

**COUNTY OF HAWAI'I PLANNING DEPARTMENT**  
**RECOMMENDATION**

**CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/CBESS**  
**SPECIAL PERMIT APPLICATION NO. 12-000138 (SPP 12-000138)**

Upon review of the request against the guidelines under Rule 6 of the Planning Commission Rules of Practice and Procedures for granting a Special Permit, the Planning Director recommends that the Planning Commission send a favorable recommendation to the State Land Use Commission of this request to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land situated in the State Land Use Agricultural District. Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This favorable recommendation is based on the following findings:

The applicant has submitted a Special Permit application to develop a new academic campus, which will include an elementary, intermediate, and high school facilities, and the common facilities that would support these programs. The subject property is divided by Edita Street and includes what is referred to as the "lower parcel" and the "upper parcel". All major school facilities will be located on the lower parcel. The following is a description of the proposed development:

- **Lower Parcel:** The major school facilities include the elementary, intermediate and high school classroom buildings, the administrative center, the library/resource center, the kitchen/dining facility, a gymnasium/multi-purpose building, green/shade houses, a 6-horse barn, a maintenance building, a 30-person dormitory, a caretaker's residence, and a small facility to house the intergenerational program. These facilities would support a projected 167 elementary students, 107 intermediate students, 107 high school students (381 K through 12 students), and 25 intergenerational clients. The dormitory would serve a maximum of 30 non-traditional students. The buildings will be single story in height. There will be two parking lots (main and secondary) with a total of 140 parking stalls. The applicant will be conducting an agricultural program on the

lower campus. The agricultural program facilities include the green houses, the 6-horse barn, and cultivated gardens. The cultivated gardens would be limited to the lower campus, which may include vegetables, taro, fruit trees, native plants, and ornamental plants. The agricultural program may also include some livestock (e.g., chickens, goats, pigs and horses).

- Upper Parcel: There will be no major school facilities constructed on the upper parcel. A walkway is the only structure being proposed on the upper parcel, which will provide access and viewing opportunities within the 'ōh'ia forest. The walkway would be elevated on posts roughly 4 to 5 feet above grade. Connections intends to use this land area to support a future forestry/conservation program, which focuses on forest resource management and conservation, and forest ecosystem restoration.

The applicant's reason for the request is to consolidate their academic programs at a single location and provide facilities that support the goals and visions of the school. Currently, Connections operates campuses at the Kress Building in Downtown Hilo and at the Nani Mau Gardens Facility.

According to the applicant, the objective of the request is to allow the applicant to continue its planning efforts to develop a new campus in Kaūmana. Securing the Special Permit would facilitate fundraising efforts so that additional studies and planning/design work can continue. Additionally, approval of the Special Permit would allow the applicant to implement the initial phases of the school while they continue to work at resolving infrastructure and financial constraints. The applicant is proposing to design and construct the project in 9 phases. The entire project is projected to be completed within 16 to 25 years.

According to the applicant, funding for the project will be through various sources. The applicant has applied for a long-term, low-interest loan from the United States Department of Agriculture (USDA). Recent communication with the USDA has indicated that approval of the loan looks very promising. If approved, this loan would provide approximately \$8 million dollars to start implementing the project's initial phases (Phase 1, 2 and 3). Future funding is expected from operational money the applicant

receives through rental income from the Kress Building, grants, and private donations. The applicant currently has an active capital campaign to raise funds for the project, which includes annual in-house donations from the school's staff. It is also possible that capital improvement funds and/or facility funds may become available from the State.

In 1999, the Legislature of the State of Hawaii created a new educational initiative with the passage of Act 62, SLH 1999 or "The New Century Charter Schools" law. Charter schools are more autonomous with greater flexibility in decision-making. Charter schools are excluded from many State laws and department rules and regulations. However, charter schools are public schools in that they receive public funds. These schools must still meet all applicable federal, State and County requirements and are not exempt from collective bargaining, discriminatory practice laws, health and safety laws and standards, and the implementation of the Hawaii content and performance standards.

The proposed school is defined as a public school holding a charter to operate as a charter school under chapter 302B (HRS) including start-up and conversion charter schools, which have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management. Each charter school is responsible for selecting their own sites. If a public school has space available, a charter school may seek to enter into an arrangement with the Department of Education for the use of a portion of the school's facilities.

