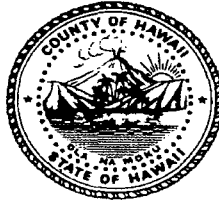


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County of Hawai'i

WINDWARD PLANNING COMMISSION

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

DEC 6 2018

Mr. Zendo Kern
Planning Consultant
194 Wiwoole Street
Hilo, HI 96720

Dear Mr. Kern:

SUBJECT: Use Permit No. USE 18-000077
Applicant: Friends of the Volcano School of Arts and Sciences
Permitted Use: Allowed the Establishment of a Public Charter School and
Related Improvements for Grades Pre-K to 8
Tax Map Key: 1-9-004:019

The Windward Planning Commission, at its duly held public hearing on November 7, 2018 voted to approve the above-referenced request to allow the establishment of a public charter school and related improvements for grades pre-K to 8 for up to 250 students, and to provide afternoon and evening adult education and post-secondary classes on 3.15 acres of land. The project site is located at 19-4024 Haunani Road, which is about 500 feet northeast of its intersection with the Old Volcano Road in Volcano Village, Puna District, Hawai'i.

Approval of this permit 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 shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including impacts to state waters and fire code.
3. The school and related uses shall be conducted in a manner that is substantially representative of plans and details contained within the Application for Use Permit and the representations made before the Windward Planning Commission.

DEC 7 2018

4. The school shall be limited to 250 students and 40 staff. Any increase in the number of students and/or staff will require an amendment of the Use Permit before the Planning Commission.
5. The property may be used by the applicant to accommodate its high school students and activities on a temporary basis, for no more than five (5) years, and not to exceed the maximum student and staff counts stated in Condition 4.
6. Construction of the proposed school and related improvements shall be completed within ten (10) years from the effective date of this permit. Prior to construction, the applicant shall secure Final Plan Approval for the proposed school development and/or related improvements from the Planning Director within one (1) year from the effective date of this permit in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and proposed structures, fences, signage, water sources (potable and non-potable), fire protection measures, paved driveway access and paved parking stalls, outdoor lighting (if any, lighting must be shielded with light directed downwards), landscaping buffer and other improvements associated with the proposed development. Best Management Practices (BMPs) shall be implemented. Landscaping shall be included on the plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department Rules of Practice and Procedure Rule No. 17 (Landscaping Requirements). Construction of the fencing along the common boundary line adjacent to neighboring parcels shall be completed prior to receipt of a Certificate of Occupancy.
7. The proposed kitchen facility and food service operation shall meet the requirements of Chapter 50, Food Safety Code.
8. Potable water and drinking water sources shall meet the requirements of the State Department of Health Safe Drinking Water Branch (DOH-SDWB). The applicant shall coordinate with the DOH-SDWB to ensure compliance with their requirements. The applicant shall submit a copy of a letter from the DOH-SDWB stating that the potable water and drinking water sources meet their requirements prior to certificate of occupancy.

9. Construction activities on the subject property shall be limited to 7 a.m. to 5 p.m., Mondays through Saturdays. Best Management Practices (BMPs) shall be implemented. The applicants shall avoid nighttime construction during the seabird-fledging period (September 15 through December 15).
10. Construction activities shall adhere to the 2014 Archaeological Monitoring Plan approved by the State Department of Land and Natural Resources Historic Preservation Division.
11. Noise from construction activities and operations, and method of fugitive dust control shall meet the standards and requirements of the State Department of Health.
12. Prior to expansion of the school, the applicant shall secure any permits and approvals required from the State Department of Health (DOH) for the individual wastewater system(s), including addressing the amount of wastewater to be generated by the project. The individual wastewater systems(s) shall be installed meeting with the standards, requirements and approval of the State DOH.
13. Prior to expansion of the school, the applicant shall secure and finalize any building permits required by the Department of Public Works-Building Division for the existing and proposed structures.
14. The applicant shall also install street lights and traffic control devices as required by the Traffic Division, Department of Public Works. The applicant shall be responsible for the design, purchase, and installation of such devices. All of the roadway improvements to Haunani Road shall be completed prior to receipt of a Certificate of Occupancy.
15. Should there be any changes in the Traffic Management Plan (TMP) dated July 17, 2018, the applicant shall obtain approval from the County Department of Public Works-Traffic Division and the Planning Department prior to implementation of a new TMP.
16. The applicant shall install a minimum six-foot high chain-link fencing along the property boundary adjacent to residentially-zoned properties with landscaping as required by Planning Department Rules of Practice and Procedure Rule No. 17 Landscaping Requirements.

