Hwy 11/Nani Kailua Drive intersection is already signalized; and 2) it would afford non-motorized access to the school for children residing in the Kailua View Estates and Kona Heights subdivisions. If such other access is possible, it might be acceptable to also allow right-turn in and out from the driveways on Hwy 11.

The State Department of Transportation commented that they will defer comments on the traffic impacts and mitigation requirements until they have an opportunity to review the TIAR. A condition of approval will be added requiring the applicant to comply with the requirements of the Department of Transportation.

Currently, a 5/8-inch meter services this parcel and is restricted to a daily maximum of 600 gallons. Three (3) units of water, or a maximum of 1,800 gallons per day, can be made available if the existing 8-inch waterline along Queen Kaahumanu Highway is extended approximately 100 feet to the front of the property. Leo Fleming,

C.E., submitted revised water use calculations to the Department of Water Supply stating that they calculated the daily water needs for the school to be 1499 gallons per day. Fleming indicated that with the three 600 g.p.d. (1,800 g.p.d.) water units available to service the school, this would exceed the school's water requirements, even if the school expanded beyond their current enrollment to their maximum 200 students. A condition of approval will be added requiring the applicant to comply with the requirements of Department of Water Supply regarding the availability of water prior to the establishment of the public charter school.

There is an existing cesspool for the residence. The applicant will also be required to install a new wastewater system meeting with the Department of Health requirements prior to establishing the proposed use. Police, fire and medical services are available within reasonable distances of the project site. All essential utilities are available for the proposed use.

The proposed use will substantially alter or change the essential character of the land and the present use. In this case, the request will substantially alter the character of the land and the present use, at least for the 5-acre area of the 15-acre parcel. Under Rule 6 and H.R.S. sec. 205-6, the ultimate issue in deciding a special permit is whether the use is an "unusual and reasonable" use of the property. In making this decision, the Commission must consider the seven listed criteria in Rule 6.3(b)(5)(A-G). The proposed use does not have to meet all of the listed criteria in order to be approved as long as the Commission finds, on balance, that the proposal is "unusual and reasonable. Given the fact that the subject portion of the property has been developed with a dwelling and several accessory structures, it is unlikely that any endangered or threatened species of flora or fauna exist on the property. The Department of Land and Natural Resources-State Historic Preservation Division has issued a "no-effect" letter stating that they believe that there are no historic properties present because residential development/urbanization has altered the land and that previous grubbing/grading has altered the land. Thus, they believe that "no historic properties will be affected" by this undertaking. The General Plan Historic Sites Element does not identify any archeological resources on the subject site. Nevertheless, a condition will be included to require the notification of the Department of Land and Natural Resources-State Historic Preservation Division should any archeological sites be encountered during the course of development.

The land upon which the proposed use is sought is unsuited for the uses permitted for the district. 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 ALISH Map does not classify the subject property as having any agricultural importance. In this case, the land is unsuited for agricultural activities and yet is classified for such uses. No lands of high agricultural potential will be removed with the approval of this request, but will remain preserved. Therefore, the

request to allow a public charter school for this location is considered an “unusual and reasonable” use of land within the agricultural district.

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 Urban Expansion uses. The proposed use of a school for this property will support the urban land use pattern as reflected in the General Plan. The proposed use is consistent with the following goals and policies of the General Plan.

Public Facilities

- Continue to seek ways of improving public service through the coordination of service and maximizing the use of personnel and facilities.
- Coordinate with appropriate State agencies for the provision of public facilities to serve the needs of the community
- Improve basic school facilities to meet current standards

Economic

- Economic development and improvement shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Strive for diversity and stability in its economic system.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

Land Use

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Innovations Public Charter School currently serves 120 children in grades one (1) through six (6) in six classrooms on the Kahakai campus in Kailua-Kona. The proposed campus facility will help reduce overcrowding in West Hawaii elementary schools and provide an additional elementary public school to the residents in this area.

