



LEGAL
S72100 2" EXP
S72101 4" EXP
S72111 6" EXP

ORIGINAL

LAND USE COMMISSION
BEFORE THE LAND USE COMMISSION STATE OF HAWAII

OF THE STATE OF HAWAII

2008 AUG -7 A 10:26

In the matter of the Petition
of
SP87-364 Kahili Adventist School (Kauai)

-) SP87-364
-)
-) **PETITIONER KAHILI ADVENTIST**
-) **SCHOOL'S STATUS REPORT; EXHIBIT**
-) **“A”**
-)
-)
-)
-)
-)
-)
-)
-)
-) Continue Hearing:
-) Date: August 8, 2008
-) Time: 9:00 a.m.
-)

PETITIONER KAHILI ADVENTIST SCHOOL'S STATUS REPORT

Petitioner KAHILI ADVENTIST SCHOOL (“School”), by and through its attorneys, CASE LOMBARDI & PETTIT, hereby submits a status report regarding SP87-364. This status report supplements the status report submitted June 26, 2008, which is attached as Exhibit “A.”

I. WITNESSES

The School intends to have the following persons present at the August 8, 2008 hearing:

- Mr. Ronald Lindsey, Treasurer, Hawaii Conference of Seventh-day Adventists. Mr. Lindsey will be available to answer any questions regarding the School's financial situation.
- Mr. Teryl Loeffler, Superintendent of Education, Hawaii Conference of Seventh-day Adventists. Mr. Loeffler will be available to answer any general questions regarding the School.

- Ms. Wanda Lee, Principal, Kahili Adventist School. Ms. Lee will be available to answer any questions regarding the School, including the School's agricultural work study program.
- Mr. Greg Kamm, Greg Kamm Planning & Management. Mr. Kamm will be available to answer questions regarding efforts to determine the School's compliance with SP87-364.
- Mark G. Valencia, Esq. Mr. Valencia will be available to answer any questions regarding the School's ongoing legal dispute with the landlord who initiated the current inquiry.

II. UPDATED STATUS REPORT

The following is a report on the School's most recent efforts.

- 1) On 5-30-08, Mark Valencia and Greg Kamm met Mike Laureta, Planner, at the Kauai Planning Department relative to compliance with the various permits held by the School.
- 2) Mike advised us that one route to compliance would be to come back to the County for amendments to the permits where issues needed interpretation, clarification or modification. He advised us that modifications were possible if they were justified, and he recommended that we work with the respective agencies on permit conditions those agencies had imposed.
- 3) Greg Kamm held a brief follow-up meeting with Mike Laureta on 6-12-08, received confirmation of the prior advice and advised Mike that he would be out of the country for much of July, so the bulk of the work with agencies would occur after his return.
- 4) On 7-30-08, Greg Kamm contacted Ray McCormick, Deputy District Highways Engineer for the State Department of Transportation and explained the condition previously imposed, the possible payment by KMP to DOT for intersection work (still being researched by the School), and inquired as to DOT's experience with that intersection. Ray indicated there was no problem with the intersection that he knew about, that "it was not even on their radar," but that he would check with others in the Division and get back to Greg as soon as possible.

5) On 8-1-08, Greg Kamm met with David Bukoski, Captain of the Kauai County Fire Department Fire Prevention Bureau and Officer Daryl Date of the same Bureau in their office in Lihue. The specific condition addressed was the need or lack of same to improve the road with "penetration base or better" in order to provide fire safety. Greg explained there were three standpipes on campus, that there was an alarm system in place, that the gymnasium was fire sprinklered, that regular fire drills were held, that an evacuation plan was in place, that an annual audit was conducted by the private firm, Kauai Fire Protection, which resulted in recommendations which were implemented, and that there were fire extinguishers in all the cabins and classroom buildings, as well as a fire hose cabinet in the central area of the main classroom building, adjacent to the office.

Captain Bukoski had several comments:

a) He knew the road intimately and had driven the Kauai Fire Department Pump Truck up to the School several times himself, as well as frequently using the road for personal recreation for many years on a frequent basis.

He stated that as long as the road continued to be maintained in its present condition and continued to have adequate traction, there was no problem with fire truck access to the core campus or the majority of the property. He also added that he thought improving the road with asphalt or similar would not be in keeping with the rural character of the area.

b) He said the staff housing areas were deemed residential and were not subject to any particular fire requirements other than those imposed at building permit. All the staff housing apparently has building permits (unconfirmed) as well as extinguishers and an evacuation plan, so has no fire issues.

c) He said if the Park rental cabins had fire extinguishers and an evacuation plan in place, that was sufficient to meet Fire Department concerns.

d) He said the Fire Department's main concern was human safety, so evacuation plans and alarms were more important than fire fighting devices in this setting and location. He noted that the remote location of the School and Park would make it unlikely the Department's equipment could reach the site in a timely way from either the Poipu or the Kalaheo Fire Stations, irrespective of the condition of the access road, but that if the occupants were evacuated from buildings in case of fire, it would satisfy the Fire Department's concerns.

6) On 8-1-08, Greg Kamm met with Kauai County Engineer, Donald Fujimoto, in the latter's office in Lihue and explained the School wanted to confirm that Public Works had no major concerns with the campus or cabins, and in particular the roadway. Mr. Fujimoto said he did not have a problem with the road remaining unpaved, that the many years of use in its present condition confirmed its adequacy. He also suggested the School explore an MOA and Indemnity Agreement with the County, in the event there was a requirement in an Ordinance for paving or similar. Mr. Fujimoto also requested Greg meet with Wallace Kudo, Chief of the Engineering Division of the Kauai County Department of Public Works regarding the same issues.

7) On 8-1-08, Greg Kamm met with Wallace Kudo as requested. Mr. Kudo stated that this was a private road, and that Kauai County Public Works did not regulate or want to regulate private roads. He did not feel it needed to be paved. He also recalled that one or more flood studies had been submitted and approved relative to this property.

8) On 8-1-08, Greg Kamm assigned an Associate to review the extensive files stored in a shipping container located on the School site, which he did for roughly four hours with the assistance of Jamie Lee, Park Manager and son of Wanda Lee, School Principal. The effort did not yield a large amount of relevant material, but what was found has been copied and was sent to Mark Valencia.

9) On 7-31-08, Greg Kamm met with Wanda Lee, School Principal. Several things were discussed and scheduled for follow-up:

a) Wanda was to have the accountant, Laurie, research the payment to DOT, possibly in 1999 or 2000. As of this writing, Laurie has found a ledger entry for roughly \$29,000, but no back up.

b) Wanda was going to look for the flood studies and approvals, including follow up with Kodani & Associates. She contacted Kodani's office, but did not receive a call back. Ron Lindsey was also going to call Belt Collins in Honolulu on a flood study that firm prepared.

c) Wanda was going to make copies of the fire inspection reports.

d) Wanda noted Aqua Engineers conducted the monthly water quality testing required by the State Department of Health. She noted there had been no complaints from DOH on water quality or other matters.

e) Wanda noted the students were almost entirely bussed to the school (reducing road use) and that the School owned and operated a bus fleet sufficient to handle the present (or even greatly expanded) enrollment. The current enrollment is only 40 students.

f) Wanda was going to look for the occupancy permit for the gym, since some conditions appeared to be tied to that document. As of this writing, she had not been able to find it.

g) Wanda will mail Greg and Mark each a copy of a booklet containing the agricultural curriculum.

Subject to any contrary directive from the Land Use Commission, the School intends to submit additional status reports as significant events development.

The above-identified witnesses will be available to answer any questions regarding the June 26, 2008 and above status reports.

DATED: Honolulu, Hawaii, August 7, 2008.

Mark G. Valencia

MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL

EXHIBIT “A”

CASE LOMBARDI & PETTIT

A LAW CORPORATION

Daniel H. Case
James M. Cribley
Stacey W.E. Foy
Gregory M. Hansen
Michael L. Lam
Dennis M. Lombardi
Michael R. Marsh
† A Law Corporation

Ted N. Pettit, Ph.D.
Esther H. Roberts
Lauren R. Sharkey
Mark G. Valencia
Nancy J. Youngren
John D. Zalewski

PACIFIC GUARDIAN CENTER, MAUKA TOWER
737 BISHOP STREET, SUITE 2600
HONOLULU, HAWAII 96813-3283

TELEPHONE: (808) 547-5400
FACSIMILE: (808) 523-1888
E-mail: info@caselombardi.com
<http://www.caselombardi.com>

David G. Brittin
Michael G. Kozak
Malia S. Lee

Sandy S. Ma
Alexis M. McGinness
Margaret E. Parks

Of Counsel
Frederick W. Rohlfing III
Gary L. Wixom

Bruce C. Bigelow (1946-2001)

June 26, 2008

VIA HAND DELIVERY

Mr. Dan Davidson, Executive Officer
State Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

Re: Docket No. SP87-364/Kahili Adventist School

Dear Mr. Davidson:

We represent the Hawaii Conference of Seventh-day Adventists ("Church"), which is the organization responsible for operation of the Seventh-day Adventist churches and schools throughout the State of Hawaii. We are writing to provide a status report on Kahili Adventist School's ("School") compliance with Special Permit No. 87-364 ("SP87-364"). This status report supplements the report provided to your predecessor Mr. Anthony Ching on February 27, 2003, a copy of which is enclosed for your convenience.

The Church has retained the services of Greg Kamm of Greg Kamm Planning & Management, a Kauai-based planning firm, to assist with the review and analysis of various aspects of the School's compliance with SP87-364. Mr. Kamm has inspected the property and is working with the County of Kauai Planning Department.

We have reached the following preliminary conclusions and recommendations regarding each condition:

1. Interior roadways - 16 foot penetration base: Many of the roads are 16 feet. Some are not. They have been adequate for operation of the property in any case. Further, "penetration base" is no longer legal, because of Environmental Protection Agency restrictions and pavement is not appropriate for this very "rural" setting. The School would like to maintain the roads using rolled gravel, as it has done effectively for many years. This may require the County's approval, possibly through an amendment to the existing County permit conditions.

ORIGINAL

LAND USE COMMISSION
STATE OF HAWAII

2008 AUG -1 A 10:20

Mr. Dan Davidson, Executive Officer
State Land Use Commission
June 26, 2008
Page 2

2. Waterline improvements: These have been made, although not all of them may reach the level needed for code fire flows. Given the remote location and the very low density, the School will request that continued use of extinguishers and the reservoir as a back-up for pump trucks be considered compliant. This will be discussed directly with the Kauai Fire Department.
3. Asphalt or concrete all roads within 5 years: Please see above response relative to interior roadways.
4. All weather surface on entry road: The road has functioned for sugar cane hauling, pasture, school, and recreational use for over 50 years; probably much longer. However, this condition defines “all-weather surface” to mean a penetration base, which is no longer allowed. This road is in very good shape for what it was initially designed to be: support for major, very large and heavy sugar cane hauling vehicles. It has functioned well for the School (and its other users) and the School takes care to keep this road passable in all weather, regularly adding gravel, grading and rolling it and ensuring drainage is effective. Because it is functional, appropriate to the rural setting, and a penetration base is no longer an option, the School will request permission to continue to maintain this road in its present condition.
5. Highway entry improvements: The cost of fully-engineered, State-standard highway improvements would be prohibitive, as well as detract from the rural ambiance many are trying to maintain. The School will request the County’s support in maintaining this entry point as is. In terms of traffic safety, the School is unaware of any issues at this location requiring highway-standard improvements, so the School will seek relief from this condition. We will also be meeting with State Highways Division on this matter
6. Density: The School is compliant, in fact, well below permitted density.
7. LUC boundary interpretation: We are uncertain if the School has undertaken this work, but the School will do so if deemed necessary. We have been informed that no school activity takes place in the Conservation District.
8. Design review by Planning Department: All buildings on site constructed since the original permit was issued were done so under valid building permits, reviewed by the Planning Department.

Mr. Dan Davidson, Executive Officer
State Land Use Commission
June 26, 2008
Page 3

9. Agricultural work study curriculum: The School has an agricultural work-study program, but it has been severely affected by the reduced cash-flow, which in turn is a result of the ongoing litigation with the Church's landlord. While the program exists, it is more of an on-campus, agricultural experience and not as robust as the School would like. Relief from some other conditions will allow this program to be greatly improved.

Mr. Kamm and Mark Valencia, Esq. met with Kauai County Planner Mr. Michael L. Laureta on Kauai to discuss SP87-364. Mr. Laureta recommends that the School formally submit this matter to the Kauai County Planning Commission to discuss possible changes to some of the conditions.

Both Mr. Kamm and Mr. Laureta will assist with this effort. Both gentlemen are in the process of researching the history of each condition. Mr. Laureta suggested that the LUC take no action on this matter until the County has formally assessed each condition. We expect the County will make a recommendation on each condition at issue.

We will provide an additional status report as soon as this matter has been placed on the County's calendar.

Please let me know if you need any additional information. Thank you for your consideration.

Sincerely,

Mark G. Valencia
Michael R. Marsh
Mark G. Valencia

Enclosure

c: Mr. Greg Kamm
Mr. Ronald A. Lindsey (Hawaii Conference
of Seventh-day Adventists)



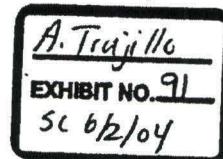
SEVENTH-DAY
ADVENTIST
CHURCH

Hawaii Conference

2726 Pali Highway
Honolulu, HI 96817
Telephone: (808) 595-7591
Fax: (808) 595-2345
sda@hawaiiconf.com
http://hc.adventist.org

February 27, 2003

HAND DELIVERED



Mr. Anthony Ching, Executive Officer
State Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

LAND USE COMMISSION
STATE OF HAWAII

2003 FEB 28 A 9:59

Re: Kahili Adventist School
State of Hawaii Land Use Commission - Docket No. SP 87-364

Dear Mr. Ching:

Let me begin by thanking you for meeting with Pastor David Pendleton, the Seventh-day Adventist pastor of the Waiola Worship Center in Kaneohe, in your office on January 16, 2003. As a follow-up to that meeting, I am writing to provide an update regarding compliance of Kahili Adventist School with State Land Use Commission and Kauai County Planning Commission conditions. For clarity, the following discussion tracks the 12 conditions in the above-referenced order, pages 7-10, dated July 17, 1990. Each condition will be quoted followed by the response:

1. "Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval."

Response:

The interior roadway and waterline improvements had to do with the occupancy of a new gymnasium/auditorium that was being planned. The building had been completed but an occupancy permit had not been issued when hurricane "Iniki" hit Kauai in September 1992. Since it was one of the few buildings standing after the hurricane, the County gave permission for the Red Cross to use the building as its distribution center. After the Red Cross finished with its final requirements were met and the occupancy permit was issued.

SDA00077

EXHIBIT 7

The use of penetration base treatment was abandoned due to environmental issues and was replaced with rolled base course using rock and coral chips. Ditches were dug along side of the road to divert excess rain water run off. In some of the areas having a greater volume, catch basins were built with grating openings and drainage piping was installed.

A new road was built on the lower side of the pond, twenty-five (25) feet wide and approximately eight hundred (800) feet long, thereby abandoning the narrow and hazardous roadway previously used.

An 80,000 gallon water tank was installed with an automatic control for the chlorination system.

A six inch pipe from the water tank to the school area was installed. The gymnasium/auditorium has a sprinkler system which is fed by a four inch water pipe. In compliance with the county fire department, three hydrants were installed at various locations around the campus.

A school employee has taken the required courses to become a state licensed water treatment operator. The water is treated and samples are sent to the county and state as required by state law. All state reports on the water samples are returned and filed for a minimum of five years.

2. "The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better."

Response:

The current road is an all-weather road that was built by the McBryde Sugar Company. This road is well-built and was used by large cane hauling trailer trucks carrying loads of 20 to 30 tons. Since the sugar business has closed and the road is no longer used by these trucks it is much easier to keep it in good repair. The road is a rolled base course using rock and coral chips. Kahili Adventist School has a contract with the Rudy Ramos Equipment Service to keep the road in good repair. A crew services the road on a monthly basis. The road now has a crown so water runs off and the ditches are kept clear. The school spends approximately \$10,000 each year for rock and chipped coral to be spread on the roads.

3. "The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission."

Response:

This condition had been complied with. It has to do with exiting Kaumualii Highway onto the road going to the school. The School paid the State to install a de-acceleration lane on the Kaumualii Highway thus allowing vehicles to move out of the traffic lane before turning onto the school road. When the highway was repaved in the fall of 2002, the de-acceleration lane was also repaved.

4. "As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property."

Response:

Kodani and Associates, Inc., a consulting engineering firm, made a flood study for the school. It was submitted to the Kauai County Public Works Department and was approved.

5. "Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments."

Response:

Kahili Adventist School is in compliance with all known State and County requirements. For example, all state water requirements are followed. A school employee has taken the required courses to become a state licensed water treatment operator. The director of the Kauai County Water Department inspects the system on a regular basis. The water is treated and samples are sent to the county and state as required by state law. All state reports on the water samples are returned and filed for a minimum of five years.

The school has a contract with Kauai Fire Protection to assure that all fire and safety requirements are met. The county fire department sends an inspector each year to check to see that all equipment is operating correctly.

6. "The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare."

Response:

Kahili Adventist School acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary. As of this date no additional conditions or restrictions have been imposed.

7. "Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented."

Response:

Attached please find a copy of the 2002-2003 School Bulletin which contains our curriculum. On pages 16 and 20 you will find reference to the agricultural work-study program for both our elementary and secondary students. Also please note the response to number 9b. below.

8. "The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

Response:

Kahili Adventist School acknowledges the obligation and responsibility to comply with all additional conditions that may be imposed by government agencies.

9. "Based on the timetable submitted, Petitioner shall complete within five (5) years of Land Use Commission approval:

- Expansion of the school program (K-12);
- Agricultural work study program;
- Campground site facilities.
- Health conditioning, physical and spiritual retreat center; and
- Establishment of orchards as per Exhibit 'G.'

Response:

Kahili Adventist School is in compliance. More specifically:

- The school started at this location as a K-10 school in 1986. During the 1995-96 school year the 11th grade was added. The following year the 12th grade was added.
- Kahili Adventist School has an agricultural work study program. We started with lychee trees. Presently, a two (2) acre parcel is planted with cut flowers and bananas. Orange trees have also been planted. These are doing well. Bananas are sold out of the school office and flowers and bananas are sold at the farmer's market here on Kauai. Each week students are taken to work in the gardens. Students have been used also in planning and developing flower beds around the campus. Please note the attached pictures.
- The campground site has been completed with cabin facilities that are available for use.
- The physical, educational, and spiritual retreat center was built and occupied in 1993. It is an ongoing program, with various organizations using the facilities. Some 27 groups held meetings during 2002.
- Seven hundred lychee trees were planted. They have not proved to be a success. In the past ten (10) years of operation there have been only two (2) sizeable and saleable crops. In seeking help the University of Hawaii was contacted. We were told that the lychee trees were very inconsistent fruit bearers and that we are in a location where it is very difficult for lychee trees to produce. As mentioned above, we have been successful with other fruit trees.

10. "The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, and Class IV Zoning Permits shall be required. In addition to the 20

Mr. Anthony Ching
February 27, 2003
Page 5

cabins/units, 14 more faculty/staff housing units (as per Petitioner's Exhibit "G") are permissible."

Response:

Kahili Adventist School is in compliance with the approved density. At this point, 8 staff homes and 16 cabins/units have been built. An additional 6 staff homes and 4 cabins or units are still permissible under the presently approved density.

11. "A Conservation District boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development."

Response:

In accordance with this condition, the Knudsen Trust contacted and employed Belt Collins Engineering in Honolulu to realign the boundaries of the land that was to be leased to the school. The original lease called for a 200 acre plot to be leased. The lease is for 197 acres after the boundaries were redrawn. The Conservation District is not included on the land leased to the school. The school is aware of the Conservation District and has no activities that come anywhere near that area.

12. "All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application."

Response:

Kahili Adventist School acknowledges that any future buildings are subject to design review and approval by the Planning Department prior to applying for a permit to build.

I trust this update is helpful to you. Please do not hesitate to contact me if you need any additional information.

Very sincerely yours,


Arnold Trujillo
President

Enclosures

SDA00081



Office of the Principal

Kahili Adventist School

TRANSMITTAL

ORIGINAL

DATE: August 18, 2009

VIA: US Mail

TO: Mr. Ian Costa
Planning Department
4444 Rice Street—Building A Suite 473
Lihue HI 96766
Attn: Mr. Michael Laureta

COPIES TO: Mr. Orlando Davidson
Land Use Commission
235 South Beretania Street # 406
Honolulu, HI 96813

Mr. Mark Valencia
Case Lombardi & Pettit
737 Bishop Street, Suite 2600
Honolulu, HI 96813-3283

Mr. Greg Kamm
Greg Kamm Planning & Management
P. O. Box 1200
Koloa, HI 96756

FROM: Ms. Wanda Lee
Principal, Kahili Adventist School

SUBJECT: **Kahili Adventist School—Agricultural Education Curriculum**
Class IV Zoning Permit Z-IV-87-51
Special Use Permit SP 87-13, Use Permit U-87-41
Docket No. SP87-364

Per the requirements of the above referenced documents for an annual submittal, attached please find a sample of Kahili Adventist School's agricultural curriculum for the 2009-2010 academic year. Each lesson is the first lesson in the units to be taught this year. The complete 4-year program is outlined in the Table of Contents

- Agriculture Curriculum Table of Contents—4 pages
- Unit 11, Lesson 1: What is Food Processing—14 pages
- Unit 12, Lesson 1: The Importance of Agriculture Mechanics Technology—5 pages
- Unit 13, Lesson 1: Introduction to Wildlife Management—5 pages
- Unit 14, Lesson 1: How Organisms and Wildlife Work Together—7 pages

LAND USE COMMISSION
STATE OF HAWAII
2009 AUG 24 A 8:05

Mailing Address:
PO Box 480
Lawai, HI 96765
Street Address:
2-4035 Kaumualii Hwy
Koloa, HI 96756

Telephone:
School: (808) 742-9294
Fax: (808) 742-6628

Accredited by:
National Council for Private Education

www.kahili.org

Agriculture Curriculum

Unit 11: Food Processing

Lesson 1: What is Food Processing

STUDENT OBJECTIVES

1. Explain the meaning of food processing.
2. Identify the steps of food processing.
3. Identify the risks of food processing.

REFERENCES

<http://www.manteno.k12.il.us/mcordes/dairycow.htm>

Morgan, M. Elizabeth, Lee, S. Jasper & Wilson, Elizabeth. *Agriscience Explorations*. Pearson Education, Inc. Prentice Hall Interstate. Upper Saddle River, NJ.

PowerPoint: **Tubs of Butter Fun-Making Butter!**

EQUIPMENT, SUPPLIES, MATERIALS

Food Products- Food products made from food processing

Handout #1

Handout #2

Butter Making- Whip cream, Quart jar, Strainer, Bowl, Salt, Spoon, Crackers, and a Plate

Ice Cream Making- 2-4 bags of ice, 1 gallon whole milk, 1 box rock salt, 8 oz paper cups (36), 5 lbs. Sugar, 1 gallon zip lock bags (15), vanilla extract, plastic spoons (36), 1 quart zip lock bags (15), paper towels, Medicine droppers for (vanilla) extract

TEACHING PROCEDURE

Introduction and Mental Set

Ask students to think of different foods that are processed before being sold in a supermarket. Have each student bring in a food product that was made more usable through food processing. Ask the students to give a report on the product. Tell how the product was created through food processing. (Example: Hamburger: the student would have to discuss how a cow would have been slaughtered and then the meat was further processed into a hamburger patty).

Discussion

1. **Question:** *What is food processing?*

Answer: Food processing is a series of steps through which raw food is made usable. Basically it's taking an animal or plant product, changing it and making it more desirable.

2. **Question:** *What are some possible steps of processing?*

Answer: Grading, fabricating, preserving, and packaging.

Grading is sorting products by quality, size, and kind. Grading is necessary because consumers want products of high quality. Grading is also good because it can remove bad products before a contaminant can spread.

Fabrication is used to make a product more convenient. Example: One would never buy a whole pig in a supermarket. Meat must be slaughtered and then cut up before it can be made usable.

Preserving is a technique that is used to prevent food from spoiling. Freezing, canning, and drying are some forms of preserving.

Packaging is placing food in containers appropriate for the product. Packaging is important because it helps keep the food safe by keeping it nutritious and contaminant free. Packaging also helps separate food into proper quantities for the consumer.

Food processing can reduce the nutritional value of a product. This in return can cause someone to be unhealthy if they are not receiving adequate amounts of nutrients.

3. **Activity: Better Butter!**

Lets make some BUTTER! This experiment will help explain how some products are made more usable through food processing (11Ag 11.1.1. You may also show the Powerpoint: Tubs of Butter Fun-Making Butter!

4. **Activity:**

Homemade peanut butter. (11Ag 11.1.2). Powerpoint: [Home Made Peanut Butter](#) may also be used for instructions.

2. **Activity:**

Making Mustard. (Use 11Ag 11.1.3). They will learn how to make mustard from seed and powder. Powerpoint: Making Mustard may also be used for instructions.

ACADEMIC CONNECTIONS

Language Arts

Connections in Agriculture Education

Name: _____ Date: _____

Date: _____

In class you learned about food processing. Select one food that you have eaten recently and trace its journey from when it began all the way to the time when it was ready to be eaten. Write the steps in the form of a paragraph.

ACADEMIC CONNECTIONS

Science

Connections in Agriculture Education

Name: _____ Date: _____

Have you ever wondered how different types of food are preserved? Today you will learn about the important safety measures of canning and answer the questions below.

How Canning Preserves Foods

Invisible microorganisms are all around us. Many are beneficial; others are harmful. All foods contain microorganisms, the major cause of food spoilage. Using heat to destroy microorganisms, proper canning techniques stop this spoilage. During the canning process, air is driven from the jar and a vacuum is formed as the jar cools and seals, preventing microorganisms from entering and recontaminating the food.

It does not take long at 212 degrees Fahrenheit (F), the temperature at which water boils, to force air out, create a vacuum, and seal a jar. *It does, however, take a specific amount of heat for a specific amount of time to kill certain bacteria.* Although a jar is "sealed," all bacteria are not necessarily killed. Adequate acid (as in pickled products and fruits) or sugar (as in jams and jellies) protects against the growth of some microorganisms. In low-acid foods, however, some microorganisms are not destroyed at 212 degrees F. *Low-acid foods, therefore, must be heated to higher temperatures that can be reached only with a pressure canner.*

Low-acid foods, such as vegetables, meat, poultry, and fish, must be pressure canned at the recommended time and temperature to destroy *Clostridium botulinum*, the bacterium that causes botulism food poisoning. *Canning low-acid foods in boiling water canners is absolutely unsafe because 212 degrees F is not high enough to destroy botulinum bacteria.* If botulinum bacteria survive and grow inside a sealed jar, they can produce a deadly toxin. Even a taste of food containing this toxin can be fatal.

1. Do you think that canning foods is a safe way to preserve foods?

2. Give examples of foods that can be canned and tell whether they have low acidity or high acidity and why it is important to know the acidity?

3. Would you eat food from an unsealed jar? Why or Why not?

4. What are the dangers of eating food that has not been prepared properly by bringing it to a high enough temperature to kill the microorganisms?

ACADEMIC CONNECTIONS

Mathematics

Connections in Agriculture Education

Name: _____

Date: _____

The recipe for homemade peanut butter calls for 1 cup of unsalted roasted peanuts, 1 tablespoon of sugar (optional), $\frac{1}{2}$ teaspoon of salt, and $1\frac{1}{2}$ tablespoons of canola oil.

1. If you wanted to make twice the amount of peanut butter, how many cups of unsalted roasted peanuts would you need?
2. If you wanted to make three times the amount of peanut butter, how many tablespoons of canola oil would you need?
3. If you only wanted to make a $\frac{1}{3}$ as much peanut butter from the original recipe, how much sugar would you need?
4. If the original recipe for peanut butter makes enough peanut butter for 25 peanut butter sandwiches, how many sandwiches could you make with 5 times the amount of the peanut butter from the original recipe?

Answers:

1. 2 cups
2. 4 $\frac{1}{2}$ tablespoons
3. $\frac{1}{3}$ tablespoon
4. 125 sandwiches

Additional Activity:

Tools and Equipment:

Corn grinder
Sifters
Scoop
Burner or stovetop

Materials:

10# White corn
5# and 10# paper bags
Labels
Butter
Cheese
Bowls
Pot
Spoons
Salt
Water

Performance Objectives:

1. At the end of this lesson students will understand the importance of value added processing. With these tools students will be able to take shelled corn and transform it in to grits and corn meal.
2. Students will weigh, package, and label the grits and corn meal according to industry standards.
3. Given a set of directions to go by the student will be able to cook grits.

Method of Instruction

Introduction- Brief overview of value added processing

1. Define value added processing—Adding value to a product by carrying it one step closer to the consumer. Example Butterbeans in the hull vs. shelled butterbeans
2. Why is “value added” processing important? With today’s farming economy in a slump it is important for farmers to diversify into more specialized commodities. One way to do that is through value added concepts.
3. What are some value added commodities?
 - A. Peanuts—Boiled or roasted peanuts
 - B. Peas—Shelled or frozen peas
 - C. Corn—Grits and corn meal
 - D. Grapes—Neutraceuticals

Powerpoint – Pictures of actual grist mill and separator
Demonstration- Actual process of making grits and corn meal
Observation- Observe students making grits and corn meal

Technical Outline

These will be the technical procedures used in the hands on activities during the skills lesson.

1. Grinding corn
2. Separating corn meal and grits with manual separator
3. Weigh product on certified scales
4. Package product
5. Label package
6. Cook grits

Teaching: Learning activities/materials

Students will take shelled corn and grind it. Then he or she will take the combined product, which is corn meal and grits, and manually shift the products with the provided equipment. From there the grits and corn meal will be weighed, packaged, and labeled according to industry certification. Students will then be able to cook their products and season them to taste.

Materials- Pictures of grist mill and separator from Meadow Mills Inc.

Evaluation—See attachment

Conclusion

The grits and corn meal project is not one that we are trying to get all of the producers to participate in. We are however trying to sell the concept. For you the student, odds are that unless you own or inherit a large portion of land it is going to be difficult to farm. With value added commodities it becomes possible for people with small acreage and limited capital to participate in agriculture. This type of farming also becomes attractive to those with full time jobs who want to farm on the side. With profit margins getting tighter it is imperative that producers find commodities to grow that can yield a higher profit.

Assignment

Students must list the different ways grits can be prepared and the different uses for corn meal.

Student Checklist:

- _____ Wear safety goggles and lab coat when grinding corn.
- _____ Check for damaged electrical cords.
- _____ Make sure all equipment is clean and bug free before beginning.
- _____ Stand clear of all moving parts.
- _____ Properly lubricate all moving parts before beginning.
- _____ Calibrate scales
- _____ Check labels for correct spelling and punctuation.
- _____ Make sure grits label goes on grits bag.
- _____ Make sure bags are folded neatly with labels applied in the center.
- _____ Check for foreign objects in the grits and corn meal (trash, weevils, rocks, etc.).
- _____ When grinding is completed clean all equipment and shop area.

SUMMARY

Conclusion

Review the definition and the importance of food processing.
Also review the steps and risks of food processing.

Evaluation

Written quiz.

Making Butter

You may show PowerPoint: Tubs of Butter Fun-Making Butter for help and demonstration purposes.

You can make clean, safe butter if you use clean equipment and clean hands.

1. Split into pairs.
2. Remove 2 cups of whipping cream from the refrigerator and let it sit for a half-hour.
3. Put it in a clean glass quart jar with a tight lid.
4. Start shaking it! Take turns with your partner--it could take up to 20 minutes.
5. Watch how the cream becomes foamy, then forms into round balls of butter. Stop shaking when the butter has formed.
6. Drain off the liquid, now buttermilk, through a strainer into a bowl.
7. Rinse any remaining buttermilk off the butter bits under cold water.
8. Put butter bits on a plate and pack together with a spoon. Squish a few grains of salt into the butter. Refrigerate to harden. Spread on crackers and enjoy!

Homemade Peanut Butter

Ingredients:

- 1 cup Unsalted roasted peanuts
- 1 tablespoon of Sugar (optional)
- $\frac{1}{2}$ teaspoon of Salt
- 1 $\frac{1}{2}$ tablespoons of Canola oil

Put peanuts in blender and blend for about 1 minute. Add in oil, salt and sugar and continue blending until the mixture is creamy. This may take a while and you may need to stop and stir the mixture inside the blender to insure that all of the peanuts are being blended. The mixture may appear runny at first but it will thicken when it is allowed to sit. Put the finished peanut butter in a container and refrigerate.

Home - made Mustard

Basic Country Mustard:

- 2 tablespoons of yellow mustard seed, ground with mortar and pestle.
- $\frac{1}{4}$ cup brown or yellow mustard powder
- $\frac{1}{4}$ cup cold water
- 2 tablespoons apple cider vinegar
- 1 teaspoon salt

Grind the mustard seeds to the texture you desire (there is no correct texture). Mix the mustard powder and ground seeds with the water. Let mixture sit for 10 minutes. Add the vinegar and salt; blend well. Refrigerate overnight before using.

Chinese Hot Mustard:

- $\frac{1}{4}$ cup dry mustard
- 1 teaspoon sugar
- $\frac{1}{4}$ cup boiling water
- 2 teaspoons vegetable oil

Combine mustard and sugar. Stir in water and oil. Let stand 8 hours before serving. Store in refrigerator.

Agriculture Curriculum

Unit 12: Agricultural Mechanics

Lesson 1: The Importance of Agricultural Mechanics Technology

Objectives

1. List five reasons why agricultural mechanics technology is important.
2. List five important developments in agricultural mechanics technology.
3. List five careers in agricultural mechanics.

References

Burke, Stanley R., and T. J. Wakeman. *Modern Agricultural Mechanics*. Danville: Interstate.

Cavendish, Marshall. *Science Project Book of Mechanics*. London: William Collins Sons.

Cooper, Elmer L. *Agricultural Mechanics: Fundamentals and Applications*. Albany: Delmar.

Engineering and Related Occupations. Video. St. Paul: Hobar.

Hensen, Kenneth T., and Delmar Janke. *Elementary Science Methods*. New York: McGraw-Hill.

Herren, Ray V. *Exploring Agriscience*. Albany: Delmar.

Production I. Video. St. Paul: Hobar.

Equipment, Supplies, Materials

TV/VCR
Magazines illustrating agricultural technologies
Career videos from Hobar Publications

Teaching Procedure

Introduction and Mental Set

In the United States, agriculture is highly mechanized. This lesson discusses the importance of agricultural mechanics technology and its relationship to science. Agricultural mechanics technology teaches skills that can be applied to repairing tractors, small engines, farm equipment, bicycles, automobiles, stereos, appliances, and garden tools.