From a planning perspective, this request has proven to be difficult in arriving at a position we are comfortable with. In reviewing this request against the criteria for approval for a Special Permit, the request does meet most of the criteria for approval. The greatest difficulty we encountered was determining whether or not this is an appropriate location for a public charter school whose student body largely consists of students who do not live in this particular section of Hilo. Currently, there are approximately 50 percent of the student body coming from the Puna District and approximately 50 percent coming from different locations in the South Hilo District. The fact remains that as the school is developed and the student body evolves, the school could mature into an institution that more directly serves the residents of this area. As

this is a public charter school, they are given flexibility regarding a number of factors that govern a typical DOE public school, including the location of where students live who attend the school.

In reviewing this land use request for a new K-12 school, we considered several factors. One factor is that a K-12 school should be located in close proximity to where people live and near the center of probable student population for the proposed school. This will enhance integration of the school into the community and thus create a better neighborhood and a more livable community. A school should not be located in an area where the students live a far distance from the school and require students to be transported via buses or vehicles. As mentioned above, there will be an opportunity for students living in the immediate area to attend this facility as the school and the curriculum evolves and matures to be an integral part of the community. Although the development of the school will create some adverse affects to the surrounding property owners, such as increased traffic and noise, these impacts can be reasonably mitigated to minimize the overall impacts.

Another factor we considered is that the new K-12 school should not attempt to isolate itself from the community. The new school should create a sense of community and develop strong connections with the surrounding neighborhood. Schools are often designed to provide programs for the surrounding community, including childcare, after school programs, park facilities with athletic programs, and a place for community meetings. The applicant should make every effort to work with the surrounding community to provide these types of programs.

The criteria for approving a Special Permit are based on Rule 6-7 in the Planning Commission Rules. Rule 6-7 states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural District, and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

**The proposed 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 the State Land Use Law and Regulations and Chapter 205, HRS, as amended.** The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The request is unusual in that a school is not normally considered agricultural in nature. However, it is reasonable use that a school be located within the Agricultural district because communities within agricultural districts require certain services that support the agricultural community in which they are located, including schools.

In recognizing that lands within the Agricultural district 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. Schools may be permitted the in Agricultural district, provided that a Special Permit is issued for the use.

The subject property is 70.15 acres in size and is situated within the County's Agricultural (A-1a) zoned district. The applicant is proposing to develop a K to 12 charter school campus with dorm facilities and related uses on the subject property. The land on which the proposed use is located is unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. Additionally, the soil is classified as "D" or "Poor" by the Land Study Bureau's Detailed Land Classification System and is identified mainly as pāhoehoe lava flow (rLW).by the U.S. Soil Survey.

Based on the agricultural potential of the subject property, the proposed use of a school for this property is considered an unusual and reasonable use of agricultural land, which will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

**(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** As discussed above, the subject request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

**(B) The desired use would not adversely affect surrounding properties.** Surrounding lands to the south and west are similarly zoned A-1a. Further south are properties zoned A-20a and A-10a. To the north are properties zoned RS-10 and RS-15, with some properties zoned A-3a further north across Kaūmana Drive. There is a property zoned Open that adjoins the lower parcel to the northeast. Surrounding uses consist mainly of single-family residences and vacant lands, with some agricultural activity occurring in the area. The nearest dwellings to the upper parcel are located on adjoining properties to the north along Kaūmana Drive, and to the south along Mele Manu Street. The nearest dwellings to the lower parcel where the majority of facilities will be located are located to the north along Edita Street and Kaumana Drive

An adverse affect is defined as an unwanted and unanticipated result of taking a particular action. The proposed action is to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land. The anticipated impacts that would adversely affect surrounding properties from the proposed school are an increase in traffic to the area and an increase of noise. Although there are anticipated adverse impacts that would be created by this new use, these impacts can be mitigated to minimize their effects to surrounding property owners. Conditions of approval will be added to address traffic and noise that will mitigate and minimize these impacts.

A The Traffic Impact Analysis Report (TIAR) was conducted as part of the Environmental Assessment for the project. The report concluded that based on the level-of-service, all controlled traffic movements are expected to operate at better than acceptable levels-of-service and no additional mitigation measures are recommended at

this time. Further the report stated that the level-of-service analysis concluded that the project driveways along Edita Street will operate at acceptable levels-of-service without separate left turn lanes. However, school related vehicles turning left into the project will cause delays to through traffic along Edita Street unless separate left turn lanes are provided. To minimize the impact of project related traffic on through traffic, The TIAR recommended that a separate left turn lane be provided for left turns from eastbound Edita Street into the Lower Campus at Road A. Additionally, to help mitigate noise and visual impacts, landscaping will be required along the perimeter of the property.

Based on the above discussion, the proposed use is anticipated to have an adverse affect on the surrounding properties, but these adverse impacts can be mitigated to minimize these impacts through conditions of approval.