17. Prior to issuance of Final Plan Approval, the applicant shall provide fire protection measures appropriate for the school use meeting with the approval of the Fire Department, including but not limited to water storage for firefighting purposes, water supply with sufficient fire flow rate, and providing fire department access roads with adequate turning radiuses to support entire school. The area between the subject property lines and proposed Building B (parallel to northwest property line) and Building C (parallel to northeast property line) shall remain clear and unobstructed at all times to allow for fire truck access, if needed.
18. An Emergency Evacuation Plan shall be submitted to the Hawai'i County Civil Defense Agency for review and approval prior to the issuance of Final Plan Approval, which shall incorporate proper emergency plans relating to volcanic and earthquake activity in coordination with the U.S. Geological Survey and Civil Defense. A copy of the approved plan shall be submitted to the Planning Department for their files.
19. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
20. All outdoor lighting shall be fully shielded so the bulb can only be seen from below bulb height and only use when necessary in order to avoid seabird disorientation, fallout, injury or mortality.
21. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used for fencing, and woody vegetation over 15 feet in height shall not be removed during bat breeding season of June 1st through September 15th without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service if nests are found. Surveys shall be conducted by a qualified biologist.
22. To protect any Hawaiian hawk in the vicinity of the property, clearing and grubbing activities shall not occur in the permit area during hawk breeding season of March to September without first conducting surveys for hawk and coordinating with US Fish and Wildlife Service if nests are found. If nests are found, surveys shall be conducted by a qualified biologist.
23. In the unlikely event that any surface or subsurface historic properties and/or resources, such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the

applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and immediately contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

24. The applicant shall submit a report to the Planning Director every year before the anniversary date of this issued permit. The report should describe the status of development and explain to what extent each condition of approval has been satisfied. The applicant should provide letters from the various agencies that verify compliance with a specific condition as an exhibit, such as a water commitment payment letter from the Department of Water Supply or Certificate of Occupancy from the Building Division. This condition shall remain in effect until all of the conditions of approval have been completed and the Planning Director informs the applicant that further reports are not required.
25. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. 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).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate the revocation of the Use Permit.

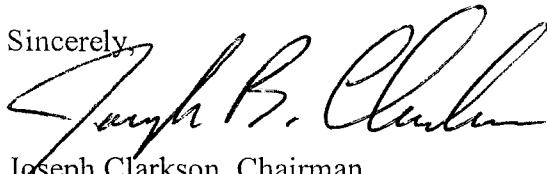
Mr. Zendo Kern
Planning Consultant
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This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Maija Jackson of the Planning Department at 961-8159.

Sincerely,



Joseph Clarkson, Chairman
Windward Planning Commission

LFriendsofthevolcanoschoolofarts&sciencesUSE18-077wpc

Enclosure: PC Findings Report

cc w/enclosures: Friends of the Volcano School of Arts and Sciences
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources - HPD
Department of Health
Plan Approval Section
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

FRIENDS OF THE VOLCANO SCHOOL OF ARTS AND SCIENCES
USE PERMIT APPLICATION NO. 18-000077 (USE 18-077)

Based on the following findings, Use Permit No. 18-77 is hereby issued to allow the establishment of a public charter school and related improvements for grades pre-K to 8 for up to 250 students, and to provide afternoon and evening adult education and post-secondary classes on 3.15 acres of land, known as the historic Keākealani School property, within the Single-Family Residential - 20,000 square feet (RS-20) zoning district. The property address is 19-4024 Haunani Road, which is about 500 feet northeast of its intersection with the Old Volcano Road in Volcano Village, Puna District, Hawai‘i, TMK: (3) 1-9-004:019. At its public hearing on November 7, 2018, the Windward Planning Commission voted to add a new condition to the permit (Condition 5) allowing the applicant to use the subject property on a temporary basis for no more than five (5) years by the high school students of VSAS, so long as the overall student and staff count does not exceed 250 students and 40 staff.