1. Show a video on careers in agricultural mechanics.
2. Bring in photos or magazines showing agricultural mechanics technology and discuss what is represented.
3. Develop a collage on the theme of Agricultural Mechanics.

Discussion

1. **Question:** *Why is agricultural mechanics technology important?*

Answer:

- It teaches important skills that can be used at home, in business or for leisure.
- Many of the careers in agriculture involve agricultural mechanics.
- Agriculture is now so mechanized that skilled people are needed to maintain equipment and to keep productivity high.
- Mechanization increases worker productivity by reducing the time required to perform the task.

In terms of employment, agriculture is the largest industry in the United States. Recent estimates indicate that 20-25% of the nation's workforce is employed in agriculture. Because of advanced mechanization, a farmer can produce enough food and fiber for 115 people. Mechanization has also made it possible for less than 2% of the population to farm and yet produce enough agricultural food products for our country.

2. **Question:** *What advancements in agricultural mechanization have had the greatest impact on society?*

Answer:

- **Cotton gin:** Eli Whitney, 1793
- **Reaper:** Cyrus McCormick, 1834
- **Steel plow:** John Deere, 1837
- **Mechanical corn picker:** Edmund W. Quincy, 1850
- **Tractor:** Benjamin Holt, 1904

Show pictures of how the work was done before and after each invention. Discuss what changed because of the inventions.

3. **Question:** *What are some careers in agricultural mechanics technology?*

Answer:

- Electrician
- Machinery and equipment specialist
- Parts person
- Soil technician
- Tractor mechanic
- Ecology technician
- Shop supervisor

Have students name individuals in the community who work in these types of jobs or similar jobs. Make a list on the board of agricultural mechanics related business.

Other Activities

1. Plan a field trip to an agricultural mechanics facility.
2. Have students think of an agricultural mechanics invention. Divide students into groups. Have each group name at least one machine that needs to be developed to increase productivity and make the work easier in agriculture.
3. Have students' role-play in a debate about whether or not to purchase a tractor. Have one half the class make a list of reasons not to buy a tractor and the other group make a list of reasons to purchase a tractor. Give the following conditions:
 - The students are farming in 1938 -- just about the time tractors were coming into common use
 - The students currently farm with mules
 - Corn and cotton are the cash crops
 - A tractor and equipment costs \$1200
 - Three mules and equipment are currently owned and paid for. Original cost was \$600 total.

ACADEMIC CONNECTIONS

Language Arts

Connections in Agriculture Education

Name: _____ Date: _____

Date: _____

Imagine you live in 1938, when tractors were just coming to common use. You are the owner of a cotton farm, but you also have a lot of land with hay and cattle. You are currently using a plow and mules. How does your life change with the coming of tractors for common use? Do you buy a tractor? If you do not buy a tractor, what would happen? How are your agricultural productions (hay, cotton, cattle) affected by the tractor? How is agriculture in general affected? Answer these questions in the space below. Write in correct mechanical and grammatical form and in complete sentences.

Summary

Conclusion

Agricultural mechanics technology is an important area of work. The major mechanical advancements in the 1800s helped make agriculture as strong an industry as it is today. Similarly, the technology developed today will help determine the strength of agriculture in the future. Agricultural mechanics technology offers many career opportunities. However, the skills related to agricultural mechanics technology can also be used in everyday life.

Evaluation

Give a quiz on the materials covered from the lesson including machines used for agricultural mechanics and why agricultural mechanization is important to agriculture.

Agriculture Curriculum

Unit 13: Forestry and Natural Resources

Lesson 1: Introduction to Wildlife Management

OBJECTIVES

1. Define terms used in wildlife management.
2. Describe the history of wildlife management.
3. Identify and explain the roles of the state and federal government agencies in wildlife management.

Text (highly recommended for wildlife unit)

Stutzenbaker, Charles D.; Scheil, Brenda J.; Swan, Michael K.; Lee, Jasper S.; Omernik, Jeri Mattics. *Wildlife Management: Science and Technology*. Danville, IL. Interstate Publishers, Inc.

REFERENCES

Aquatic Project Wild. (<http://www.projectwild.org/>)
Exploring the Forest Adventure. 1996. Montgomery, AL Plan-It 3
Project Learning Tree. 1987. Washington, DC. The American Forest Council
Project Wild. (<http://www.projectwild.org/>)
<http://www.dnr-pro.org/hi-hawaii/department-land-natural-resources>
<http://hawaii.gov/dlnr/>

EQUIPMENT, SUPPLIES, MATERIALS

Project Wild Book (pdf file on Resource CD – 139 pages)
Aquatic Project Wild (pdf file on Resource CD – 59 pages)

TEACHING PROCEDURE

Introduction and Mental Set

Begin by showing your students a picture of a Dodo Bird or Passenger Pigeon or another extinct species and ask your students if they have ever seen one in real life. Inform the students that they will not be able to see one because these animals have gone extinct. The main reason for their extinction has been mismanagement of their habitats by humans in the past. Discuss with your students the terms below and the importance of wildlife management. If possible have a state DNR officer come visit the classroom and discuss Hawaii's endangered species and DNR's purpose and function.

Discussion

Vocabulary:

DNR or the Department of Natural Resources: Hawaii agency that is in charge of wildlife management and state parks in Georgia.

Domestication: The process of bringing wild animals under human control (ex: dogs, cats, horses.)

Extinction: The species is no longer in existence with no hope of recovering them. (Ex: Passenger Pigeon, Dodo Bird.)

Endangered Species: This is a species that will become extinct if something isn't done to help. Very few if any in this category are still in the wild, most are in zoos or wildlife management centers. (EX: Greater Panda, Galapagos Giant Tortoise, California Condor.)

Endangered Species Act: Passed by congress in 1966, allows animals that have a declining population to be placed on a threatened or endangered list. Animals and habitat on this list will be protected so that their populations can be increased to a point where they may be taken off the threatened or endangered species list.

National Park Service: The department in the federal government that is in charge of the National Park System (ex: Yosemite National Park, Great Smokey Mountain National Park, etc)

Threatened species: This is a species that will become endangered if not managed properly. There are currently more than 100 species that are threatened in the US.

Rare Species: These species are protected in an attempt to prevent them from becoming threatened. (EX: Chimpanzees):

Wildlife: Animals and plants that have not been domesticated.

Wildlife management: Art and science of administering a wildlife system to get a desired result.

Suggested Activities:

Project Wild Activity Guide- Who Lives Here?

WebQuest: <http://www.nevada.edu/~karla/>

ACADEMIC CONNECTIONS

Language Arts

Connections in Agriculture Education

Name: _____ Date: _____

Date: _____

Teacher's Note: Provide students with access to research materials.

Choose from one of the following topics to research and to write a short essay on

- Department of Natural Resources- when and why founded, what it does
- Extinct species- descriptions of extinct species, requirements for extinction, prevention methods of extinction
- Endangered Species Act- when and why, who supported it, what did it do
- National Park Services- when and why established, what it does

The information beside each topic is just possible information to include in your essay; you may search for other information on the topics. In your writing, include an introductory paragraph, body paragraphs, and a closing paragraph, written in correct grammar and mechanics.

SUMMARY

Evaluation: Create end of unit evaluation.

Agriculture Curriculum

Unit 14: Environmental Awareness

Lesson 1: How Organisms and the Environment Work Together

Student Objectives

1. Define the word *organism*.
2. Define the word *environment*.
3. Describe the relationship between organisms and the environment (ecology).
4. Identify examples of how organisms work in balance with each other and/or in balance with the environment.

References

Camp, William G., and Thomas B. Daugherty. *Managing Our Natural Resources*. Albany: Delmar.

Cooper, Elmer L. *Agriscience: Fundamentals and Applications*. Albany, NY: Delmar Publishers, Inc.

Herren, Ray V. *Exploring Agriscience*. Albany, NY: Delmar Publishers, Inc.

Ketter, Catherine. T. *Exploring Agriscience*. Lab Manual. Albany, NY: Delmar Publishers, Inc.

Lytle, R. A., and Harry B. Kircher. *Investigations in Conservation of Natural Resources*. 2nd ed. Danville: Interstate.

Lee, Jasper S. *Agriscience Discovery*. Danville, IL: Interstate Publishers, Inc.

Morgan, Elizabeth M. *Agriscience Explorations*. Upper Saddle River, NJ: Prentice Hall Interstate

Audesirk, Teresa and Gerald Audesirk. *Biology 5th Edition: Life on Earth*. Upper Saddle River, New Jersey: Prentice Hall.

Teaching Procedure

Introduction and Mental Set

All living things are dependent upon their environment for life. Humans are dependent upon the environment for food, clothing, shelter, medicines, and recreation. This lesson examines what is meant by *environment* and how all life participates in it.

Have students list factors that make up their own environment. How is their environment different from that of an animal or plant?

Discussion

1. **Question:** *What is an organism?*

Answer: An organism is a living body with organs and systems. It can be plant or animal.

2. **Question:** *What does environment mean?*

Answer: Environment means all of the living and nonliving things with which an organism interacts. The human environment includes water, temperature, air, chemicals, soil, plants and animals.

3. **Question:** *What is the relationship between organisms and the environment?*

Answer: All living and nonliving things in an environment are interdependent. A group of organisms that interacts with one another and with the nonliving environment make up an ecosystem. The study of this interdependency is called ecology. Ecology is the study of the relationship between living things and the environment.

Community Relationships

Example: In a lake, fish need water and food; different types of life within the lake feed off each other; wildlife along the shore is dependent on the water and food in the water; plants on the shore provide habitat and food for wildlife, as well as preventing erosion on the banks.

Additional Activities

Explain how a desert or a rain forest functions as an ecosystem. How are these resources dependent on each other?

ACADEMIC CONNECTIONS

Language Arts

Connections in Agriculture Education

Name: _____ Date: _____

Date: _____

In the space below write an example of a community relationship in the environment in paragraph form. Use the information from class to write your paragraph.

ACADEMIC CONNECTIONS

Science

Connections in Agriculture Education

Name: _____ Date: _____

You have learned the meaning of ecology. Ecology is the study of the relationship between living things and the environment. Animals can have both a positive effect and a negative effect on the environment. Let's see how animals can have a negative effect on the environment.

Many individuals rely on wells as their source of household water, especially in rural areas. It is possible for groundwater to become contaminated through a variety of ways, including bacterial contamination. One of the most likely ways for this to happen is from the waste of livestock animals, such as cattle. One particular bacterium, *E. coli*, lives in the intestinal tract of many animals, where it aids in the digestion of food. As long as the bacteria remain in that part of the body, the two organisms have a mutualistic relationship. However, if the bacteria are ingested, sickness or death may occur.

Before completing the experiment answer questions 1-3. Perform the experiment and then answer the remaining questions.

Procedure:

1. Collect water from various wells around the county or community. River or stream water may also be collected.
2. Map out the locations of livestock operations in the county. A county extension agent may be able to help with this, or you can indicate whether or not these areas exist near the water collection sites.
3. Pour a thin layer of lactose broth in a Petri dish.
4. Add a thin layer of water to be tested into the broth.
5. Label and cover the dish. Repeat as many times as needed depending upon the number of samples collected.
6. Incubate the samples overnight at 40-45 degrees Celsius.
7. Examine the samples the next day with a microscope to see if there are any bacteria present.

1. Name the places that you are collecting the water from.

2. Do you think that you will find any bacteria growth in the samples that you have collected? If yes, explain why.

3. Where there any cattle near or around the area from which you collected the water samples?

4. Was there any bacteria growth in any of the samples of water that you collected?

5. Which samples of water contained bacteria growth?

6. What was the relationship to water with bacteria in it and livestock areas?

7. How can people protect themselves from bacterial contamination in well water?

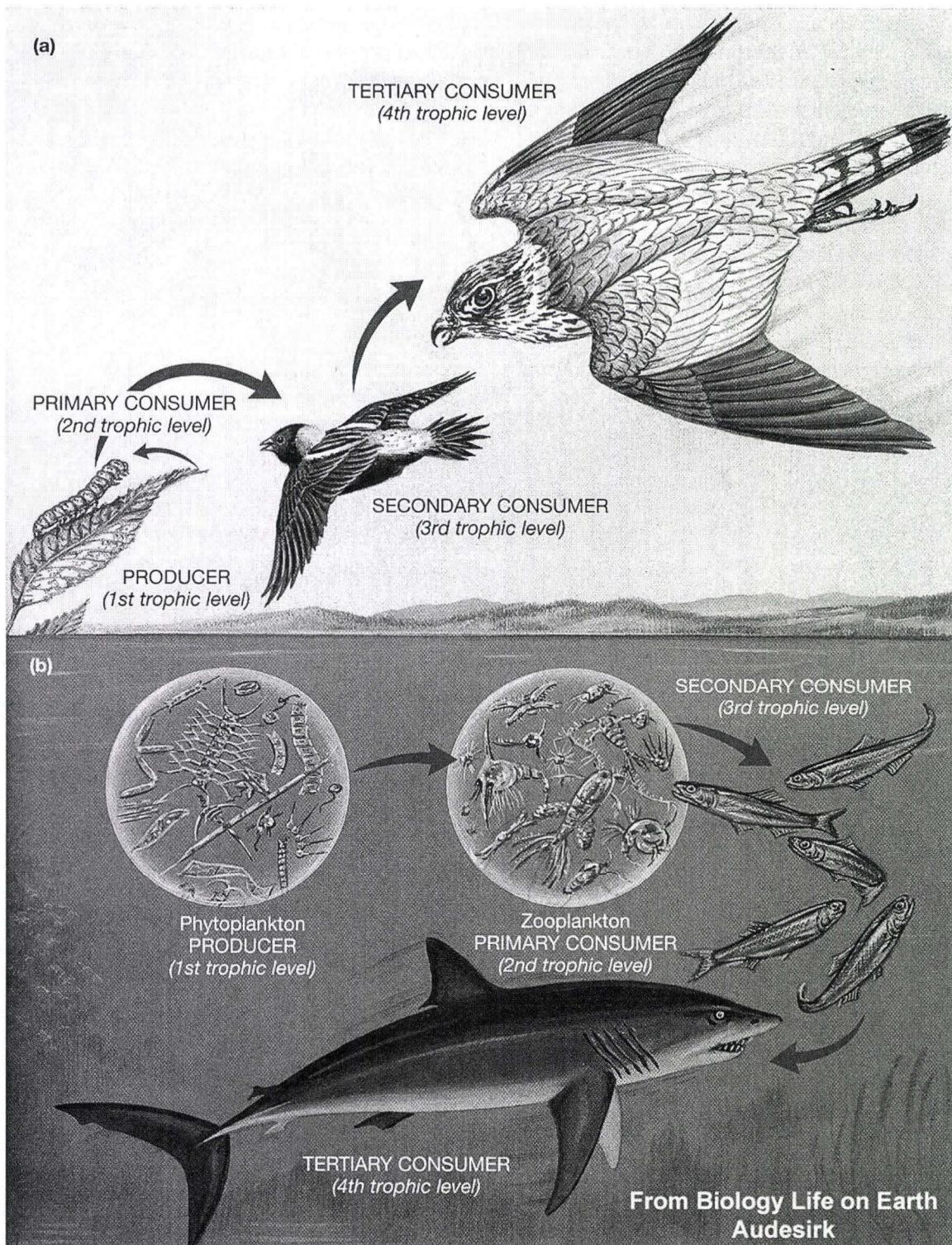
Summary

Conclusion

All organisms are interdependent: the earth is one large ecosystem made up of many smaller systems. Humans are a part of these systems, and human actions can damage or help them. Since all life is dependent upon these ecosystems, they must be sustained and protected.

Evaluation

Written Quiz



PRE-DECISIONAL - CONFIDENTIAL

ORIGINAL

CONFIDENTIAL

**LUC DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL**

STATUS REPORT

STAFF REPORT

Action Meeting
August 8, 2008



Orlando Davidson, Executive Officer

Submitted: August 6, 2008

TABLE OF CONTENTS

<u>Tab No.</u>	<u>Page No.</u>
1. BACKGROUND	3
2. RECOMMENDATION	8

1. BACKGROUND

Kahili Adventist School (Kahili) is a Seventh Day Adventist Church entity run by the Hawaii Conference of Seventh Day Adventists (HCSDA) that is operating a church compound at Koloa, Kauai. It is situated on approximately 197.463 acres of land leased in 1984 for 60 years from the Eric A. Knudsen Trust (Trust), Tax Map Key 2-7-1:003 (por.). Its facilities includes cabins, a church and a school per Special Permit SP-87-364 approved by the LUC in a Decision and Order (D&O) dated August 13, 1987, with a first amendment via D&O dated July 17, 1990. The first D&O imposed eight conditions, the second added four more, recommended by the Kauai County Planning Department and adopted by the Kauai Planning Commission.

Kahili believed it was entitled to rent the cabins out to the general public and used the revenues for its school program. For the first approximately 17 years, the Trust did not challenge this practice, but a new Trustee in 2000, Stacey T. J. Wong, told Kahili the rentals to the public were not permitted per terms of the lease that restricted the rentals to church affiliated persons only. Negotiations between Mr. Wong and Kahili for a business expansion by Kahili that would net revenues to the Trust, under a new lease allowing rental to the general public, were unsuccessful.

Following a meeting with former LUC Executive Officer Anthony Ching on January 16, 2003, by letter dated February 27, 2003, Arnold Trujillo, President, HCSDA, sent on Kahili's behalf, a status report concerning the 12 conditions imposed by the 1987 and 1990 D&Os.

The Hawaiian Association of Seventh Day Adventists (HASDA), a non-profit corporation, subsequently sued Wong, as Trustee of the Trust by filing a civil complaint dated March 10, 2003 with the 5th Circuit Court, State of Hawaii. Judgment was filed May 21, 2007. HASDA had sought to have the lease terms interpreted by the court to the effect that renting the cabins to the general public by Kahili was permissible. Wong had countersued to have the lease terminated because of improper activities under the lease. The judgment was split (though Mr. Wong was awarded attorney's fees of \$87,477), the court ruled the cabins could not be rented to the general public. However, the lease was not terminated and remains in effect. The matter is on appeal and cross-appeal to the Hawaii State Intermediate Court of Appeals.

Attorney Michael D. Tom, of the firm of Tom Petrus & Miller, sent the LUC a letter dated June 14, 2007, and a letter dated August 30, 2007, both on behalf

of Trustee Wong, describing conditions to the 1987 and 1990 D&Os that Kahili purportedly was not satisfying.

Via letter of September 10, 2007, former LUC Executive Officer Ching informed Kahili of an LUC site visit to be made September 20, 2007, and a corresponding LUC meeting that same day at the Hilton Kauai Beach Resort, to hear Kahili's status report concerning its compliance with the Special Permit conditions. In the letter, the following conditions of concern were listed:

- Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width.
- Waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows.
- Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of LUC approval.
- The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the LUC, or earlier (all weather surface shall mean provision of penetration base treatment or better).
- The improvements (i.e., left turn storage lanes on Kaumualii Highway, acceleration and deceleration lanes and street lights) shall be provided as required, but no later than 5 years from the date of review and approval by the LUC.
- As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.
- The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. In addition to the 20 cabins/units, 14 more faculty/staff housing units are permissible.
- A conservation district boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development.

- All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application.

At the September 20, 2007 LUC meeting, the matter was continued to the November 1, 2007 LUC meeting, on Oahu, because Ronald A. Lindsey, Treasurer, HCDSA (Kahili's key witness), was undergoing medical treatment on the mainland. Kahili's counsel alleged the letters from Mr. Tom were aimed at giving Trustee Wong an edge in the litigation under appeal through the results of the LUC inquiry into Kahili's compliance with the Special Permit conditions.

By letter dated October 30, 2007, Lyle Ishida, with Tom Petrus & Miller, on behalf of Trustee Wong provided written testimony concerning the litigation between HASDA and Trustee Wong.

By letter dated October 31, 2007, Mark Valencia, with the law firm Case Lombardi & Pettit, representing HCDSA, forwarded a letter dated October 31, 2007 from Mr. Lindsey, Treasurer, HCDSA, to former LUC Executive Officer Ching, which in turn forwarded a copy of the HCDSA 2003 status report on behalf of Kahili.

At the November 1, 2007 LUC meeting, Mr. Lindsey alluded to the 2003 status report and the fact no one told Kahili it was not in compliance with any of the conditions described there. At this meeting former LUC Executive Officer Ching indicated he had requested the 2003 status report, because the 1987 and 1990 D&Os placed no status report requirement upon Kahili. He believed it had been sent to Kauai Planning Department, and he had deferred to any comments they might make, which were none. At this meeting, the Commission moved to continue the status report for six months and await an update as to the permittee's actions and application before the County of Kauai.

On June 17, 2008, Mark Valencia met with LUC Executive Director Dan Davidson and LUC Staff Planner Michael Murphy. Valencia said Kahili was working with Kauai County to resolve the issues. Mr. Davidson requested a status report from Kahili. Mr. Valencia said one would be forthcoming.

Via letter dated June 26, 2008, Mark Valencia, on behalf of HCDSA and Kahili, stated HCDSA and Kahili had retained the services of Greg Kamm, of the Kauai planning firm Greg Kamm Planning and Management, who he said

was working with the Kauai County Planning Department, and provided a status report regarding Kahili's compliance with nine conditions. The following summarizes his responses to each numbered condition¹:

1. Interior roadways - 16 foot penetration base: Some roads are 16 feet, some aren't. "Penetration base" is illegal per EPA and pavement not appropriate for "rural" setting. Wants to use rolled gravel, may require an amendment.
2. Waterline improvements – Have been made but not all may meet fire code. Wants to use extinguishers and the reservoir as a back-up for pump trucks given the remote location and low density.
3. Asphalt or concrete all roads within five years – see answer to 1. above.
4. All weather surface on entry road – Has functioned for sugar cane hauling and other heavy use for 50 years. All weather surface means penetration base, which is no longer allowed.
5. Highway entry improvements – Cost would be prohibitive and detract from rural ambiance. Will meet with State DOT and the County to get relief from this condition.
6. Density – School is compliant, in fact well below requirement.
7. LUC boundary interpretation – Uncertain if school has undertaken this work. School will comply, if necessary. No school activity takes place in the Conservation District.
8. Design Review by Planning Department – All buildings on site constructed since permit was issued were done so under valid building permits, reviewed by the Planning Department.
9. Agriculture work study curriculum – Has a program, but it's severely affected by reduced cash flow due to litigation with landlord. It's more of an on-campus agricultural experience, not as robust as school would like.

The letter cites a meeting of Mr. Kamm and Mr. Valencia with Kauai County Planner Michael L. Laureta that occurred to discuss condition compliance. It

¹ The letter seems to respond to Mr. Ching's nine conditions in his letter of September 10, 2007, except somehow a discussion of the agricultural work-study curriculum was substituted for Mr. Ching's letter condition concerning the need for drainage and flood studies.

says Mr. Laureta recommended Kahili formally submit the matter to the Kauai County Planning Commission to discuss possible changes to the conditions. The letter says both Mr. Kamm and Mr. Laureta will assist by researching the history for each condition. It says Mr. Laureta suggested the Commission take no action until the County has formally assessed each condition. The letter says Mr. Valencia expects the County to make a recommendation on each condition at issue. It says Kahili will provide an additional status report as soon as the matter has been placed on the County's calendar. The letter also forwarded a copy of the 2003 status report.

The matter is scheduled for the August 8, 2008 LUC meeting on Oahu, Conference Room 405.

2. RECOMMENDATION

Based on the foregoing, staff recommends that Kahili appear before the Commission and provide a status report in six months detailing the progress made in working with Kauai County to seek amendments to the Special Permit.

1. DD ✓
2. SM

CASE LOMBARDI & PETTIT

A LAW CORPORATION

Daniel H. Case
James M. Cribley
Stacey W.E. Foy
Gregory M. Hansen
Michael L. Lam
Dennis M. Lombardi†
Michael R. Marsh
† A Law Corporation

Ted N. Pettit, Ph.D.
Esther H. Roberts
Lauren R. Sharkey
Mark G. Valencia
Nancy J. Youngren
John D. Zalewski

PACIFIC GUARDIAN CENTER, MAUKA TOWER
737 BISHOP STREET, SUITE 2600
HONOLULU, HAWAII 96813-3283

David G. Brittin
Michael J. Cozak
Malia S. Lee

Sandy S. Ma
Alexis M. McGinness
Margaret E. Parks

TELEPHONE: (808) 547-5400
FACSIMILE: (808) 523-1888
E-mail: info@caselombardi.com
http://www.caselombardi.com

2008 JUN 27 A 9:45 AM

Of Counsel
Frederick W. Rohlfing III
Gary L. Wixom

XC: MM
Bruce C. Bigelow (1946-2001)

June 26, 2008

VIA HAND DELIVERY

Mr. Dan Davidson, Executive Officer
State Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

Re: Docket No. SP87-364/Kahili Adventist School

Dear Mr. Davidson:

We represent the Hawaii Conference of Seventh-day Adventists ("Church"), which is the organization responsible for operation of the Seventh-day Adventist churches and schools throughout the State of Hawaii. We are writing to provide a status report on Kahili Adventist School's ("School") compliance with Special Permit No. 87-364 ("SP87-364"). This status report supplements the report provided to your predecessor Mr. Anthony Ching on February 27, 2003, a copy of which is enclosed for your convenience.

The Church has retained the services of Greg Kamm of Greg Kamm Planning & Management, a Kauai-based planning firm, to assist with the review and analysis of various aspects of the School's compliance with SP87-364. Mr. Kamm has inspected the property and is working with the County of Kauai Planning Department.

We have reached the following preliminary conclusions and recommendations regarding each condition:

1. Interior roadways - 16 foot penetration base: Many of the roads are 16 feet. Some are not. They have been adequate for operation of the property in any case. Further, "penetration base" is no longer legal, because of Environmental Protection Agency restrictions and pavement is not appropriate for this very "rural" setting. The School would like to maintain the roads using rolled gravel, as it has done effectively for many years. This may require the County's approval, possibly through an amendment to the existing County permit conditions.

Mr. Dan Davidson, Executive Officer
State Land Use Commission
June 26, 2008
Page 2

2. Waterline improvements: These have been made, although not all of them may reach the level needed for code fire flows. Given the remote location and the very low density, the School will request that continued use of extinguishers and the reservoir as a back-up for pump trucks be considered compliant. This will be discussed directly with the Kauai Fire Department.
3. Asphalt or concrete all roads within 5 years: Please see above response relative to interior roadways.
4. All weather surface on entry road: The road has functioned for sugar cane hauling, pasture, school, and recreational use for over 50 years; probably much longer. However, this condition defines "all-weather surface" to mean a penetration base, which is no longer allowed. This road is in very good shape for what it was initially designed to be: support for major, very large and heavy sugar cane hauling vehicles. It has functioned well for the School (and its other users) and the School takes care to keep this road passable in all weather, regularly adding gravel, grading and rolling it and ensuring drainage is effective. Because it is functional, appropriate to the rural setting, and a penetration base is no longer an option, the School will request permission to continue to maintain this road in its present condition.
5. Highway entry improvements: The cost of fully-engineered, State-standard highway improvements would be prohibitive, as well as detract from the rural ambiance many are trying to maintain. The School will request the County's support in maintaining this entry point as is. In terms of traffic safety, the School is unaware of any issues at this location requiring highway-standard improvements, so the School will seek relief from this condition. We will also be meeting with State Highways Division on this matter
6. Density: The School is compliant, in fact, well below permitted density.
7. LUC boundary interpretation: We are uncertain if the School has undertaken this work, but the School will do so if deemed necessary. We have been informed that no school activity takes place in the Conservation District.
8. Design review by Planning Department: All buildings on site constructed since the original permit was issued were done so under valid building permits, reviewed by the Planning Department.

Mr. Dan Davidson, Executive Officer
State Land Use Commission
June 26, 2008
Page 3

9. Agricultural work study curriculum: The School has an agricultural work-study program, but it has been severely affected by the reduced cash-flow, which in turn is a result of the ongoing litigation with the Church's landlord. While the program exists, it is more of an on-campus, agricultural experience and not as robust as the School would like. Relief from some other conditions will allow this program to be greatly improved.

Mr. Kamm and Mark Valencia, Esq. met with Kauai County Planner Mr. Michael L. Laureta on Kauai to discuss SP87-364. Mr. Laureta recommends that the School formally submit this matter to the Kauai County Planning Commission to discuss possible changes to some of the conditions.

Both Mr. Kamm and Mr. Laureta will assist with this effort. Both gentlemen are in the process of researching the history of each condition. Mr. Laureta suggested that the LUC take no action on this matter until the County has formally assessed each condition. We expect the County will make a recommendation on each condition at issue.

We will provide an additional status report as soon as this matter has been placed on the County's calendar.

Please let me know if you need any additional information. Thank you for your consideration.

Sincerely,

Mark G. Valencia
Michael R. Marsh
Mark G. Valencia

Enclosure

c: Mr. Greg Kamm
Mr. Ronald A. Lindsey (Hawaii Conference
of Seventh-day Adventists)



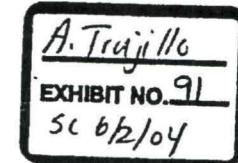
SEVENTH-DAY
ADVENTIST
CHURCH

Hawaii Conference

February 27, 2003

HAND DELIVERED

Mr. Anthony Ching, Executive Officer
State Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813



2728 Pali Highway
Honolulu, HI 96817
Telephone: (808) 595-7591
Fax: (808) 595-2345
sda@hawaiiconf.com
http://hc.adventist.org

LAND USE COMMISSION
STATE OF HAWAII
2003 FEB 28 A 9 59

Re: Kahili Adventist School
State of Hawaii Land Use Commission - Docket No. SP 87-364

Dear Mr. Ching:

Let me begin by thanking you for meeting with Pastor David Pendleton, the Seventh-day Adventist pastor of the Waiola Worship Center in Kaneohe, in your office on January 16, 2003. As a follow-up to that meeting, I am writing to provide an update regarding compliance of Kahili Adventist School with State Land Use Commission and Kauai County Planning Commission conditions. For clarity, the following discussion tracks the 12 conditions in the above-referenced order, pages 7-10, dated July 17, 1990. Each condition will be quoted followed by the response:

1. "Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval."

Response:

The interior roadway and waterline improvements had to do with the occupancy of a new gymnasium/auditorium that was being planned. The building had been completed but an occupancy permit had not been issued when hurricane "Iniki" hit Kauai in September 1992. Since it was one of the few buildings standing after the hurricane, the County gave permission for the Red Cross to use the building as its distribution center. After the Red Cross finished with its final requirements were met and the occupancy permit was issued.

SDA00077

EXHIBIT 7

The use of penetration base treatment was abandoned due to environmental issues and was replaced with rolled base course using rock and coral chips. Ditches were dug along side of the road to divert excess rain water run off. In some of the areas having a greater volume, catch basins were built with grating openings and drainage piping was installed.

A new road was built on the lower side of the pond, twenty-five (25) feet wide and approximately eight hundred (800) feet long, thereby abandoning the narrow and hazardous roadway previously used.

An 80,000 gallon water tank was installed with an automatic control for the chlorination system.

A six inch pipe from the water tank to the school area was installed. The gymnasium/auditorium has a sprinkler system which is fed by a four inch water pipe. In compliance with the county fire department, three hydrants were installed at various locations around the campus.

A school employee has taken the required courses to become a state licensed water treatment operator. The water is treated and samples are sent to the county and state as required by state law. All state reports on the water samples are returned and filed for a minimum of five years.

2. "The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better."

Response:

The current road is an all-weather road that was built by the McBryde Sugar Company. This road is well-built and was used by large cane hauling trailer trucks carrying loads of 20 to 30 tons. Since the sugar business has closed and the road is no longer used by these trucks it is much easier to keep it in good repair. The road is a rolled base course using rock and coral chips. Kahili Adventist School has a contract with the Rudy Ramos Equipment Service to keep the road in good repair. A crew services the road on a monthly basis. The road now has a crown so water runs off and the ditches are kept clear. The school spends approximately \$10,000 each year for rock and chipped coral to be spread on the roads.

3. "The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission."

Response:

This condition had been complied with. It has to do with exiting Kaumualii Highway onto the road going to the school. The School paid the State to install a de-acceleration lane on the Kaumualii Highway thus allowing vehicles to move out of the traffic lane before turning onto the school road. When the highway was repaved in the fall of 2002, the de-acceleration lane was also repaved.

4. "As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property."

Response:

Kodani and Associates, Inc., a consulting engineering firm, made a flood study for the school. It was submitted to the Kauai County Public Works Department and was approved.

5. "Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments."

Response:

Kahili Adventist School is in compliance with all known State and County requirements. For example, all state water requirements are followed. A school employee has taken the required courses to become a state licensed water treatment operator. The director of the Kauai County Water Department inspects the system on a regular basis. The water is treated and samples are sent to the county and state as required by state law. All state reports on the water samples are returned and filed for a minimum of five years.

The school has a contract with Kauai Fire Protection to assure that all fire and safety requirements are met. The county fire department sends an inspector each year to check to see that all equipment is operating correctly.

6. "The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare."

Response:

Kahili Adventist School acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary. As of this date no additional conditions or restrictions have been imposed.

7. "Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented."

Response:

Attached please find a copy of the 2002-2003 School Bulletin which contains our curriculum. On pages 16 and 20 you will find reference to the agricultural work-study program for both our elementary and secondary students. Also please note the response to number 9b. below.

8. "The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

Response:

Kahili Adventist School acknowledges the obligation and responsibility to comply with all additional conditions that may be imposed by government agencies.

9. "Based on the timetable submitted, Petitioner shall complete within five (5) years of Land Use Commission approval:

- Expansion of the school program (K-12);
- Agricultural work study program;
- Campground site facilities.
- Health conditioning, physical and spiritual retreat center; and
- Establishment of orchards as per Exhibit 'G.'

Response:

Kahili Adventist School is in compliance. More specifically:

- The school started at this location as a K-10 school in 1986. During the 1995-96 school year the 11th grade was added. The following year the 12th grade was added.
- Kahili Adventist School has an agricultural work study program. We started with lychee trees. Presently, a two (2) acre parcel is planted with cut flowers and bananas. Orange trees have also been planted. These are doing well. Bananas are sold out of the school office and flowers and bananas are sold at the farmer's market here on Kauai. Each week students are taken to work in the gardens. Students have been used also in planning and developing flower beds around the campus. Please note the attached pictures.
- The campground site has been completed with cabin facilities that are available for use.
- The physical, educational, and spiritual retreat center was built and occupied in 1993. It is an ongoing program, with various organizations using the facilities. Some 27 groups held meetings during 2002.
- Seven hundred lychee trees were planted. They have not proved to be a success. In the past ten (10) years of operation there have been only two (2) sizeable and saleable crops. In seeking help the University of Hawaii was contacted. We were told that the lychee trees were very inconsistent fruit bearers and that we are in a location where it is very difficult for lychee trees to produce. As mentioned above, we have been successful with other fruit trees.