**(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.** Access to the subject property is via Edita Street, which extends from Kaūmana Drive. Both Edita Street and Kaūmana Drive are County roads. Edita Street has a 60-foot right-of-way width, which includes a 48-foot pavement width fronting the project site. The paved area accommodates two travel lanes (20 feet), and there are paved shoulders fronting the subject property. The road is in good condition.

As previously mentioned, a condition of approval will be added to require the applicant to construct a separate turn lane for left turns from eastbound Edita Street into the Lower Campus at Road A to help minimize the impact of the project related traffic to those traveling on Edita Street. In addition, comments were received from the Department of Public Works-Traffic Division. DPW-Traffic Division are requesting, among other things, that the applicant submit a traffic management plan to be reviewed and approved by the Department of Public Works-Traffic Division in consultation with the Police Department. The comprehensive plan shall be implemented and provide traffic management strategies that reduce traffic management strategies that reduce traffic congestion on surrounding County roads during special events and student pick-up/drop-off activities for the entire school campus. The applicant shall provide active traffic management of all student pick-up/drop-off areas so that drop-off and pick-up activity

does not result in queuing of vehicles on any County Road. A condition of approval will be included as part of the recommendation to reflect this request from the DPW-Traffic Division.

Additionally, the Police Department commented that although the section fronting the proposed site is wide with a paved shoulder, the section of Edita Street from Kaumana Drive leading to this site has no pavement off of the travel portion of the roadway. The shoulder in this area is grass/muddy and not desirable for pedestrian travel. This causes pedestrian traffic to walk on the roadway. If approved, there will be a substantial increase in pedestrian traffic as a result of this project. That, combined with the lack of sidewalks in this area, will make it unsafe for pedestrian traffic.

There are sufficient paved shoulders from the subject property to Mele Manu Street along Edita Street. There are only grass shoulders from the subject property to Kaūmana Drive along Edita Street. To address the comments from the Police Department, a condition of approval will be added requiring the applicant to add an 8-foot paved shoulder along the northeastern (makai) side of Edita Street from the south end of the subject property to the intersection of Edita Street and Kaūmana Drive.

County water is available for up to a maximum daily usage of 4,200 gallons per day from an existing 8-inch waterline on Kaūmana Drive for the upper campus and from an existing 8-inch waterline on Edita Street for the lower campus. The property is assigned seven (7) units of water, which equates to an average usage of 600 gallons per day per unit of water (4,200 gpd). Additionally, the existing 8-inch waterline within Edita Street is looped and therefore adequate to provide the required 2,000 gallons per minute of flow for fire protection, as per the Department's Water System Standards for schools. Potable water needs will be met by connecting to the existing county water supply infrastructure. Non-potable water supply needs will be met with an extensive rainwater collection system consisting of catchment tanks, storage reservoirs/tanks with a network of water lines to distribute the collected water throughout the campus. The potable water system and the catchment system cannot be interconnected. It may become evident during the design of the development that a potable well is needed at which time



the applicant will then need to conduct additional detailed analyses and apply for additional permits.

There is no municipal wastewater system currently serving the Kaūmana area. The applicant will have to provide its own wastewater system meeting with the State Department of Health regulations. The applicant intends to implement a biological wastewater system unless it is not economically feasible at which time the applicant will then resort to installing a traditional septic system with leach fields or other disposal system meeting with the approval of the Department of Health.

The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Electricity and telephone are available to the property. A condition of approval will be included to require the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements. Based on the above discussion, the requested use should not burden public agencies to provide additional services.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. Although the property and surrounding areas are designated for agricultural uses by both State and County land use laws, through the issuance of a Special Permit, various "non-agricultural" services may be allowed, including schools.

**(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.** The land on which the proposed use is located is unclassified by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map. Additionally, the soil is classified as "D" or "Poor" by the Land Study Bureau's Detailed Land Classification System and is identified mainly as pāhoehoe lava flow (rLW).by the U.S. Soil Survey. Based on this information, the land upon which the

proposed use is sought is unsuited for agricultural uses permitted within the Agricultural District.

Although the land is unsuited for agricultural uses, the applicant is proposing to have an agricultural program and a forestry/conservation program. The applicant will be conducting an agricultural program on the lower campus. The agricultural program facilities include the green houses, the 6-horse barn, and cultivated gardens. The cultivated gardens would be limited to the lower campus, which may include vegetables, taro, fruit trees, native plants, and ornamental plants. The agricultural program may also include some livestock (e.g., chickens, goats, pigs and horses). Additionally, the applicant intends to use the upper parcel to support a future forestry/conservation program, which focuses on forest resource management and conservation, and forest ecosystem restoration.