Based on the above considerations, the approval of the proposed public charter school 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:

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with the requirements of Department of Water Supply regarding the availability of water prior to the establishment of the public charter school. Fire flow shall meet with the requirements of the Department of Water Supply and the Fire Department.
3. Prior to the establishment of the proposed use, the applicant, successors or assigns shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify existing and proposed structures, landscaping, fire protection measures, and paved driveway access and parking spaces associated with the proposed use. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). The applicant may utilize a graveled parking lot for up to 2 years.
4. Enrollment shall be limited to 200 students.
5. The applicant shall develop an Emergency Plan, similar to those of the State Department of Education Schools, which address hazards such as fire, earthquake, etc., and provide evacuation measures for students and staff. The Emergency Plan shall be approved by the Civil Defense Agency. A copy of the approved plan shall be submitted to the Planning Department.
6. Students will not be allowed to access the area within 300 feet from Queen Kaahumanu Highway, except in transit to and from the school.
7. The applicant shall make a good faith effort to establish an access easement to the north on TMK: 7-5-10:4 and 5, and connect to either Welo Street or Kakalina Street in the Kailua View Estates Subdivision. If approval for the necessary easements is received, the applicant shall build a connector road from Kailua View Estates to the school site meeting with the approval of the Planning Director, in consultation with the Department of Public Works. Prior to

construction of the connector road, the applicant will be required to return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement to Welo Street or Kakalina Street, for approval of the alternate access. The applicant shall complete construction of the connector road within 5 years of receiving all necessary approvals. This condition does not prevent cost sharing agreements with other property owners.

8. All driveway connections to the Queen Kaahumanu Highway shall conform to the requirements of the State Department of Transportation.
9. The applicant shall implement a carpooling policy and submit it to the Planning Director for review and approval prior to Certificate of Occupancy.
10. The applicant shall post a "No Left Turn" sign fronting the driveway entrance of the property for patrons traveling south on Queen Kaahumanu Highway. The applicant shall also post a "No Left Turn" sign at the driveway exit for patrons exiting the school onto Queen Kaahumanu Highway. The patrons of the school shall be informed of the no left turn policy. Violations of this condition may result in revocation of the permit.
11. If the speed limit on Queen Kaahumanu Highway is required by the State Department of Transportation to be reduced below 45 mph because of the school zone, the school will be restricted from direct access to Queen Kaahumanu Highway. The school will be required to establish an alternate access to the school site and place a gate at the highway driveway entrance to prevent access from the highway. Prior to construction of any alternate access being constructed, the applicant shall return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement, for approval of the alternate access.
12. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of any construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works, and/or the State Department of Transportation if applicable, prior to receipt of a Certificate of Occupancy.
13. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.

14. Wastewater generated by the public charter school shall be disposed of in a manner meeting with the requirements and approval of the State Department of Health.
15. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
16. 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.
17. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the State Department of Transportation.
18. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
19. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 1. The 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.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.

Ms. Barbara Woerner

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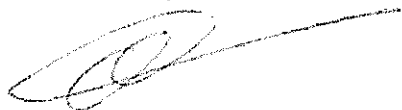
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

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.

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 Norman Hayashi of the Planning Department at 961-8288.

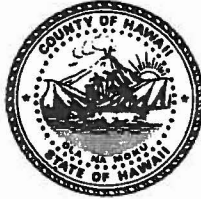
Sincerely,



Fred Galdones, Chairman
Planning Commission

Linnovationsspp05-002pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Department of Land & Natural Resources/HPD-Kona
Rodney Haraga, Director/DOT-Highways, Honolulu
Mr. Leonard Welter



County of Hawai'i

LEEWARD PLANNING COMMISSION

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AUG 12 2011

Barbara Woerner, Founding Director
Innovations Public Charter School Foundation
75-5815 Queen Ka'ahumanu Highway
Kailua-Kona, HI 96740

Dear Ms. Woerner:

Special Permit (SPP 1262)

Applicant: Innovations Public Charter School

Request: Four-Year Time Extension to Utilize Gravel Parking (Condition No. 3)

Tax Map Key: 7-5-10: ~~portion of 2~~ **por. of 1 (correction)**

The Leeward Planning Commission at its duly held public hearing on July 21, 2011, voted to approve the above-referenced request for a 4-year time extension to Condition No. 3 of Special Permit No. 1262, which allowed for the establishment of a public charter school and related facilities on 5 acres of land situated within the State Land Use Agricultural District. Condition No. 3 requires that a paved parking lot be provided for the school. The applicant is requesting an additional four (4) years to pave the existing gravel parking lot. The property is located along the east (mauka) side of Queen Ka'ahumanu Highway, approximately 1,500 feet north of the Queen Ka'ahumanu Highway – Hualālai Road intersection, Pua'a 3rd, North Kona, Hawai'i.