10. "The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, and Class IV Zoning Permits shall be required. In addition to the 20

Mr. Anthony Ching
February 27, 2003
Page 5

cabins/units, 14 more faculty/staff housing units (as per Petitioner's Exhibit "G") are permissible."

Response:

Kahili Adventist School is in compliance with the approved density. At this point, 8 staff homes and 16 cabins/units have been built. An additional 6 staff homes and 4 cabins or units are still permissible under the presently approved density.

11. "A Conservation District boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development."

Response:

In accordance with this condition, the Knudsen Trust contacted and employed Belt Collins Engineering in Honolulu to realign the boundaries of the land that was to be leased to the school. The original lease called for a 200 acre plot to be leased. The lease is for 197 acres after the boundaries were redrawn. The Conservation District is not included on the land leased to the school. The school is aware of the Conservation District and has no activities that come anywhere near that area.

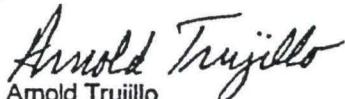
12. "All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application."

Response:

Kahili Adventist School acknowledges that any future buildings are subject to design review and approval by the Planning Department prior to applying for a permit to build.

I trust this update is helpful to you. Please do not hesitate to contact me if you need any additional information.

Very sincerely yours,


Arnold Trujillo
President

Enclosures

SDA00081

1. DDV
2. SM

CASE LOMBARDI & PETTIT

A LAW CORPORATION

Daniel H. Case
James M. Cribley
Stacey W.E. Foy
Gregory M. Hansen
Michael L. Lam
Dennis M. Lombardit
Michael R. Marsh

† A Law Corporation

Ted N. Pettit, Ph.D.
Esther H. Roberts
Lauren R. Sharkey
Mark G. Valencia
Nancy J. Youngren
John D. Zalewski

PACIFIC GUARDIAN CENTER, MAUKA TOWER
737 BISHOP STREET, SUITE 2600
HONOLULU, HAWAII 96813-3283

David G. Brittin
Megan Kozak
Maile S. Lee

Sandy S. Ma
Alexis M. McGinness
Margaret E. Parks

TELEPHONE: (808) 547-5400
FACSIMILE: (808) 523-1888
E-mail: info@caselombardi.com
<http://www.caselombardi.com>

2008 JUN 27 A 9: H
X C: MM
Bruce C. Bigelow (1946-2001)

Of Counsel
Frederick W. Rohlfing III
Gary L. Wixom

June 26, 2008

VIA HAND DELIVERY

Mr. Dan Davidson, Executive Officer
State Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

Re: Docket No. SP87-364/Kahili Adventist School

Dear Mr. Davidson:

We represent the Hawaii Conference of Seventh-day Adventists ("Church"), which is the organization responsible for operation of the Seventh-day Adventist churches and schools throughout the State of Hawaii. We are writing to provide a status report on Kahili Adventist School's ("School") compliance with Special Permit No. 87-364 ("SP87-364"). This status report supplements the report provided to your predecessor Mr. Anthony Ching on February 27, 2003, a copy of which is enclosed for your convenience.

The Church has retained the services of Greg Kamm of Greg Kamm Planning & Management, a Kauai-based planning firm, to assist with the review and analysis of various aspects of the School's compliance with SP87-364. Mr. Kamm has inspected the property and is working with the County of Kauai Planning Department.

We have reached the following preliminary conclusions and recommendations regarding each condition:

1. Interior roadways - 16 foot penetration base: Many of the roads are 16 feet. Some are not. They have been adequate for operation of the property in any case. Further, "penetration base" is no longer legal, because of Environmental Protection Agency restrictions and pavement is not appropriate for this very "rural" setting. The School would like to maintain the roads using rolled gravel, as it has done effectively for many years. This may require the County's approval, possibly through an amendment to the existing County permit conditions.

Mr. Dan Davidson, Executive Officer
State Land Use Commission
June 26, 2008
Page 2

2. Waterline improvements: These have been made, although not all of them may reach the level needed for code fire flows. Given the remote location and the very low density, the School will request that continued use of extinguishers and the reservoir as a back-up for pump trucks be considered compliant. This will be discussed directly with the Kauai Fire Department.
3. Asphalt or concrete all roads within 5 years: Please see above response relative to interior roadways.
4. All weather surface on entry road: The road has functioned for sugar cane hauling, pasture, school, and recreational use for over 50 years; probably much longer. However, this condition defines "all-weather surface" to mean a penetration base, which is no longer allowed. This road is in very good shape for what it was initially designed to be: support for major, very large and heavy sugar cane hauling vehicles. It has functioned well for the School (and its other users) and the School takes care to keep this road passable in all weather, regularly adding gravel, grading and rolling it and ensuring drainage is effective. Because it is functional, appropriate to the rural setting, and a penetration base is no longer an option, the School will request permission to continue to maintain this road in its present condition.
5. Highway entry improvements: The cost of fully-engineered, State-standard highway improvements would be prohibitive, as well as detract from the rural ambiance many are trying to maintain. The School will request the County's support in maintaining this entry point as is. In terms of traffic safety, the School is unaware of any issues at this location requiring highway-standard improvements, so the School will seek relief from this condition. We will also be meeting with State Highways Division on this matter
6. Density: The School is compliant, in fact, well below permitted density.
7. LUC boundary interpretation: We are uncertain if the School has undertaken this work, but the School will do so if deemed necessary. We have been informed that no school activity takes place in the Conservation District.
8. Design review by Planning Department: All buildings on site constructed since the original permit was issued were done so under valid building permits, reviewed by the Planning Department.

Mr. Dan Davidson, Executive Officer
State Land Use Commission
June 26, 2008
Page 3

9. Agricultural work study curriculum: The School has an agricultural work-study program, but it has been severely affected by the reduced cash-flow, which in turn is a result of the ongoing litigation with the Church's landlord. While the program exists, it is more of an on-campus, agricultural experience and not as robust as the School would like. Relief from some other conditions will allow this program to be greatly improved.

Mr. Kamm and Mark Valencia, Esq. met with Kauai County Planner Mr. Michael L. Laureta on Kauai to discuss SP87-364. Mr. Laureta recommends that the School formally submit this matter to the Kauai County Planning Commission to discuss possible changes to some of the conditions.

Both Mr. Kamm and Mr. Laureta will assist with this effort. Both gentlemen are in the process of researching the history of each condition. Mr. Laureta suggested that the LUC take no action on this matter until the County has formally assessed each condition. We expect the County will make a recommendation on each condition at issue.

We will provide an additional status report as soon as this matter has been placed on the County's calendar.

Please let me know if you need any additional information. Thank you for your consideration.

Sincerely,

Mark G. Valencia
Michael R. Marsh
Mark G. Valencia

Enclosure

c: Mr. Greg Kamm
Mr. Ronald A. Lindsey (Hawaii Conference
of Seventh-day Adventists)



SEVENTH-DAY
ADVENTIST
CHURCH

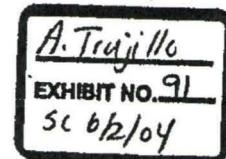
Hawaii Conference

2728 Pali Highway
Honolulu, HI 96817
Telephone: (808) 555-7591
Fax: (808) 555-2345
sda@hawaii.com
<http://hc.adventist.org>

February 27, 2003

HAND DELIVERED

Mr. Anthony Ching, Executive Officer
State Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813



LAND USE COMMISSION
STATE OF HAWAII

2003 FEB 28 A 9 59

Re: Kahili Adventist School
State of Hawaii Land Use Commission - Docket No. SP 87-364

Dear Mr. Ching:

Let me begin by thanking you for meeting with Pastor David Pendleton, the Seventh-day Adventist pastor of the Waiola Worship Center in Kaneohe, in your office on January 16, 2003. As a follow-up to that meeting, I am writing to provide an update regarding compliance of Kahili Adventist School with State Land Use Commission and Kauai County Planning Commission conditions. For clarity, the following discussion tracks the 12 conditions in the above-referenced order, pages 7-10, dated July 17, 1990. Each condition will be quoted followed by the response:

1. "Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit."

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval."

Response:

The interior roadway and waterline improvements had to do with the occupancy of a new gymnasium/auditorium that was being planned. The building had been completed but an occupancy permit had not been issued when hurricane "Iniki" hit Kauai in September 1992. Since it was one of the few buildings standing after the hurricane, the County gave permission for the Red Cross to use the building as its distribution center. After the Red Cross finished with it final requirements were met and the occupancy permit was issued.

SDA00077

EXHIBIT 7

The use of penetration base treatment was abandoned due to environmental issues and was replaced with rolled base course using rock and coral chips. Ditches were dug along side of the road to divert excess rain water run off. In some of the areas having a greater volume, catch basins were built with grating openings and drainage piping was installed.

A new road was built on the lower side of the pond, twenty-five (25) feet wide and approximately eight hundred (800) feet long, thereby abandoning the narrow and hazardous roadway previously used.

An 80,000 gallon water tank was installed with an automatic control for the chlorination system.

A six inch pipe from the water tank to the school area was installed. The gymnasium/auditorium has a sprinkler system which is fed by a four inch water pipe. In compliance with the county fire department, three hydrants were installed at various locations around the campus.

A school employee has taken the required courses to become a state licensed water treatment operator. The water is treated and samples are sent to the county and state as required by state law. All state reports on the water samples are returned and filed for a minimum of five years.

2. "The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better."

Response:

The current road is an all-weather road that was built by the McBryde Sugar Company. This road is well-built and was used by large cane hauling trailer trucks carrying loads of 20 to 30 tons. Since the sugar business has closed and the road is no longer used by these trucks it is much easier to keep it in good repair. The road is a rolled base course using rock and coral chips. Kahili Adventist School has a contract with the Rudy Ramos Equipment Service to keep the road in good repair. A crew services the road on a monthly basis. The road now has a crown so water runs off and the ditches are kept clear. The school spends approximately \$10,000 each year for rock and chipped coral to be spread on the roads.

3. "The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission."

Response:

This condition had been complied with. It has to do with exiting Kaumualii Highway onto the road going to the school. The School paid the State to install a de-acceleration lane on the Kaumualii Highway thus allowing vehicles to move out of the traffic lane before turning onto the school road. When the highway was repaved in the fall of 2002, the de-acceleration lane was also repaved.

4. "As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property."

Response:

Kodani and Associates, Inc., a consulting engineering firm, made a flood study for the school. It was submitted to the Kauai County Public Works Department and was approved.

5. "Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments."

Response:

Kahili Adventist School is in compliance with all known State and County requirements. For example, all state water requirements are followed. A school employee has taken the required courses to become a state licensed water treatment operator. The director of the Kauai County Water Department inspects the system on a regular basis. The water is treated and samples are sent to the county and state as required by state law. All state reports on the water samples are returned and filed for a minimum of five years.

The school has a contract with Kauai Fire Protection to assure that all fire and safety requirements are met. The county fire department sends an inspector each year to check to see that all equipment is operating correctly.

6. "The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare."

Response:

Kahili Adventist School acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary. As of this date no additional conditions or restrictions have been imposed.

7. "Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented."

Response:

Attached please find a copy of the 2002-2003 School Bulletin which contains our curriculum. On pages 16 and 20 you will find reference to the agricultural work-study program for both our elementary and secondary students. Also please note the response to number 9b. below.

Mr. Anthony Ching
February 27, 2003
Page 4

8. "The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

Response:

Kahili Adventist School acknowledges the obligation and responsibility to comply with all additional conditions that may be imposed by government agencies.

9. "Based on the timetable submitted, Petitioner shall complete within five (5) years of Land Use Commission approval:

- a. Expansion of the school program (K-12);
- b. Agricultural work study program;
- c. Campground site facilities.
- d. Health conditioning, physical and spiritual retreat center; and
- e. Establishment of orchards as per Exhibit 'G.'"

Response:

Kahili Adventist School is in compliance. More specifically:

- a. The school started at this location as a K-10 school in 1986. During the 1995-96 school year the 11th grade was added. The following year the 12th grade was added.
- b. Kahili Adventist School has an agricultural work study program. We started with lychee trees. Presently, a two (2) acre parcel is planted with cut flowers and bananas. Orange trees have also been planted. These are doing well. Bananas are sold out of the school office and flowers and bananas are sold at the farmer's market here on Kauai. Each week students are taken to work in the gardens. Students have been used also in planning and developing flower beds around the campus. Please note the attached pictures.
- c. The campground site has been completed with cabin facilities that are available for use.
- d. The physical, educational, and spiritual retreat center was built and occupied in 1993. It is an ongoing program, with various organizations using the facilities. Some 27 groups held meetings during 2002.
- e. Seven hundred lychee trees were planted. They have not proved to be a success. In the past ten (10) years of operation there have been only two (2) sizeable and saleable crops. In seeking help the University of Hawaii was contacted. We were told that the lychee trees were very inconsistent fruit bearers and that we are in a location where it is very difficult for lychee trees to produce. As mentioned above, we have been successful with other fruit trees.

10. "The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, and Class IV Zoning Permits shall be required. In addition to the 20

SDA00080

Mr. Anthony Ching
February 27, 2003
Page 5

cabins/units, 14 more faculty/staff housing units (as per Petitioner's Exhibit "G") are permissible."

Response:

Kahili Adventist School is in compliance with the approved density. At this point, 8 staff homes and 16 cabins/units have been built. An additional 6 staff homes and 4 cabins or units are still permissible under the presently approved density.

11. "A Conservation District boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development."

Response:

In accordance with this condition, the Knudsen Trust contacted and employed Belt Collins Engineering in Honolulu to realign the boundaries of the land that was to be leased to the school. The original lease called for a 200 acre plot to be leased. The lease is for 197 acres after the boundaries were redrawn. The Conservation District is not included on the land leased to the school. The school is aware of the Conservation District and has no activities that come anywhere near that area.

12. "All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application."

Response:

Kahili Adventist School acknowledges that any future buildings are subject to design review and approval by the Planning Department prior to applying for a permit to build.

I trust this update is helpful to you. Please do not hesitate to contact me if you need any additional information.

Very sincerely yours,

Arnold Trujillo
Arnold Trujillo
President

Enclosures

SDA00081

ORIGINAL

CASE LOMBARDI & PETTIT
A LAW CORPORATION

MICHAEL R. MARSH 1327-0
JAMES M. CRIBLEY 975-0
MARK G. VALENCIA 6783-0
Pacific Guardian Center, Mauka Tower
737 Bishop Street
Honolulu, Hawaii 96813
Telephone No.: (808) 547-5400

Attorneys for Plaintiff
HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS

LAND USE COMMISSION
STATE OF HAWAII
2009 NOV 30 A 10:49
DEC.01

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the Petition) SP87-364
of)
SP87-364 Kahili Adventist School (Kauai)) **PETITIONER KAHILI ADVENTIST**
) **SCHOOL'S STATUS REPORT; EXHIBIT**
) **"A"; CERTIFICATE OF SERVICE**
)
)

PETITIONER KAHILI ADVENTIST SCHOOL'S STATUS REPORT

Petitioner KAHILI ADVENTIST SCHOOL ("School"), by and through its attorneys, CASE LOMBARDI & PETTIT, hereby submits a status report regarding SP87-364.

Attached as Exhibit "A" is the School's Compliance and Status Report that was submitted on November 24, 2009 to Mr. Ian Costa, Planning Director, County of Kauai Planning Department. It will be reviewed by the County of Kauai Planning Commission.

The School will submit an additional status report after the Planning Commission meets to discuss the attached Compliance and Status Report.

The School will provide any additional information requested by the Commission.

DATED: Honolulu, Hawaii, December 1, 2009.

Mark G. Valencia
MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL

A



Kahili Adventist School

Compliance and Status Report

**Class IV Zoning Permit Z-87-51
Use Permit U-87-41
Special Permit SP-87-13**

TMK (4) 2 – 7 – 01:3
Approximately 197.463 Acres
Koloa, Kauai, Hawaii

Lessee:
Kahili Adventist School
P. O. Box 480, Lawai, HI 96765
808 742-9294

Authorized Agent:
Greg Kamm Planning & Management
P. O. Box 1200, Koloa, HI 96756
808 742-1144



November, 2009

INTRODUCTION

The rural site at the base of Mount Kahili currently being used as Kahili Adventist School's campus has been a popular upland retreat for many years, with recorded vacation uses going back to the 1940s.

Many comprehensive changes have occurred since the Class IV Zoning Permit, Use Permit, and Special Permit issuance to Kahili Adventist School in 1987, including the 1992 hurricane and several staff turnovers in the school's management team.

Educators have been responsible for the school's operation, and a consequence of the staff changes is that administrators may not have had a clear and complete understanding of the land use regulatory approvals. Additionally, for the past six years the lessee has been engaged in a lawsuit with the Knudsen Trust that has diverted the school administration's resources and attention from program development.

The purpose of this compliance and status report is to present for the Planning Commission's consideration and review—in light of the lessee's considerably more modest scope of endeavor—the school's current operations. The lessee is seeking acknowledgement of compliance with those conditions, and minor modifications to two of the conditions, to better reflect the present situation.

TABLE OF CONTENTS

Introduction.....	i
Table of Contents	ii
Exhibits.....	iii
Project Description.....	1
Existing Permits and Conditions.....	2
Timeline.....	3
Discussion of Amendments	4
Condition 1—Interior Roadway & Waterline	4
Condition 2—Interior Roadways Surface.....	7
Condition 3—State Highways.....	9
Condition 4—Drainage & Flood Studies.....	10
Condition 5—State Health, State Highways, Public Works, Fire, and Water	11
Condition 6—Additional Conditions.....	15
Condition 7—Educational Curriculum.....	16
Condition 8—Additional Conditions.....	17
Condition 9—Completion Timeframe.....	18
Condition 10—Density	20
Condition 11—Conservation District.....	21
Condition 12—Design Review	22
Conclusion	23
Exhibits 1 - 10	

EXHIBITS

1. Letter of Authorization from Lessee
2. Letter from Land Use Commission, September 22, 2009
3. Kahili Adventist School Student Enrollment Figures
1975 through 2008, Table and Chart
4. Busing Program, Table and Chart
5. Agricultural Curricula Examples (Transmittals) &
Arborist Services Memo
6. Agricultural Curriculum Pictures
7. Site Plan Location Map & Schematic
8. Agency Reports—1987
9. Smoke Detector Memo &
Emergency Vehicle Access Memo
10. Letter from Kauai Highways Division, Department of Transportation,
September 15, 2009

PROJECT DESCRIPTION

As confirmed in the attached letter from the Land Use Commission's Executive Director, the approximately 195.673-acre subject site is entirely within the Agricultural District. (See Exhibit 2, dated 9/22/09).

The Land Study Bureau's Agricultural Master Productivity Rating System rates the Property as "C," "D," and "E" with "E" being the lowest rating.

Kahili Adventist School currently operates an ecumenical school on the subject site. A table and chart showing the school's enrollment figures from 1975 through 2008 are attached as Exhibit 3. The staff and students are engaged in educational agricultural projects in keeping with the campus' rural setting and to comply with conditions in the permits granted in 1987.

The school works with a rustic vacation rental program doing business as Kahili Mountain Park. Presently 27 units on the site are used for a combination of transient rentals and staff accommodations. The 1987 Class IV permit allows the original 20 units, an additional 20 units, and 14 faculty/staff units, for a total of 54 units.

EXISTING PERMITS AND CONDITIONS

The school has maintained continuous educational operations before and after relocating Kauai Adventist School from its former Omao campus to the present location, changing the school's name to reflect its new location. The relocation to a 14-acre portion of the site was permitted under Special Permit SP-83-1, Use Permit U-2-83, and Class IV Zoning Permit Z-IV-83-3.

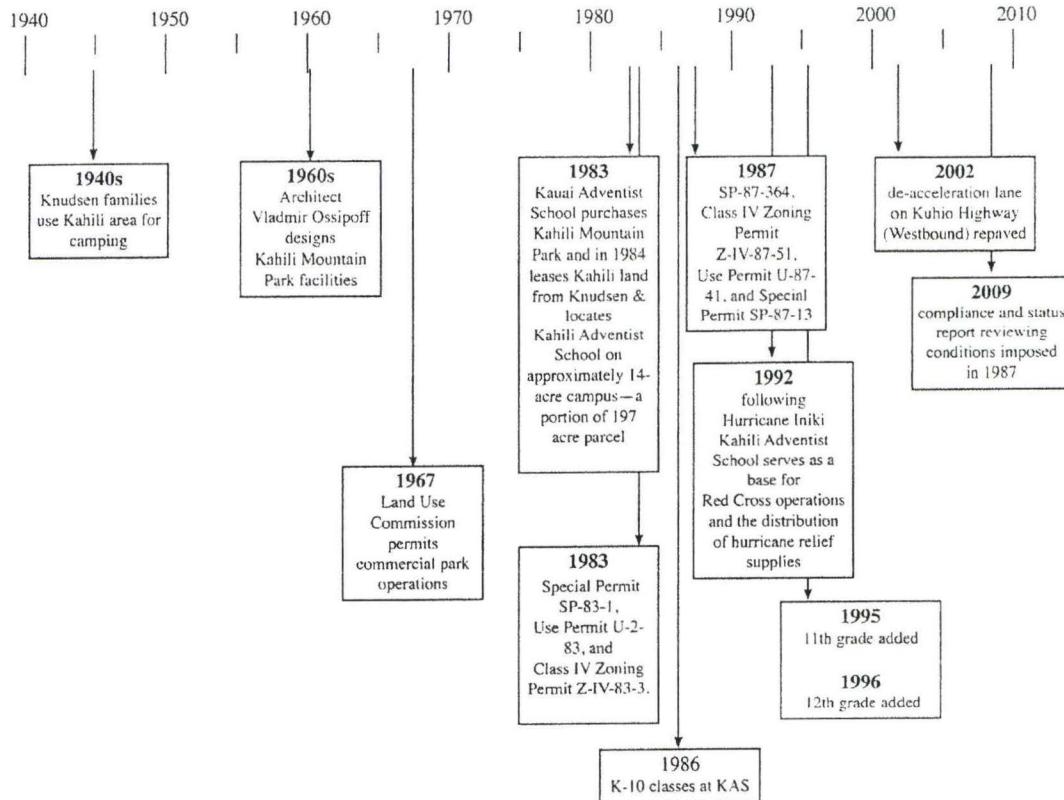
Plans to expand the educational program at the Kahili site to an area larger than 15 acres triggered the requirement for additional permits, which were granted with conditions by the State of Hawaii LUC under the provisions of Special Permit SP-87-364, and by the County of Kauai's Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, and Special Permit SP-87-13.

Since its relocation, the school has managed a rustic vacation rental program operating as Kahili Mountain Park. The park has been a popular retreat dating back to the 1940s, and features structures designed by Vladmir Ossipoff's architectural firm. The Land Use Commission permitted park operations in December 1967.

See Timeline next page.

Kahili Adventist School
 Compliance and Status Report to the County of Kauai Planning Commission
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Kahili Adventist School
 Kahili Mountain Park
 Timeline



DISCUSSION OF COMPLIANCE AND REQUESTED MODIFICATIONS

Condition 1

ORIGINAL CONDITION: Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

REQUESTED MODIFICATION: Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property, as may be required by any government agency.

Status: The interior roadway and waterline improvements had to do with the occupancy of a new gymnasium/auditorium that was being planned. The building had been completed but an occupancy permit had not been issued when Hurricane Iniki hit Kauai in September 1992. Since it was one of the few available buildings suitable for this use after the hurricane, the County gave permission for the Red Cross to use the building as its distribution center. After the Red Cross finished with it, final requirements were met and the occupancy permit was issued.

The use of penetration base treatment was abandoned due to environmental issues and was replaced with rolled base course using rock and coral chips. Ditches were dug along side of the road to divert excess rainwater run off, and other drainage measures were employed as well.

A new road was built on the lower side of the pond, twenty-five (25) feet wide and approximately eight hundred (800) feet long. Because of this, the narrow and hazardous roadway immediately adjacent to the pond could be, and was, abandoned.

An 80,000-gallon water tank was installed with an automatic control for the chlorination system. The lessee is a customer of this system, and not the operator.

A six-inch pipe from the water tank to the school area was installed. The gymnasium/auditorium has a fire sprinkler system that is fed by a four-inch water pipe. In compliance with the County Fire Department, three fire hydrants were installed at various locations around the campus. (See Exhibit 7, Site Schematic)

Request to Modify Condition: The lessee seeks that Condition 1 be modified for the following reasons:

- The lessee has completed improvements to the water facilities such that those infrastructure elements satisfactorily service the current development of the property.
- The water facilities are adequate to service current approved development. Any future developments water requirements would be confirmed by the lessee's engineers and all concerned agencies.
- The roadway matter included in Condition 1 is to assure access in the event of a fire. The lessee's agent met with Captain David Bukoski of the Kauai County Fire Department Fire Prevention Bureau in August 2008, and discussed the adequacy of the present roadway leading to the School. The Fire Prevention Bureau's view is that the primary concern is human safety in the event of a fire,

and evacuation is essential. The response time for fire fighting equipment to drive from Kalaheo or Poipu to the site is so long that structures would be consumed by the time fire trucks make it to the site, irrespective of whether the roadway is gravel or paved. If the school maintains the road in the same condition as it has been for the last twenty years, fire access will be adequate, according to Captain Bukoski.

- The property's well-drained and compacted gravel surface roadways that do not require the environmentally hazardous application of penetration base treatment have withstood the test of time, and are consistent with the desired rustic ambiance of the development.
- The Kauai Fire Department and Kauai Fire Prevention (a private firm) have indicated that there is no necessity to alter the roadways or water supply facilities for fire-fighting purposes.
- The lessee's agent met with Chief Engineer Wallace Kudo in the Engineering Division of Public Works and County Engineer Donald Fujimoto in August 2008, and confirmed that these private roadways do not concern Public Works.

Condition 2

ORIGINAL CONDITION: The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.

REQUESTED MODIFICATION: The applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kauai shall be absolved of any liability issues related to these unimproved access roadways, from Kaumualii Highway to and within the school and cabin facilities.

Status: The current road is an all-weather road that was built by the McBryde Sugar Company. This road is well built and was used by large cane hauling trailer trucks carrying loads of 20 to 30 tons. Since the sugar business has closed and the road is no longer used by these trucks it is much easier to keep it in good repair. The road is a compacted base course using basalt rock and coral chips. Kahili Adventist School has a contract with the Rudy Ramos Equipment Service to keep the road in good repair. A crew services the road on a monthly basis. The road now has a crown so water runs off and the drainage swales are kept clear. Although others use the road in addition to school generated travel, the school maintains the road in good condition at its expense, spreading rock and chipped coral as necessary.

Although the road is easily passable by passenger car, parents are encouraged to use the school's bus service, and currently over 87% of the students are enrolled in the bus program. (See Exhibit 4.) While families may choose to drive their own children if necessary, most parents prefer to take advantage of the bus service since the bus ends up being less expensive. Most of the staff lives on campus.

Request to Modify Condition: The lessee seeks that Condition 2 be modified for the following reasons:

- The lessee's agent met with the Chief Engineer in the Engineering Division of Public Works and the County Engineer in August 2008, and confirmed that these private roadways do not concern Public Works.
- Penetration base is no longer an acceptable method of roadbed stabilization due to its inherent environmental hazards.
- The lessee has improved and diligently maintained the roadway since 1987 as discussed previously.
- The roadway has served the lessee and other users in its present state since 1987, thereby demonstrating its adequacy.

Condition 3

The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.

Status: This lessee has complied with this condition. It has to do with exiting Kaumuali'i Highway onto Kahili Wai Street to continue on to the school. The school paid the State to install a de-acceleration lane on the Kaumuali'i Highway thus allowing vehicles to move out of the traffic lane before turning onto the school road. When the highway was repaved in the fall of 2002, the de-acceleration lane was also repaved.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 3 be regarded as complied with for the following reasons:

- A Traffic Analysis Operational Report on the intersection was prepared by a registered professional engineer to gauge the necessity for alterations to the current configuration. The report resulting from that study concludes that the current intersection layout adequately serves the peak hour volumes, and therefore no mitigating measures are necessary for this project.
- The Kauai District office of the State of Hawaii Department of Transportation, Highways Division has accepted the above referenced report (See Exhibit 10.)
- The Department of Transportation has responded that at the current range of use no alterations to the present intersection configuration are required.

Condition 4

As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.

Status: Kodani and Associates, Inc., a consulting engineering firm, prepared a flood study for the School. It was submitted to the Kauai County Public Works Department and was approved. Additionally, the lessee believes that both Belt, Collins Incorporated and Portugal and Associates prepared drainage studies. However, due to the age of these three studies and the intervening disruptions caused by Hurricane Iniki neither the lessee nor Public Works has been able to locate these studies.

The Chief of Engineering at Public Works does recall the submission of a drainage study for the School, and the site has been free of any flooding incidents since the permits were issued.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 4 be recognized as complied with for the following reasons:

- The Chief Engineer in the Engineering Division of Public Works confirmed that a study was submitted and approved.
- The lessee acknowledges that any future development may require an additional drainage and flood study.

Condition 5

Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.

Status: Kahili Adventist School is in compliance with all known State and County requirements.

The water system operator meets all State water quality requirements, and the school is a customer of this system. There have been no reported instances of any water-borne illnesses.

The school has a contract with Kauai Fire Protection to assure that all fire and safety requirements are met. The County Fire Department sends an inspector each year to check to see that all equipment is operating correctly.

Additional detail is provided below.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 5 be recognized as complied with for the following reasons. See prior agency reports in Exhibit 8.

State Health Department comments from April 2, 1987:

- Comment 1: The lessee acknowledges Comment 1. Not only are there no agricultural operations near the drinking water source, all water sources are well outside the leased land boundary.
- Comment 2: The lessee is no longer seeking to operate a health or therapeutic retreat; hence this comment is no longer applicable.

- Comment 3: The cesspools and septic systems on site are compliant with all Department of Health standards.
- Comment 4: There are no cafeteria operations in effect or planned for the site. In the event that the lessee seeks to construct a cafeteria, the design and use will conform to the then existing rules.
- Comment 5 (housing): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 6 (sanitation): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 7: There is no watercress being grown on site.
- Comment 8: Currently no swimming pool exists at the site. In the event that the lessee seeks to construct a swimming pool, the design and use will conform to the then existing rules.
- Comment 9 (no open burning): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 10 (grubbed material): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 11 (dust & erosion control): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 12 (potable water): The lessee acknowledges this comment, has complied with it, and will continue to do so. The school is supplied with potable water from an approved source by Grove Farm Company, Incorporated.

State Highways Division comments from March 20, 1987.

- A Traffic Operational Analysis Report compiled in April 2009 concludes that no mitigating measures are necessary for this project.

Fire Department comments from August 13, 1982 (indicated as unchanged for the 1987 Application):

- Comment 1 (unobstructed access): The lessee's agent met with Captain David Bukoski of the Kauai County Fire Department Fire Prevention Bureau in August 2008, and discussed the adequacy of the present roadway leading to the school. The Fire Prevention Bureau's view is that the primary concern is human safety in the event of a fire, and evacuation is essential. The response time for fire fighting equipment to drive from Kalaheo or Poipu to the site is so long that structures would be consumed by the time fire trucks make it to the site, irrespective of whether the roadway is gravel or paved. If the school maintains the road in the same condition as it has been for the last twenty years, fire and emergency access will be adequate. Width, turning radii, and vertical clearance are all adequate.

(See Exhibit 9, Emergency Vehicle Access Memo)

- Comment 2 (fire hydrants): There are three fire hydrants on the site. The staff housing areas are deemed residential by the Fire Department, and not subject to any fire requirements other than those imposed through the building permit process.
- Comment 3 (fire extinguishers): All of the park rental cabins have smoke detectors and fire extinguishers. (See Exhibit 9, Smoke Detectors Memo) An

evacuation plan in place for both the park and school facilities. Additionally, there are fire cabinets with hoses located at appropriate points around the school buildings.

- Comment 4 (code compliance): The lessee acknowledges this comment.

Condition 6

The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.

Status: Kahili Adventist School acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary.

As of this date no additional conditions or restrictions have been imposed.

There have been no issues concerning public health, safety or welfare to the best of the lessee's knowledge. In fact, the school served the general community as a base for Red Cross operations and the distribution of hurricane relief supplies in the months following Hurricane Iniki.

The Department of Transportation has told the lessee that the intersection with Kaumualii Highway is not considered a high-risk location. Since 1970 there have been no traffic accidents at the intersection with Kaumualii Highway as reported by the Department of Transportation, and the 1970 accident involved a cane haul truck.

Condition 7

Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.

Status: Attached are copies of the September 18, 2008 and August 18, 2009 transmittals conveying samples of the school's 2008-2009 and 2009-2010 agricultural curricula to the Planning Department and the State of Hawaii Land Use Commission. (See Exhibit 5.) The agricultural work-study program is in effect for both the elementary and secondary students. Also please note the response to Condition 9b below. The agricultural work-study program remains one of the school's recognized on-going obligations.

In addition to being a recognized condition, the agricultural work-study program is a key component of the school's educational philosophy.

Condition 8

The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed, it shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

Kahili Adventist School acknowledges the obligation and responsibility to resolve all additional conditions that may be imposed by government agencies.

Condition 9

Based on the timetable submitted, Petitioner shall complete within five (5) years of Land Use Commission approval:

- a. Expansion of the school program (K-12);*
- b. Agricultural work study program;*
- c. Campground site facilities.*
- d. Health conditioning, physical and spiritual retreat center and*
- e. Establishment of orchards as per Exhibit "G."*

Status: Kahili Adventist School is in compliance. More specifically:

a. The school started at this location as a K-10 school in 1986. During the 1995-96 school year the 11th grade was added. The following year the 12th grade was added. The program has been conducted as shown in the census attached as Exhibit 3.

b. Kahili Adventist School has an active agricultural work-study program. Portions of the agricultural curriculum were transmitted on September 18, 2008 to the Planning Department and Land Use Commission. (See Exhibit 5) The program started with lychee trees that currently number approximately 700. Presently, a two-acre parcel is planted with cut flowers and bananas. An orange tree grove has been planted. Bananas are available at the school office and flowers and bananas are sold at the farmers' market. Students work in the gardens weekly. Students have learned how to plan, develop, and care for flowerbeds and vegetable gardens around the campus. Please see the pictures in Exhibit 6.

c. The campground site has been completed with cabinettes (camping facilities—not units) and cabin facilities (units) that are available for use.

d. The health conditioning, physical, and spiritual retreat center was occupied in 1993. Over the years various organizations have used the facilities—some 27 groups held

meetings during 2002. After making a diligent effort to promote the health conditioning, physical, and spiritual retreat center, it is at this time not deemed a feasible component of the school's and park's operations, and therefore is not being actively marketed or operated. Rather, the lessee's focus is on nurturing the school's growth.

e. Seven hundred lychee trees were planted with mixed results. Previously the lessee consulted with the University of Hawaii School of Tropical Agriculture. The lessee currently has an arborist on site working to improve lychee yields. The lessee has been successful with other fruit trees as well.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 9 be recognized as complied with for the following reasons:

As stated above, the school has demonstrated continuing compliance with sections a. through e. of Condition 9.

