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& SUSTAINABLE DEVELOPMENT**

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Coastal Zone  
Management  
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Special Plans Branch  
  
State Transit-Oriented  
Development  
  
Statewide Geographic  
Information System  
  
Statewide  
Sustainability Program

January 18, 2022

TO: Daniel Orodener, Executive Officer  
Land Use Commission

FROM: Mary Alice Evans, Director  
Office of Planning and Sustainable Development

SUBJECT: Special Permit (SP) 21-413  
Petitioner: Connections New Century Public Charter School/Community  
Based Education Support Services  
Land Owner: State of Hawaii, Managed by the Department of Land and  
Natural Resources  
Land Area: Approximately 70.15 Acres  
Location: Kaumana, South Hilo, Hawaii  
TMK: (3) 2-5-006: 141



The Office of Planning and Sustainable Development (“OPSD”) recommends approval of the subject Special Permit, subject to conditions, based on the County of Hawaii Windward Planning Commission’s Findings of Fact, Conclusion of Law, Decision and Order, (“Planning Commission’s D&O”) dated November 4, 2021, and other supporting documents in Petitioners Connections New Century Public Charter School (“Charter School”) and Community Based Education Support Service’s (“CBESS,” and together with Charter School, the “Petitioner”) application for a Special Use Permit (SPP12-138). The Charter School is a public entity supported by the State and funded by the Legislature. CBESS is a quasi-public organization. The Department of Land and Natural Resources (“DLNR”) issued a 65-year lease to the Charter School in 2012 for approximately 70.15 acres of land in South Hilo, Hawaii, TMK (3) 2-5-006: 141 (“Property”).

Petitioner proposes to establish a Kindergarten to 12<sup>th</sup> grade charter school campus with dorm facilities, and an intergenerational program that would provide childcare and elder care at a single facility, together with related uses on the Property. The Property has two irregular sections. The lower section on the east side or lower campus would contain the majority of the school facilities on approximately 37 acres. The upper section to the west would contain outdoor educational programs including a forestry preservation program on approximately 33 acres. Access to the school

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would be from Edita Street, which connects to Kaumana Drive, both of which are County of Hawaii roadways.

According to Petitioner's documents and the Planning Commission's D&O, the lower campus would establish a charter school with a projected enrollment total of 381 students. See table below. Petitioner proposes to construct facilities within the lower campus comprising of a 30-student dormitory, gymnasium, kitchen/dining facility, library/resource center, caretaker's residence, and other related facilities.

Grade Levels	Number of Students	Cumulative Totals
Elementary	167	167
Intermediate	107	274
High School	107	381
Intergenerational Clients	25	406
Employees	50 full time and 17 part time	473
Total Persons on Campus		473

According to the application, the Charter School is presently operating from two separate campuses. The elementary and middle schools are located in downtown Hilo in the Kress building on Kamehameha Avenue. The high school is in leased facilities at the Nani Maui Gardens, outside of Hilo town. While Petitioner is proposing to expand the school at the new location, the number of employees would remain the same. Petitioner is proposing to construct the new school in 9 phases, and to complete the development within 16 to 25 years. The first phase would include the caretaker's residence, high school, and administration building, with the projected opening within 2.5 to 3.5 years.

According to the submittal, the Project site is designated for Low-density urban use, which allows for residential uses, with ancillary community and public uses, as well as neighborhood and convenience commercial uses within the County General Plan Land Use Pattern Allocation Guide ("LUPAG") Map. The Property is within the State Agricultural District and zoned A-1a Agricultural with a minimum lot size of one acre. The proposed school is permitted in A-1a zoning districts. The Property is bounded by State Agricultural lands to the south, east, and west sides of the Property, and residential uses within the Urban District to the north.

According to the Final Environmental Assessment ("FEA"), the upper parcel will not contain any major school facilities. The campus is intended to be a school within a forest. The proposed design of the school will enhance the sites natural elements and reduce disturbance to the natural surroundings. Of importance is the presence on the upper campus of the native Ohia forest. Petitioner intends to establish and use major portions for an agri-reforestation program with the Ohia forest as the focus of the program. The only construction proposed for the upper campus is an elevated walkway to provide access and viewing opportunities within the forest

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areas. The reforestation projects would re-introduce and preserve the existing Ohia forest, and re-introduce projects some of the native species that have grown in this area in the past, such as koa and Haupuu fern within a forestry/conservation program focusing on forest resource management and conservation and forest ecosystem restoration. The proposed agricultural program would provide students with hands-on experience in sustainable agricultural practices and would emphasize small sustainable/cultivation area. The agricultural program would include greenhouses, a horse barn, and cultivated gardens. The gardens would be located within the lower campus area. The agricultural program may also include livestock, such as chickens, goats, pigs and horses.