Approval of the request is based on the following:

The applicant is requesting an amendment to Special Permit No. 1262, which allowed the establishment of a public charter school (elementary school – grades 1 to 6), including limited before and after school care program and related facilities on 5 acres of land situated within the State Land Use Agricultural District. Specifically, the applicant is requesting that they be allowed the continued use of a gravel parking lot until June 4, 2015.

Approval of this request would not be contrary to the General Plan or the Zoning Code. The property is located on lands designated Agricultural by the State Land Use Commission and zoned Agricultural-5 acre (A-5a) by the County. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The General Plan LUPAG map designation for the property is Urban Expansion which are lands that allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined.. The soils on the property are classified as "E" or "Very Poor" for agricultural productivity and are not classified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map.

Since the original permit was granted, the Kona Community Development Plan (CDP) was adopted in 2008 by the County Council. The subject property is located within the Kona Urban area and within the Puaa-Waiaha Village Transit Oriented Development (TOD) circle. It should be noted that while the project falls within a target TOD, the applicant is not seeking to change the zoning of the land which would trigger the need for compliance with the Kona CDP TOD requirements. With regards with this specific project the Kona CDP, Policy PUB-6.6, Important Role of Schools in Creating a Sense of Community, supports the creation of charter schools in the Kona Community.

Approval of this request would not be contrary to the original reasons for granting the Special Permit. The Planning Commission, on April 22, 2005, granted Special Permit No. 1262 to allow the establishment of a public charter school (elementary school—grades 1 to 6), including limited before and after school care programs and related facilities on 5 acres of land situated within the State Land Use Agricultural District. This charter school has since been established and has a large waiting list of youth wishing to enter its educational establishment. The applicant has not been able to establish the final location of the parking lot for the school due to the uncertainty of defining the final location of the parking lot that will service the charter school. The applicant is seeking to purchase land from one of the adjoining property owners which will allow for the development of an access road that will connect the school to Hualālai Road. Until such time the purchase is consummated, the location and configuration of the access as well as the final location/layout of the parking lot is unknown. The department is not aware of any complaints or concerns from the affected agencies or the general public regarding the continued use of the gravel parking lot. Therefore, the original reasons for granting the permit will not be compromised by the approval of the requested amendment to allow for the continued use of gravel parking lot for an additional 4 years until June 4, 2015. The

applicant continues to comply with the other conditions and requirements of the original permit.

Based on the above, the request to amend Special Permit No. 1262 to allow for the continued use of a gravel parking area until June 4, 2015, would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. Approval of this request is subject to the following conditions, which also includes housekeeping amendments. Material to be added is underscored; material to be deleted is bracketed and struck through.

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with the requirements of Department of Water Supply regarding the availability of water prior to the establishment of the public charter school. Fire flow shall meet with the requirements of the Department of Water Supply and the Fire Department.
3. Prior to the establishment of the proposed use, the applicant, successors or assigns shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify existing and proposed structures, landscaping, fire protection measures, and paved driveway access and parking spaces associated with the proposed use. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). The applicant may utilize a graveled parking lot [~~for~~] up to [~~2-years~~] June 4, 2015.
4. Enrollment shall be limited to 200 students.
5. The applicant shall develop an Emergency Plan, similar to those of the State Department of Education Schools, which address hazards such as fire, earthquake, etc., and provide evacuation measures for students and staff. The Emergency Plan shall be approved by the Civil Defense Agency. A copy of the approved plan shall be submitted to the Planning Department.
6. Students will not be allowed to access the area within 300 feet from Queen Kaahumanu Highway, except in transit to and from the school.
7. The applicant shall make a good faith effort to establish an access easement to the north on TMK: 7-5-10:4 and 5, and connect to either Welo Street or Kakalina

Street in the Kailua View Estates Subdivision. If approval for the necessary easements is received, the applicant shall build a connector road from Kailua View Estates to the school site meeting with the approval of the Planning Director, in consultation with the Department of Public Works. Prior to construction of the connector road, the applicant will be required to return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement to Nani Kailua Drive, for approval of the alternate access. The applicant shall complete construction of the connector road within 5 years of receiving all necessary approvals. This condition does not prevent cost sharing agreements with other property owners.