Condition 10

The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, and Class IV Zoning Permits shall be required. In addition to the 20 cabins/units, 14 more faculty/staff housing units (as per Petitioner's Exhibit "G") are permissible.

Status: Kahili Adventist School acknowledges the Condition, and is in compliance with the approved density. At this point, ten staff residences and seventeen rental cabins (units) are in use. An additional four staff homes and twenty-three rental cabins are still permissible under the presently approved density. See Exhibit 7.

Condition 11

A Conservation District boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development.

Status: In accordance with this condition, the Knudsen Trust contacted and employed Belt, Collins Incorporated in Honolulu to realign the boundaries of the land that was to be leased to the school. The original lease called for a 200-acre plot to be leased. The lease is for approximately 197 acres after the boundaries were redrawn.

Request to Recognize Compliance with the Condition: The lessee seeks that Condition 11 be recognized as complied with for the following reasons:

- A Conservation District Boundary Interpretation was obtained from the Land Use Commission. (See Exhibit 2, dated 9/22/09)
- The Land Use Commission has verified that the entire parcel is within the State Agricultural District.

Condition 12

All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application.

Status: Kahili Adventist School acknowledges that any future buildings are subject to design review and approval by the Planning Department.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 12 be recognized as complied with for the following reason:

- In the years since Condition 12 was written, the Planning Department's review process has been streamlined. To be consistent with current practice—which reduces the work load on the County—the lessee requests that rather than being required to obtain a design review approval from the Planning Department prior to Building Permit Application submittal, the Planning Department's design review be part of the standard Building Permit Application review and approval process.

Conclusion

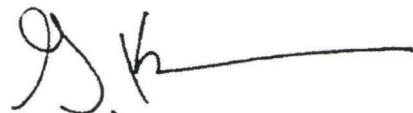
In the body of this application, the lessee has endeavored to demonstrate the propriety of amending the existing Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, and Special Permit SP-87-13 as follows:

- Condition 1: Request to modify the Condition
- Condition 2: Request to modify the Condition
- Condition 3: Request to recognize compliance with the Condition
- Condition 4: Request to recognize compliance with the Condition
- Condition 5: Request to recognize compliance with the Condition
- Condition 6: The lessee acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary.
- Condition 7: The lessee will continue to submit annual agricultural curriculum samples to the Planning Department. (The entire current school year curriculum—approximately 700 pages—is available upon request.)
- Condition 8: The lessee acknowledges the obligation and responsibility to resolve all additional conditions that may be imposed by government agencies.
- Condition 9: Request to recognize compliance with the Condition
- Condition 10: The lessee acknowledges and will continue to comply with the Condition.
- Condition 11: Request to recognize compliance with the Condition
- Condition 12: Request to recognize compliance with the Condition

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

The staff and management of the Kahili Adventist School are dedicated and committed to sustaining and expanding the school's standing and influence in the community. With humility and in a spirit of diligent endeavor, this status report is presented to the Planning Department and Planning Commission with the intent of better enabling the school to face the challenges of developing and sustaining the best possible educational program for the student body at the base of Mount Kahili.

Very truly,

A handwritten signature in black ink, appearing to read "G.K." followed by a horizontal line.

Greg Kamm

Agent for the lessee

Exhibit 1

Letter of Authorization

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Hawaiian Association

2728 Poi Highway
Honolulu HI 96817
Telephone: (808) 942-7161
Fax: (808) 945-7375

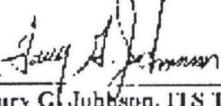
May 7, 2009

RE: Letter of Authorization – Kahili Adventist Park & School

To Whom It May Concern:

As holder of a recorded lease with more than 5 years remaining, this letter authorizes Greg Kamm Planning & Management to seek any necessary permits and approvals relative to Kahili Mountain Park and Kahili Adventist School, TMK: (4) 2-7-01:03.

Hawaiian Association of Seventh-Day Adventists



Gary C. Johnson, HSA Treasurer May 11, 2009

Date

Exhibit 2

Letter from Land Use Commission

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

LINDA LINGLE
Governor

JAMES R. Aiona, Jr.
Lieutenant Governor

THEODORE E. LIU
Director

MARK K. ANDERSON
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawaii

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SAWARUYATARI
Planner

FRED A. TALON
Drafting Technician

September 22, 2009

Mr. Greg Kamm
Greg Kamm Planning & Management
P.O. Box 1200
Koloa, Kauai, Hawaii 96756

Dear Mr. Kamm:

Subject: BOUNDARY INTERPRETATION No. 08-18
Tax Map Key: 2-7-001: 003,
Kahili Mountain Park/Kahili Adventist School, Koloa, Kauai, Hawaii

We received your letter requesting a boundary interpretation for the subject parcel on September 29, 2008. We apologize for the lateness of our response.

Upon receipt of your request, we reviewed the Commission's records currently on file at our office and the information that you provided. According to your map that you provided entitled *Land Court Application 956 Consolidation of Lot 49-A as Shown on Map 47 and Lot 50 as Shown on Map 3 and Resubdivision of Said Consolidation Into Lots 395, 396, 397 and 398 and Designation of Easements 86 and 87 Affecting Lot 396*, dated August 14, 1984; we have determined that the subject parcel (Lot 396) containing approximately 197.463 acres is entirely designated within the State Land Use Agricultural District.

Should you require clarification or further assistance in this matter, please feel free to call Fred Talon at 587-3822.

Sincerely,

A handwritten signature in black ink.

ORLANDO DAVIDSON
Executive Officer

Enclosure

- c: Samuel J. Lemmo, Administrator, Office of Conservation and Coastal Lands,
Department of Land and Natural Resources (w/enclosure)
- Ian Costa, Planning Director, County of Kauai, Planning Department (w/enclosure)
- Domie Bucasas, Supervisor, Real Property Assessment Division, County of Kauai,
Finance Department (w/enclosure)
- Harry Beatty, GIS Coordinator, County of Kauai, (w/enclosure)

Exhibit 3

Kahili Adventist School Census 1975-2008

Kahili Adventist School Enrollment Chart By Five-Year Periods—1975-2008

Kahili Adventist School
 Compliance and Status Report to the County of Kauai Planning Commission
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Office of the Principal

Kahili Adventist School

School Census (1975 – 2008)

	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86
	Grades 1-4								Grades 1-10		
K											
1	9	10	4	6	5	8	9	9	10	8	11
2	1	6	7	6	4	4	11	9	8	7	8
3	7	6	7	5	6	4	6	10	11	9	7
4	3	6	7	6	8	7	3	6	9	10	9
5	3	6	7	8	8	10	11	3	6	12	14
6	3	4	5	6	7	7	10	12	9	6	11
7	2	4	4	4	7	7	10	7	11	10	8
8	1	3	3	4	4	6	9	7	8	16	8
9				2	0	0	7	6	11	13	15
10								8	4	12	5
Total	29	45	44	47	49	53	76	77	87	103	96
	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
			Grades K-10								Grades K-12
K											
1	5		13	12	5	8	13	8	14		15
2	8		12	18	20	3	8	10	10		16
3	13		5	12	20	15	4	7	10		12
4	4		17	11	15	18	17	8	9		12
5	9		14	26	12	16	17	19	8		13
6	12		6	18	20	9	21	20	18		8
7	11		13	15	18	20	19	23	27		10
8	4		8	17	17	20	20	17	19		22
9	4		10	9	20	12	11	26	13		14
10	5		0	12	8	17	5	8	14		8
11											9
12											11
Total	75	n/a	109	157	168	150	150	161	161	n/a	159
	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
K											
1	7	12	11	11	6	6	7	12	7	7	4
2	8	6	12	10	8	8	5	5	12	4	6
3	14	6	5	10	10	9	7	5	3	10	4
4	16	12	10	4	12	11	13	6	4	3	5
5	11	11	13	9	6	12	14	10	6	5	3
6	12	14	13	13	10	3	15	10	8	6	4
7	11	17	17	9	10	9	7	10	13	8	4
8	12	12	19	7	8	7	9	7	10	11	3
9	11	12	14	8	6	8	6	8	6	7	8
10	18	9	5	8	5	3	5	11	8	3	4
11	13	18	4	2	7	5	4	7	8	3	1
12	2	11	11	4	2	5	3	2	3	4	1
Total	144	141	142	101	96	90	100	97	90	73	51

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

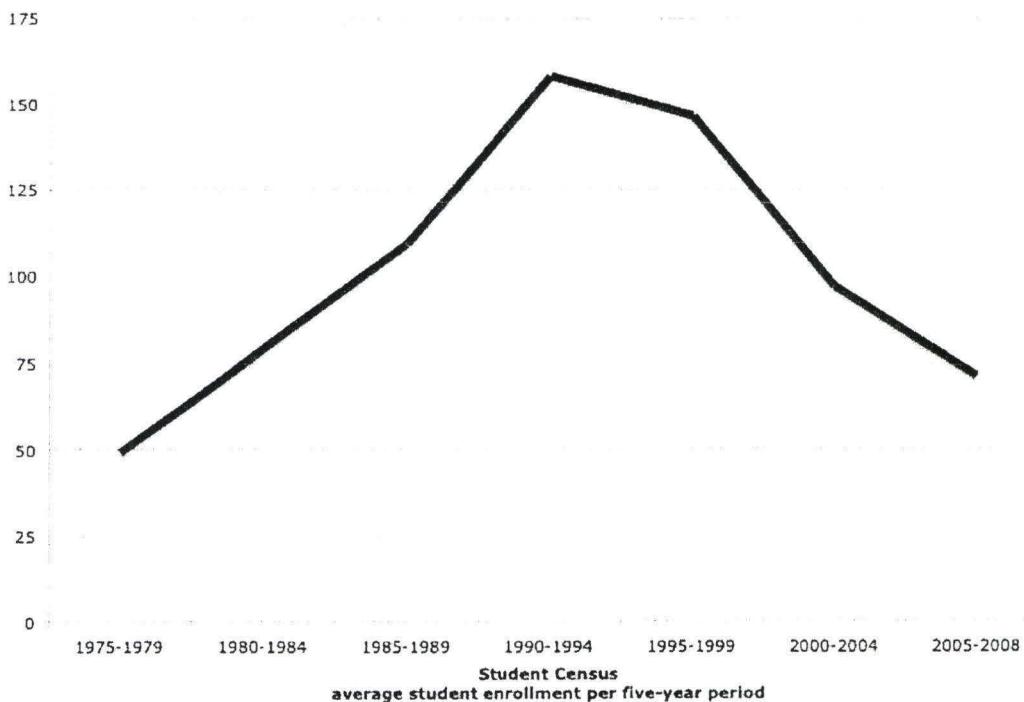


Exhibit 4

Bussing Program Table and Chart

Kahili Adventist School
 Compliance and Status Report to the County of Kauai Planning Commission
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Office of the Principal

Kahili Adventist School

2008-2009 School Year

# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/08 - 7/08)
			#	Role		
40	35	5	1	Principal	0	1408
			4	Teachers	1	
			1	Bus/Book-keeper	0	
			2	Bus Drivers	0	
			5	KMP Staff	0	

2007-2008 School Year

# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/07 - 12/07)
			#	Role		
50	38	7	1	Principal	0	2254
			4	Teachers	1	
			1	Bus/Book-keeper	0	
			1	Secretary	0	
			2	Bus Drivers	0	
			5	KMP Staff	1	

2006-2007 School Year

# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/06 - 12/06)
			#	Role		
73	47	26	1	Principal	0	2153
			10	Teachers	3	
			1	Bus/Book-keeper	0	
			1	Secretary	0	
			2	Bus Drivers	0	
			7	KMP Staff	2	

2005-2006 School Year

# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/05 - 12/05)
			#	Role		
82	61	22	1	Principal	0	
			10	Teachers	3	
			1	Bus/Book-keeper	0	
			1	Secretary	0	
			2	Bus Drivers	0	
			7	KMP Staff	2	

Bus Policy: Parents are encouraged to use our bus service, but may choose to drive their own children if necessary. (Note: Most parents choose to use the bus since the bus ends up being less expensive. Most of the staff live on campus.)

Mailing Address:
 19-2264-110
 Lihue, HI 96766

Street Address:
 2-36-11 Kauai Kai
 Lihue, HI 96766

Telephone:
 School: (808) 742-9272
 Fax: (808) 742-6623

Accredited by:
 National Council for Private Education Accreditation
 NCEA.org

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

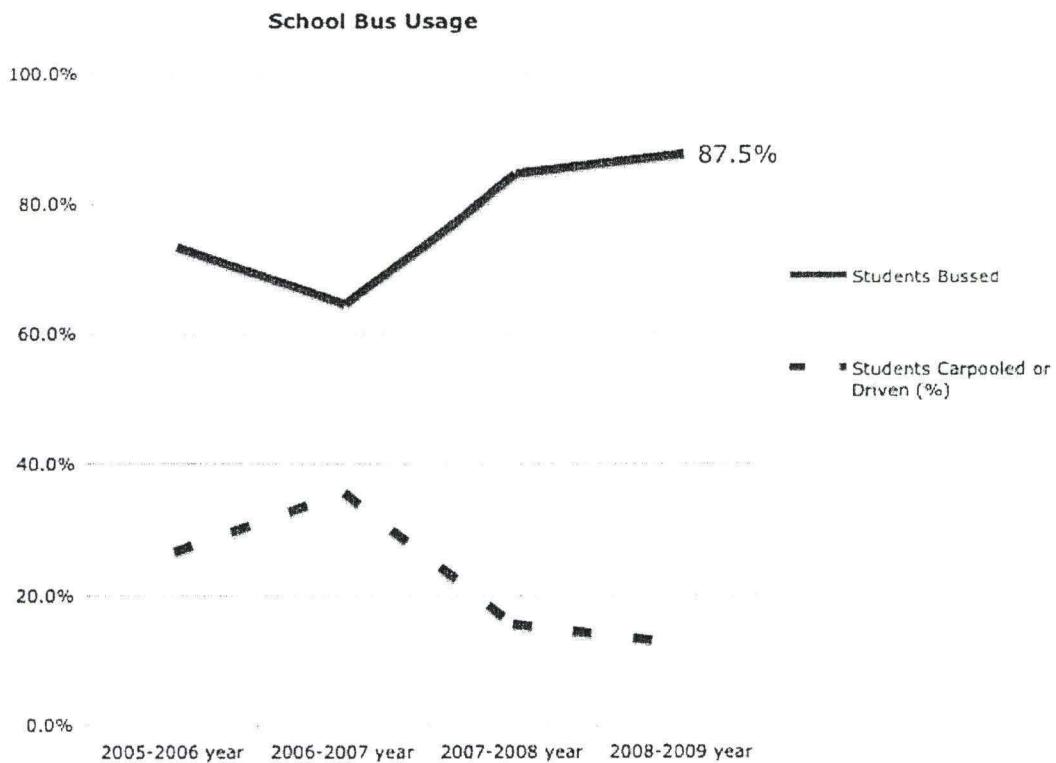


Exhibit 5

Agricultural Curricula Examples Transmittals

&

Arborist Services Memo

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



TRANSMITTAL

DATE: September 18, 2008
TO: Mr. Ian Costa, Director
County of Kauai Planning Department
4444 Rice Street—Building A, Suite 473
Lihue HI 96766
Attn: Mr. Michael Laureta, Senior Planner
COPIES TO: Mr. Orlando Davidson, Executive Director
State of Hawaii Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, HI 96813
Mr. Mark G. Valencia
Case Lombardi & Pettit
737 Bishop Street, Suite 2600
Honolulu, HI 96813-3283
Mr. Greg Kamm
Greg Kamm Planning & Management
P. O. Box 1200
Koloa, HI 96756
FROM: Ms. Wanda Lee, Principal
Kahili Adventist School
SUBJECT: Kahili Adventist School—Agricultural Education Curriculum
Class IV Zoning Permit Z-IV-87-51
Special Permit SP 87-13, Use Permit U-87-41
LUC Docket No. SP 87-364

Per the requirements of the above-referenced permits for an annual submittal, attached please find an exemplary portion of Kahili Adventist School's agricultural curriculum for the 2008-2009 academic year. The complete 4-year agricultural program (containing 133 Lessons, approximately 700 pages) is outlined in the Table of Contents, and is available upon request. Each of the following Units is an example of a single Lesson.

- Agriculture Curriculum Table of Contents—4 pages
- Unit 2.04: Introduction to Agriculture—26 pages
- Unit 8.04: Soil and Its Effects on Agriculture—13 pages
- Unit 13.05: Forestry and Natural Resources—12 pages
- Unit 18.01: Careers in Agriculture and Agribusiness—10 pages

Mailing Address
P.O. Box 1200
Lihue HI 96766

Street Address
2-10-13 Kauai Mall
Koloa HI 96756

Telephone
School: (808) 742-3277
Fax: (808) 742-8628

Accredited by
National Council for the Accreditation
of Teacher Education
www.ncte.org

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



TRANSMITTAL

DATE: August 18, 2009
VIA: US Mail

TO: Mr. Ian Costa
Planning Department
4444 Rice Street—Building A Suite 473
Lihue HI 96766
Attn: Mr. Michael Laureta

COPIES TO: Mr. Orlando Davidson
Land Use Commission
235 South Beretania Street # 406
Honolulu, HI 96813

Mr. Mark Valencia
Case Lombardi & Pettit
737 Bishop Street, Suite 2600
Honolulu, HI 96813-3283

Mr. Greg Kamm
Greg Kamm Planning & Management
P. O. Box 1200
Koloa, HI 96756

FROM: Ms. Wanda Lee
Principal, Kahili Adventist School

SUBJECT: Kahili Adventist School—Agricultural Education Curriculum
Class IV Zoning Permit Z-IV-87-51
Special Use Permit SP 87-13, Use Permit U-87-41
Docket No. SP87-364

Per the requirements of the above referenced documents for an annual submittal, attached please find a sample of Kahili Adventist School's agricultural curriculum for the 2009-2010 academic year. Each lesson is the first lesson in the units to be taught this year. The complete 4-year program is outlined in the Table of Contents

- Agriculture Curriculum Table of Contents—4 pages
- Unit 11, Lesson 1: What is Food Processing—14 pages
- Unit 12, Lesson 1: The Importance of Agriculture Mechanics Technology—5 pages
- Unit 13, Lesson 1: Introduction to Wildlife Management—5 pages
- Unit 14, Lesson 1: How Organisms and Wildlife Work Together—7 pages

Wanda Lee
Mailing Address:
PO Box 480
Lewai, HI 96765
Street Address:
2-4035 Kaumuali'i Hwy
Koloa, HI 96756
Telephone:
School: (808) 742-9294
Fax: (808) 742-6628
Accredited by:
National Council for Private
Education

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



School Office

Kahili Adventist School

September 17, 2008

Memo: Arborist Services & Agricultural Plan

To Whom It May Concern:

As of September 14, 2008 Kahili Mountain Park has a 4 month extendable contract with arborist Amra Boanerges.

Mr. Boanerges is ISA certified with 30 years of experience in the planting and care of trees. He has also worked for 10 years with a tree surgeon

He is currently mapping and helping to maintain our fruit orchards, banana groves, and flower fields. Preliminary work on the mapping will be complete by September 18th.

We are also beginning work on adding a large garden to expand our existing agriculture program.

Our plan is to continue to grow crops that can be used by staff and sold at the farmers market.

Thank you.

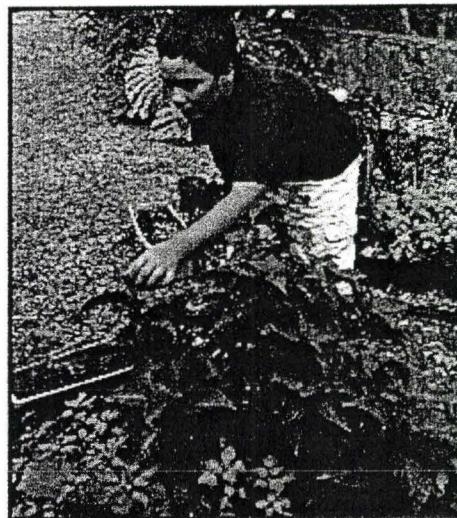
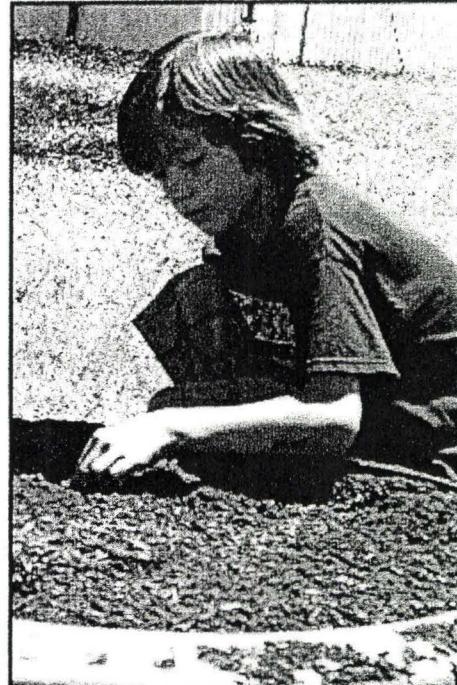
Jamie M. Lee
Kahili Mountain Park Manager

Mailing Address
1200 Iao
Kauai, HI
96740
Street Address
1200 Iao
Kauai, HI
96740
Phone
Office: (808) 822-2222
Fax: (808) 822-2222
E-mail: jamie.lee@kauai.k12.hi.us
Arrived by
FAX: (808) 822-2222
Email: jamie.lee@kauai.k12.hi.us

Exhibit 6

Agricultural Curriculum Pictures

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Top Left: Students collect compost for their garden.

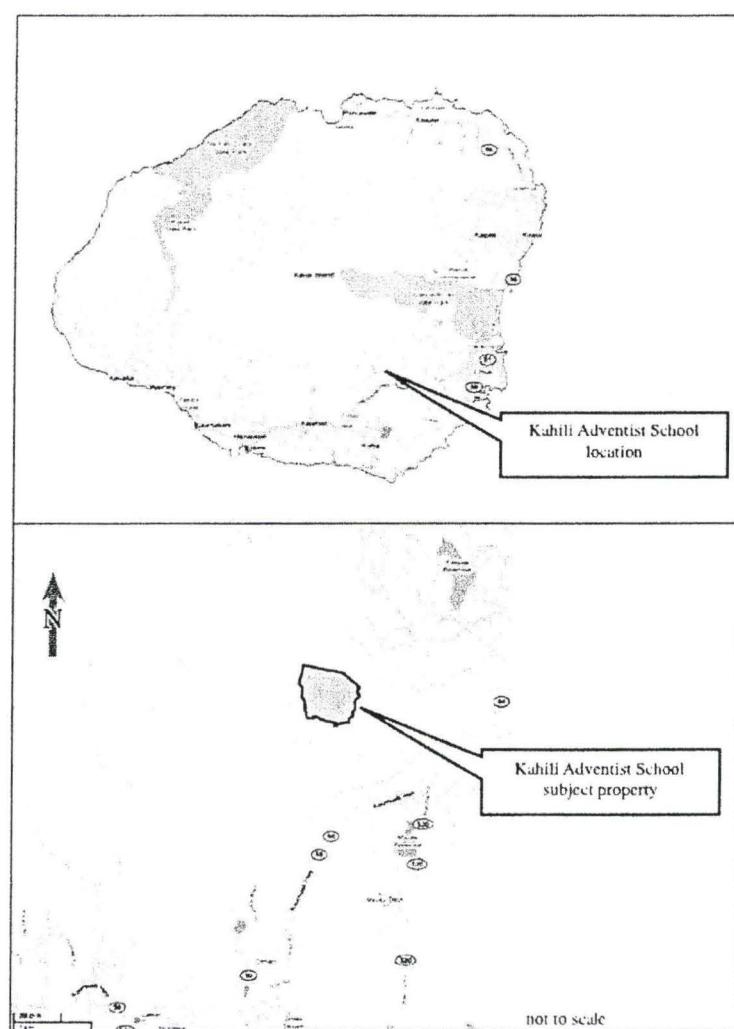
Top Right: Recycled tires are used for students' individual gardening plots.

Center: tending the vegetable garden.

Bottom: Students care for ornamental plant beds.

Exhibit 7

Site Plan Location Map & Schematic



Site Location

Kahili Mountain Park

P.O.Box 298 • Koloa, Kauai, HI 96756
 (808) 742-9921

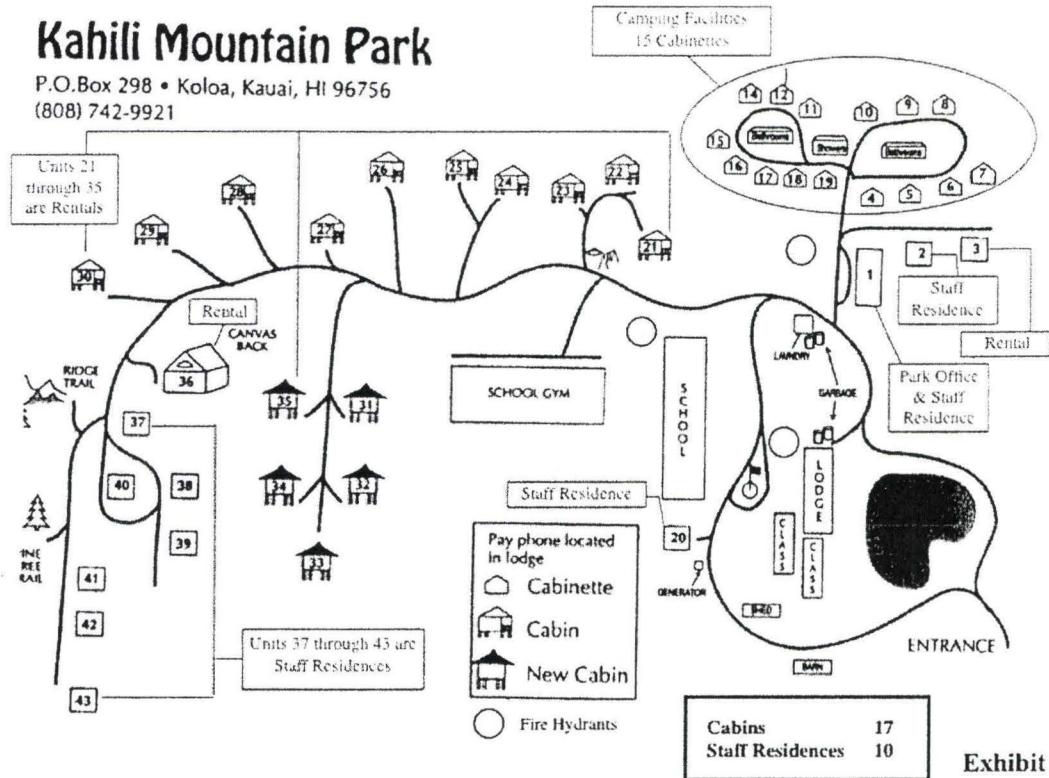


Exhibit 7

Site Schematic

Exhibit 8

Agency Reports—1987

Department of Health

Department of Transportation

&

Fire Department

Department of Health Agency Report, 1987

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987

SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit
Appl. SP-87-13, KAHILI ADVENTIST SCHOOL

TO: Public Works Dept.
 Water Dept.
 State Highways Div.
 Fire Dept.
 Sam Lee (DLNR)
 State Dept. of Agriculture
 Police Dept.



FOR YOUR COMMENTS (pertaining to your department):

? April 87

Our department's concerns are as follows:

1. Agricultural activities that require spraying should not encroach towards Grove Farm's drinking water surface supply.
2. The applicant shall confer with Department of Health, Hospital and Medical Facility Branch to determine if the proposed "Health Conditioning/Physical Retreat Center" must conform to the requirements of Chapter 98, Special Treatment Facility, of Title 11, Administrative Rules, State of Hawaii.
3. No building will be permitted to use cesspools or other individual wastewater systems as a means of sewage disposal if it generates wastewater in excess of 800 gallons per day. If the applicant is considering an alternative method of sewage disposal beside individual wastewater systems, they should be made aware that injection wells will not be permitted for effluent disposal. The proposed development shall conform to Act 262, S.L.H. 1985 and as amended by Act 302, S.L.H. 1986.
4. The proposed "Cafeteria/Bakery" shall conform to the requirements of Chapter 1-A, Food Service and Food Establishment Sanitation Code, Public Health Regulations, State of Hawaii.
5. The proposed cabins, Faculty homes and student dormitories, shall conform to the requirements of Chapter 14, Housing, of Title 11, Administrative Rules, State of Hawaii.

continued on back

Signature _____

Please return one (1) copy by April 2, 1987. Thank you.

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

- 1. The proposed classrooms and other buildings other than dwellings shall conform to the requirements of Chapter 11, Sanitation, of Title 11, Administrative Rules, State of Hawaii.
- 2. The proposed watercress raising site shall be approved by the Department of Health.
- 3. The proposed swimming pool shall conform to the requirements of Chapter 13, Public Swimming Pools, of Title 11, Administrative Rules, State of Hawaii.
- 4. Open burning is prohibited unless an agricultural burning permit is obtained from the Department of Health.
- 5. Grubbed material shall be disposed in a manner and at a site approved by the Department of Health.
- 6. Effective dust and soil erosion control measures shall be implemented during all phases of development by the developer.
- 7. The proposed development shall be provided with potable water from an approved source.

Due to the general nature of the application submitted, we reserve the right to implement further environmental restrictions when more detailed plans are submitted.

Clyde Takikuma
(for) Ted Inouye, Chief Sanitarian, Kauai

1:GNT/pla

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Dept. of Transportation, Highways Agency Report, 1987

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (KL) DATE: March 18, 1987
SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit Appl. SP-87-13, KAHILI ADVENTIST SCHOOL
TO: Public Works Dept.
 Water Dept.
 State Health Dept.
 Fire Dept. ← STATE HIGHWAYS DIVISION
 Sam Lee (DLNR)
 State Dept. of Agriculture
 Police Dept.



FOR YOUR COMMENTS (pertaining to your department):

March 20, 1987

1. Provide left turn storage lanes on Kaumualii Highway;
2. Provide acceleration and deceleration lanes at the junction with Kaumualii Highway;
3. Install street lights within highway R/W; and
4. Allow us to review construction plans.

SY:jf
Please return one (1) copy by April 2, 1987. Thank you.

Signature Akiyoshi Yamaguchi
SEIGETO YAMAGUCHI

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Fire Department Agency Report, 1987

TMK 2-7-01; Par 1

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987
SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit
Appl. SP-87-13, KAHILI ADVENTIST SCHOOL
TO: (xx) Public Works Dept.
(xx) Water Dept.
(xx) State Health Dept.
(xx) State Highways Div.
→ (xx) ~~RECEIVED~~ MAR 18 1987 FIRE DEP.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()
RECEIVED
APR 7 1987
PLANNING DEPT.
COUNTY OF HAWAII

FOR YOUR COMMENTS (pertaining to your department):



The fire department comments remain the same as previously submitted to the planning department.

(As submitted on August 13, 1982 by the Fire Department:

The Fire Department has no objections to the proposed permit application provided:

1. Access roadways have all-weather driving surface of not less than 20 feet of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of the fire apparatus and having a minimum of 13 feet 6 inches of vertical clearance.
2. County approved water lines with fire hydrants having the required fire flow be located within 250 feet to all sections of the proposed buildings to be protected.
3. All buildings shall have a minimum 2-A rated ABC type of fire extinguisher mounted 4 feet from the floor near the exit.
4. Comply with all other requirements of the Kauai County Fire Code.)

Signature

Please return one (1) copy by April 2, 1987. Thank you.

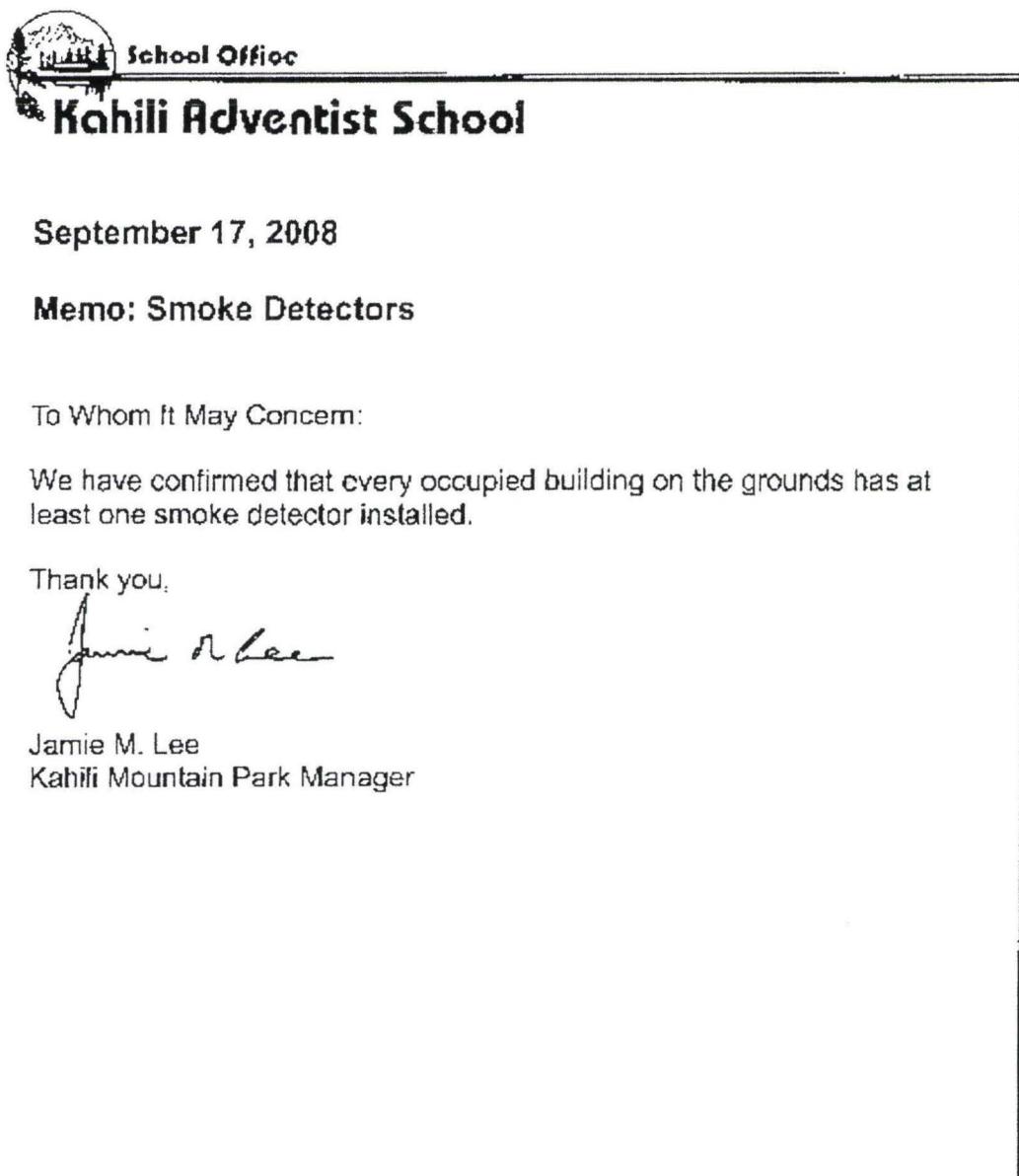
Exhibit 9

Smoke Detector Memo

&

Emergency Vehicle Access Memo

Exhibit 9—Smoke Detector Memo



Mailing Address
Kahili, Inc., 4th floor
1000 Kuhio Highway
Kahili, HI 96733
Street Address
21035 Kuhio Highway
Kahili, HI 96733
Phone
(808) 836-2111, 836-2126
(808) 836-2111, 836-2126
Facsimile
(808) 836-2111, 836-2126
Accepted by
Kahili Adventist School, Inc.
Kahili, HI 96733

Exhibit 9—Emergency Vehicle Access Memo



School Office

Kahili Adventist School

August 29, 2008

Memo: Emergency Vehicle Access

To Whom It May Concern:

On August 14, 2008 we called 911 and requested emergency service at cabin #43. That cabin is the most remote cabin on the grounds and is at the end of our interior road.

