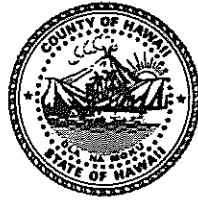


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 458

August 15, 1996

Mr. Timothy Paul Spurrier
P.O. Box 1722
Kamuela, HI 96743

Dear Mr. Spurrier:

Use Permit Application (USE 96-6)

Applicant: Timothy Paul Spurrier

Request: Establish a School/Learning Center for Ages 5-12 (15 Students)

Tax Map Key: 6-5-7:Portion of 7

The Planning Commission at its duly held public hearing on August 1, 1996, voted to approve the above-referenced application. Use Permit No. 147 is hereby issued to allow the establishment of a school/learning center for ages 5-12 (15 students) within an existing commercial structure situated within the County's Village Commercial (CV-7.5) zoned district. The property is located mauka of the Kawaihae Road, approximately 200 feet east of Kawaihae Road/Opelu Road intersection in Waimea, South Kohala, 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 Permit require that such action conforms to the following guidelines:

- (A) The granting of the proposed use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan.
- (B) The granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties.
- (C) The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region.
- (D) The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection and other related infrastructure.

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The proposed use 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 school on a parcel located within the State Land Use Urban District and the County's Village Commercial (CV-7.5) zoned district may be permitted through the Use Permit process. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the General Plan goals and policies. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community. The request is reviewed in relationship to existing regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes. The proposed school will occupy approximately 560 square feet of floor area within an existing commercial building. The minimum off-street parking requirement for schools is one stall per classroom. The proposed school would require a minimum of one off-street parking stall. There are presently 39 off-street parking stalls on the subject property. The other tenants in the building are a video store, chiropractic office, doctor and lawyer's office. There are also two other commercial structures on the subject property. As such, for the safety of the children, a drop-off and pick-up area shall be designated utilizing two parking stalls.

The subject property is situated within an area designated as Medium Density on the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. Mindful of the type of service the applicant will provide to the residents of South Kohala, the proposed use will complement the following goals, policies and standards of the of the General Plan:

Land Use Element

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

Public Facilities Element

- o Encourage the provision of public facilities that effectively service community needs and seek ways of improving public service through better and more functional facilities which are in keeping with the environmental and aesthetic concerns of the community.

The proposed school would be located within an existing commercial building known as the Moon Center, where there is an existing video store, chiropractic office, a doctor's office and lawyer's office. It is located within the Waimea Town commercial core that stretches along the Kawaihae Road and the Mamalahoa Highway and is bordered by Opelu Road. Waimea town contains major retail, office, service, government and medical uses for the South Kohala region.

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 school will be located within an existing office building. Therefore, the facility will not detract from the present character of the area. Due to the noise and traffic inherent to the

activities permitted within the village commercial district, it is not anticipated that noise and traffic associated with the proposed use will adversely impact surrounding properties.

The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. Through the use permit process, potential impacts to the existing environment and its infrastructure can be evaluated on a case-by-case basis. In this case, the proposed school will only be limited to 15 students and utilize an existing space in a commercial structure. As such the proposed use should not adversely affect the existing mixed uses of active commercial and activities. The proposed private school will supplement the existing educational services provided by Parker School, Hawaii Preparatory Academy and Waimea School, which are located within the vicinity. The Department of Education has stated that this application will have little enrollment impact on the schools in the area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection and other related infrastructure. The project site is located within an area adequately served with essential services and facilities such as water, transportation systems and other utilities. As the applicant has stated in their request that they are looking for a larger location to accommodate the school, a condition is included that the Use Permit run co-terminus with the lease but no longer than 4 years.

Finally, due to the developed nature of the subject property and the immediate surrounding areas, there are no endangered or threatened candidate species of flora or fauna located within the project site, nor has the area been identified as a significant botanical or biological habitat.

Approval of this request is subject to the following conditions:

1. The applicant, its successor 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 or 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 the permit.
3. Final Plan Approval for the proposed school shall be secured from the Planning Department within one year from the effective date of this Use Permit. Plans shall identify existing structures, floor plan of existing space to be used, paved driveway and dedicated pick-up/drop-off parking stall(s) fronting the building and landscaping associated with the proposed school.
4. This Use Permit shall be coterminous with the lease agreement but no longer than 4 years.
5. The school shall be limited to fifteen (15) children. The school shall be limited to the hours from 8:30 a.m. to 2:30 p.m. Monday through Friday.

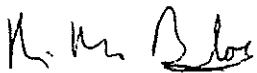
Mr. Timothy Paul Spurrier
Page 4
August 15, 1996

6. An initial extension of time for the performance of conditions, with the exception of Condition No. 4, 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.
 - 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).

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 feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LSpurr01.PC

cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Mr. Eli Jaber