8. All driveway connections to the Queen Kaahumanu Highway shall conform to the requirements of the State Department of Transportation.
9. The applicant shall implement a carpooling policy and submit it to the Planning Director for review and approval prior to Certificate of Occupancy.
10. The applicant shall post a "No Left Turn" sign fronting the driveway entrance of the property for patrons traveling south on Queen Kaahumanu Highway. The applicant shall also post a "No Left Turn" sign at the driveway exit for patrons exiting the school onto Queen Kaahumanu Highway. The patrons of the school shall be informed of the no left turn policy. Violations of this condition may result in revocation of the permit.
11. If the speed limit on Queen Kaahumanu Highway is required by the State Department of Transportation to be reduced below 45 mph because of the school zone, the school will be restricted from direct access to Queen Kaahumanu Highway. The school will be required to establish an alternate access to the school site and place a gate at the highway driveway entrance to prevent access from the highway. Prior to construction of any alternate access [~~being constructed~~], the applicant shall return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement, for approval of the alternate access.
12. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of any construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works, and/or the State Department of Transportation if applicable, prior to receipt of a Certificate of Occupancy.

13. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
14. Wastewater generated by the public charter school shall be disposed of in a manner meeting with the requirements and approval of the State Department of Health.
15. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
16. 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.
17. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the State Department of Transportation.
18. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

~~[19. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:~~

- ~~1. The 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.~~
- ~~2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.~~
- ~~3. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.~~
- ~~4. 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).~~

Barbara Woerner, Founding Director
Innovations Public Charter School Foundation
Page 6

~~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.]~~

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 Daryn Arai of the Planning Department at 961-8288.

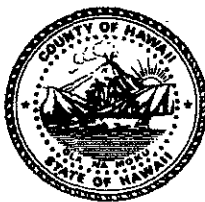
Sincerely,



Brandi Beaudet, Acting Chairman
Leeward Planning Commission

linnovationsspp1262lpc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Department of Land & Natural Resources-HPD
DOT-Highways, Honolulu
Mr. Gilbert Bailado ✓



County of Hawai'i

LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

DEC 06 2012

Ms. Julie "Lee" Nelson
Innovations Public Charter School
75-5815 Queen Ka'ahumanu Highway
Kailua-Kona, HI 96740

Dear Ms. Nelson:

Special Permit (SPP 1262, Docket No. 05-000002)

Applicant: Innovations Public Charter School

Request: To Increase School Use from 5 Acres to 9.298 Acres; Expand Grades of Instruction from 1st Through 6th Grade to Kindergarten Through 12th Grade; and Increase Student Enrollment from 200 Students to 350 Students

Tax Map Key: 7-5-010:001

The Leeward Planning Commission, at its duly held public hearing on November 15, 2012, voted to approve the above-referenced request for an amendment to Special Permit No. 1262, which allowed the establishment of a public charter school and accessory facilities for up to 200 students between grades 1 and 6, on 5 acres of land situated within the State Land Use Agricultural District. The amendment is to allow the expansion of the school by increasing enrollment to a maximum of 350 students, expand the grades of instruction to kindergarten through 12, and increase the campus size to 9.298 acres. The subject property is located along the east (mauka) side of Queen Ka'ahumanu Highway, approximately 1,500 feet north of the Queen Ka'ahumanu Highway – Hualalāi Road intersection, Pua'a 3rd, North Kona, Hawai'i.