EMT's and the fire department responded to the call. After attending to the emergency, I asked the gentlemen that responded from the fire department if they had any trouble locating the cabin or traversing our roads. They all responded saying they had no trouble finding the cabin- they had a detailed map.

They also affirmed that they had no trouble traversing our roads.

Thank you,

A handwritten signature in black ink that reads "Jamie M. Lee".

Jamie M. Lee
Kahili Mountain Park Manager

Mailing Address:
P.O. Box 120
Kahili, HI 96743
Street Address:
100-1000 Kahili Rd.
Kahili, HI 96743
Telephone:
(808) 824-2777, ext.
(808) 824-2778
Annotated by:
Kahili Mountain Park Manager
Date: 8/29/2008

Exhibit 10

Letter from Department of Transportation, Highways Division, Kauai District

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

LINDA LINO LIE
GOVNER



BRENNON T. MORIOKA
DIRECTOR

Chief Engineer
MICHAEL D. FRASER
FRANCIS SAIK, KENIC
BRIAN K. SEKIOUCHI
JINDA SUNADA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1722 HAELUANA STREET
LIHUE, HAWAII 96766

REPLY REPORT TO

HWY-K 4.090840

September 15, 2009

Mr. Ronald Wagner
Wagner Engineering Services, Inc.
P.O. Box 851
Hanalei, Hawaii 96714

Dear Mr. Wagner:

Subject: Traffic Operational Analysis Report
Kahili Adventist School
Kaumualii Highway and Kahili Wai Street Intersection
Koloa, Kauai, Hawaii
TMK (4) 2-7-01:

We have reviewed the subject Traffic Operational Analysis Report that is dated April 2009 and revised September 2009. We have no further comments on the report.

Please provide us a copy for our files that you have stamped and signed. If you have any questions, please call Stanford Iwamoto at 241-3015.

Sincerely,

RAYMOND J. MC CORMICK, P.E.
District Engineer

sm:jl

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition

) SP87-364

of

)
CERTIFICATE OF SERVICE

SP87-364 Kahili Adventist School (Kauai)

)
)
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Petitioner Kahili Adventist School's Status Report; Exhibit "A" was served upon the following by either hand delivery or depositing same in the United States Mail, postage-prepaid on December 1, 2009:

Mr. Dan Davidson
Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

Abbey Meyer, Director
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Bryan C. Yee, Esq.
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

Matthew Pyun, Esq.
County of Kauai
4444 Rice Street, Suite 220
Lihue, Kauai, Hawaii 96766

Ian Costa, Director
Department of Planning
County of Kauai
4444 Rice Street, Suite A473
Lihue, Kauai, Hawaii 96766

Michael D. Tom, Esq.
Tom Petrus & Miller
1164 Bishop Street, Suite 650
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, December 1, 2009.

Mark G. Valencia
MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

September 10, 2007

Ms. Wanda Lee, Principal
Kahili Adventist School
P. O. Box 480
Lawai, Hawaii 96765

Mr. Ian Costa, Director
County of Kauai
Planning Department
4444 Rice Street, Suite A473
Lihue, Hawaii 96766

Matthew Pyun, Esq.
Office of County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, Hawaii 96766

Dear Ms. Lee and Messrs. Costa and Pyun:

Subject: Docket No. SP87-364/Kahili Adventist School

On June 14 and August 30, 2007, the Land Use Commission (LUC) received correspondence inquiring as to the status of the Petitioner's conformance to conditions of approval imposed by the LUC in the Findings of Fact, Conclusions of Law, and Decision and Order dated August 13, 1987, and subsequently amended by the Findings of Fact, Conclusions of Law, and Decision and Order issued by the LUC and dated July 17, 1990. Conditions of approval imposed by the LUC in this docket include, but are not limited to:

- Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width.

Ms. Wanda Lee, Principal

Mr. Ian Costa, Director

Matthew Pyun, Esq.

September 10, 2007

Page 2

- Waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows.
- Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of LUC approval.
- The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the LUC, or earlier (all weather surface shall mean provision of penetration base treatment or better).
- The improvements (i.e., left turn storage lanes on Kaumualii Highway, acceleration and deceleration lanes and street lights) shall be provided as required, but no later than 5 years from the date of review and approval by the LUC.
- As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.
- The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. In addition to the 20 cabins/units, 14 more faculty/staff housing units are permissible.
- A conservation district boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development.
- All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application.

Ms. Wanda Lee, Principal

Mr. Ian Costa, Director

Matthew Pyun, Esq.

September 10, 2007

Page 3

Accordingly, this is to inform you of a site visit by the LUC to view the access road, interior roadways and grounds of the Kahili Adventist School at approximately 10 am on September 20, 2007. The LUC will also be formally meeting later that day at the Hilton Kauai Beach Resort and requests that a status report describing the compliance of the Kahili Adventist School with the conditions enumerated in the orders previously issued by the LUC. Details regarding the time and location of each of these activities will be provided to you via the postal service shortly.

You or your representative should be present at both the site visit and status report hearing. If you cannot attend or have questions on this matter, please do not hesitate to contact me or Cameron Lowry of my office at 587-3822.

Sincerely,



ANTHONY J. H. CHING
Executive Officer

c: Mary Lou Kobayashi, State Office of Planning
Bryan Yee, Esq.

Kahili Adv.

LAND USE COMMISSION
MINUTES OF MEETING

August 8, 2008

Leiopapa A Kamehameha
4th Floor
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT: Kyle Chock
Vladimir Devens
Lisa Judge
Duane Kanuha
Normand Lezy
Nicholas Teves
Reuben Wong

COMMISSIONERS ABSENT: Thomas Contrades
Ransom Piltz

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Orlando Davidson, Executive Officer
Bert Saruwatari, Staff Planner
Michael Murphy, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Wade Kersey, Audio Technician

Chair Kanuha called the meeting to order at 9:05 a.m.

DR08-36 KO'OLINA DEVELOPMENT LLC (Oahu)

Chair Kanuha stated that this was a continued hearing on Docket No. DR08-36 Ko'Olina Development's petition for declaratory order filed on March 24, 2008.

APPEARANCES

Benjamin Matsubara, Esq., represented Petitioner
Wyeth Matsubara, Esq., represented Petitioner
Bryan Yee, Esq., represented State Office of Planning
Abbey Mayer, State Office of Planning
Scott Derrickson, State Office of Planning

Chair Kanuha noted that there were no public witnesses.

Closing Statements

Mr. (Ben) Matsubara began his closing argument and noted that the filing of the petition for declaratory ruling was to provide the LUC with greater flexibility. Mr. Matsubara added that although previous missteps were made, he believed that with the proposed improvements and based on the entitlement history with the City, petitioner could be found to be in substantial compliance.

Mr. Yee stated that both the OP and the engineers from the State have reviewed petitioner's proposal and have concluded that in order to substantially comply with the LUC's order, a public boat ramp must be built inside the marina. Mr. Yee added that the operating hours could be worked out with the City. Moreover, substantial compliance would be that the marina must have a public boat launch ramp inside the marina itself and be part of the whole development.

Chair Kanuha then noted that the matter would be submitted to the Commission for deliberation and directed the parties to draft their individual findings of fact, conclusions of law and decision and order based upon the record in this docket and served to the parties and the LUC no later than the close of business on September 5, 2008. The parties would have until the close of business on September 15, 2008 to serve any exceptions or responses. The Commission would convene for an action meeting on October 2, 2008.

Mr. Yee commented that the parties could stipulate to most of the facts and designate what they may agree and/or disagree to.

Chair Kanuha concurred that it would be good for the parties to stipulate.

There were no further questions.

A recess break was taken at 9:35 a.m. The meeting reconvened at 9:45 a.m.

A83-562 WEST BEACH ESTATES (Oahu)

Chair Kanuha stated that this was an action meeting to consider the issuance of an Order to Show Cause.

APPEARANCES

Benjamin Matsubara, Esq., represented Petitioner

Wyeth Matsubara, Esq., represented Petitioner

Bryan Yee, Esq., represented State Office of Planning

Abbey Mayer, State Office of Planning

Scott Derrickson, State Office of Planning

Chair Kanuha noted that there were no public witnesses.

Petitioner's Presentation

Mr. (Ben) Matsubara argued that based on the statutory rules and legislative history when dealing with vacant property the Order to Show Cause (OSC) remedy could seem appropriate. However, Ko'Olina Resort has developed hotels, individual residences, a marina, and that substantial commencement has occurred. Mr. Matsubara argued that the utilization of an OSC may not be appropriate for this matter and that instead, the Declaratory Ruling proceeding would allow the LUC the flexibility to have petitioner satisfy the LUC's concerns of non-compliance.

Mr. Yee commented that the OSC is a procedure with substantive authority to downzone, and OP believed that it was unnecessary at this time to issue the OSC in this matter.

Chair Kanuha then entertained a motion to either defer action or dismiss this docket for reasons of being premature at this time.

Vice Chair Devens moved to defer this matter in light of the declaratory ruling being considered in Docket No. DR08-36 Ko`Olina. The motion was seconded by Commissioner Teves.

Commissioner Judge commented that she would not be able to support this motion as she believed that the LUC would be able to clarify what substantial compliance would be through the declaratory ruling process.

Commissioner Lezy concurred with Commissioner Judge and did not feel it necessary to keep the OSC on the table at this time.

On the motion to defer this matter, the Commission was polled as follows:

Ayes: Devens, Teves, and Kanuha.

Nays: Judge, Lezy, and Chock.

The motion failed with 3 yes, 3 no, and 3 absent.

Commissioner Judge then moved to dismiss the OSC without prejudice in that the LUC could always issue that motion again. The motion was seconded by Commissioner Lezy.

The Commission was polled as follows:

Ayes: Judge, Lezy, Chock, Devens, Teves, and Kanuha.

The motion passed with 6 yes, and 3 absent.

A recess break was taken at 10:00 a.m. The meeting reconvened at 10:10 a.m.

Commissioner Wong entered the meeting at this time.

SP87-364 KAHILI ADVENTIST SCHOOL (Kauai)

Chair Kanuha stated that this was an action meeting to receive a status report and to take action, if necessary.

APPEARANCES

Mark Valencia, Esq., represented Petitioner
Ron Lindsey, Kahili Adventist School
Terryl Loeffler, Kahili Adventist School
Wanda Lee, Principal, Kahili Adventist School
Greg Kam, Consultant for Kahili Adventist School
Bryan Yee, Esq., represented State Office of Planning
Abbey Mayer, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Kanuha noted that there were no public witnesses.

Mr. Valencia commented that the status report had been filed with the LUC and since the last report, petitioner hired an expert, Mr. Kam, to expedite the county's permitting process. Mr. Valencia added that the school's enrollment and tuition had drastically declined due to rumors that the school would be closing down. The impact of the pending litigation has taken a toll on the school and they are trying to have this matter resolved as soon as possible.

Mr. Yee commented that the state would recommend that petitioner work with Steve Kiyono of the DOT concerning the roadway issues. Mr. Yee also recommended that the petitioner return to the LUC with the county approvals, to ensure compliance to the LUC's order.

Commissioner Judge wondered if petitioner had a timetable on the county permitting process.

Mr. Kam stated that he was a planning consultant on Kauai and discussed the county's permitting process. Mr. Kam noted that the application would be ready for submittal in approximately 45-60 days. Once the application is accepted, it would take approximately three to four months before a decision is rendered. Mr. Kam added that

he was able to speak with Mr. Kiyono of the DOT and is working with him on the State's concerns.

Ms. Lee stated that she was the principal of the school and commented that they are a small K-12 grade school with approximately 40 students, significantly less in enrollment than in the previous years. Ms. Lee added that the school is situated in the country, uninhibited by distractions and was grateful for the opportunity to have a school there and looked forward to continuing to educate children there.

Commissioner Lezy questioned the status of the underlying litigation.

Mr. Valencia stated that it is on appeal, briefed, and waiting on a decision. Mr. Valencia added that it's conceivable that they could possibly get a decision by next year.

Commissioner Judge moved that the petitioner provide a written status report as soon as the application to modify the special permit is submitted to the County, and a further written status report in six months in light of the current status report received and the application's progress with the county's special permit process. The motion was seconded by Vice Chair Devens.

Commissioner Wong offered a friendly amendment to change the time period from six months to one year recognizing the pending litigation and county planning process.

Commissioner Judge concurred and accepted the friendly amendment of one year.

Vice Chair Devens seconded the friendly amendment to the motion.

The Commission was polled as follows:

Ayes: Judge, Devens, Chock, Lezy, Teves, Wong, and Kanuha.

The motion passed with 7 yes, and 2 absent.

Mr. Lindsey stated that he would be leaving the state on October 1st because of his permanent disability and physical condition. Mr. Lindsey expressed his appreciation to the LUC for their consideration in this matter and will be praying for this matter to come to a conclusion. Mr. Lindsey added that they are most interested in

having a fine school in a beautiful setting and hope to continue operating and providing quality education on the island of Kauai.

A recess break was taken at 10:40 a.m. The meeting reconvened at 10:45 a.m.

DISCUSSION

Mr. Davidson discussed the amendments to the Commission's administrative rules and commented on a proposed course of action that would be in two parts. The first part would include the non-controversial, procedural and operational rules to assist the LUC and the parties. This amendment would have one public hearing on Oahu, with statewide publication. The second part would include the potentially more controversial and substantive rules, including those implementing Act 222, 223, IAL, etc. The second set of rules would entail meetings statewide (i.e., in all counties). An alternative would be to put everything together, although that process would take much longer.

Vice Chair Devens wondered what type of rules were in the operational rules.

Mr. Davidson noted that these would generally be the ones that were submitted to the LUC last year for consideration and deemed routine or for clarification.

Ms. Erickson added that it would be more of the procedural matters.

Commissioner Judge noted her support for the two-step proposal.

Commissioner Chock commented that when the LUC starts on the IAL rules, he would like to have some information in the form of a workshop or briefing before the LUC.

Vice Chair Devens wondered how the review process would work.

Mr. Davidson stated that on the September 18 meeting, the LUC would have a set of rules for action to take the rules to public hearing. After the public hearing, staff would bring the rules back to the LUC for adoption. The process would be similar to the second set of rules, although there would be more public participation.

Ms. Erickson stated that she understood that if the LUC approves the rules for public hearing, then it would go to the Governor for approval and various agencies for comments. Assuming there are no changes, then the rules could go to public hearing.

Commissioner Wong asked if they need a motion to authorize the staff to proceed with the drafting of the rule changes.

Mr. Davidson replied that staff was only requesting for a sense of direction at this time.

Commissioner Wong posed a few questions regarding when the OP becomes a party to the EIS process.

Vice Chair Devens had concerns amending the LUC's administrative rules in two phases as proposed.

Mr. Davidson commented that the goal is to have the first set with basic procedural amendments and anything that is tricky would be in the second round.

After a brief discussion, Chair Kanuha stated that the LUC would support staff's recommended approach.

The meeting adjourned at 11:15 a.m.

(Please refer to LUC Transcript of August 8, 2008 for more details on this matter.)

Petitioner Kahili Adventist School's
Status Report
Exhibit "A"
Certificate of Service

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the Petition
of
SP87-364 Kahili Adventist School (Kauai)

) SP87-364
)
)
)
)
)
)
)
)
)
)

PETITIONER KAHILI ADVENTIST SCHOOL'S STATUS REPORT

Petitioner KAHILI ADVENTIST SCHOOL (“School”), by and through its attorneys, CASE LOMBARDI & PETTIT, hereby submits a status report regarding SP87-364.

I. INTRODUCTION

The School has been diligently working on the permit issues since its last status report in August 2008. After a number of hours and at great expense to the School, the School has prepared a draft “Application to Class IV Zoning Permit Z-87-51, Use Permit U-87-41, Special Permit SP-87-13” (“Application”). A copy of the draft Application is attached as Exhibit “A.” The Application addresses all of the existing questions regarding the permits. It is complete with the exception of a recommendation from the State of Hawaii Department of Transportation (“DOT”), which should be forthcoming in the near future. Upon receipt of DOT’s comments or recommendation, the Application will be submitted to the County of Kauai for review.

II. UPDATED STATUS REPORT

The following is a report on the School’s most recent efforts.

The School has worked diligently to obtain the information needed for the Application. The two most time consuming portions of the information were the boundary interpretation and roadway improvements. It took several months to determine that the entire parcel on which the School and

Park sit is within the State Agricultural District and no portion is within the Conservation District. That said, although we have been assured by LUC staff that this is the case, we have not yet received formal, written conformation.

The roadway improvements proved to be the most challenging and expensive areas for the School to address. The permit condition called for installation of a deceleration lane on Kaumauli'i Highway. The School paid for a deceleration lane in the 1980s. It was subsequently determined that the improvements paid for by the School may not have been in strict compliance with the State Highways Division's requirements (through no intentional fault of the School).

As part of the effort to address the DOT's concerns regarding highway improvements, Mr. Greg Kamm and Mark Valencia, Esq. met with representatives of the DOT on Kauai on February 27, 2009. DOT indicated during this meeting that a traffic study of the intersection was needed before DOT could make a recommendation on the need for any additional improvements.

As a result, the School retained Wagner Engineering Services, Inc. on April 9, 2009 to conduct a traffic intersection study. Wagner Engineering finalized an initial study in May 2009.

On or about May 29, 2009, Wagner Engineering's Traffic Operational Analysis Report was delivered to DOT's Kauai office for review.

On June 8, 2009, the draft Application was completed by Mr. Kamm for review by the School (Exhibit "A").

On or about June 9, 2009, Mr. Kamm received a letter from DOT that indicated DOT had reviewed the Traffic Operational Analysis Report, but recommended "that it include a discussion on the need for . . . installing a left lane on Kaumualii Highway to serve traffic turning left onto Kahili Wai Street."

On July 15, 2009, the School approved the additional work requested by DOT, to again be performed by Wagner Engineering.

Wagner Engineering completed the additional work in August 2009. On August 20, 2009, the additional traffic study information was submitted to DOT for review. The Application will be finalized and submitted to the County of Kauai promptly after the School receives DOT's recommendation.

The School will provide the Commission with a copy of the revised and finalized Application as soon as it has been filed with the County.

The School will provide any additional information requested by the Commission.

DATED: Honolulu, Hawaii, August 26, 2009.

Mark G. Valencia
MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL



Kahili Adventist School

Application for Amendments to

**Class IV Zoning Permit Z-87-51
Use Permit U-87-41
Special Permit SP-87-13**

TMK (4) 2 – 7 – 01: 3
Approximately 197.463 Acres
Koloa, Kauai, Hawaii

Applicant:
Kahili Adventist School
P. O. Box 480, Lawai, HI 96765
808 742-9294



Authorized Agent:
Greg Kamm Planning & Management
P. O. Box 1200, Koloa, HI 96756
808 742-1144

July, 2009

EXHIBIT "A"

INTRODUCTION

The rural site at the base of Mount Kahili currently being used as Kahili Adventist School's campus has been a popular upland retreat for many years, with recorded vacation uses going back to the 1940s.

Many comprehensive changes have occurred since the Class IV Zoning Permit, Use Permit, and Special Permit issuance to Kahili Adventist School in 1987, including the 1992 hurricane and several staff turnovers in the school's management team.

Educators have been responsible for the school's operation, and a consequence of the staff changes is that administrators may not have had a clear and complete understanding of the land use regulatory approvals. Additionally, for the past six years the Applicant has been engaged in a lawsuit with the Knudsen Trust that has diverted the school administration's resources and attention from program development.

The purpose of this Application is to present for the Planning Commission's consideration and review—in light of the Applicant's evolved scope of endeavor—the school's current operations. The Applicant is seeking appropriate adjustments of those conditions, reflective of the present situation.

COUNTY OF KAUAI
PLANNING DEPARTMENT

(X) ZONING PERMIT APPLICATION
(X) USE PERMIT APPLICATION
() PROJECT DEVELOPMENT USE PERMIT APPLICATION
() VARIANCE PERMIT APPLICATION
(X) SPECIAL PERMIT APPLICATION
() SMA PERMIT APPLICATION

APPLICANT Kahili Adventist School

ADDRESS c/o Mr. Greg Kamm
P. O. Box 1200, Koloa, HI 96756

PHONE NO. (work) 742-1144 (home) 742-1144

Tax Map Key (4)2-7-01: 03 Lot No. Lot Size 197.463 Acres Zoning AG Existing Land School Use & AG

APPLICANT IS: (check one)

A. Owner of Property (Holder of at least 75% of the equitable and legal title.)
B. Lessee of Property *Number of Years Leased From to
C. Authorized Agent X Attach Letter of Authorization.

NOTE: *Lessee must have an unexpired and recorded lease of five (5) years or more from date of filing this application. Owner(s) must sign below if lease is less than five (5) years remaining and/or unrecorded.

DESCRIPTION OF PROPOSED USE, IMPROVEMENT, ALTERATION, AND/OR CONSTRUCTION: (specify exact use, number of units, etc.) Please see Attached

FOR VARIANCE OR USE PERMITS ONLY

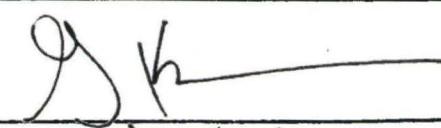
Conditions justifying Variance or Use Permit application: (use additional sheets as required) Please see Attached

The owner and/or his authorized representative for the purposes of said permit shall, prior to commencing erection, construction, installation or placement of the foundations and/or footings of the improvements allowed hereunder, and after compliance with the foregoing condition, notify the Planning Department no later than 5 working days to commencement of such work, in order that the Planning Department might inspect and certify the applicable and imposed setbacks and other zoning requirements.

The construction, work, use, or activity approved in this permit shall be subject to inspection by the Planning Inspector or authorized personnel of the Planning Department, County of Kauai. The applicant is advised that inspection will occur prior to or during construction and use to ascertain compliance with the provisions of Ordinance No. 164, as amended, (Comprehensive Zoning Ordinance, County of Kauai, and/or other laws which are enforced by the Planning Department.

For Planning Department Use Only	
Zoning Permit No.	_____
Use Permit No.	_____
Variance Permit No.	_____
Special Permit No.	_____
SMA Permit No.	_____
Zoning Permit Class	_____
Date Received	By _____
Date Approved	By _____
Plans By	_____
Permit Fee \$	_____ Date _____

Signature



Owner/Applicant
Greg Kamm

Greg Kamm Planning & Management

TABLE OF CONTENTS

Introduction.....	i
Application Form	ii
Table of Contents	iii
Project Description.....	1
Existing Permits and Conditions.....	2
Timeline.....	3
Discussion of Amendments	4
Condition 1—Interior Roadway & Waterline	4
Condition 2—Interior Roadways Surface.....	7
Condition 3—State Highways.....	9
Condition 4—Drainage & Flood Studies.....	10
Condition 5—State Health, State Highways, Public Works, Fire, and Water	11
Condition 6—Additional Conditions.....	15
Condition 7—Educational Curriculum.....	16
Condition 8—Additional Conditions.....	17
Condition 9—Completion Timeframe.....	18
Condition 10—Density	20
Condition 11—Conservation District.....	21
Condition 12—Design Review	22
Conclusion	23
Exhibits 1 - 10	

EXHIBITS

1. Letter of Authorization from Applicant
2. Copy of Application Fee Payment
3. Kahili Adventist School Student Enrollment Figures
1975 to the Present, Table and Chart
4. Busing Program, Table and Chart
5. Agricultural Curriculum Examples (Transmittal) &
Arborist Services Memo
6. Agricultural Curriculum Pictures
7. Site Plan Location Map & Schematic
8. Agency Reports—1987
9. Smoke Detector Memo &
Emergency Vehicle Access Memo
10. Transmittal—Traffic Operational Analysis Report to
District Engineer, Kauai Highways Division, Department of Transportation

PROJECT DESCRIPTION

The approximately 195.673-acre site is entirely within the Agricultural District.

The Land Study Bureau's Agricultural Master Productivity Rating System rates the Property as "C," "D," and "E" with "E" being the lowest rating.

Kahili Adventist School currently operates an ecumenical school on the subject site. A table and chart showing the school's enrollment figures from 1975 to the present are attached as Exhibit 3. The staff and students are engaged in educational agricultural projects in keeping with the campus' rural setting and to comply with conditions in the permits granted in 1987.

The school works with a rustic vacation rental program doing business as Kahili Mountain Park. Presently 27 units on the site are used for a combination of transient rentals and staff accommodations. The 1987 Class IV permit allows the original 20 units, an additional 20 units, and 14 faculty/staff units, for a total of 54 units.

EXISTING PERMITS AND CONDITIONS

The school has maintained continuous educational operations before and after relocating Kauai Adventist School from its former Omao campus to the present location, changing the school's name to reflect its new location. The relocation to a 14-acre portion of the site was permitted under Special Permit SP-83-1, Use Permit U-2-83, and Class IV Zoning Permit Z-IV-83-3.

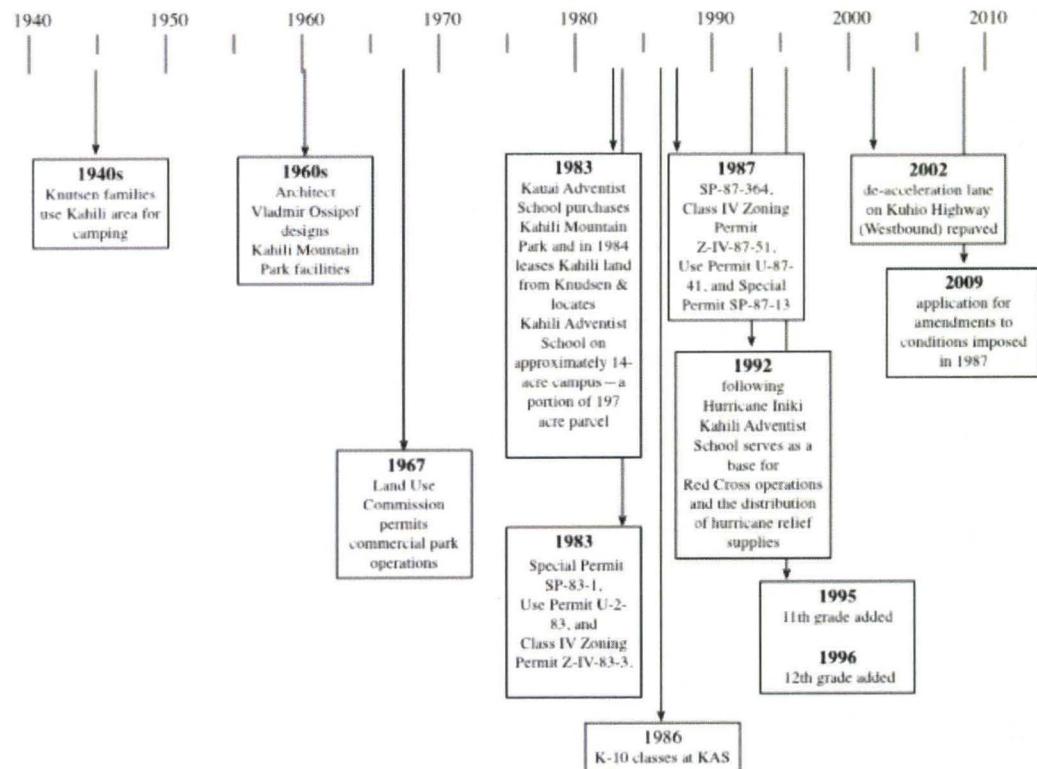
Plans to expand the educational program at the Kahili site to an area larger than 15 acres triggered the requirement for additional permits, which were granted with conditions by the State of Hawaii LUC under the provisions of Special Permit SP-87-364, and by the County of Kauai's Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, and Special Permit SP-87-13.

Since its relocation, the school has managed a rustic vacation rental program operating as Kahili Mountain Park. The park has been a popular retreat dating back to the 1940s, and features structures designed by Vladmir Ossipoff's architectural firm. The Land Use Commission permitted park operations in December 1967.

See Timeline next page.

Kahili Adventist School
 Application for Amendments to
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Kahili Adventist School
 Kahili Mountain Park
 Timeline



DISCUSSION OF AMENDMENTS

Condition 1

Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

Background: The interior roadway and waterline improvements had to do with the occupancy of a new gymnasium/auditorium that was being planned. The building had been completed but an occupancy permit had not been issued when Hurricane Iniki hit Kauai in September 1992. Since it was one of the few available buildings suitable for this use after the hurricane, the County gave permission for the Red Cross to use the building as its distribution center. After the Red Cross finished with it, final requirements were met and the occupancy permit was issued.

The use of penetration base treatment was abandoned due to environmental issues and was replaced with rolled base course using rock and coral chips. Ditches were dug along side of the road to divert excess rainwater run off, and other drainage measures were employed as well.

A new road was built on the lower side of the pond, twenty-five (25) feet wide and approximately eight hundred (800) feet long. Because of this, the narrow and hazardous roadway immediately adjacent to the pond could be, and was, abandoned.

An 80,000-gallon water tank was installed with an automatic control for the chlorination system. The Applicant is a customer of this system, and not the operator.

A six-inch pipe from the water tank to the school area was installed. The gymnasium/auditorium has a fire sprinkler system that is fed by a four-inch water pipe. In compliance with the County Fire Department, three fire hydrants were installed at various locations around the campus. (See Exhibit 7, Site Schematic)

Request to Remove Condition: The Applicant seeks that Condition 1 be removed for the following reasons:

- The Applicant has completed improvements to the water facilities such that those infrastructure elements satisfactorily service the current development of the property.
- The water facilities are adequate to service further development as would be confirmed by the Applicant's engineers and all concerned agencies prior to issuance of any Building Permits.
- The roadway matter included in Condition 1 is to assure access in the event of a fire. The Applicant met with Captain David Bukoski of the Kauai County Fire Department Fire Prevention Bureau in August 2008, and discussed the adequacy of the present roadway leading to the School. The Fire Prevention Bureau's view is that the primary concern is human safety in the event of a fire, and evacuation is essential. The response time for fire fighting equipment to drive from Kalaheo or Poipu to the site is so long that structures would be consumed by the time fire trucks make it to the site, irrespective of whether the roadway is gravel or paved.

If the school maintains the road in the same condition as it has been for the last twenty years, fire access will be adequate, according to Captain Bukoski.

- The property's well-drained and compacted gravel surface roadways that do not require the environmentally hazardous application of penetration base treatment have withstood the test of time, and are consistent with the desired rustic ambiance of the development.
- The Kauai Fire Department and Kauai Fire Prevention (a private firm) have indicated that there is no necessity to alter the roadways or water supply facilities for fire-fighting purposes.
- The Applicant met with Chief Engineer Wallace Kudo in the Engineering Division of Public Works and County Engineer Donald Fujimoto in August 2008, and confirmed that these private roadways do not concern Public Works.

Condition 2

The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.

Background: The current road is an all-weather road that was built by the McBryde Sugar Company. This road is well built and was used by large cane hauling trailer trucks carrying loads of 20 to 30 tons. Since the sugar business has closed and the road is no longer used by these trucks it is much easier to keep it in good repair. The road is a compacted base course using basalt rock and coral chips. Kahili Adventist School has a contract with the Rudy Ramos Equipment Service to keep the road in good repair. A crew services the road on a monthly basis. The road now has a crown so water runs off and the drainage swales are kept clear. Although others use the road in addition to school generated travel, the school maintains the road in good condition at its expense, spreading rock and chipped coral as necessary.

Although the road is easily passable by passenger car, parents are encouraged to use the school's bus service, and currently over 87% of the students are enrolled in the bus program. (See Exhibit 4.) While families may choose to drive their own children if necessary, most parents prefer to take advantage of the bus service since the bus ends up being less expensive. Most of the staff lives on campus.

Request to Remove Condition: The Applicant seeks that Condition 2 be removed for the following reasons:

- The Applicant met with the Chief Engineer in the Engineering Division of Public Works and the County Engineer in August 2008, and confirmed that these private roadways do not concern Public Works.
- Penetration base is no longer an acceptable method of roadbed stabilization due to its inherent environmental hazards.
- The Applicant has improved and diligently maintained the roadway since 1987 as discussed previously.
- The roadway has served the Applicant and other users in its present state since 1987, thereby demonstrating its adequacy.

Condition 3

The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.

Background: This Applicant has complied with this condition. It has to do with exiting Kaumuali'i Highway onto Kahili Wai Street to continue on to the school. The school paid the State to install a de-acceleration lane on the Kaumuali'i Highway thus allowing vehicles to move out of the traffic lane before turning onto the school road. When the highway was repaved in the fall of 2002, the de-acceleration lane was also repaved.

Request to Remove Condition: The Applicant seeks that Condition 3 be removed for the following reasons:

- A study of the intersection was conducted by a registered professional engineer to gauge the necessity for alterations to the current configuration. The report resulting from that study concludes that the current intersection layout adequately serves the peak hour volumes, and therefore no mitigating measures are necessary for this project.
- The above referenced report has been transmitted to the Kauai District office of the State of Hawaii Department of Transportation, Highways Division (See Exhibit 10.)