The applicant is requesting a Use Permit in order to consolidate separate grade levels over different campuses for the Volcano School of Arts and Sciences Public Charter School onto one (1) campus for grades pre-K through 8th grade for a maximum of 250 students and 40 faculty staff, and to provide afternoon and evening adult education and post-secondary classes on 3.15 acres of land. The Volcano School of Arts and Sciences is a Hawaiian-focused public charter school. Their vision includes a focus on the unique ecosystems and geology of the Volcano area, to cultivate responsibility for nature and its environment, and to provide a solid academic foundation for all students in a safe and supportive “learning village” environment. In 1915, Peter Lee donated the subject 3.15-acre property for the expressed purpose of building a public school for the greater Volcano community (DLNR, 2011). The existing two-story historic classroom building, built in 1933, will help to enhance and maintain the original intent for the family of the late Peter Lee.

The proposed plan consists of approximately 16 classrooms to accommodate pre-K to 8th grade core, visual art, performing art, music, culture and technology instruction, open and flexible spaces for small group instruction and student collaboration, STEAM labs, garden areas, covered walkways, a multi-purpose center for cafeteria services, a commercial kitchen, an administrative building, staff and visitor parking, and a drop-off/pick-up roundabout. The campus design reflects the Volcano School of Arts and Sciences vision (VSAS) of a learning village around a center, or *piko* courtyard for gathering, outdoor learning and play. Reflecting their commitment for environment responsibility and stewardship, the master plan includes solar electricity, solar hot water, radiant floor hydronic heating, effective use of natural light and ventilation and use of local and renewable resources. In their cool climate condition at the current 3,750-foot elevation, the school would not require air-conditioning. The VSAS is conducting an in-depth study to use rainwater as the primary water source and pioneer a replicable model for other pre-K through 12th grade schools across the state. The VSAS will integrate campus gardens in a Farm-to-School initiative. It is the goal of

the final project to create a campus that is in harmony with the environment, the community and the students. The applicant is also requesting to offer adult education in the form of institutes, afternoon and evening classes and possibly offer post-secondary options in partnership with the local community college and university system.

Currently, only the intermediate school occupies the existing Keākealani School building. The other grade levels are at a different offsite location. Approval of this request will allow the various grades currently separated by location to relocate to a comprehensive and cohesive campus. An existing redwood water tank will remain. The project currently houses a 24,000-gallon reservoir for non-potable water and another 10,000-gallon water catchment tank for fire suppression. The water in the 24,000-gallon reservoir is trucked in regularly for non-potable use. Drinking water is purchased in the form of bottled water in 5-gallon jugs for use in classroom dispensers. There is no well drilling involved or the use of any existing wells involved in this project. The applicant is requesting to demolish an existing metal water tank, existing restrooms attached to the Keākealani building, and existing sheds. The applicant is also requesting to allow temporary portable classrooms for teaching and some administration functions during the construction period of the permanent classroom buildings. The mobile temporary classrooms will be similar to the mobile classrooms used at other schools in Hawai'i County. The applicant indicated that they will adhere to all county, state and federal laws in regards to the structures and use. Hours of operation for the school administration and staff are from 7:00 a.m. through 5:30 p.m., Monday through Fridays during the normal academic year. The school session is from 8:00 a.m. through 2:20 p.m., Monday through Fridays during the normal academic year. According to a July 17, 2018 supplemental letter, the applicant proposed that the total number of students is 250 and faculty is 40. There is an existing, small parking area for staff and visitors. The proposed site plan indicated 55 paved parking spaces (three of which are ADA-accessible), a loading drive, a loading area, and a water tank for firefighting purposes and related equipment.