Approval of the request is based on the following:

The applicant, Innovations Public Charter School (IPCS), is requesting an amendment to Special Permit No. 1262, which originally allowed the establishment of a public charter school and accessory facilities for up to 200 students between grades 1 and 6, on 5 acres of land situated within the State Land Use Agricultural District. The requested amendment is to allow for the expansion of the school by increasing enrollment

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DEC 06 2012

to a maximum of 350 students, expand the grades of instruction to kindergarten through 12, and increasing the campus size to 9.298 acres. A middle school campus will be constructed on the mauka 4.298 acres of the property, and would consist of four classroom buildings, a restroom building, and an administrative building. An outdoor pavilion and/or amphitheater, a playfield and a covered basketball court are also proposed and would be utilized by all students. Future expansion plans include a high school program where every student will be college- or career-ready when they leave IPCS. The applicant is requesting to increase enrollment from its current 200 students to 350 students from grades Kindergarten to 12. A new access driveway is also proposed from Hualālai Road to the proposed upper campus in order to reduce traffic congestion on Queen Ka'ahumanu Hwy. The school year will operate from late July to late May. The campus will be open from 6:30 a.m. to 5:30 p.m., Monday to Friday. Elementary school hours will be from 7:30 a.m. to 2:45 p.m. Monday to Thursday and 7:30 a.m. to 12:45 p.m. on Friday. Middle school hours will be from 7:45 a.m. to 3:00 p.m. Monday to Thursday and 7:45 a.m. to 1:00 p.m. on Friday. An after-school care program will also be available and a summer school program may be developed in the future. There is currently a total of 33 faculty and staff. Approximately 6 additional faculty and staff will be added with expansion of the campus.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the Agricultural District that would not be contrary to the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. 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 applicant is requesting to expand an existing public charter school onto an additional 4.298 acres of land in order to accommodate the educational needs of the Kona community. The request is unusual in that a school is not considered agricultural in nature, yet it is a reasonable use of lands in the Agricultural District because the property does not have a high potential for agriculture and would better serve the community through its use as a school. It is therefore determined that the proposed use is an unusual and reasonable use within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) Such uses shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The property is not considered important agricultural land. In fact the property's soils are designated "E" or "Very Poor" for agricultural productivity by the Land Study Bureau Soil Classification System and are unclassified by the Department of Agriculture's ALISH Map. Thus, establishment of the proposed use will not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

(B) The desired use would not adversely affect surrounding properties. All of the immediately surrounding properties are zoned Agricultural (A-5a) and are over 5 acres in size. The Kona Heights subdivision, with properties zoned RS-15, is located about 1,000 feet to the north. The Hualālai Colony subdivision, with properties zoned RS-15, is located about 300 feet to the east. The vacant lands to the south are zoned A-5a and A-1a. To the west, across the highway, are properties zoned A-5a, CV-10 and RM-4. The surrounding land uses include agricultural/pasture uses, residences and vacant lands. Expansion of the charter school campus will likely cause an increase in noise due to school bells, fire drills, and students participating in outdoor recreation. Construction of new buildings will temporarily increase noise, dust and traffic. However, it is unlikely that an increase in noise, dust, and traffic will adversely affect surrounding properties since the immediately surrounding properties are primarily unused agricultural land and the closest dwellings are located over 350 feet away, to the east of the site. Providing landscaping along the perimeter of the property can further reduce any effects caused by noise and dust. As a condition of approval, the applicant will be required to provide on-site parking, drainage improvements and landscaping as necessary to minimize the fugitive effects of noise, drainage and dust that could be created by the school use upon the surrounding area. The existing charter school has been in operation for about 12 years. During this time, the Planning Department is not aware of any complaints regarding operational impacts of the school upon the surrounding properties. As of this writing, no comments or concerns have been received from surrounding property owners.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Existing access is via two driveways off of Queen Ka'ahumanu Highway,