Condition 4

As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.

Background: Kodani and Associates, Inc., a consulting engineering firm, prepared a flood study for the School. It was submitted to the Kauai County Public Works Department and was approved. Additionally, the Applicant believes that both Belt, Collins Incorporated and Portugal and Associates prepared drainage studies. However, due to the age of these three studies and the intervening disruptions caused by Hurricane Iniki neither the Applicant nor Public Works has been able to locate these studies.

The Chief of Engineering at Public Works does recall the submission of a drainage study for the School, and the site has been free of any flooding incidents since the permits were issued.

Request to Remove Condition: The Applicant seeks that Condition 4 be removed for the following reasons:

- The Chief Engineer in the Engineering Division of Public Works confirmed that a study was submitted and approved.
- The Applicant acknowledges that any future development may require an additional drainage and flood study.

Condition 5

Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.

Background: Kahili Adventist School is in compliance with all known State and County requirements.

The water system operator meets all State water quality requirements, and the school is a customer of this system. There have been no reported instances of any water-borne illnesses.

The school has a contract with Kauai Fire Protection to assure that all fire and safety requirements are met. The County Fire Department sends an inspector each year to check to see that all equipment is operating correctly.

Additional detail is provided below.

Request to Remove Condition: The Applicant seeks that Condition 5 be removed for the following reasons. See prior agency reports in Exhibit 8.

State Health Department comments from April 2, 1987:

- Comment 1: The Applicant acknowledges Comment 1. Not only are there no agricultural operations near the drinking water source, all water sources are well outside the Applicant's leased land boundary.
- Comment 2: The Applicant is no longer seeking to operate a health or therapeutic retreat; hence this comment is no longer applicable.

- Comment 3: The cesspools and septic systems on site are compliant with all Department of Health standards.
- Comment 4: There are no cafeteria operations in effect or planned for the site. In the event that the Applicant seeks to construct a cafeteria, the design and use will conform to the then existing rules.
- Comment 5 (housing): The Applicant acknowledges this comment, has complied with it, and will continue to do so.
- Comment 6 (sanitation): The Applicant acknowledges this comment, has complied with it, and will continue to do so.
- Comment 7: There is no watercress being grown on site.
- Comment 8: Currently no swimming pool exists at the site. In the event that the Applicant seeks to construct a swimming pool, the design and use will conform to the then existing rules.
- Comment 9 (no open burning): The Applicant acknowledges this comment, has complied with it, and will continue to do so.
- Comment 10 (grubbed material): The Applicant acknowledges this comment, has complied with it, and will continue to do so.
- Comment 11 (dust & erosion control): The Applicant acknowledges this comment, has complied with it, and will continue to do so.
- Comment 12 (potable water): The Applicant acknowledges this comment, has complied with it, and will continue to do so. The school is supplied with potable water from an approved source by Grove Farm Company, Incorporated.

State Highways Division comments from March 20, 1987.

- A Traffic Operational Analysis Report compiled in April 2009 concludes that no mitigating measures are necessary for this project.

Fire Department comments from August 13, 1982 (indicated as unchanged for the 1987 Application):

- Comment 1 (unobstructed access): The Applicant met with Captain David Bukoski of the Kauai County Fire Department Fire Prevention Bureau in August 2008, and discussed the adequacy of the present roadway leading to the school. The Fire Prevention Bureau's view is that the primary concern is human safety in the event of a fire, and evacuation is essential. The response time for fire fighting equipment to drive from Kalaheo or Poipu to the site is so long that structures would be consumed by the time fire trucks make it to the site, irrespective of whether the roadway is gravel or paved. If the school maintains the road in the same condition as it has been for the last twenty years, fire and emergency access will be adequate. Width, turning radii, and vertical clearance are all adequate.

(See Exhibit 9, Emergency Vehicle Access Memo)

- Comment 2 (fire hydrants): There are three fire hydrants on the site. The staff housing areas are deemed residential by the Fire Department, and not subject to any fire requirements other than those imposed through the building permit process.
- Comment 3 (fire extinguishers): All of the park rental cabins have smoke detectors and fire extinguishers. (See Exhibit 9, Smoke Detectors Memo) An

evacuation plan in place for both the park and school facilities. Additionally, there are fire cabinets with hoses located at appropriate points around the school buildings.

- Comment 4 (code compliance): The Applicant acknowledges this comment.

Condition 6

The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.

Background: Kahili Adventist School acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary.

As of this date no additional conditions or restrictions have been imposed.

There have been no issues concerning public health, safety or welfare to the best of the Applicant's knowledge. In fact, the school served the general community as a base for Red Cross operations and the distribution of hurricane relief supplies in the months following Hurricane Iniki.

The Department of Transportation has told the Applicant that the intersection with Kaumualii Highway is not considered a high-risk location. Since 1970 there have been no traffic accidents at the intersection with Kaumualii Highway as reported by the Department of Transportation, and the 1970 accident involved a cane haul truck.

Condition 7

Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.

Background: Attached are copies of the September 18, 2008 transmittal conveying samples of the school's 2008-2009 agricultural curriculum to the Planning Department and the State of Hawaii Land Use Commission. (See Exhibit 5.) The agricultural work-study program is in effect for both the elementary and secondary students. Also please note the response to Condition 9b below. The agricultural work-study program remains one of the school's recognized on-going obligations.

In addition to being a recognized condition, the agricultural work-study program is a key component of the school's educational philosophy.

Condition 8

The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed, it shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

Kahili Adventist School acknowledges the obligation and responsibility to resolve all additional conditions that may be imposed by government agencies.

Condition 9

Based on the timetable submitted, Petitioner shall complete within five (5) years of Land Use Commission approval:

- a. Expansion of the school program (K-12);*
- b. Agricultural work study program;*
- c. Campground site facilities.*
- d. Health conditioning, physical and spiritual retreat center and*
- e. Establishment of orchards as per Exhibit "G."*

Background: Kahili Adventist School is in compliance. More specifically:

a. The school started at this location as a K-10 school in 1986. During the 1995-96 school year the 11th grade was added. The following year the 12th grade was added. The program has been conducted as shown in the census attached as Exhibit 3.

b. Kahili Adventist School has an active agricultural work-study program. Portions of the agricultural curriculum were transmitted on September 18, 2008 to the Planning Department and Land Use Commission. (See Exhibit 5) The program started with lychee trees that currently number approximately 700. Presently, a two acre parcel is planted with cut flowers and bananas. An orange tree grove has been planted. Bananas are available at the school office and flowers and bananas are sold at the farmers' market. Students work in the gardens weekly. Students have learned how to plan, develop, and care for flowerbeds and vegetable gardens around the campus. Please see the pictures in Exhibit 6.

c. The campground site has been completed with cabinettes (camping facilities—not units) and cabin facilities (units) that are available for use.

d. The health conditioning, physical, and spiritual retreat center was occupied in 1993. Over the years various organizations have used the facilities—some 27 groups held

meetings during 2002. After making a diligent effort to promote the health conditioning, physical, and spiritual retreat center, it is at this time not deemed a feasible component of the school's and park's operations, and therefore is not being actively marketed or operated. Rather, the Applicant's focus is on nurturing the school's growth.

e. Seven hundred lychee trees were planted with mixed results. Previously the Applicant consulted with the University of Hawaii School of Tropical Agriculture. The Applicant currently has an arborist on site working to improve lychee yields. The Applicant has been successful with other fruit trees as well.

Request to Remove Condition: The Applicant seeks that Condition 9 be removed for the following reasons:

As stated above, the school either has demonstrated continuing compliance with, or has valid and compelling reasons for removal of sections a. through e. of Condition 9.

Condition 10

The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, and Class IV Zoning Permits shall be required. In addition to the 20 cabins/units, 14 more faculty/staff housing units (as per Petitioner's Exhibit "G") are permissible.

Background: Kahili Adventist School acknowledges the Condition, and is in compliance with the approved density. At this point, ten staff residences and seventeen rental cabins (units) are in use. An additional four staff homes and twenty-three rental cabins are still permissible under the presently approved density. See Exhibit 7.

Condition 11

A Conservation District boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development.

Background: In accordance with this condition, the Knudsen Trust contacted and employed Belt, Collins Incorporated in Honolulu to realign the boundaries of the land that was to be leased to the school. The original lease called for a 200-acre plot to be leased. The lease is for 197 acres after the boundaries were redrawn. None of the land leased to the school is included in the Conservation District. The school is aware of the Conservation District and has no activities that come anywhere near that area.

In recent communications with Mr. Fred Talon at the Land Use Commission, May 2009, he verified that the entire parcel is within the State Agricultural District. Mr. Talon indicated that formal documentation of this Boundary Interpretation will be forthcoming shortly.

Condition 12

All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application.

Background: Kahili Adventist School acknowledges that any future buildings are subject to design review and approval by the Planning Department.

Request to Remove Condition: The Applicant seeks that Condition 12 be removed for the following reason:

- In the years since Condition 12 was written Planning Department review process has been streamlined. To be consistent with current practice which reduces the work load on the County, the Applicant requests that rather than being required to obtain a design review approval from the Planning Department prior to Building Permit Application submittal, the Planning Department's design review be part of the standard Building Permit Application review and approval process.

Conclusion

In the body of this application, the Applicant has endeavored to demonstrate the propriety of amending the existing Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, and Special Permit SP-87-13 as follows:

- Condition 1: Request to remove Condition
- Condition 2: Request to remove Condition
- Condition 3: Request to remove Condition
- Condition 4: Request to remove Condition
- Condition 5: Request to remove Condition
- Condition 6: Applicant acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary.
- Condition 7: The Applicant will continue to submit annual agricultural curriculum samples to the Planning Department. (The entire curriculum—approximately 700 pages—is available upon request.)
- Condition 8: The Applicant acknowledges the obligation and responsibility to resolve all additional conditions that may be imposed by government agencies.
- Condition 9: Request to remove Condition
- Condition 10: The Applicant acknowledges and will continue to comply with the Condition.
- Condition 11: Request to remove Condition
- Condition 12: Request to remove Condition

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

The staff and management of the Kahili Adventist School are dedicated and committed to sustaining and expanding the school's standing and influence in the community. With humility and in a spirit of diligent endeavor, this Application is presented to the Planning Department and Planning Commission with the intent of better enabling the school to face the challenges of developing and sustaining the best possible educational program for the student body at the base of Mount Kahili.

Very truly,

A handwritten signature in black ink, appearing to read "G.K." followed by a horizontal line.

Greg Kamm
Agent for the Applicant

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Exhibit 1

Letter of Authorization

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Hawaiian Association

2728 Pali Highway
Honolulu HI 96817
Telephone: (808) 545-2161
Fax: (808) 545-7345

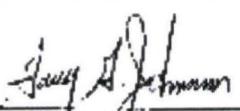
May 7, 2009

RE: Letter of Authorization – Kahili Adventist Park & School

To Whom It May Concern:

As holder of a recorded lease with more than 5 years remaining, this letter authorizes Greg Kamm Planning & Management to seek any necessary permits and approvals relative to Kahili Mountain Park and Kahili Adventist School, TMK: (4) 2-7-01:03.

Hawaiian Association of Seventh-Day Adventists



Gary G. Johnson, HSA Treasurer

May 11, 2009

Date

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Exhibit 2

Copy of Application Fee Check

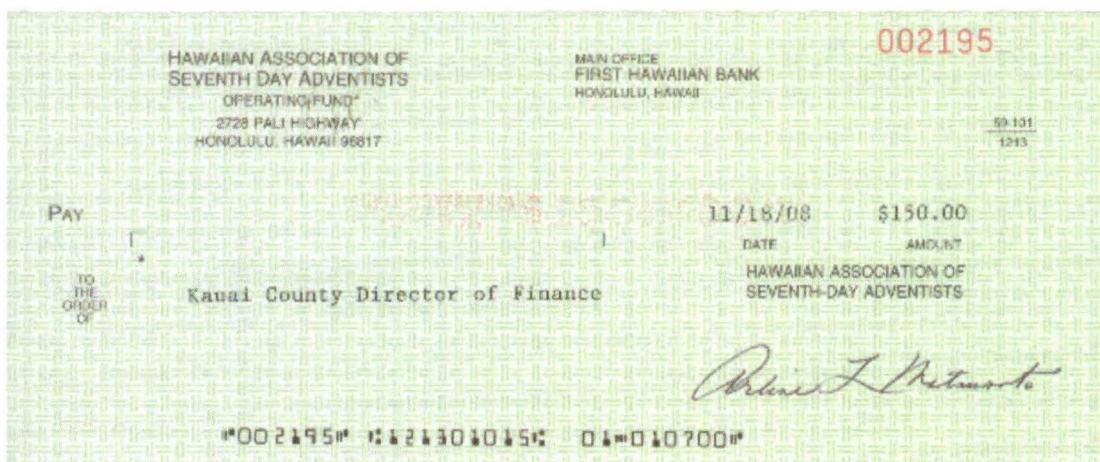


Exhibit 3

Kahili Adventist School Census 1975-2008

Kahili Adventist School Enrollment Chart By Five Year Periods—1975-2008

Kahili Adventist School
 Application for Amendments to
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Office of the Principal

Kahili Adventist School

School Census (1975 – 2008)

	1975-76 Grades 1-8	1976-77	1977-78	1978-79 Grades 1-9	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86
K											
1	9	10	4	6	5	8	9	9	10	8	11
2	1	6	7	6	4	4	11	9	8	7	8
3	7	6	7	5	6	4	6	10	11	9	7
4	3	6	7	6	8	7	3	6	9	10	9
5	3	6	7	8	8	10	11	3	6	12	14
6	3	4	5	6	7	7	10	12	9	6	11
7	2	4	4	4	7	7	10	7	11	10	8
8	1	3	3	4	4	6	9	7	8	16	8
9				2	0	0	7	6	11	13	15
10								8	4	12	5
Total	29	45	44	47	49	53	76	77	87	103	96
	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
			Grades K-10								Grades K-12
K			11	7	13	12	15	15	19		9
1	5		13	12	5	8	13	8	14		15
2	8		12	18	20	3	8	10	10		16
3	13		5	12	20	15	4	7	10		12
4	4		17	11	15	18	17	8	9		12
5	9		14	26	12	16	17	19	8		13
6	12		6	18	20	9	21	20	18		8
7	11		13	15	18	20	19	23	27		10
8	4		8	17	17	20	20	17	19		22
9	4		10	9	20	12	11	26	13		14
10	5		0	12	8	17	5	8	14		8
11											9
12											11
Total	75	n/a	109	157	168	150	150	161	161	n/a	159
	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
K	7	12	11	11	6	6	7	12	7	7	4
1	8	6	12	10	8	8	5	5	12	4	6
2	14	6	5	10	10	9	7	5	3	10	4
3	16	12	10	4	12	11	13	6	4	3	5
4	11	11	13	9	6	12	14	10	6	5	3
5	12	14	13	13	10	3	15	10	8	6	4
6	11	17	17	9	10	9	7	10	13	8	4
7	12	12	19	7	8	7	9	7	10	11	3
8	11	12	14	8	6	8	6	8	6	7	8
9	18	9	5	8	5	3	5	11	8	3	4
10	13	18	4	2	7	5	4	7	8	3	1
11	2	11	11	4	2	5	3	2	3	4	1
12	9	1	8	6	6	4	5	4	2	2	4
Total	144	141	142	101	96	90	100	97	90	73	51

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

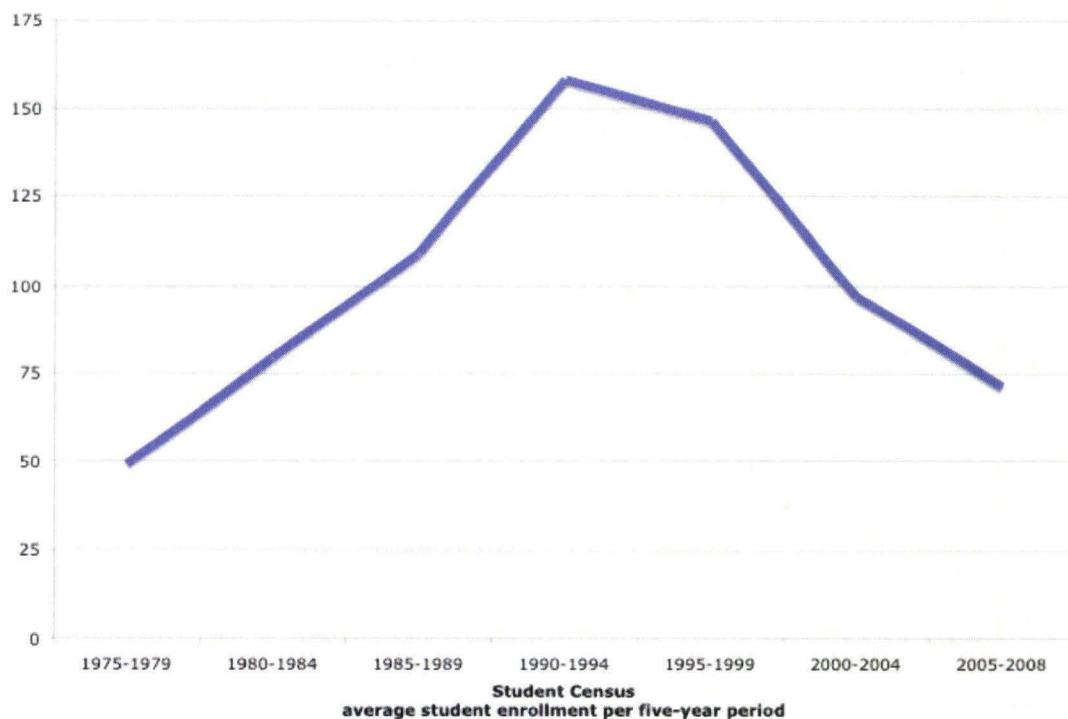


Exhibit 4

Bussing Program Table and Chart



Office of the Principal

Kahili Adventist School

2008-2009 School Year						
# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/08 – 7/08)
			#	Role		
40	35	5	1	Principal	0	1408
			4	Teachers	1	
			1	Bus/Book-keeper	0	
			2	Bus Drivers	0	
			5	KMP Staff	0	

2007-2008 School Year						
# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/07 – 12/07)
			#	Role		
50	38	7	1	Principal	0	2254
			4	Teachers	1	
			1	Bus/Book-keeper	0	
			1	Secretary	0	
			2	Bus Drivers	0	
			5	KMP Staff	1	

2006-2007 School Year						
# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/06 – 12/06)
			#	Role		
73	47	26	1	Principal	0	2153
			10	Teachers	3	
			1	Bus/Book-keeper	0	
			1	Secretary	0	
			2	Bus Drivers	0	
			7	KMP Staff	2	

2005-2006 School Year						
# of Students	# Using Bus	# Drive or Carpool	Staff		# Drive or Carpool	KMP Visitors (1/05 – 12/05)
			#	Role		
82	61	22	1	Principal	0	
			10	Teachers	3	
			1	Bus/Book-keeper	0	
			1	Secretary	0	
			2	Bus Drivers	0	
			7	KMP Staff	2	

Bus Policy: Parents are encouraged to use our bus service, but may choose to drive their own children if necessary. (Note: Most parents choose to use the bus since the bus ends up being less expensive. Most of the staff live on campus.)

Mailing Address:
 PO Box 480
 Lāna'i, HI 96765

Street Address:
 2-4035 Kaumuali'i Hwy
 Kekaha, HI 96756

Telephone:
 School: (808) 742-9294
 Fax: (808) 742-6628

Accredited by:
 National Council for Private Education
www.dahdil.org

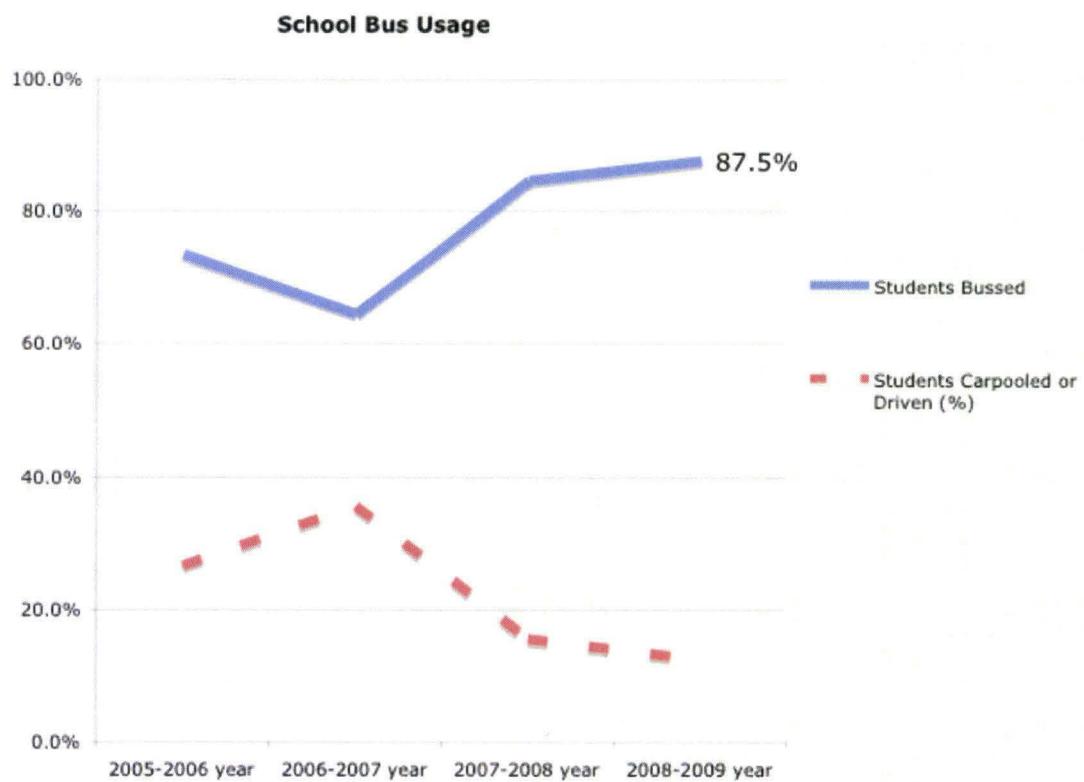


Exhibit 5

Agricultural Curriculum Examples Transmittal &

Arborist Services Memo



Office of the Principal

Kahili Adventist School

TRANSMITTAL

DATE: September 18, 2008

TO: Mr. Ian Costa, Director
County of Kauai Planning Department
4444 Rice Street—Building A, Suite 473
Lihue HI 96766
Attn: Mr. Michael Laureta, Senior Planner

COPIES TO: Mr. Orlando Davidson, Executive Director
State of Hawaii Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, HI 96813

Mr. Mark G. Valencia
Case Lombardi & Pettit
737 Bishop Street, Suite 2600
Honolulu, HI 96813-3283

Mr. Greg Kamm
Greg Kamm Planning & Management
P. O. Box 1200
Koloa, HI 96756

FROM: Ms. Wanda Lee, Principal
Kahili Adventist School

SUBJECT: **Kahili Adventist School—Agricultural Education Curriculum**
Class IV Zoning Permit Z-IV-87-51
Special Permit SP 87-13, Use Permit U-87-41
LUC Docket No. SP 87-364

Per the requirements of the above-referenced permits for an annual submittal, attached please find an exemplary portion of Kahili Adventist School's agricultural curriculum for the 2008-2009 academic year. The complete 4-year agricultural program (containing 133 Lessons, approximately 700 pages) is outlined in the Table of Contents, and is available upon request. Each of the following Units is an example of a single Lesson.

- Agriculture Curriculum Table of Contents—4 pages
- Unit 2.04: Introduction to Agriculture—26 pages
- Unit 8.04: Soil and Its Effects on Agriculture—13 pages
- Unit 13.05: Forestry and Natural Resources—12 pages
- Unit 18.01: Careers in Agriculture and Agribusiness—10 pages

Mailing Address:
PO Box 430
Lihue, HI 96766

Street Address:
2-4035 Kauai Kai Hwy
Koloa, HI 96756

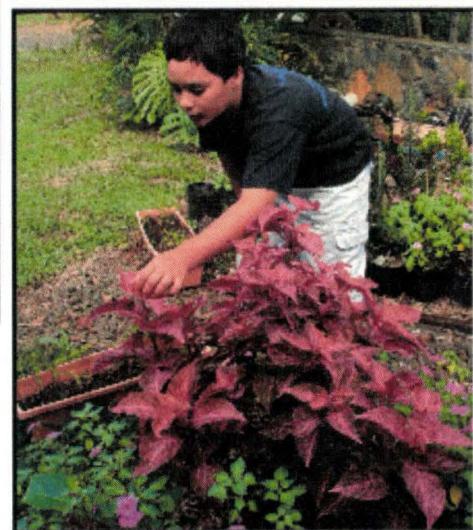
Telephone:
School: (808) 742-9294
Fax: (808) 742-4628

Accredited by:
National Council for Private Education
www.ncep.org

Exhibit 6

Agricultural Curriculum Pictures

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Top Left: Students collect compost for their garden.

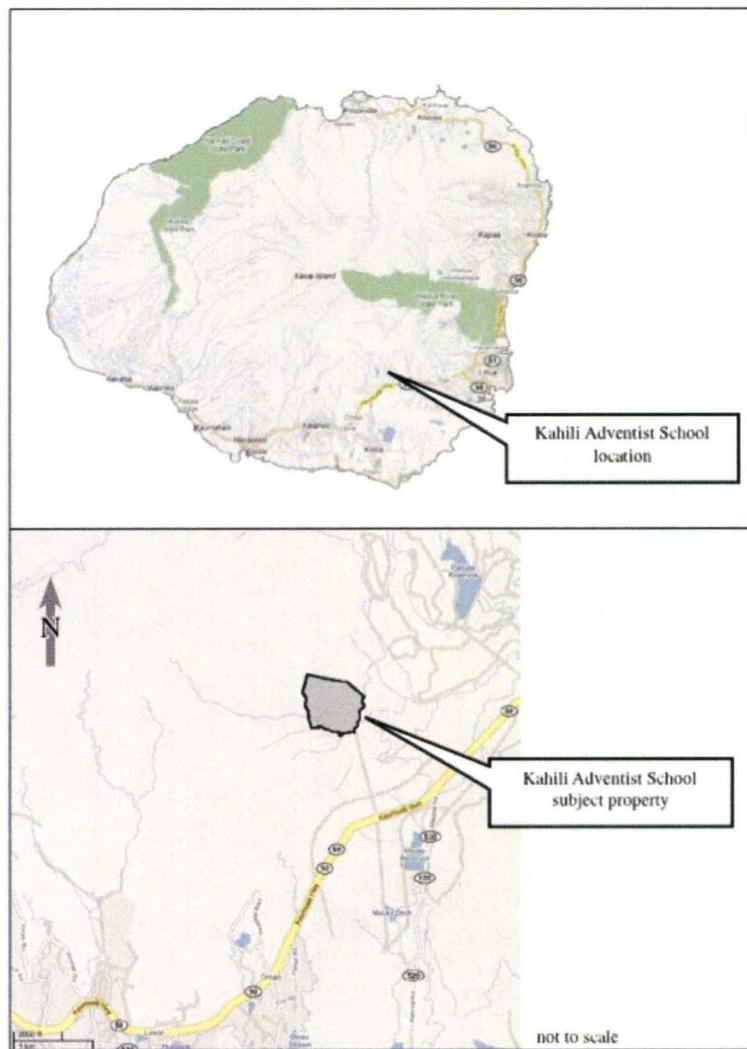
Top Right: Recycled tires are used for students' individual gardening plots.

Center: tending the vegetable garden.

Bottom: Students care for ornamental plant beds.

Exhibit 7

Site Plan Location Map & Schematic



Site Location

Kahili Mountain Park

P.O.Box 298 • Koloa, Kauai, HI 96756
(808) 742-9921

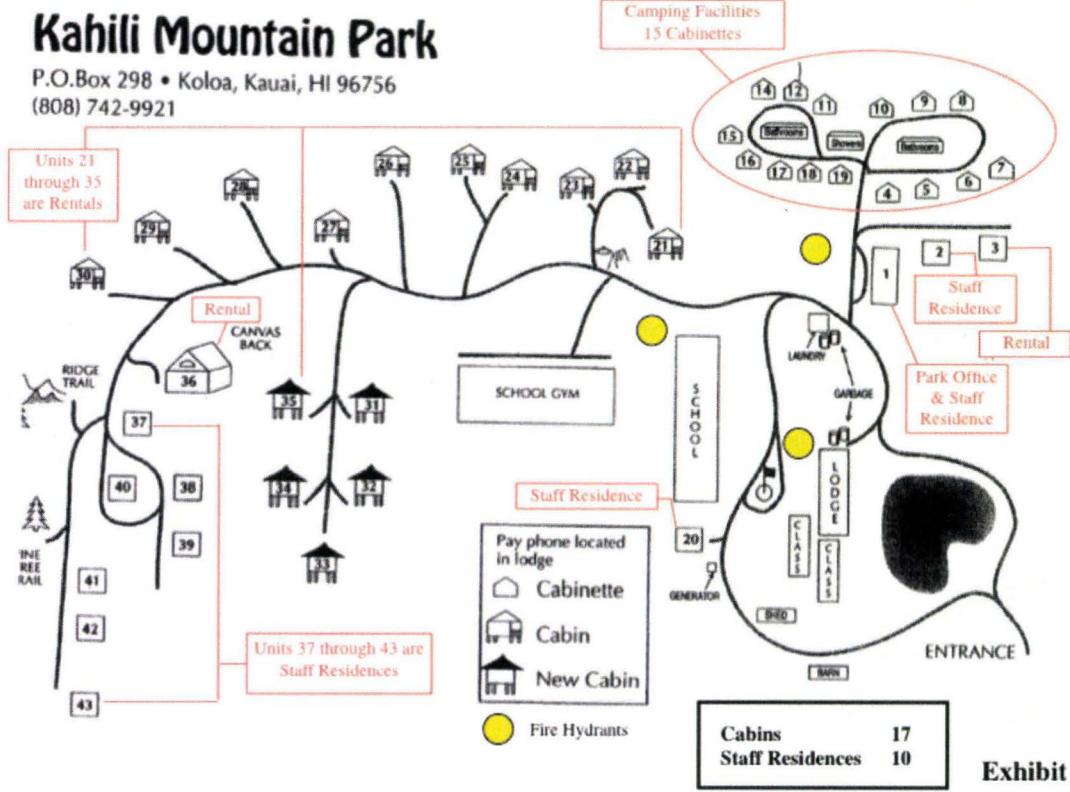


Exhibit 7

Site Schematic

Exhibit 8

Agency Reports—1987

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Department of Health Agency Report, 1987

COUNTY OF KAUAI
 PLANNING DEPARTMENT

✓✓

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987

SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit
Appl. SP-87-13, KAHILI ADVENTIST SCHOOL

TO: Public Works Dept.

Water Dept.

State Highways Div.

Fire Dept.

Sam Lee (DLNR)

State Dept. of Agriculture

Police Dept.



FOR YOUR COMMENTS (pertaining to your department):

? April 87

Our department's concerns are as follows:

1. Agricultural activities that require spraying should not encroach towards Grove Farm's drinking water surface supply.
2. The applicant shall confer with Department of Health, Hospital and Medical Facility Branch to determine if the proposed "Health Conditioning/Physical Retreat Center" must conform to the requirements of Chapter 98, Special Treatment Facility, of Title 11, Administrative Rules, State of Hawaii.
3. No building will be permitted to use cesspools or other individual wastewater systems as a means of sewage disposal if it generates wastewater in excess of 800 gallons per day. If the applicant is considering an alternative method of sewage disposal beside individual wastewater systems, they should be made aware that injection wells will not be permitted for effluent disposal. The proposed development shall conform to Act 282, S.L.H. 1985 and as amended by Act 302, S.L.H. 1986.
4. The proposed "Cafeteria/Bakery" shall conform to the requirements of Chapter 1-A, Food Service and Food Establishment Sanitation Code, Public Health Regulations, State of Hawaii.
5. The proposed cabins, Faculty homes and student dormitories, shall conform to the requirements of Chapter 14, Housing, of Title 11, Administrative Rules, State of Hawaii.

continued on back

Signature _____

Please return one (1) copy by April 2, 1987. Thank you.

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

- 4. The proposed classrooms and other buildings other than dwellings shall conform to the requirements of Chapter 11, Sanitation, of Title 11, Administrative Rules, State of Hawaii.
- 5. The proposed watercress raising site shall be approved by the Department of Health.
- 6. The proposed swimming pool shall conform to the requirements of Chapter 13, Public Swimming Pools, of Title 11, Administrative Rules, State of Hawaii.
- 7. Open burning is prohibited unless an agricultural burning permit is obtained from the Department of Health.
- 8. Grubbed material shall be disposed in a manner and at a site approved by the Department of Health.
- 9. Effective dust and soil erosion control measures shall be implemented during all phases of development by the developer.
- 10. The proposed development shall be provided with potable water from an approved source.

Due to the general nature of the application submitted, we reserve the right to implement further environmental restrictions when more detailed plans are submitted.

Clyde Takekuma
(for) Ted Inouye, Chief Sanitarian, Kauai

l:GNT/pla

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Dept. of Transportation, Highways Agency Report, 1987

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987

SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit Appl. SP-87-13, KAHILI ADVENTIST SCHOOL

TO: Public Works Dept.
 Water Dept.
 State Health Dept.

Fire Dept.
 Sam Lee (DLNR)
 State Dept. of Agriculture
 Police Dept.

STATE
HIGHWAYS
DIVISION



FOR YOUR COMMENTS (pertaining to your department):

March 20, 1987

1. Provide left turn storage lanes on Kaumualii Highway;
2. Provide acceleration and deceleration lanes at the junction with Kaumualii Highway;
3. Install street lights within highway R/W; and
4. Allow us to review construction plans.

SY:jf

Please return one (1) copy by April 2, 1987. Thank you.

Signature

SHIGETO YAMAGUCHI

**Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13**

Fire Department Agency Report, 1987

TMK 2-7-01; Par 1 COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987
SUBJECT: Zoning Permit Appl. 2-IV-87-51, Use Permit Appl. U-87-41 and Special Permit
Appl. SP-87-13, KAHILI ADVENTIST SCHOOL
TO: (xx) Public Works Dept.
(xx) Water Dept.
(xx) State Health Dept.
(xx) State Highways Div.
→ **[REDACTED]** MAR 18 1987 FIRE DEP.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()

FOR YOUR COMMENTS (pertaining to your department):



The fire department comments remain the same as previously submitted to the planning department.