The original kitchen building currently contains a certified cold-preparation kitchen. The applicant is requesting to construct a multi-purpose center for cafeteria services. On March 21, 2018, the applicant provided a letter requesting the use of a State Department of Health-certified mobile kitchen on the subject site to prepare and serve meals to the students. The mobile kitchen would serve both hot and cold meals for the students, during the construction period for the main school kitchen.

As funding the entire project will take time, the applicant is requesting a 15-year construction completion date. However, based on similar projects and timelines, the Planning Director recommends a ten (10) year construction completion date, with the possibility of a one-time administrative time extension of the same number of years. Any further time extensions and/or increases in number of students or staff will require the applicant to submit their request to the Planning Commission.

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 granting of the proposed use shall 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 shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and
- C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

The proposed school use meets the guidelines for approval of a Use Permit, for the reasons outlined below:

The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the County General Plan. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through 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 subject property is situated within the State Land Use Urban district and County's Single Family Residential (RS-20) zoning district. According to the Zoning Code, schools may be permitted in the RS district, provided that a Use Permit is obtained from the Planning Commission. 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 goals and policies of the General Plan.

A condition of approval will require the applicant to secure Final Plan Approval for the proposed development from the Planning Director. Plan Approval provides a method of allowing closer inspection of the proposed development in order to ensure conformance with the General Plan, to assure that the intent and purpose of the Zoning Code as described above are carried out, and to ensure that any pertinent conditions of previous approvals related to the development have been implemented. Based on this information, the proposed request is consistent with the general purpose of the zoning district and the intent and purpose of the Zoning Code.

Another condition of approval will require the applicant to secure the necessary Building Permit(s) for the interior alterations of existing structures, as well as for any proposed related structures. The Building Permit will allow other agencies to review for compliance with various county and state codes, including but not limited to Fire Code, Health Codes, ADA accessibility, electrical, plumbing and structure regulations.

The County of Hawai'i's General Plan is the policy document for the long range comprehensive development of the island of Hawai'i. One of the purposes of the General Plan is to guide the pattern of future development in this County based on long-term goals. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates

the property as Medium Density Urban and Low Density Urban. These are areas of village and neighborhood commercial, single family and multiple family residential (up to 35 units per acre), ancillary community and public uses, and related functions.

A school is considered a community facility that will complement the Public Facilities-Education element of the General Plan:

Public Facilities-Education

- Encourage combining schoolyards with county parks and allow school facilities for afterschool use by the community for recreational, cultural, and other compatible uses.

The subject property is within the proposed Volcano Community Village Center Boundary identified in the Puna Community Development Plan. Expansion of the school in this location would continue to meet the CDP objective of locating community facilities, such as schools, in designated village and town centers.

Based on the preceding, expansion of the public charter school facility is consistent with the General Plan designation and is in keeping with the goals, policies and standards of the General Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The land uses in the immediate area are mainly residential with a few neighborhood commercial uses. Mostly native trees border either side of Haunani Road. To the south is a large residential parcel with a single-family dwelling and accessory structures. To the west is the Haunani Road and two residential parcels with a single-family dwelling each. The residential parcel to the north consists of an older single-family dwelling and accessory structures. Adjacent to the east is a subject parcel that consists of a single-family dwelling operating as an approved Bed and Breakfast, approved under Use Permit No. 169, and a wellness center, approved under Use Permit No. 187 in a dense native forest. Further east of the subject property, along the Old Volcano Road, is the True Value store and Thai Thai Restaurant that is on the commercially-zoned portion on the front of a property, which is also residential in the back.

The Planning Department received written testimony from Wendell Ing, who expressed support for the proposed school expansion, and concerns regarding possible intrusions and the potential liability of trespassers because there is no fencing between his property and the adjacent school property at this time. Wendell Ing requested that the applicant construct a fence, of similar height to an existing school fence, at their common boundary line. The applicant received Wendell Ing's testimony, and is amenable to constructing such a fence at their common boundary line at the time of the certificate of occupancy for the school. As such, the Planning Director will recommend a condition requiring the applicant to construct a fence between the subject property and adjacent residentially-zoned properties.

