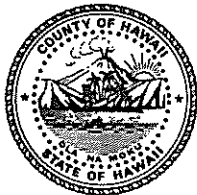


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL
P 021 737 129

May 23, 1995

Mr. Brian Adams
Crush Paradise Gym
78-6627 Alii Drive
Kailua-Kona, HI 96740

Dear Mr. Adams:

Use Permit Application No. 95-5
Applicant: Brian Adams dba Crush Paradise Gym
Request: To Establish Health & Fitness Center and to Allow
the Sale of Health and Fitness Supplies, Equipment,
Apparel and Novelty Products
Tax Map Key: 7-4-15:Portions of 18 and 19

The Planning Commission at its duly held public hearing on May 11, 1995, voted to approve the above-referenced application. Use Permit No. 138 is hereby issued to allow the establishment of a health and fitness center and the sale of health and fitness supplies, equipment, apparel and novelty products at the Kona Hale Hana Centre within the Kona Industrial Subdivision, North Kona, Hawaii.

Approval of this request is based on the following:

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits requires that such action conform to the following guidelines:

- a. The proposed use will still be consistent with the general purpose of the zoned district, the intent and purpose of this chapter and the County General Plan;
- b. The proposed use will not be materially detrimental to the public welfare nor cause substantial, adverse

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impact to the community's character or to surrounding properties;

- c. The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region; and
- d. The proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

The granting of this request will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The establishment of a health and fitness center and the sale of related retail items on a project site located within the State Land Use Urban District and the County's General Industrial zoned district may be permitted through the granting of a Use Permit. The project site is also located within an area designated for Industrial uses by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, the Kona Regional Plan and the Keahole to Kailua Development Plan (K to K Plan). The General Plan LUPAG Map designation of Industrial Area include uses such as manufacturing and processing, wholesaling, large storage and transportation facilities, and light industrial uses, provided the goals, policies and standards of the General Plan are met. Therefore, the proposed use would be consistent with the Industrial Area designation. Mindful of the type of health and recreational benefits the applicant will provide to the residents of West Hawaii and beyond, the proposed use will complement the Land Use Element of the General Plan to, "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" and to ". . . . encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties. The proposed health and fitness center will provide health and recreational benefits to the general public welfare within a locale that is easily accessible and which can readily absorb any noise, visual or traffic impacts which may be generated by the proposed use. The peak hours of operation anticipated for the proposed health and fitness center are not anticipated to conflict with the operational hours of

industrial activities located within the project site or within the immediate vicinity. According to the applicant, peak hours usually occurs in the late afternoon and evening between the hours from 5:30 p.m. till closing.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. Two Use Permits have been issued by the Planning Commission for similar uses within the Kona Industrial Area. Unfortunately, these two permits were rendered null and void by the Planning Director due to non-compliance with the conditions of approval of both permits. Big Island Gym and the YMCA Fitness Center are located within the Kailua Industrial Area and close proximity to the project site. Approval of the applicant's request will not adversely affect these existing health and fitness centers and will provide a greater range of health and fitness opportunities for the residents of Kona.

Finally, the desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection, and other related infrastructure. Water, wastewater and roadway systems within the affected area are able to accommodate the proposed use. The existing Kona Hale Hana Centre has been constructed to County Building Code requirements and is already provided with an existing parking area, water, wastewater disposal and other utilities and services. The Department of Health, through the building permit process, will ensure that wastewater and food service activities are in compliance with its rules and regulations. Affected agencies, such as the Departments of Transportation, Public Works and Water Supply did not cite any concerns regarding the establishment of the proposed health and fitness center within this portion of the Kona Industrial Area.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors

and agents under this permit or relating to or connected with the granting of this permit.

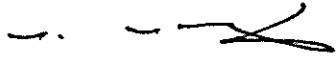
3. Final Plan Approval for the health and fitness center and its related uses shall be secured from the Planning Department. Plans shall identify existing structures, interior alterations, driveway access and circulation and parking stalls associated with the approved use.
4. The approved health and fitness center and its related uses shall be established (Certificate of Occupancy) within three (3) years from the effective date of this permit.
5. An extension of time for the performance of conditions within the 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 the granting of the permit; and
 - 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).
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the 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.

Mr. Brian Adams
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Should you have any questions, please feel free to contact Daryn Arai or Connie Kiriu of the Planning Department at 961-8288.

Sincerely,



Wilton K. Wong, Chairman
Planning Commission

CRK:syw

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xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Plan Approval Section
Mr. John Bertsch