(As submitted on August 13, 1982 by the Fire Department:

The Fire Department has no objections to the proposed permit application provided:

1. Access roadways have all-weather driving surface of not less than 20 feet of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of the fire apparatus and having a minimum of 13 feet 6 inches of vertical clearance.
2. County approved water lines with fire hydrants having the required fire flow be located within 250 feet to all sections of the proposed buildings to be protected.
3. All buildings shall have a minimum 2-A rated ABC type of fire extinguisher mounted 4 feet from the floor near the exit.
4. Comply with all other requirements of the Kauai County Fire Code.)

Signature

Please return one (1) copy by April 2, 1987. Thank you.

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

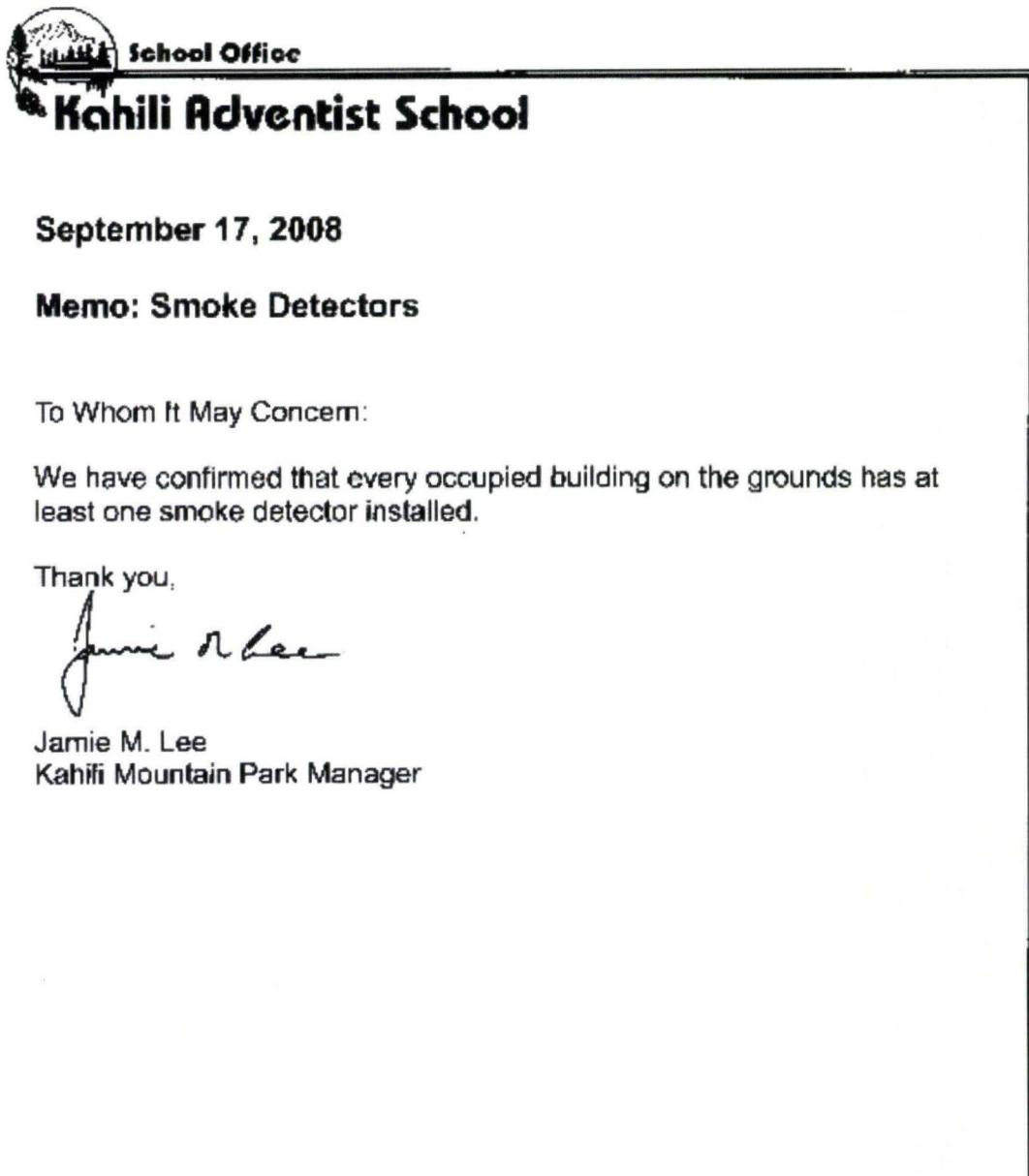
Exhibit 9

Smoke Detector Memo

&

Emergency Vehicle Access Memo

Exhibit 9—Smoke Detector Memo



MAILING ADDRESS
10000 Hwy 46
Lihue, HI 96766
SCHOOL ADDRESS
21035 Kahili Rd
Lihue, HI 96766
TELEPHONE
Phone: (808) 242-4266
Fax: (808) 242-4267
ACCREDITED BY
Western Association of Schools and Colleges
WASC

Exhibit 9—Emergency Vehicle Access Memo



Kahili Adventist School

August 29, 2008

Memo: Emergency Vehicle Access

To Whom It May Concern:

On August 14, 2008 we called 911 and requested emergency service at cabin #43. That cabin is the most remote cabin on the grounds and is at the end of our interior road.

EMT's and the fire department responded to the call. After attending to the emergency, I asked the gentlemen that responded from the fire department if they had any trouble locating the cabin or traversing our roads. They all responded saying they had no trouble finding the cabin- they had a detailed map.

They also affirmed that they had no trouble traversing our roads.

Thank you,

Jamie M. Lee
Kahili Mountain Park Manager

Mailing Address
Oahu, HI
100-1000
Street Address
100-1000, 100-1000
Telephone
100-1000, 100-1000
Fax
100-1000
Approved by
Kahili Mountain Park Manager
100-1000

Exhibit 10

Transmittal

Traffic Operational Analysis Report to

District Engineer,

Kauai Highways Division,

Department of Transportation

Kahili Adventist School
Application for Amendments to
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

COPY

**GREG KAMM
Planning & Management
P.O. BOX 1200 Koloa, Kauai, HI 96756**

FAX:(808) 742-1751 PHONE:(808) 742-1144 CELL:(808) 639-1144

May 28, 2009

Mr. Raymond J. McCormick
Acting District Highway Engineer
State of Hawaii Dept. of Transportation
Highways Division
1720 Haleukana Street
Lihue, Kauai, HI 96766

RE: Kahili Wai Street/Kaumualii Intersection Study

Dear Mr. McCormick,

As discussed in our last meeting, my client retained Wagner Engineering to study the subject intersection, to assist DOT in assessing the soon to be-requested change in your agency's recommendation relative to Kahili Mountain Park and Kahili Adventist School. After you have had a chance to review this, we intend to apply to the Planning Commission to modify this (and other) conditions of approval to better fit the actual conditions. I am sending this to you now, so you have ample time to review it.

Two copies of the study are enclosed for your use. Please contact me if you have questions. I would be happy to meet with you and invite Ron Wagner if appropriate, should you deem it necessary.

Truly yours,



Greg Kamm
encls. (2)

email cc w/o encls: Gary Johnson, Mark Valencia, Thomas Noyes

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the Petition) SP87-364
of)
SP87-364 Kahili Adventist School (Kauai)) **CERTIFICATE OF SERVICE**
)
)
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Petitioner Kahili Adventist School's Status Report; Exhibit "A" was served upon the following by either hand delivery or depositing same in the United States Mail, postage-prepaid on August 26, 2009:

Mr. Dan Davidson
Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

Abbey Meyer, Director
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Bryan C. Yee, Esq.
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

Matthew Pyun, Esq.
County of Kauai
4444 Rice Street, Suite 220
Lihue, Kauai, Hawaii 96766

Ian Costa, Director
Department of Planning
County of Kauai
4444 Rice Street, Suite A473
Lihue, Kauai, Hawaii 96766

Michael D. Tom, Esq.
Tom Petrus & Miller
1164 Bishop Street, Suite 650
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, August 26, 2009.

Mark G. Valencia

MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL



BEFORE THE LAND USE COMMISSION
STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL) ORDER REQUIRING THE FILING OF
For an Amendment To The Special Use) STATUS REPORTS
Permit Which Establishes a Church,)
School, and Related Uses on)
Approximately 195.673 acres of Land)
within the Agricultural District Koloa,)
Kauai, Tax Map Key Number: 2-7-01:03)

)

ORDER REQUIRING THE FILING OF STATUS REPORTS

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii.

AUG 26 2008

Date

by

A handwritten signature in black ink, appearing to read "Ollie".

Executive Officer



BEFORE THE LAND USE COMMISSION
STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL)
For an Amendment To The Special Use)
Permit Which Establishes a Church,)
School, and Related Uses on)
Approximately 195.673 acres of Land)
within the Agricultural District Koloa,)
Kauai, Tax Map Key Number: 2-7-01:03)
)

ORDER REQUIRING THE FILING OF STATUS REPORTS

On August 8, 2008, Kahili Adventist School provided a written status report on its compliance with the conditions of its Special Permit to the Land Use Commission (Commission) at the Commission's meeting in Honolulu, Oahu, Hawai'i, and its efforts to seek amendments to some Special Permit conditions from the County of Kauai. Mark Valencia Esq.; Greg Kamm, Greg Kamm Planning & Management; Ronald Lindsey; and Wanda Lee appeared on behalf of the Applicant. Brian Yee, Esq.; Abby Mayer; and Abe Mitsuda were also present for the State Office of Planning.

At the meeting, the applicant provided information on its efforts to work with the Kauai County Planning Department and the State Department of

Transportation to enable it to comply with some of the conditions of the Special Permit and seek amendments giving it relief from other conditions. The applicant also expressed its willingness to provide a status report when it filed its application with Kauai County for amendment of Special Permit conditions, which Applicant indicated it proposed to do within 45 to 60 days.

Following discussion by the Commissioners, a motion was made and seconded that Applicant shall file a status report with the Commission when it submits its application to the County of Kauai for amendment of Special Permit conditions, and shall file another status report with the Commission within one year of the filing of the application for amendment of conditions with Kauai County, to inform the Commission of the results of that action. Following further discussion by the Commissioners, a vote was taken on the motion. There being a vote tally of 7 ayes and 1 absent, the motion carried.

ORDER

Having duly considered the Applicant's status report, the arguments of the parties in this proceeding, and a motion having been made at a meeting conducted on August 8, 2008, in Honolulu, Oahu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, Hawai'i Administrative Rules, and there being good cause for the motion, this Commission hereby ORDERS that the Applicant

shall file with this Commission a status report describing its filing of an application for amendment of Special Permit conditions for the above-entitled docket with The County of Kauai, when the application has been filed; and shall file with the Commission within one year from the date of the filing of said application, a second status report describing the results of that filing.

Done at Honolulu, Hawai'i, this 26th day of
August, 2008, per motion on August 8, 2008.

APPROVED AS TO FORM

Diane Kanuha
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By DUANE KANUHA
DUANE KANUHA
Chair

Filed and effective on
AUG 26 2008

Certified by:

John Shinn
Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL)
For an Amendment To The Special Use)
Permit Which Establishes a Church,)
School, and Related Uses on)
Approximately 195.673 acres of Land)
within the Agricultural District Koloa,)
Kauai, Tax Map Key Number: 2-7-01:03)
)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER REQUIRING THE FILING OF STATUS REPORTS was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

DEL. ABBEY MAYER, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

BRYAN C. YEE, Esq.
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

MATTHEW PYUN, Esq.
County of Kauai
4444 Rice Street, Suite 220
Lihue, Hawaii 96766

IAN COSTA, Director
Department of Planning
County of Kauai
4444 Rice Street, Suite A473
Lihue, Hawaii 96766

CERT. MARK VALENCIA, Esq.
Case Lombardi & Pettie
Pacific Guardian Center
737 Bishop St. #2600
Honolulu, HI 96813

CERT: MICHAEL D. TOM, Esq.
Tom Petrus & Miller
1164 Bishop Street, Suite 650
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, AUG 26 2008.



ORLANDO DAVIDSON
Executive Officer

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

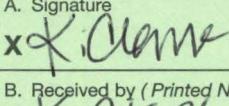
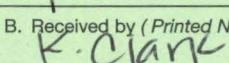
OFFICIAL USE

Postage	\$	Postmark Here
<input type="checkbox"/> Certified Fee		
<input type="checkbox"/> Return Receipt Fee (Endorsement Required)		
<input type="checkbox"/> Restricted Delivery Fee (Endorsement Required)		
Total Paid		

Sent To
 Street, A
 or PO Box
 City, State

Michael D. Tom, Esq.
 Tom Petrus & Miller
 1164 Bishop Street, Suite 650
 Honolulu, HI 96813

PS Form 3800, June 2002

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  <input type="checkbox"/> Date of Delivery 8/27/04</p> <p>C. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>Michael D. Tom, Esq. Tom Petrus & Miller 1164 Bishop Street, Suite 650 Honolulu, HI 96813</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number <i>(Transfer from service label)</i></p>		<p>7003 0500 0001 1913 8398</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

7003 0500 0001 1913 8404

**U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		

Total

Sent

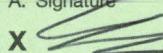
Street
or PC

City,

Mark Valencia, Esq.
Case Lombardi & Pettie
Pacific Guardian Center
737 Bishop St. #2600
Honolulu, HI 96813

Instructions

PS Form 3800, June 2002

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) Eva Puahe C. Date of Delivery 8-27-08</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>Mark Valencia, Esq. Case Lombardi & Pettie Pacific Guardian Center 737 Bishop St. #2600 Honolulu, HI 96813</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7003 0500 0001 1913 8404</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

PETITION FILED:	ATTORNEY FOR PETITIONER
PETITION ACCEPTED FOR FILING:	
DOCKET NO./PETITIONER: SP87-364 Kahili Adventist School Koloa, Kauai, Hawaii	Mark Valencia, Esq. Case Lombardi & Pettie Pacific Guardian Center 737 Bishop St. #2600 Honolulu, HI 96813 PH: 547-5400
STATE	ATTORNEY FOR STATE
Mary Lou Kobayashi Office of Planning P. O. Box 2359 Honolulu, HI 96804-2359	Bryan Yee, Esq. Deputy Attorney General Hale Auhau 425 Queen Street Honolulu, Hawaii 96813
COUNTY	ATTORNEY FOR COUNTY
Ian Costa, Director County of Kauai, Planning Department 4444 Rice Street, Suite A473 Lihue, Hawaii 96766	Lani Nakazawa, Esq. Corporation Counsel, County of Kauai 4444 Rice Street, Suite 220 Lihue, Hawaii 96766
INTERVENOR	ATTORNEY FOR LANDOWNER (Knudsen Trust)
	Michael D. Tom, Esq. Tom Petrus & Miller 1164 Bishop Street, Suite 650 Honolulu, Hawaii 96813
PUBLIC WITNESS	

DATE		Initial
	Continued from Docket No. SP 87-364 Kahili Adventist School	SM
6/14/07 and 8/30/07	Received correspondence from Michael Tom, representing the Ttrustee of Eric A. Knudsen Trust regarding petitioner not satisfying the LUC's conditions.	SM
9/13/08	Mailed the September 20, 2007 agenda for Site Visit and LUC Meeting on Kauai to the parties and mailing lists..	SM
10/30/07	Received testimony regarding Sp 87-364 Kahili Adventist School (Kauai) from Lyle Ishida, representing Eric A. Knudsen Trust.	SM
10/23/07	Mailed the November 1-2, 2007 (Oahu) meeting agenda to the parties and mailing lists..	SM

6/27/08	Received the Stats Report on Kahili Adventist School's compliance with SP No. 87-364.	
7/31/08	Mailed the November 1-2, 2007 (Oahu) meeting agenda to the parties and mailing lists.	SM

Kahili

LAND USE COMMISSION
MINUTES OF MEETING

November 1, 2007

Leiopapa A Kamehameha
4th Floor
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT: Kyle Chock
Vladimir Devens
Lisa Judge
Duane Kanuha
Normand Lezy
Ransom Piltz
Nicholas Teves
Reuben Wong

COMMISSIONERS ABSENT: Thomas Contrades

STAFF PRESENT: Anthony Ching, Executive Officer
Diane Erickson, Deputy Attorney General
Cameron Lowry, Staff Planner
Bert Saruwatari, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Wade Kersey, Audio Technician

Presiding Officer Kanuha called the meeting to order at 10:05 a.m.

ADOPTION OF MINUTES

Presiding Officer Kanuha noted that the Adoption of Minutes for October 4 and 5, 2007 would be deferred.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that the LUC would travel to Molokai on November 15-16 for the Laau Point FEIS. Mr. Ching noted that the January 2008 meetings were being proposed for the 2nd and 4th weeks of the month due to the holiday season. The proposed meeting dates would fall on January 10 and 11 and January 24 and 25.

There were no questions for Mr. Ching posed by the Commission.

Presiding Officer Kanuha reminded the Commissioners to notify Sandy of their absence, should they find a conflict in their schedule. Presiding Officer Kanuha then welcomed the two newest Commissioners, Normand Lezy and Kyle Chock.

A06-770 THE SHOPOFF GROUP, L.P. (Hawaii)

Presiding Officer Kanuha stated that this was an action meeting to consider the motion to amend The Shopoff Group, L.P.'s Final Environmental Impact Statement for the reclassification of approximately 127.94 acres of land currently in the Agricultural District to the Urban District at North Kona, Hawaii for single-family residential and affordable housing units.

Presiding Officer Kanuha noted that the LUC had received telephone communication from the County of Hawaii that they would not be making an appearance today.

APPEARANCES

Naomi Kuwaye, Esq., represented Petitioner
Jesse Souki, Esq., represented Petitioner
Lee Sichter, Belt Collins Hawaii, Ltd.
Bryan Yee, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Presiding Officer Kanuha noted that there were no public witnesses.

Ms. Kuwaye stated that the petitioner was requesting that 19 EISPN comment letters, which were not included in the FEIS accepted by the LUC, be incorporated into the FEIS. Ms. Kuwaye stated that these letters were inadvertently left out in the earlier filing of the FEIS.

Mr. Yee commented that the state had no objections.

Commissioner Wong moved to amend The Shopoff Group, L.P.'s Final Environmental Impact Statement for the reclassification of approximately 127.94 acres of land currently in the Agricultural District to the Urban District at North Kona, Hawaii as requested by the petitioner. Commissioner Piltz seconded the motion.

The Commission was polled as follows:

Ayes: Wong, Piltz, Teves, Lezy, Devens, Chock, and Kanuha.

The motion passed with 7 yes, 2 absent.

A recess break was taken at 10:15 a.m. The meeting reconvened at 10:20 a.m.

A06-763 KAPOLEI PROPERTY DEVELOPMENT, LLC (Oahu)

Presiding Officer Kanuha stated that this was an action meeting on Docket No. A06-763 Kapolei Property Development, LLC to consider the Findings of Fact, Conclusions of Law, and Decision and Order as proposed by Commissioner Teves and subsequently adopted by the Commission as its own.

APPEARANCES

Naomi Kuwaye, Esq., represented Petitioner

Jesse Souki, Esq., represented Petitioner

Lori Sunakoda, Esq., represented City & County of Honolulu, Department of Planning and Permitting

Ray Sakai, City & County of Honolulu, Department of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Mr. Yee noted that the OP withdrew their request for a LEED requirement in the decision and order for this docket.

EXECUTIVE SESSION

Commissioner Teves moved to go into executive session pursuant to § 92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities. The motion was seconded by Commissioner Piltz.

The Commission entered into executive session at 10:25 a.m.

The open meeting reconvened at 10:35 a.m.

Public Witness

1. David Arakawa

Mr. Arakawa stated that he was the Executive Director of the Land Use Research Foundation (LURF) of Hawaii. Mr. Arakawa discussed energy efficiency and the USGBC voluntary requirements. Mr. Arakawa asked that the LUC encourage the petitioner to apply Best Efforts in energy conservation.

Commissioner Wong posed questions regarding LEED silver and/or certification requirements, Green Building Council, and LURF's suggestion of a voluntary energy efficiency requirement.

Chair Judge entered the meeting at this time.

After a brief discussion, there were no further questions for Mr. Arakawa posed by the parties or the Commission.

Ms. Kuwaye stated that the Kapolei Harborside project is the last component of the overall vision of Kapolei in Campbell Estate's master plan and also a part of the City's Ewa Development Plan. Ms. Kuwaye commented that the petitioner had previously argued their objections at length to the automatic order to show cause

condition and the imposition of a mandatory LEED condition. Ms. Kuwaye added that the petitioner supports Commissioner Teves' proposed decision and order as amended at the LUC's August 9, 2007 hearing.

Ms. Sunakoda stated that the City has reviewed the order and had no objections or further comments.

Mr. Yee stated that the OP supports the order, however, they had concerns regarding the harbor operations, the airport occasional over-flights, the non-potable waterline and project connection, the drainage plan, DOT highway improvements, and the order to show cause condition to ensure timely development.

Commissioner Wong had a few questions regarding OP's withdrawal of a LEED requirement condition.

Presiding Officer Kanuha had a few questions regarding the OP's withdrawal and reassessment of a proposed mandatory compliance of conditions regarding LEED.

Commissioner Wong raised questions regarding the OP's proposed condition for an order to show cause for non-compliance, enforcement, and authority.

After a discussion, Chair Judge commented that an order to show cause condition appears to be a complicated matter and asked that Deputy Attorney General Diane Erickson address this matter at a future meeting.

Presiding Officer Kanuha noted that the Commission would continue with their formal deliberations and polled the Commissioners on their review of the record and their readiness to deliberate on the matter.

The Commission was polled as follows:

Ayes: Chock, Devens, Lezy, Piltz, Teves, Judge, Wong, and Kanuha.

A recess break was taken at 11:25 a.m. The meeting reconvened at 12:40 p.m.

Mr. Ching briefly summarized the amendments as discussed at the last meeting. Mr. Ching reviewed the findings, the 15 conclusions of law, and the 15 conditions of approval.

After a discussion, Commissioner Teves noted that on the proposed amendment to the condition regarding energy conservation measures, he proposed that condition number 15 should read as "Petitioner shall to the extent possible incorporate energy conservation and sustainable design measures, such as the standards and guidelines promulgated by the Building Industry Association of Hawaii, the U.S. Green Building Council, the Hawaii Commercial Building Guidelines for Energy Efficiency, the Guidelines for Sustainable Building Design in Hawaii, and the applicable City and County building codes, as amended, into the design and construction of the project and the structures within the petition area."

The motion was seconded by Chair Judge.

The Commission was polled as follows:

Ayes: Teves, Judge, Chock, Devens, Lezy, Piltz, Wong, and Kanuha.

The motion passed with 8 yes, 1 absent

Mr. Ching then completed the review of the proposed order and included an amendment to condition number 15.

Commissioner Teves then moved to approve the order as amended. The motion was seconded by Commissioner Devens.

The Commission was polled as follows:

Ayes: Teves, Devens, Wong, Piltz, Lezy, Judge, Chock, and Kanuha.

The motion passed with 8 yes, 1 absent.

A recess break was taken at 1:00 p.m. The meeting reconvened at 1:10 p.m.

Presiding Officer Kanuha stated that the LUC would now proceed to adopt the form of the order.

Commissioner Teves moved to adopt the form of the order for Docket No. A06-763 Kapolei Property Development. The motion was seconded by Chair Judge.

The Commission was polled as follows:

Ayes: Teves, Judge, Chock, Devens, Lezy, Piltz, Wong, and Kanuha.

The motion passed with 8 yes, 1 absent.

Commissioner Chock left the meeting at this time.

SP87-364 KAHILI ADVENTIST SCHOOL (Kauai)

Presiding Officer Kanuha stated that this was a meeting to receive a status report from the petitioner.

APPEARANCES

Mark Valencia, Esq., represented Petitioner

Ronald Lindsey, Treasurer of the Hawaii Seventh Day Adventist

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Public Witness

1. Lyle Ishida

Mr. Ishida stated that he had submitted a letter on October 30, 2007 to the LUC regarding the litigation that the applicant is involved in. Mr. Ishida then briefly summarized his letter noting that the matter is currently on appeal and would not be resolved for a while.

Mr. Valencia noted that the petitioner had no questions for Mr. Ishida.

Mr. Yee noted that the state had not seen the letter and posed a few questions regarding the judgment and the appeal.

Commissioner Wong asked whether the court decision would have any impact on the issue before the LUC.

Mr. Ishida believed that it would not impact what is before the LUC.

Commissioner Devens questioned the claim that was ruled in favor of the Church and if there was any ruling on whether or not there was a violation of the roadway requirements.

Mr. Ishida noted that the Church prevailed on the counter claim. Mr. Ishida added that there was no ruling on any violation with respect to the conditions in the decision and order of this special permit.

After a brief discussion, there were no further questions posed for Mr. Ishida by the parties or the Commission.

Petitioner's Presentation

Mr. Valencia began his presentation and provided some background on the Adventist Church and its 60-year lease with the Knudsen Trust. Mr. Valencia commented on the revenue and the dispute regarding the termination of the lease.

Mr. Lindsey commented on the Church's financial capability and framework of operations.

Mr. Yee posed questions regarding the state's primary concern of the condition of the roadway's all weather surfacing on the road leading to the school.

Presiding Officer Kanuha noted that representatives for the County of Kauai were not in appearance today.

Commissioner Piltz posed a few questions regarding the interior road improvements and whether they were built using asphalt or concrete.

After a brief discussion, Mr. Valencia requested a continuance so that the Church could conduct an evaluation of the roads and the turning lane issue.

Commissioner Devens commented that he was sympathetic to their position and financial constraints. Commissioner Devens added that as far as delaying the proceeding, he wondered whether the Church would propose something for the LUC to consider.

Mr. Valencia proposed that the LUC continue this matter, as they needed additional time to review the conditions as imposed on the Special Permit and to report

back to the LUC. Mr. Valencia added that because of the pending litigation, he would be very concerned should an order to show cause be issued by the LUC.

After some discussion, Commissioner Wong moved that this matter be deferred for 6 months to allow the permittee to file with the Kauai Planning Commission as to its appropriateness. The motion was seconded by Commissioner Piltz.

Presiding Officer Kanuha questioned the disposition of the 2003 annual report that was submitted to the County and to the LUC.

Mr. Ching noted that the special permit, in its current form, did not have a provision for an annual report and it was suggested by staff that the permittee submit an annual report and that a copy also be distributed to the County's Planning Department. The LUC is dependant on the County's Planning Department, as they are the enforcing agency.

The Commission was polled as follows:

Ayes: Wong, Piltz, Teves, Lezy, Judge, Devens, and Kanuha.

The motion passed with 7 yes, 2 absent.

The meeting adjourned at 2:10 p.m.

(Please refer to LUC Transcript of November 1, 2007 for more details on this matter.)

LAND USE COMMISSION
NOTICE OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

November 1, 2007 – 9:00 a.m.
November 2, 2007 – 8:30 a.m.

Leiopapa A Kamehameha
4th Floor
Conference Room 405
235 South Beretania Street
Honolulu, Hawaii

A G E N D A

I. CALL TO ORDER

II. ADOPTION OF MINUTES

October 4 and 5, 2007

III. TENTATIVE MEETING SCHEDULE

IV. ACTION

1. A06-770 THE SHOPOFF GROUP, L.P. (Hawaii)

To consider motion to amend The Shopoff Group, L.P.'s Final Environmental Impact Statement for the reclassification of approximately 127.94 acres of land currently in the Agricultural District to the Urban District at North Kona, Hawaii for single-family residential and affordable housing units.

2. A06-763 KAPOLEI PROPERTY DEVELOPMENT, LLC (Oahu)

Findings of Fact, Conclusions of Law, and Decision and Order

3. SP87-364 KAHILI ADVENTIST SCHOOL (Kauai)

Status report and action, if necessary.

V. ADOPTION OF FORM OF ORDER

1. A06-763 KAPOLEI PROPERTY DEVELOPMENT, LLC (Oahu)

Findings of Fact, Conclusions of Law, and Decision and Order

(over)

VI. EXECUTIVE SESSION – November 2, 2007

To consult with legal counsel pursuant to § 92-5(a)(4), HRS, on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities regarding:

- DR06-32 MARK J. BENNETT AS ATTORNEY GENERAL, STATE OF HAWAII Civil No. 07-1-1715-09 Mark J. Bennett, as Attorney General, State of Hawaii vs. Richard W. Gushman, et al;
- A89-649 LANAI RESORT PARTNERS

VII. ACTION – November 2, 2007

1. A89-649 LANAI RESORT PARTNERS

To consider:

- The Office of Planning's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order Filed April 16, 1991;
- To consider Castle & Cooke Resorts, LLC's Motion for Modification of Condition No. 10 and Dissolution of 1996 Cease and Desist Order;
- The Office of Planning's Memorandum of Law Regarding the Supreme Court's Remand;
- Intervenors Lanaians For Sensible Growth's Submission On the Question of Whether Modification of Condition Ten of the LUC's 1991 Order Is In Compliance With the Supreme Court's Remand in *Lanai Company Inc., v. Land Use Commission*, 105 Haw. 296 (2004);
- Petitioner Castle & Cooke Resorts, LLC's Memorandum Re: Effect of Granting Motion For Modification of Conditions No. 10 and Dissolution of 1996 Cease and Desist Order Upon Remand Proceedings;
- The County of Maui, Department of Planning's Memorandum of Law Regarding the Scope of the Supreme Court's Remand.

2. REVIEW OF STAFF PROPOSED ADMINISTRATIVE RULES

Adoption of staff proposed rules as Commission's proposed rules for purposes of Executive Branch review and scheduling public hearings pursuant to Chapter 91, Hawaii Revised Statutes.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS. Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.

The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai'i, 96804-2359. Some materials for these agenda items may be available on our website at <http://luc.state.hi.us>.

PUBLIC WITNESS SIGN IN SHEET

Please indicate your address if you would like to receive future notices regarding this docket.

DATE: Nov. 1, 2007
 DOCKET NO.: SP 81-364/Kahili
Adventist School

Please PRINT name	Organization	Address	Zip Code
1. <u>Lyne Shadys</u>	<u>Tom. Peters + Miller</u>	<u>1164 Bishop St. E 650; Hn., HI</u>	<u>96813</u>
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12			

TOM PETRUS & MILLER

ATTORNEYS AT LAW
A Limited Liability Law Company

Lyle M. Ishida
(808) 792-5806
lishida@tpm-hawaii.com

October 30, 2007

ORIGINAL

Mr. Anthony J.H. Ching
Executive Officer
Land Use Commission
235 South Beretania Street
Room 406
Honolulu, Hawaii 96813

LAND USE COMMISSION
STATE OF HAWAII
2007 OCT 30 A 10:37

Re: Testimony Regarding
SP87-364 Kahili Adventist School (Kauai)
Continued from September 20, 2007.

Dear Chairman, Vice-Chairman and Commissioners:

I am Lyle Ishida, and I make this testimony based on my personal knowledge. I am also an attorney for the Eric A. Knudsen Trust.

I feel compelled to provide this testimony based on disclosures made by legal counsel for the Kahili Adventist School ("KAS") at the Land Use Commission hearing on September 20, 2007 held at the Hilton Kauai Beach Resort in Lihue, Kauai. At the September 20th hearing, I was present when counsel for the KAS made representations of an on-going litigation between the Hawaiian Association of Seventh Day Adventists ("HASDA") and its landlord, the Eric A. Knudsen Trust regarding the property upon which both the KAS and the Kahili Mountain Park is located. I make this testimony to clarify those statements.

The status of the lawsuit is that the Eric A. Knudsen Trust prevailed in the lawsuit brought against it by the HASDA during which the Honorable Circuit Judge Kathleen N.A. Watanabe found the HASDA in violation of the lease because it rented the cabins at the Kahili Mountain Park to the general public. A copy of the Amended Final Judgment, filed May 21, 2007 is attached for your information.

The lease between the Eric A. Knudsen Trust and HASDA restricts rental of the cabins to members of the Seventh Day Adventists church or KAS, its faculty, administrative staff, students and employees. The lease does not permit the HASDA to rent the cabins to members of the general public, and Judge Watanabe concluded that by renting cabins to non-church or non-school persons, the HASDA was in violation of the lease. This matter is now on appeal with the Hawaii State Intermediate Court of Appeals.

Land Use Commission
October 30, 2007
Page Two

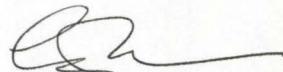
Mr. Valencia alleged that the Eric A. Knudsen Trust has brought this matter to the attention of the Land Use Commission to gain an advantage in the on-going litigation. This is not correct. The Eric A. Knudsen Trust has already prevailed in the lawsuit before Judge Watanabe, and the case is now with the appellate court.

The Eric A. Knudsen Trust is concerned, however, that conditions which were imposed upon KAS many years ago have been, and continued to be, ignored. As the landlord of this property, the Eric A. Knudsen Trust desires to assure that its tenant complies with its legal obligations to the government.

I will be in attendance at the continued hearing of this matter on November 1, 2007, and able to personally respond to any questions the Commissioners may have on this topic.

Very truly yours,

TOM PETRUS & MILLER, LLLC



Lyle M. Ishida

LMI:dim

cc: Mark Valencia, Esq.

FILED

CASE LOMBARDI & PETTIT
A LAW CORPORATION

2007 MAY 21 AM 8:29

MICHAEL R. MARSH 1327-0
JAMES M. CRIBLEY 975-0
MARK G. VALENCIA 6783-0
Pacific Guardian Center, Mauka Tower
737 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 547-5400

5TH CIRCUIT COURT
STATE OF HAWAII
D. OLIVAS

CLERK

LAW USE COMMISSION
STATE OF HAWAII

2007 OCT 30 A 10:38

Attorneys for Plaintiff
HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT

STATE OF HAWAII

HAWAIIAN ASSOCIATION OF) Civil No. 03-1-0026
SEVENTH-DAY ADVENTISTS, a Hawaii) (Declaratory Judgment)
Non-Profit Corporation,)
Plaintiff,) AMENDED FINAL JUDGMENT
vs.)
STACEY T.J. WONG, As Trustee of the)
Eric A. Knudsen Trust,)
Defendant.) The Honorable Kathleen Watanabe
)
)

AMENDED FINAL JUDGMENT

In accordance with Rules 54(b) and 58 of the Hawaii Rules of Civil Procedure, Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994), the Court enters Final Judgment in favor of, and against, Plaintiff HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS and Defendant STACEY T.J. WONG as follows:

1. Final Judgment is entered in favor of Defendant and against Plaintiff on Counts I, II, III, and IV of the Complaint, filed March 10, 2003.

I hereby certify that this is a full, correct and correct copy of the original file in this office.