which is a two-lane State highway. These driveways establish a one-way traffic pattern for ingress and egress. The entrance, which is situated on the subject property, is limited to right-turn in movements. The driveway extends up to a student drop off area and parking lot near the administration building, then curves back towards the highway within an access easement located on TMK's: 7-5-10:04, 76 & 77. The exit onto Queen Ka'ahumanu Highway is limited to right-turn out movements. Both accesses are approximately 650 feet long with 11-foot wide asphalt pavement. There are security gates at each access which remain open during school hours. In addition to the continued use of the existing accesses on Queen Ka'ahumanu Highway, the applicant proposes to construct an access from the southeast boundary of the property to Hualālai Road that will accommodate two-way vehicular traffic. The driveway will be constructed within the makai 30-foot portion of a 60-foot wide easement over the adjacent properties owned by Gomes Family Limited Partnership and the Bolton Family. Upon approval of the permit amendment, these neighbors will grant an access easement to the applicant. Vehicular access between the upper middle school and lower elementary school campuses is not proposed but concrete walkways will be constructed to connect the campus. A Traffic Impact Analysis Report (TIAR) was prepared by Witcher Engineering LLP. With the expansion of the campus, the proposed Hualālai Road access will divert approximately 70% of traffic off of Queen Ka'ahumanu Hwy. All middle school students and their younger elementary siblings will arrive and be dismissed to the upper campus pick-up/drop-off area. The lower campus pick-up/drop-off will only be used for K-5 students without older siblings, which is projected to be about 30% of the total student population. The TIAR concluded that traffic on Queen Ka'ahumanu Hwy will be minimally impeded by the increase in enrollment of the school. The eastbound left-turn movement onto the highway from Hualālai Road Makai and the westbound left-turn movement onto the highway from Hualālai Road Mauka currently operate and will continue to operate at Level of Service (LOS) "F". The school has policies in place, such as staggered school hours and a carpool policy, to reduce the impact of school traffic on area roadways. The diversion of 70% of traffic generated by the school to the Hualālai Road entrance will improve traffic conditions on Queen Ka'ahumanu Highway, which was a major concern when the original Special Permit was approved in 2005.

County water is currently provided to the property via a 5/8-inch water meter that is restricted to a daily maximum of 600 gallons or 1 unit of water. When the charter school was originally established the applicant estimated the maximum daily water demand would be 1,499 gallons, which is equivalent to 3 units of water. As recommended by the Department of Water Supply (DWS) a condition of the original permit required that the applicant extend the 8-inch waterline within Queen Ka'ahumanu Hwy approximately 100 feet to front the property and install a larger water meter to accommodate the estimated water demand of 1,499 gallons per day. To date the water line has not been extended and a larger water meter has not been installed. According to

the DWS, past water usage through the existing meter has been an average of 3,500 gallons, which is equivalent to 9 units of water. Therefore, the DWS is recommending that the applicant seek ways to minimize the use of County potable water for landscaping and agriculture so the school can stay within the limits of using no more than 9 units of water. The DWS also recommends that the applicant provide updated water usage calculations and install any necessary water system improvements to provide County water for the expanded school campus. In addition, there is 20-inch transmission-only waterline within the highway that can provide adequate water flow pressure for fire protection. A condition of approval will be added requiring the applicant to comply with the requirements of Department of Water Supply regarding the availability of water prior to the expansion of the public charter school. The applicant will install new wastewater system(s) meeting with the requirements of the Department of Health as new campus buildings are constructed. Police, fire and medical services are available within reasonable distances of the school and all essential utilities are available to the property.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. The property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various non-agricultural services that may not be available or allowed by zoning for its residents. Since the district boundaries were established in the 1960's, Kona's population has grown substantially and the establishment of community services, such as schools, has not kept pace with this growth. The State Land Use Commission has not designated new urban lands where these community services can be established, thus a Special Permit is the only way to provide these much needed services to the community.

(E) The land upon which the proposed use is sought is suited for the uses permitted within the district. The proposed use is situated on lands whose soils are classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau's Overall Master Productivity Rating. The Department of Agriculture's ALISH Map does not classify the subject property as having any agricultural importance. In this case, the land is unsuited for agricultural activities and yet is classified for such uses. No lands of high agricultural potential will be removed with the approval of this request.

(F) The use will not substantially alter or change the essential character of the land and the present use. The character of the surrounding area is primarily pasture

with residential subdivisions located approximately 300 to 1,000 feet from the subject property. Additionally, IPCS's elementary school campus has been established on the makai portion of the subject property since 2006. Thus, the proposed campus expansion would not substantially alter the essential character of the land.