The proposed 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. Access to the school is from Haunani Road in Volcano Village, which is a two-lane county road with a paved width of 22-feet

within a 40-foot width right-of-way. In their July 23, 2018 memo, the Department of Public Works-Traffic Division had no comments. In response to DPW-Traffic Division's October 19, 2015 review comments of the Traffic Impact Analysis Report (TIAR), the applicant provided a July 17, 2018 letter regarding a proposed Traffic Management Plan (TMP). The TMP consisted of improving traffic flow that will not result in the queueing of cars onto county or state roadways, improving ingress and egress, increasing the number of stalls, providing adequate access routes to and from school, constructing sidewalk and related improvements (i.e. crosswalk, signage), hiring properly trained traffic monitoring personnel and communicating the TMP with parents, staff and students. Based on a student count of 174 and faculty of 28, the TIAR identified a Level of Service (LOS) of A, meaning little to no delay. The applicant is requesting an enrollment increase for a total of 250 students and 40 faculty. The applicant believes that the level of service would not drop below LOS B, even with the increased number of students and faculty. Thus, a LOS level of B or C would be adequate for their request.

According to an August 7, 2018 memo from the Department of Water Supply (DWS), the subject property is not within the service limits of the Department's existing water system facilities, and the Department's existing water system facilities cannot support the proposed use at this time. Therefore, the applicant will bring in drinking water for dispensing or purchase bottled water. For firefighting purposes, there is a reserved, separate water tank for the Fire Departments use only. In the application, the applicant indicated that there are onsite holding tanks for water use within the buildings (i.e. toilets, washing, etc). The Planning Director recommends conditions addressing water storage and firefighting purposes.

The State Department of Health (DOH) provided their comments in an August 3, 2018 memo, which indicated that their Safe Drinking Water Branch authority on drinking water quality is based on the definition of a "public water system." All sources of public water system sources must undergo a source water assessment which will delineate a source water protection area. The process is preliminary to the creation of a source water protection plan for that source and activities which will take place to protect the source of drinking water. The Planning Director recommends a condition that the potable drinking water and water system source meets the requirements of the State Department of Health Safe Water Drinking Branch.

The applicant indicated that there is no county sewer system available at the subject property. There is an existing individual wastewater system (septic tank system). The applicant is proposing to install two (2) new septic systems to service the additions to the subject property. In their August 3, 2018 memo, the State Department of Health confirmed that their Wastewater Branch is unable to make comments to the proposed project until the applicant addresses the amount of proposed wastewater generated by the project. The Planning Director recommends a condition that the individual wastewater systems for this project meet the requirements of the State Department of Health.

According to the Department of Public Works Engineering Division, the subject parcel is in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year flood plain. All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage plan may be

required by the Plan Approval process in accordance with Section 25-2-72(3) of the Hawai'i County Code. All essential utilities, such as electricity, cable and telephone services are available to the property. Police services are available in Puna and Hilo. Fire and emergency services are available via temporary locations for the volunteer fire station in Volcano Village and the Volcano Fire Station (Station 19).

A condition of approval is included to require that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

The subject request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area. Regulated by the County, the Special Management Area (SMA) is a part of the Federal Coastal Zone Management Program. Outside of the SMA and tsunami inundation area, the subject property is approximately 11.386-miles from the nearest coastline. The entire site has been completely cleared and in urban use for several decades. According to the applicant, the project will not detract from the scenic values of the area, and is not in any of the scenic sites or areas listed in the General Plan. There are no notable mauka (mountain) or makai (ocean) scenic views from the subject property. There is no record of a designated public access to the shoreline or mountain areas that traverses the property. The Department of Land and Natural Resources State Historic Preservation Division commented that the proposed construction activities in the project area will result in no historic properties affected, provided that the approved 2014 Archaeological Monitoring Plan (AMP) is adhered to. As such, there are no valued cultural or natural resources on the subject property, and no evidence of any traditional and customary practiced native Hawaiian rights occurring on the site. Thus, it is not anticipated that the proposed request will have any adverse impact on public access, cultural, historical (provided that the applicant adhere to the AMP) or scenic value resources in the area. The Planning Director recommends including a condition to address historic resources.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), compliance with DLNR-SHPD requirements, among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.