Petitioner proposes to construct a green school and proposes measures for their new campus to be a model of sustainable development and design. At the time of the proposal, the Petitioner's FEA indicates that the school is proposing to achieve a minimum a Silver rating under the Leadership in Energy and Environmental Design (LEED) Green Building Rating system.

### **Special Permit Guidelines**

The guidelines for Special Permits in Hawaii Administrative Rules ("HAR") § 15-15-95 allow certain "unusual and reasonable" uses within Agricultural and Rural Districts other than those for which the district is classified. HAR § 15-15-95 lists 5 guidelines for determining whether a proposed use is "unusual and reasonable." The following assesses the proposed project relative to the Special Permit guidelines:

- 1. The use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, HRS, and the rules of the Land Use Commission ("LUC").**

Hawaii Revised Statutes ("HRS") Chapter 205 seeks to protect agricultural lands and ensure their continued availability for agricultural use. It provides that the Agricultural District shall include lands with a high capacity for agricultural production, grazing, or other agricultural uses. Chapter 205 also recognizes, however, that some lands in the Agricultural District may not be suitable for the uses permitted in the Agricultural District and, therefore, other uses may be allowed with a Special Permit.

Based on Exhibit 37, County of Hawaii Planning Department Background Report, the property is undeveloped with no existing uses or structures located on the site. The site is located on the 1880-1881 lava flow. Soils on the property according to the U.S. soil survey, are rated as pahoe-hoe lava flow (rLW). The Property is not classified on the Agricultural Lands of Importance to the State of Hawaii ("ALISH") map. The soil is rated as "D" or "poor" by the Land Study Bureau ("LSB").

**2. The desired use would not adversely affect surrounding property.**

According to the County's Exhibit 78, County of Hawaii Planning Department Revised Recommendation, dated October 31, 2012, ("Revised Recommendation") the 70.15-acre lot is located in Kaumana, South Hilo area, bounded by lands to the south and west zoned A-1a. Adjacent and north of the project site are properties within the State Urban Land Use District and zoned RS-10 and RS-15. In addition, there is a property zoned Open adjoining the lower parcel to the northeast. There are single-family residential uses and vacant lands within the surrounding area with the nearest residential dwellings located to the north along Edita Street and Kaumana Drive to the lower parcel.

The Revised Recommendation indicates that the proposed use may adversely impact the surrounding area from increased traffic and noise, which can be mitigated. The FEA contained a Traffic Impact Analysis Report ("TIAR") which indicated that adverse impacts can be mitigated with conditions.

According to the SP application in County's Exhibit 37, there is a potential that construction activities could affect the Hawaiian Hoary bat, the Hawaiian Hawk, the Hawaiian Petrel or the Newell's Shearwater, which are protected by Federal and State endangered species statutes. Mitigation measures discussed in the FONSI should be implemented to reduce the impacts to these species.

**3. The use would not unreasonably burden public agencies to provide streets, sewers, water, drainage, schools, fire, and police resources.**

According to the Revised Recommendation, the proposed project would have sufficient water and wastewater service:

Water: Potable water supply would be provided by the County up to a maximum daily usage of 4,200 gallons per day from an existing 8-inch water line on Edita Street for the lower parcel. Non-potable water would be provided with a rainwater catchment system on site.

Wastewater: Petitioner proposes to provide a wastewater system that would meet the requirements of the State Department of Health.

Flood: The project site is situated within Flood Zone X, an area outside of the 500-year flood plain.

Traffic: Petitioner would be required to implement various mitigation measures in order to mitigate adverse impacts from the proposed school use.

**4. Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established.**

OPSD recognizes that there are no unusual conditions, trends or needs that have arisen to justify the granting of the application. However, we note that the surrounding area has developed into low-density residential neighborhoods with the County plans allowing low-density urban uses which extends from nearby Hilo Town.

**5. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.**

The land upon which the proposed use is sought is of low-quality agricultural. The project is located on Class D lands as rated by the LSB productivity rating system. The project site lands would be considered low productivity due to the overlying 1880-1881 lava flow. However, the Petitioner proposes to establish agricultural and reforestation programs as part of the school curriculum. The reforestation program will utilize the existing native Ohia forest located on the upper campus area on top of the 1880-1881 lava flow, as a major focus of the reforestation program. Other agricultural related programs will be established on the both the upper and lower campuses. Thus, the proposed school will combine agricultural and forestry activities with their curriculum.