(G) The request will not be contrary to the General Plan and Community Development Plan. The proposed use is consistent with the General Plan Land Use Patter Allocation Guide (LUPAG) Map, which designates the subject property as Urban Expansion. The Urban Expansion designation allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. The proposed use is also consistent with the following goals and policies of the General Plan.

Public Facilities

- Improve basic school facilities to meet current standards.

Economic

- Support all levels of educational, employment and training opportunities and institutions.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

Land Use

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Innovations Public Charter School has been successfully providing educational opportunities to children in the Kona community for 12 years and currently has an enrollment waitlist of over 600 children. Expansion of the existing charter school campus will allow more children to enroll at IPCS thereby reducing overcrowding at other West Hawai'i schools.

The proposed use is also consistent with the Kona Community Development Plan (CDP). The subject property is located within the Kona Urban area and within the Pua'a-Waiaha Village Transit Oriented Development (TOD) circle. It should be noted that while the project falls within a target TOD the applicant is not seeking to change the zoning of the land which would trigger the need for compliance with the Kona CDP TOD requirements. With regards to this specific project, the Kona CDP, Policy PUB-6.6, 'Important Role of Schools in Creating a Sense of Community', supports the creation of charter schools in the Kona community.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The subject property is not proximate to the shoreline and will not be impacted by coastal hazards or affect beach erosion, coastal ecosystems and marine resources. Additionally, it is not located in the Special Management Area. There is no record of a designated public access to the shoreline or mountain areas that traverses the property. According to the applicant, no valued cultural or natural resources exist on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced at the site.

Based on the above considerations, approval of the request to allow the expansion of a public charter school campus offering a full range of academic and extracurricular opportunities for up to 350 students from Kindergarten through 12th grade on approximately 9.298 acres of land would support the objectives sought to be accomplished by the Land Use Law and Regulations. Approval of this amendment request is subject to the following conditions (new material is underscored and deleted material is bracketed and struck through):

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. ~~The applicant shall comply with the requirements of Department of Water Supply regarding the availability of water prior to the establishment of the public charter school. Fire flow shall meet with the requirements of the Department of Water Supply and the Fire Department.~~ Prior to the issuance of a Certificate of Occupancy for any new structures on the subject property, the applicant shall provide the following:
 - Submit water usage calculations to the Department of Water Supply, prepared by a professional engineer licensed in the State of Hawai'i, which shall include but not be limited to, the methods and/or water use practices that will reduce the current water usage within the subject property, and the estimated increase in water usage associated with the school expansion and increase in student enrollment.

- Install water system improvements as required by the Department of Water Supply to provide water for the school expansion.
 - Install a reduced pressure type backflow prevention assembly within five (5) feet of each existing and new water meter on private property.
3. Prior to the ~~[establishment of the proposed use]~~expansion of the charter school campus, the applicant, successors or assigns shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify existing and proposed structures, landscaping, fire protection measures, and paved driveway access and parking spaces associated with the proposed use. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). The applicant may utilize a graveled parking lot up to June 4, 2015. The applicant shall provide a 15-foot wide emergency vehicular access between the upper and lower campuses.
 4. Enrollment shall be limited to ~~[200]~~350 students.
 5. ~~[The applicant shall develop an Emergency Plan, similar to those of the State Department of Education Schools, which address hazards such as fire, earthquake, etc., and provide evacuation measures for students and staff. The Emergency Plan shall be approved by the Civil Defense Agency. A copy of the approved plan shall be submitted to the Planning Department.]~~The applicant shall update the IPCS Emergency Plan, which was originally approved by the Civil Defense Agency on November 16, 2005. The updated plan shall be approved by the Civil Defense Agency with a copy submitted to the Planning Department.
 6. Students will not be allowed to access the area within 300 feet from Queen Ka'ahumanu Highway, except in transit to and from the school.
 7. ~~[The applicant shall make a good faith effort to establish an access easement to the north on TMK: 7-5-10:4 and 5, and connect to either Welo Street or Kakalina Street in the Kailua View Estates Subdivision. If approval for the necessary easements is received, the applicant shall build a connector road from Kailua View Estates to the school site meeting with the approval of the Planning Director, in consultation with the Department of Public Works. Prior to construction of the connector road, the applicant will be required to return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement to Nani Kailua Drive, for approval of the~~