**(F) The use will not substantially alter or change the essential character of the land and the present use.** The current character and present use of the subject property is undeveloped, vacant of structures and uses. The current character of the surrounding area is residential to the north and residential/agricultural to the south. The present use of the surrounding area is mainly residential with some agricultural activity and vacant land.

The proposed school will alter or change the essential character of the land and its present use from its current undeveloped character. The applicant has proposed to construct the buildings as single story structures, similar to the surrounding residential community, to help minimize the change to the essential character of the land. The applicant is encouraged to design the campus to match the surrounding rural character rather than having an institutional character typical of a public school campus.

**(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.** 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 property is located in an area identified as Low Density Urban in the General Plan. The Low Density Urban designation allows for residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses where overall residential density may be up to six units per acre. The request will not be contrary to the LUPAG Map designation for this area. Additionally, the approval of the subject request would support the following goals and policies of the Economic, Public Facilities and Land Use elements of General Plan.

Economic Element

- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.
- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.

Public Facilities-Education (Course of Actions for South Hilo)

- Encourage the establishment of additional schools as the need arises.

Land Use-Public Lands

- Encourage uses of public lands that will satisfy specific public needs, such as housing, recreation, open space and education.

Based on the above, the proposed request is not contrary with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which is Low Density Urban and allows ancillary community and public uses. Additionally, the General Plan encourages the use of public land for education and a course of action for South Hilo encourages the establishment of additional schools as the need arises.

**The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program.** The subject property is located over 3 miles from the closest shoreline and is not located within the Special Management Area. Given the fact that the property has been cleared and has been developed with a botanical garden and with multiple structures in which the proposed use will occur, it is unlikely that any archaeological features and

threatened plant, animal or avian species will be adversely affected. There is no designated public access to the mountain areas over the property.

Therefore, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion.

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), 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.

Based on the above considerations, the proposed request to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres is an unusual and reasonable use of land which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The favorable recommendation recommends the following conditions for the proposed use:

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i 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. The calculations must include the

estimated peak flow in gallons per minute and total estimated maximum daily potable water demand in gallons per day.

3. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
4. Construction of the high school phase shall be completed within 10 (ten) years from the effective date of this permit. Prior to the start of construction for each separate school (high, intermediate, elementary), the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the development of each proposed phase from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping along the perimeter of the entire 70-acre project site shall also be indicated on the plans in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) buffer yard requirements for the Village Commercial (CV) zone adjoining a Single-Family Residential (RS) zone.
5. All driveway connections to Edita Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
6. The applicant shall construct a separate turn lane for left turns from eastbound Edita Street into the Lower Campus at Road A meeting with the approval of the Department of Public Works.
7. The applicant shall construct an 8-foot paved shoulder along the northeastern (makai) side of Edita Street from the south end of the subject property to the intersection of Edita Street and Kaūmana Drive (Standard Detail R-34) meeting with the approval of the Department of Public Works.
8. The applicant shall submit a Traffic Management to be reviewed and approved by the Department of Public Works-Traffic Division in consultation with the Police

Department. The comprehensive plan shall be implemented and provide traffic management strategies that reduce traffic management strategies that reduce traffic congestion on surrounding County roads during special events and student pick-up/drop-off activities for the entire school campus. The applicant shall provide active traffic management of all student pick-up/drop-off areas so that drop-off and pick-up activity does not result in queuing of vehicles on any County Road. The applicant shall encourage carpooling, bus and van services, and staggering school pick-up and drop-off times.

9. The applicant shall design project driveways/roads, parking and loading areas so all school traffic and congestion is confined to the project site and does not overflow onto County roads.
10. All development-generated runoff shall be disposed of onsite and shall not be 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.
11. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
12. The method of sewage disposal shall meet with the requirements of the Department of Health.
13. Prior to any ground altering activities the applicant shall submit a monitoring plan in accordance with HAR 13-279 to the DLNR-SHPD for review and approval. A copy of the approved monitoring plan shall be provided to the Planning Department prior to issuance of Final Plan Approval.
14. All ground altering activities associated with the proposed development shall be monitored by a qualified archaeologist in a manner meeting with the approval of the DLNR-SHPD.
15. 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-

Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.

16. On plans submitted for Plan Approval review or any land alteration permit(s), the applicant shall identify the location of Kaūmana Cave within the subject property and to ensure its protection, also identify a 100-foot wide preservation buffer along its entire perimeter. No use, structures or land alteration activities shall be permitted within this Kaūmana Cave preservation buffer area.
17. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
18. 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 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.
19. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special Permit.