

County of Hawai'i

PLANNING COMMISSION

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August 8, 2008

Mr. Gregory R. Mooers
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

Special Permit Application (SPP 08-000059)

Applicant: Hawaii Preparatory Academy

Request: Construction and Operation of an Energy Laboratory, Faculty Housing,
And Associated School Uses

Tax Map Key: 6-5-1:por. 33

The Planning Commission at its duly held public hearing on July 18, 2008, voted to approve the above-referenced application to allow the establishment of an energy laboratory, faculty housing and associated school uses on approximately 13 acres of land situated within the State Land Use Agricultural District. The project site is located adjacent to the existing Hawaii Preparatory Academy campus, Waiaka 1st and 2nd, Waimea, South Kohala, Hawaii.

Approval of this request is based on the following:

The applicant proposes to establish an Energy Laboratory, faculty housing and associated school uses on an approximately 13-acre portion of a 101.61-acre parcel of land. The Energy Lab will be approximately 5,500 square feet in size, and the faculty housing area will comprise approximately 15,000 square feet.

The goal of the Energy Lab is to create an active learning center on the campus that engages students in the design, construction and evaluation of renewable energy solutions. The lab will also play an active role in the evaluation and monitoring of larger scale energy projects at HPA including the wind farm, solar thermal for the dormitories and pool, photo-voltaic for the Information Technology building, and a pumped storage hydro project to store energy and eventually become energy self-sufficient. HPA seeks to develop a Global Energy Footprint program to allow students to outreach to the community and the local resorts, enabling evaluation of energy use. The Long Range Master Plan for HPA includes the development of sustainability initiatives focusing on

facilities, operations, maintenance and curriculum with the intent of making the HPA the "greenest" independent school in the nation. The development of an Energy Lab and faculty housing are elements in the Master Plan.

The existing use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), 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. In recognizing that lands within the 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.

Soils on the project site are classified as "D" or "Poor" for agricultural productivity by the Land Study Bureau and Other Important Agricultural Land and Prime Agricultural Land by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The property is the site of the Hawaii Preparatory Academy, but the project site is vacant and not currently in active agricultural use. As only a 13-acre portion of the 101.61-acre parcel is proposed to be developed, the use will not displace any agricultural activity nor diminish the agricultural potential of the area. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

The request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The project site does not abut the shoreline and will not be impacted by coastal hazard and beach erosion. No formal flora study was conducted, as the project site has been used for grazing for decades but was recently bulldozed for the development of eight faculty houses in 2006. The area is covered with kikuyu grass. In September, 2007, PHRI conducted an archaeological study of the property. The survey identified two new sites and re-identified one existing site; however, no further work was necessary as the sites' content were adequately collected during the project. By letter dated March 17, 2008, the DLNR-HPD has concurred with the findings in the study, and a subsequent letter dated May 28, 2008 confirmed that no historic properties will be affected by this project. According to the applicant, there is no evidence of traditional and customary Native Hawaiian rights currently being practiced on the site.

The desired use will not adversely affect surrounding properties. Surrounding properties are zoned A-1a to the east and west (pasture uses), and A-40a to the north (pasture uses by DHHL and Parker Ranch). The 14.9-acre area of the campus immediately south of the project site was designated from A-1a to RS-10 under Ordinance No. 95 36 effective March 7, 1995 to consolidate the Lower, Middle and Upper Schools with the Main Campus. As the project site is located at the mauka end of HPA and utilizes only a small portion of the property, it is not anticipated that the use will adversely impact surrounding properties.

The establishment of an energy laboratory, faculty housing and associated school uses will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Accesses to the property are from Kohala Mountain Road, a State-owned and maintained roadway. No comments were received from the State Department of Transportation as of this writing. County water is available to the site, and wastewater will be disposed of by a cesspool. Essential utilities and services are available to the site.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The property and surrounding areas are designated for agricultural and urban uses by both State and County land use laws. However, on agricultural designated lands, through the issuance of a Special Permit, various "non-agricultural" services and uses may and have been established. The establishment of an Energy Lab will allow the applicant to provide environmental science courses and promote sustainability with the intent of making HPA the "greenest" independent school in the nation. With the growth of the campus over the last 40 years, additional space is needed to accommodate the growth. In addition, the cost of housing in Waimea has risen steadily, and HPA has made a commitment to provide housing for faculty and staff in order to attract and retain a high quality work force. After completion of construction of the energy lab and faculty housing, a large portion of the thirteen acres will still be available for grazing the Academy's horses and crop propagation by students.

The request will conform to, among others, the Land Use, Energy and Economic elements of the General Plan and is not contrary to the goals, policies and standards of the General Plan. 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 project area is designated Low Density Urban. The Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

Based on the above, the approval of the request to establish an energy laboratory, faculty housing and related school uses would support 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this permit.
3. Construction of the energy lab and faculty housing shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, parking stalls, and other improvements associated with the proposed use in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
4. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
5. The applicant shall submit metes and bounds of the approximate 13-acre project site by a registered surveyor, prior to the receipt of Final Plan Approval. The proposed activities shall be limited to this permitted area.
6. The method of sewage disposal shall meet the standards and requirements of the State Department of Health.
7. 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.
8. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-HPD) shall be immediately notified.

Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigative measures have been taken.

9. Prior to the start of the operation of each increment of the project, the applicant shall provide, in writing, a status report to the Planning Director.
10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
11. An initial extension of time for the performance of conditions 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 applicants, 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).
 - 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.


Should any of these conditions not be met or substantially complied with in a timely manner, the Planning 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.

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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Rodney Watanabe, Chairman
Planning Commission

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cc: Ms. Laurie Ainslie/HPA
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