~~alternate access. The applicant shall complete construction of the connector road within 5 years of receiving all necessary approvals. This condition does not prevent cost sharing agreements with other property owners.]~~Prior to the issuance of a Certificate of Occupancy for any new structures on the subject property, the applicant shall construct a 20-foot wide paved driveway within Easement AU-1 (shown in Exhibit 4) from the subject property to Hualālai Road meeting Standard Detail R-39 "Agricultural Street" standards with a minimum asphalt-concrete thickness of 2 inches. The first 50 feet of the proposed driveway from Hualālai Road (including the proposed driveway approach to and within the Hualālai Road right-of-way) shall include 4-foot wide paved shoulders. The driveway shall include all-weather crossings over the Waiaha Drainageway, if required by the Department of Public Works, since this driveway will serve as the primary access for the campus. This driveway shall meet AASHTO standards for sight distance and shall include pavement transitions, signs, markings and a streetlight as required by the Department of Public Works. These improvements shall be installed within the makai 30-foot portion of the easement and shall meet with the approval of the Department of Public Works.

8. Should additional intersection improvements at the proposed access such as channelization be required by the Department of Public Works, the applicant shall provide such improvements in a timely manner at no cost to the County.
- [8:]9. All driveway connections to the Queen Ka'ahumanu Highway shall conform to the requirements of the State Department of Transportation.
- [9:]10. The applicant shall [~~implement a carpooling policy~~] update the Carpool Policy and Plan dated July 20, 2005 and submit it to the Planning Director for review and approval prior to Certificate of Occupancy.
- [10:]11. The applicant shall post a "No Left Turn" sign fronting the driveway entrance of the property for patrons traveling south on Queen Ka'ahumanu Highway. The applicant shall also post a "No Left Turn" sign at the driveway exit for patrons exiting the school onto Queen Ka'ahumanu Highway. The patrons of the school shall be informed of the no left turn policy. Violations of this condition may result in revocation of the permit.
- [11:]12. If the speed limit on Queen Ka'ahumanu Highway is required by the State Department of Transportation to be reduced below 45 mph because of the school zone, the school will be restricted from direct access to Queen Ka'ahumanu Highway. The school will be required to [~~establish an alternate access~~]utilize the proposed Hualālai Road driveway only to the school site and place a gate at the

highway driveway entrance to prevent access from the highway. ~~[Prior to construction of any alternate access, the applicant shall return to the Planning Commission, with notification given to property owners of properties bordering the proposed access easement, for approval of the alternate access.~~

- ~~12.~~ A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of any construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works, and/or the State Department of Transportation if applicable, prior to receipt of a Certificate of Occupancy.]
13. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be submitted and the recommended drainage system shall be constructed meeting with the approval of the Department of Public Works.
14. Any watercourse alterations are required to comply with Chapter 27, Floodplain Management, of the Hawai'i County Code and the County Storm Drainage Standards. A flood study and submittal to FEMA of a Letter of Map Change may be required.
15. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.
- ~~[14.]~~16. Wastewater generated by the public charter school shall be disposed of in a manner meeting with the requirements and approval of the State Department of Health.
- ~~[15.]~~17. [A]An updated Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy for any new structures on the subject property.

18. The applicant shall conduct an archeological survey prepared pursuant to Hawai'i Administrative Rules 13-276, and submit the survey report for review and acceptance to the DLNR- State Historic Preservation Division prior to any ground disturbing work within Easement AU-1. A copy of the approved report shall be provided to the Planning Department.
- [16-]19. 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.
- [17-]20. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the State Department of Transportation and State Department of Health.
- [18-]21. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of ~~[enactment of the ordinance]~~this amended permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
22. An initial extension of time for the performance of conditions within this amended permit may be granted by the Planning Director upon the following circumstances:
- A. The 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 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).
 - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

Ms. Julie "Lee" Nelson
Innovations Public Charter School
Page 12

23. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special Permit.

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 Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Geraldine Giffin, Chairman
Leeward Planning Commission

Linnovationsspp1262pc

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Department of Land & Natural Resources
DOT-Highways, Honolulu
Mr. Gilbert Bailado