**State Issues and Concerns**

OPSD also offers the following on other matters of State concern.

Archaeological Resources. In 2008, an archaeological assessment was conducted by Petitioner's consultant, Pacific Legacy, Inc. The entire parcel was covered by the 1880-1881 lava flow. Subsequent to this assessment, the State Historic Preservation Division ("SHPD") requested a supplemental field inspection of the portion of Kaumana Cave that underlies the project site. The access point of Kaumana Cave is located offsite at a nearby County park. This is located on the upper parcel. The cave also runs through the lower campus, however it is not accessible. The accessible portion of the cave on the upper parcel contained some spray-painted names and some pecked names, but the field inspection did not find evidence of historic elements within the cave that underlies the project site. Petitioner is not proposing to construct any major school facilities on the upper parcel and will maintain a minimum 100-foot buffer on either side of the cave alignment.

Kaumana Cave. The County's Exhibit 2 contains the Special Permit Application for Connections Public Charter School Kaumana Campus, and a letter from the Department of Land and Natural Resources dated October 22, 2010 issuing a Finding of No Significant Impact ("FONSI") for the proposed project's Final Environmental

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Assessment (“FEA”). The cave ecosystem was described in a study by Dr. Fred Stone in 1992 for the Puainako Street Extension and Widening project EIS. The survey found a cave ecosystem that depends on the Ohia tree roots that grow into the Kaumana cave system. We note that the upper parcel contains a portion of the cave system and an Ohia tree forest.

In the FEA, Section 3.2.2 Mitigation Measures, a 100-foot buffer zone surrounding the Kaumana Cave on both the upper and lower parcels is proposed. The cave alignment should be verified prior to any construction with the boundaries clearly marked. Further, if during the construction on the lower parcel, a portion of the cave is found or inadvertently created or if previously unknown segments of the Kaumana Cave system is discovered, all construction activity in the vicinity of the find should cease immediately and the proper authorities, including contacting SHPD to assess the lava tube and its contents.

Coastal Zone Management. The Petition area is not within the Special Management Area. With proposed mitigation measures as conditions of approval, the proposed project would meet the requirements of Hawaii Revised Statutes Chapter 205A.

Sustainability. The Hawaii 2050 Sustainability Plan. Charting a Course for the Decade of Action (2020-2030), Page 107, Natural Resource Protection section. The Petitioner’s proposal for a reforestation program and protection of natural resources meets strategy 35, Protect and manage watersheds, and Strategy 37 to conserve working forest landscapes, protect forests from harm, and enhance public benefits from trees and forests.

### **Recommendation**

Having reviewed the application relative to State interests and the applicable Special Permit guidelines, OPSD recommends approval of the State Special Permit, subject to the imposition of conditions. OPSD concurs that the proposed project meets the Special Permit guidelines for an unusual and reasonable use within the State Agricultural Land Use District. Petitioner has met the requirements for the issuance of a Special Permit for the proposed use, and appropriate conditions can be imposed to mitigate any adverse impacts from the proposed project.

We note that the County Planning Commission described various concerns within the Planning Commission D&O, and referenced adopting the conditions within the Counties Exhibit 78, the Planning Department’s Revised Recommendation. However, the Planning Commission did not specify the 19 conditions in its Decision and Order. OPSD therefore recommends that the LUC incorporate the conditions from the Revised Recommendation dated October 31, 2012, which covers public facilities including water, wastewater, grading, drainage, and State concerns, including the Kaumana Cave buffer and historic sites mitigation.

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OPSD recommends one additional condition be imposed to address endangered species as recommended in the FONSI:

Fish and Wildlife Protection. Petitioner shall comply with the following:

- (a) The State listed Hawaiian Hawk (**'io**). To avoid impacts to the Hawaiian Hawk, prior to any construction and/or tree harvesting activities, the area should be surveyed during the breeding season from March to September to ensure no Hawaiian Hawk nests are present if trees are to be cut. If this cannot be avoided, no trees should be disturbed, removed or trimmed without consulting Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW).
  
- (b) To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet should not occur between June 1 to September 15 when bats may be carrying young and potentially at risk by such clearing activities. If this cannot be avoided, woody plants greater than 15 feet tall should not be disturbed, removed, or trimmed without consulting DOFAW. Barbed wire shall not be installed on fencing within the Petition Area.

Thank you for the opportunity to review the Special Permit application. If you have any questions, please contact Lorene Maki of our Land Use Division at [Lorene.k.maki@hawaii.gov](mailto:Lorene.k.maki@hawaii.gov)

c: Department of Agriculture  
County of Hawaii Planning Department