Clerk, Circuit Court, Fifth Circuit

2. Final Judgment is entered in favor of Plaintiff and against Defendant on Counts I, II, III, and IV of the Counterclaim, filed April 1, 2003.
3. Count VI of the Complaint, filed April 1, 2003 is dismissed.
4. Pursuant to the Order Granting Defendant Stacey T.J. Wong's Motion for Taxation of Costs and Award of Attorneys' Fees, filed February 22, 2006, Final Judgment in the amount of \$87,476.90 is hereby entered in favor of Defendant Stacey T.J. Wong and against Plaintiff Hawaiian Association of Seventh Day Adventists. Payment of said amount shall be made within 30 days of February 22, 2006.

The Court finds that there is no just reason for delay and hereby adjudges and decrees that Final Judgment is hereby entered as to all claims in the Complaint and Counterclaim. All other claims and counterclaims not specifically identified herein are dismissed. This Final Judgment disposes of all claims as to all parties and there are no remaining claims or counterclaims.

DATED: Lihue, Hawaii, MAY 21 2007.



KATHLEEN N.A. WATANABE

JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

A handwritten signature in black ink.

MICHAEL D. TOM, ESQ.
LYLE M. ISHIDA, ESQ.
BETH ANN MADELINE, ESQ.
Attorneys for Defendant STACEY T.J.
WONG, as Trustee of the Eric A. Knudsen Trust

Mark G. Valencia

MICHAEL M. MARSH, ESQ.

JAMES M. CRIBLEY, ESQ.

MARK G. VALENCIA, ESQ.

Attorneys for Plaintiff HAWAIIAN ASSOCIATION
OF SEVENTH-DAY ADVENTISTS

HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS V. WONG, Civil No. 03-1-0026; Amended
Final Judgment

TOM PETRUS & MILLER

ATTORNEYS AT LAW
A Limited Liability Law Company

Lyle M. Ishida

(808) 792-5806

lishida@tpm-hawaii.com

October 30, 2007

Mr. Anthony J.H. Ching
Executive Officer
Land Use Commission
235 South Beretania Street
Room 406
Honolulu, Hawaii 96813

Re: Testimony Regarding
SP87-364 Kahili Adventist School (Kauai)
Continued from September 20, 2007.

LAND USE COMMISSION
STATE OF HAWAII
200 OCT 30 A 10:38

Dear Chairman, Vice-Chairman and Commissioners:

I am Lyle Ishida, and I make this testimony based on my personal knowledge. I am also an attorney for the Eric A. Knudsen Trust.

I feel compelled to provide this testimony based on disclosures made by legal counsel for the Kahili Adventist School (“KAS”) at the Land Use Commission hearing on September 20, 2007 held at the Hilton Kauai Beach Resort in Lihue, Kauai. At the September 20th hearing, I was present when counsel for the KAS made representations of an on-going litigation between the Hawaiian Association of Seventh Day Adventists (“HASDA”) and its landlord, the Eric A. Knudsen Trust regarding the property upon which both the KAS and the Kahili Mountain Park is located. I make this testimony to clarify those statements.

The status of the lawsuit is that the Eric A. Knudsen Trust prevailed in the lawsuit brought against it by the HASDA during which the Honorable Circuit Judge Kathleen N.A. Watanabe found the HASDA in violation of the lease because it rented the cabins at the Kahili Mountain Park to the general public. A copy of the Amended Final Judgment, filed May 21, 2007 is attached for your information.

The lease between the Eric A. Knudsen Trust and HASDA restricts rental of the cabins to members of the Seventh Day Adventists church or KAS, its faculty, administrative staff, students and employees. The lease does not permit the HASDA to rent the cabins to members of the general public, and Judge Watanabe concluded that by renting cabins to non-church or non-school persons, the HASDA was in violation of the lease. This matter is now on appeal with the Hawaii State Intermediate Court of Appeals.

Land Use Commission
October 30, 2007
Page Two

Mr. Valencia alleged that the Eric A. Knudsen Trust has brought this matter to the attention of the Land Use Commission to gain an advantage in the on-going litigation. This is not correct. The Eric A. Knudsen Trust has already prevailed in the lawsuit before Judge Watanabe, and the case is now with the appellate court.

The Eric A. Knudsen Trust is concerned, however, that conditions which were imposed upon KAS many years ago have been, and continued to be, ignored. As the landlord of this property, the Eric A. Knudsen Trust desires to assure that its tenant complies with its legal obligations to the government.

I will be in attendance at the continued hearing of this matter on November 1, 2007, and able to personally respond to any questions the Commissioners may have on this topic.

Very truly yours,

TOM PETRUS & MILLER, LLLC



Lyle M. Ishida

LMI:dim

cc: Mark Valencia, Esq.

FILED

CASE LOMBARDI & PETTIT
A LAW CORPORATION

2007 MAY 21 AM 8:29

MICHAEL R. MARSH 1327-0
JAMES M. CRIBLEY 975-0
MARK G. VALENCIA 6783-0
Pacific Guardian Center, Mauka Tower
737 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 547-5400

5TH CIRCUIT COURT
STATE OF HAWAII
D. OLIVAS

CLERK

Attorneys for Plaintiff
HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT

STATE OF HAWAII

HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS, a Hawaii Non-Profit Corporation,) Civil No. 03-1-0026
) (Declaratory Judgment)
)
Plaintiff,) AMENDED FINAL JUDGMENT
vs.)
STACEY T.J. WONG, As Trustee of the Eric A. Knudsen Trust,)
)
) The Honorable Kathleen Watanabe
Defendant.)
)

AMENDED FINAL JUDGMENT

In accordance with Rules 54(b) and 58 of the Hawaii Rules of Civil Procedure, Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994), the Court enters Final Judgment in favor of, and against, Plaintiff HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS and Defendant STACEY T.J. WONG as follows:

1. Final Judgment is entered in favor of Defendant and against Plaintiff on Counts I, II, III, and IV of the Complaint, filed March 10, 2003.

I hereby certify that this is a full, true and correct copy of the original to file in this office.


Clerk, Circuit Court, Fifth Circuit

2. Final Judgment is entered in favor of Plaintiff and against Defendant on Counts I, II, III, and IV of the Counterclaim, filed April 1, 2003.
3. Count VI of the Complaint, filed April 1, 2003 is dismissed.
4. Pursuant to the Order Granting Defendant Stacey T.J. Wong's Motion for Taxation of Costs and Award of Attorneys' Fees, filed February 22, 2006, Final Judgment in the amount of \$87,476.90 is hereby entered in favor of Defendant Stacey T.J. Wong and against Plaintiff Hawaiian Association of Seventh Day Adventists. Payment of said amount shall be made within 30 days of February 22, 2006.

The Court finds that there is no just reason for delay and hereby adjudges and decrees that Final Judgment is hereby entered as to all claims in the Complaint and Counterclaim. All other claims and counterclaims not specifically identified herein are dismissed. This Final Judgment disposes of all claims as to all parties and there are no remaining claims or counterclaims.

DATED: Lihue, Hawaii, MAY 21 2007.



KATHLEEN N.A. WATANABE

JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

A handwritten signature in black ink.

MICHAEL D. TOM, ESQ.
LYLE M. ISHIDA, ESQ.
BETH ANN MADELINE, ESQ.
Attorneys for Defendant STACEY T.J.
WONG, as Trustee of the Eric A. Knudsen Trust

Mark G. Valencia

MICHAEL M. MARSH, ESQ.

JAMES M. CRIBLEY, ESQ.

MARK G. VALENCIA, ESQ.

Attorneys for Plaintiff HAWAIIAN ASSOCIATION
OF SEVENTH-DAY ADVENTISTS

HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS V. WONG, Civil No. 03-1-0026; Amended
Final Judgment

TOM PETRUS & MILLER

ATTORNEYS AT LAW
A Limited Liability Law Company

Lyle M. Ishida

(808) 792-5806

lishida@tpm-hawaii.com

October 30, 2007

Mr. Anthony J.H. Ching
Executive Officer
Land Use Commission
235 South Beretania Street
Room 406
Honolulu, Hawaii 96813

LAND USE COMMISSION
STATE OF HAWAII
2007 OCT 30 A 10:38

Re: Testimony Regarding
SP87-364 Kahili Adventist School (Kauai)
Continued from September 20, 2007.

Dear Chairman, Vice-Chairman and Commissioners:

I am Lyle Ishida, and I make this testimony based on my personal knowledge. I am also an attorney for the Eric A. Knudsen Trust.

I feel compelled to provide this testimony based on disclosures made by legal counsel for the Kahili Adventist School (“KAS”) at the Land Use Commission hearing on September 20, 2007 held at the Hilton Kauai Beach Resort in Lihue, Kauai. At the September 20th hearing, I was present when counsel for the KAS made representations of an on-going litigation between the Hawaiian Association of Seventh Day Adventists (“HASDA”) and its landlord, the Eric A. Knudsen Trust regarding the property upon which both the KAS and the Kahili Mountain Park is located. I make this testimony to clarify those statements.

The status of the lawsuit is that the Eric A. Knudsen Trust prevailed in the lawsuit brought against it by the HASDA during which the Honorable Circuit Judge Kathleen N.A. Watanabe found the HASDA in violation of the lease because it rented the cabins at the Kahili Mountain Park to the general public. A copy of the Amended Final Judgment, filed May 21, 2007 is attached for your information.

The lease between the Eric A. Knudsen Trust and HASDA restricts rental of the cabins to members of the Seventh Day Adventists church or KAS, its faculty, administrative staff, students and employees. The lease does not permit the HASDA to rent the cabins to members of the general public, and Judge Watanabe concluded that by renting cabins to non-church or non-school persons, the HASDA was in violation of the lease. This matter is now on appeal with the Hawaii State Intermediate Court of Appeals.

Land Use Commission

October 30, 2007

Page Two

Mr. Valencia alleged that the Eric A. Knudsen Trust has brought this matter to the attention of the Land Use Commission to gain an advantage in the on-going litigation. This is not correct. The Eric A. Knudsen Trust has already prevailed in the lawsuit before Judge Watanabe, and the case is now with the appellate court.

The Eric A. Knudsen Trust is concerned, however, that conditions which were imposed upon KAS many years ago have been, and continued to be, ignored. As the landlord of this property, the Eric A. Knudsen Trust desires to assure that its tenant complies with its legal obligations to the government.

I will be in attendance at the continued hearing of this matter on November 1, 2007, and able to personally respond to any questions the Commissioners may have on this topic.

Very truly yours,

TOM PETRUS & MILLER, LLLC



Lyle M. Ishida

LMI:dim

cc: Mark Valencia, Esq.

FILED
1974

CASE LOMBARDI & PETTIT
A LAW CORPORATION

2007 MAY 21 AM 8:29

MICHAEL R. MARSH 1327-0
JAMES M. CRIBLEY 975-0
MARK G. VALENCIA 6783-0
Pacific Guardian Center, Mauka Tower
737 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 547-5400

5TH CIRCUIT COURT
STATE OF HAWAII
D. OLIVAS

CLERK

Atorneys for Plaintiff
HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT

STATE OF HAWAII

HAWAIIAN ASSOCIATION OF) Civil No. 03-1-0026
SEVENTH-DAY ADVENTISTS, a Hawaii) (Declaratory Judgment)
Non-Profit Corporation,)
Plaintiff,) AMENDED FINAL JUDGMENT
vs.)
STACEY T.J. WONG, As Trustee of the)
Eric A. Knudsen Trust,)
Defendant.) The Honorable Kathleen Watanabe
)

AMENDED FINAL JUDGMENT

In accordance with Rules 54(b) and 58 of the Hawaii Rules of Civil Procedure, Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994), the Court enters Final Judgment in favor of, and against, Plaintiff HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS and Defendant STACEY T.J. WONG as follows:

1. Final Judgment is entered in favor of Defendant and against Plaintiff on Counts I, II, III, and IV of the Complaint, filed March 10, 2003.

I hereby certify that this is a full, true and correct copy of the original file in this office.

Clerk, Circuit Court, Fifth Circuit

2. Final Judgment is entered in favor of Plaintiff and against Defendant on Counts I, II, III, and IV of the Counterclaim, filed April 1, 2003.
3. Count VI of the Complaint, filed April 1, 2003 is dismissed.
4. Pursuant to the Order Granting Defendant Stacey T.J. Wong's Motion for Taxation of Costs and Award of Attorneys' Fees, filed February 22, 2006, Final Judgment in the amount of \$87,476.90 is hereby entered in favor of Defendant Stacey T.J. Wong and against Plaintiff Hawaiian Association of Seventh Day Adventists. Payment of said amount shall be made within 30 days of February 22, 2006.

The Court finds that there is no just reason for delay and hereby adjudges and decrees that Final Judgment is hereby entered as to all claims in the Complaint and Counterclaim. All other claims and counterclaims not specifically identified herein are dismissed. This Final Judgment disposes of all claims as to all parties and there are no remaining claims or counterclaims.

DATED: Lihue, Hawaii, MAY 21 2007.



KATHLEEN N.A. WATANABE

JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Michael D. Tom".

MICHAEL D. TOM, ESQ.
LYLE M. ISHIDA, ESQ.
BETH ANN MADELINE, ESQ.
Attorneys for Defendant STACEY T.J.
WONG, as Trustee of the Eric A. Knudsen Trust

Mark G. Valencia

MICHAEL M. MARSH, ESQ.

JAMES M. CRIBLEY, ESQ.

MARK G. VALENCIA, ESQ.

Attorneys for Plaintiff HAWAIIAN ASSOCIATION
OF SEVENTH-DAY ADVENTISTS

HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS V. WONG, Civil No. 03-1-0026; Amended
Final Judgment

LAND USE COMMISSION
MINUTES OF MEETING

September 20, 2007

Hilton Kauai Beach Resort
4331 Kauai Beach Drive
Lihue, Kauai, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades
Vladimir Paul Devens
Duane Kanuha
Ransom Piltz
Reuben Wong

COMMISSIONERS ABSENT: Lisa Judge
Nicholas Teves, Jr.

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony Ching, Executive Officer
Cameron Lowry, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Presiding Officer Kanuha called the meeting to order at 11:40 a.m.

SP05-399 KAUAI ATV, LLC (Kauai)

Presiding Officer Kanuha stated that this was an Order to Show Cause hearing of the Land Use Commission on Docket No. SP05-399 Kauai ATV, LLC (Kauai).

APPEARANCES

Walton Hong, Esq., represented Petitioner
Marleny Cotrim, Kauai ATV
James Tagupa, Esq., Deputy Corporation Counsel, County of Kauai
Michael Laureta, County of Kauai, Department of Planning

Presiding Officer Kanuha noted that the State Office of Planning was not a party to this special permit proceeding.

Public Witness

1. Cheryl Lovell-Obatake

Ms. Lovell-Obatake stated that she is a member of the Nawiliwili Bay Watershed Council and commented on her concerns regarding the depreciation of water in the area. Ms. Lovell-Obatake recommended that an investigation be conducted that involves a cultural impact assessment because the project encompasses a large portion of property.

There were no questions posed for Ms. Lovell-Obatake by the parties or the Commission.

2. David Whatmore

Mr. Whatmore stated that he has read the transcripts of the meetings and noted that he was not aware that the LUC had made a decision to narrowly limit discussion of the OSC hearing to the stairway. Mr. Whatmore added that a lot of the other issues were brought up before this motion and believed that all issues should be wrapped up together towards a decision.

There were no questions posed for Mr. Whatmore by the parties or the Commission.

Petitioner's Witness

1. Marleny Cotrim

Ms. Cotrim stated that she is the manager of Kauai ATV and was presenting testimony on behalf of her father, Olegario Rivera, due to a potential language difficulty. Ms. Cotrim stated that the stairway was built initially for their tours to have a safe passage and a viewing point. Ms. Cotrim noted that they understood that they were in error in building the stairway without permits and added that this was not done maliciously. Ms. Cotrim added that they have since removed the staircase and has done everything necessary to rectify the problem. Ms. Cotrim noted that Kauai

ATV has made a commitment to their employees, who depend on the business as a source of income for 50 families.

Mr. Tagupa asked how many footings had been left in the ground.

Ms. Cotrim stated that there were approximately 2-3 footings left, which are 24 inches into the ground. Ms. Cotrim added that should the county ~~request the removal~~ of these footings, then Kauai ATV is willing to remove them.

There were no further questions posed ~~for~~ Ms. Cotrim by the parties or the Commission.

Mr. Tagupa clarified whether the only issue for today is the offending structure and that the LUC would not consider anything other than the alleged violation.

Presiding Officer Kanuha replied that this was correct.

Mr. Tagupa noted that the county's position is that they believed that since Kauai ATV has removed the offending structure, the county had nothing further on this matter.

Commissioner Wong asked if the stairways would have violated any county ordinance and if the county was ever aware of this before the LUC.

Mr. Tagupa stated that the structure would have been a violation as a building permit would have been required. However, the county was not aware of this until it was brought to the attention of this Commission. The county could have enforced it, but took no action in this matter.

County's Witness

1. Michael Laureta

Mr. Laureta stated that he is employed at the county's Planning Department. Mr. Laureta stated that the applicant came to the department after the last LUC meeting and the county had recommended the removal of the illegal structure. Mr. Laureta noted that the county also recommended that the applicant contact the State Historical Preservation Division.

Commissioner Wong noted that the county could have issued a citation to compel the landowner to remove the stairs, then this matter would not have come before the LUC.

Mr. Laureta stated that this matter could possibly have been handled on the county level. Mr. Loreda added that the applicant could have also came in for an after the fact permit which also could have resolved the problem.

Mr. Hong posed questions related to the practice of the county upon receiving notification of a potential violation and the conducting of field inspections. Mr. Hong asked if the county was satisfied with the voluntary removal of the staircase in this matter.

Mr. Laureta replied in the affirmative.

Commissioner Contrades commented that he had attended the site visit and was satisfied with the removal of the staircase. Based upon the information that had been presented, it appeared that the un-permitted stairway has been removed. There does not appear to be any un-permitted activity and that there is insufficient evidence at this time to show that petitioner has failed to comply with the conditions imposed or the representations of the petitioner. Therefore, Commissioner Contrades moved that the Order to Show Cause hearing be dismissed. The motion was seconded by Commissioner Devens.

Commissioner Wong commented that this matter should have never come before the LUC. As the enforcing agency, the county should have had the power for the removal of the staircase.

The Commission was polled as follows:

Ayes: Contrades, Devens, Wong, Piltz, and Kanuha.

The motion passed with 5 yes, 2 absent.

A recess break was taken at 12:10 p.m. The meeting reconvened at 12:15 p.m.

SP87-364 KAHILI ADVENTIST SCHOOL (Kauai)

Presiding Officer Kanuha stated that this was a meeting on Docket No. SP87-364 Kahili Adventist School to receive a status report.

APPEARANCES

Mark Valencia, Esq. represented Petitioner

James Tagupa, Esq., Deputy Corporation Counsel, county of Kauai

Michael Laureta, county of Kauai, Department of Planning

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Mr. Lyle Ishida stated that he was appearing today on behalf of Mr. Tom, who represents the owners of the property, the Knudsen Trust.

Presiding Officer Kanuha stated that although Mr. Ishida was representing Mr. Tom, Mr. Tom or his client was not a party to this proceeding.

Public Witness

1. Steve Kiyono

Mr. Kiyono stated that he was the District Engineer of the State's DOT Highways on Kauai. Mr. Kiyono stated that he was representing the agency and noted their concerns regarding the conditions imposed at the time of the approval for this docket that were not fulfilled. Mr. Kiyono noted their concerns regarding the left turn lanes, acceleration and deceleration lanes, runoff onto the highway, and the ponding of water in a depression along the shoulder, makai of the school's roadway entrance, that creates a safety hazard.

Mr. Valencia stated that the petitioner is requesting a continuance since many of the petitioner's employers were recently hired and lacked any historical background. Mr. Valencia had no questions for Mr. Kiyono.

Mr. Tagupa stated that the county had no questions for the petitioner.

Mr. Yee wondered if these issues were ever raised with the owners of the property.

Mr. Kiyono stated that the concern of the runoff has been brought to their attention.

Commissioner Wong posed questions regarding the landowner and/or the state's jurisdiction to prevent the runoff onto the highway, and the left turn movements that create a depression from vehicles turning to access the school's roadway.

Commissioner Wong commented that rather than have the LUC correct these concerns, why could or could not the DOT enforce these improprieties.

Mr. Kiyono stated that the essence of his testimony was that the conditions have not been fulfilled and that it was the LUC who had imposed these conditions.

Commissioner Piltz commented that the D&O was passed in 1987 and stated that there should be some improvements made. Commissioner Piltz questioned if the issues that were described were the matters that the DOT wants to see addressed.

Mr. Kiyono replied in the affirmative and added that all they are asking for is that the petitioner do what they were compelled to do by the Commission's order.

Presiding Officer Kanuha asked whether the improvements to the interior roadway and the highway were done at the time of the approval, would the DOT have these problems as seen today.

Mr. Kiyono replied that the concerns would have been alleviated. Mr. Kiyono added that the depression is at a level where it constitutes a public health and safety hazard. Remediation would be to fill that hole with proper backfill material. The depressions have deteriorated and progressively worn over time. This situation is caused by vehicles going around other vehicles who are waiting to turn left onto the property rather than from runoff and/or drainage issues related to the access road.

Commissioner Wong posed questions related to the depression and wondered if this problem should be resolved by the government or the private landowner.

Mr. Kiyono stated that it usually is the landowner's responsibility to resolve the problem and it is handled through the land use process. It is highly unlikely for the DOT to improve a private roadway. Mr. Kiyono added that the essence of his

testimony was that the petitioner came before the LUC to ask for an approval and in the normal course of action, the LUC asked for reviews. As a part of the review process, the DOT had made some recommendations. Today, the DOT is asking that the petitioner comply with these conditions of approval.

Commissioner Devens questioned whether there were any short term remedies discussed with the land owners or the school to address these safety problems.

Mr. Kiyono stated that they had met with the owner's trustee who had assured him that they would do what they need to do with their lands.

Petitioner's Presentation

Mr. Valencia requested that the status report be continued to another meeting due to a large turnover with the school and with the Hawaii Seventh Day Adventist. They have a new principal, park manager, and superintendent of education. Mr. Valencia noted that the school and the landowner are in active litigation and asked that the LUC be sensitive to the matter and also allow the time needed to consult with the county and the DOT because the petitioner had not been aware of these complaints.

Mr. Tagupa stated that the county had no objections to the continuance.

Mr. Yee commented that although the applicant has not complied to the conditions of their permit, the state had no objections for a continuance.

A recess break was taken at 12:50 p.m. The meeting reconvened at 12:55 p.m.

Presiding Officer Kanuha asked the length of time that the petitioner was requesting for continuance.

Mr. Valencia stated that the person with the most institutional knowledge is on the mainland receiving medical treatment and would return at the end of next month. Mr. Valencia added that they would be ready in November.

Presiding Officer Kanuha commented that based on that timeframe, he was inclined to grant the continuance.

Commissioner Wong asked whether the issues raised today by the DOT were items of discussion in the lawsuit.

Mr. Valencia commented that the roadway was not a subject of litigation, however, the failure of the school to comply with the conditions of the special permit is a basis of termination for the lease. That issue is on appeal.

Commissioner Contrades commented that the LUC approved this docket with conditions at the request of the County's Planning Commission. Commissioner Contrades stated that these issues were before the county and should have gone to the county, not before the LUC. Commissioner Contrades then moved to grant the request of the petitioner and continue the status report on the island of Kauai.

Presiding Officer Kanuha noted that there is no motion needed and granted a continuance until November of this year.

The meeting adjourned at 1:00 p.m.

(Please refer to LUC Transcript of September 20, 2007 for more details on this matter.)

LAND USE COMMISSION
NOTICE OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

September 20, 2007

Site Visit - 10:00 a.m.
Meeting - 11:30 a.m.

Hilton Kauai Beach Resort
4331 Kauai Beach Drive
Lihue, Kauai, Hawaii

A G E N D A

I. SITE VISIT – 10:00 a.m.

1. SP87-364 KAHILI ADVENTIST SCHOOL (Kauai)

Meet at 2-4035 Kaumualii Highway, Koloa, Hawaii 96756

II CALL TO ORDER – 11:30 a.m.

III. CONTINUED HEARING AND ACTION

1. SP05-399 KAUAI ATV, LLC (Kauai)
Order to Show Cause.

IV. ACTION

1. SP87-364 KAHILI ADVENTIST SCHOOL (Kauai)
Status report and action, if necessary.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.

The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai'i, 96804-2359.
Some materials for these agenda items may be available on our website at <http://luc.state.hi.us>.

LAND USE COMMISSION - FIELD TRIP
SIGN IN SHEET

Name

Address

Organization

Bryan Yee		DP
VLAD DEVENIS		LUC
Randy Pittz		LUC
DAWNE KAMURA		MC
Reuben Flores		LUC
Abe Mitsuda		OP.
Lyle Ishida	1164 Bishop St. #650 Honolulu, HI 96813	TON, PERIODS & MEAN - at the first Street Wong Justice
Terry Lee Setzer	2728 Pali Hwy Honolulu	Hawaii Park
James Tagupa		Office of Governor ATTY.
Dennis O. Miller, Jr.	Po Box 298 Koloa HI	Ayakaliki Mtn Park
Mark G. Valencia	Pacific Guardian Center 737 Bishop St, Suite 2600 Honolulu 96813	Case Lombardi & Pettit (School/Parc Atty)

PUBLIC WITNESS SIGN IN SHEET

Please indicate your address if you would like to receive future notices regarding this docket.

DATE: Sept. 20, 2007

DOCKET NO.: Kahili Adventist
School Status Report

Please PRINT name	Organization	Address	Zip Code
1. <u>Stalen Kyono</u>	<u>State DOT - Hwy</u>	<u>1720 Haleukana St. Lihue, HI 96761</u>	<u>96765-</u>
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12			

TOM PETRUS & MILLER

ATTORNEYS AT LAW
A Limited Liability Law Company

LAND USE COMMISSION
STATE OF HAWAII

2007 AUG 31 P 12:23

Michael D. Tom
808.792.5802
mtom@tpm-hawaii.com

August 30, 2007

Anthony Ching
Executive Director
Land Use Commission
State of Hawaii
Box 2359
Honolulu, Hawaii 96804-2359

Re: Kahili Adventist School
Docket No. SP87-364

Dear Mr. Ching:

As we indicated in our letter of June 14, 2007, we represent Stacey T. J. Wong, as Trustee of the Eric A. Knudsen Trust. The Trust is the lessor of the property upon which the Kahili Adventist School, the Petitioner in the above referenced matter, is located.

Our earlier letter enclosed a Findings of Fact, Conclusion of Law and Decision and Order dated August 13, 1987 and another Findings of Fact, Conclusion of Law and Decision and Order dated July 17, 1990 and pointed out that both Decisions and Orders contain a number of requirements for the Petitioner to satisfy within a period of time after they were issued.

We requested verification that the Petitioner was complying with all of the requirements of the Decisions and Orders. Please advise if there has been verification of compliance.

Very truly yours,

TOM PETRUS & MILLER, LLLC

Michael D. Tom

TOM PETRUS & MILLER

ATTORNEYS AT LAW
A Limited Liability Law Company

*Carol pls add
for next mtg
LAND USE COMMISSION
W/Diane
HAWAII*

2001 JUN 15 A 9:39

Michael D. Tom
808.792.5802
mtom@tpm-hawaii.com

June 14, 2007

Anthony Ching
Executive Director
Land Use Commission
State of Hawaii
Box 2359
Honolulu, Hawaii 96804-2359

Re: Kahili Adventist School
Docket No. SP87-364

Dear Mr. Ching:

We represent Stacey T. J. Wong, as Trustee of the Eric A. Knudsen Trust. The Trust is the lessor of the property upon which the Kahili Adventist School, the Petitioner in the above referenced matter, is located.

I am enclosing a Findings of Fact, Conclusion of Law and Decision and Order dated August 13, 1987 and another Findings of Fact, Conclusion of Law and Decision and Order dated July 17, 1990.

Both Decisions and Orders contain a number of requirements for the Petitioner to satisfy within a period of time after they were issued. In particular, the interior roadways were to be asphalt concrete or concrete by 1993. We understand that the existing interior roadways have never been paved.

Both Decisions and Orders require that the access road from Kaumualii Highway to the school be of an all weather surface by 1993. We do not know whether the access road in its current condition complies with this requirement.

Both Decisions and Orders likewise require that improvements required by the Highways Division of the State Department of Transportation be provided by 1993. The 1987 Decision and Order noted that the Department wanted left turn storage lanes on Kaumualii Highway, acceleration and deceleration lanes and street lights to be provided. We understand that the Department of Transportation would like the storage, acceleration and deceleration lanes installed.

Anthony Ching
June 14, 2007
Page 2

The purpose for the development was to establish a church, school and related uses. The Decisions and Orders mandated that the Petitioner submit proof to the Kauai Planning Department that a work study program was being provided each school year.

We request that you verify that the Petitioner is complying with all of the requirements of the Decisions and Orders. Please call me if you have any questions.

Very truly yours,

TOM PETRUS & MILLER, LLLC



Michael D. Tom

Enclosure

cc: Stacey Wong without enclosure

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KAHILI ADVENTIST SCHOOL)
For a Special Permit to Establish)
a Church, School and Related Uses)
on Approximately 197.463 acres)
of Land within the Agricultural)
District Koloa, Kauai, Tax Map Key)
Number: 2-7-01: parcel 3)

DOCKET NO. SP87-364

KAHILI ADVENTIST SCHOOL

This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.

AUG 13 1987 by Robert L. Beck
Date Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII

AUG 13 2 1987

L 00085

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL) KAHILI ADVENTIST SCHOOL
For a Special Permit to Establish)
a Church, School and Related Uses)
on Approximately 197.463 acres)
of Land within the Agricultural)
District Koloa, Kauai, Tax Map Key)
Number: 2-7-01: parcel 3)
)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Kahili Adventist School (hereinafter "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. The Petitioner filed the Special Permit application with the County of Kauai Planning Department (the "Planning Department") on March 18, 1987. The Kauai Planning Commission conducted the public hearing on May 13, 1987. No public testimony was presented at the hearing.

2. On May 27, 1987, the Kauai Planning Commission recommended approval of the Special Permit with eight conditions. A copy of the decision together with the Special Permit record of the proceeding before the Kauai Planning Commission was received by the Commission on June 4, 1987.

Description of Property

3. The proposed site, including the access road from Kaumualii Highway, is located within the State Land Use Agricultural District at Koloa, Kauai, Tax Map Key Number 2-7-01: parcel 3 (formerly known as TMK: 2-7-01: portion of parcel 1), consisting of approximately 197.463 acres (hereinafter referred to as the "Property"). According to the State of Hawaii tax map printed on June 8, 1987, and the Commission's Official Map K-8 Koloa, it appears that approximately 1.79 acres of the Property is designated within the State Land Use Conservation District.

4. The Property is owned by Augustus F. Knudsen Trust and Eric A. Knudsen Trust. Hawaii Association of the Seventh-day Adventist is the lessee.

5. The Property, also known as Kahili Mountain Park, is situated in Knudsen Gap about one mile mauka of Kaumualii Highway and abuts the Lihue-Koloa Forest Reserve. The Property currently contains 36 structures and cabins under construction. Fifty percent of the Property is in pasture or building use and the remaining balance consists of steep slope and gully land overgrown with natural vegetation.

6. Except for the forest reserve area to the north, the Property is surrounded by sugarcane cultivation.

7. Soils on the Property are classified by the U.S. Soil Conservation service as Lawai Silty Clay 0-25% slopes.

8. The Land Study Bureau's Agriculture Master Productivity Rating System rates the Property as "C", "D", and "E" ("E" being the lowest rating).

Previous Special Permits Approved for the Property

9. On December 15, 1967, the Commission approved Special Permit No. 67-48 to Kahili Mountain Park, Inc. for approximately 150 acres of land to develop a camping-recreational area and facilities building subject to five conditions.

10. On September 22, 1975, the Commission approved Special Permit No. 75-214 to Kahili Mountain Park, Inc. to expand the existing camp to add 20 two-bedroom, one-bath cabins with kitchenettes and other structures on portions of the 215 acre property subject to four conditions.

11. On December 14, 1983, the Kauai Planning Commission approved Special Permit No. SP83-1 to the Hawaiian Association of Seventh-Day Adventist to relocate the Kauai Adventist School and church from its Omao site to the Kahili Mountain Park subject to 8 conditions. The area approved was approximately 14.97 acres.

Summary of Proposed Use

12. Petitioner is requesting the Special Permit to allow the establishment of a school and church use.

Petitioner's Masterplan (Exhibit G) includes the following uses and facilities::

- 1) Elementary school and playground
- 2) Intermediate school
- 3) Administration/library
- 4) High school/academy
- 5) Junior college
- 6) Student dormitories
- 7) Faculty, staff and retirement homes
- 8) Gymnasium/swimming pool
- 9) Cafeteria/bakery
- 10) Maintenance shops/vocational training/laundry
- 11) Retirement/health conditioning center
- 12) Health museum; conditioning, physical/spiritual retreat areas
- 13) Chapel
- 14) Existing and new cabins
- 15) Lodge (retreat pavillion)
- 16) Furo
- 17) Retreat office/lecture rooms
- 18) Retreat cabins
- 19) Agricultural maintenance, greenhouse and sales
- 20) Parking areas

- 21) Sewage disposal facilities
- 22) Access and interior road improvements
- 23) Water transmission improvements
- 24) Expanded telephone system
- 25) Propane gas storage

13. More specifically, petitioner's masterplan (Exhibit G) reflects a total of 53 housing units, which are either existing and proposed (14 faculty housing units and 39 existing or proposed cabins).

14. Petitioner indicates its goal is to relocate its entire school facility (Kauai Adventist School, grade 1 thru 10), from its present Omao site to the Property. Petitioner proposes to expand its educational facilities and develop an agricultural and work-study program, and a spiritual retreat center, health conditioning center, and health museum to further work study opportunities.

15. Petitioner proposes to provide access to the Property from Kaumualii Highway over a 30-foot wide crushed cinder, coral, and dirt cane haul roadway.

16. Petitioner will provide water from the existing private water system. Petitioner states that with improvements, this system is adequate to accommodate water requirements.

17. All structures are wired for electricity for lighting and outlets. Power is presently supplied by Kauai Electric.

18. Individual gas cylinders and bulk tank storage provide propane gas, serviced by Gasco, Inc.

19. A single telephone line is provided by Hawaiian Telephone company at this time, but an expanded phone system is being designed by Hawaiian Telephone and will be installed.

20. Petitioner's tentative development timetable indicates that relocation of the present school facility (grades 1 through 10) would be completed by September 1987; the agriculture work study program would be implemented by September 1987 and the expansion of the school program (K through 12, Phase II) would be implemented 2 to 5 years from the start of Phase I.

State and County Plans and Programs

21. The Property is located within the State Land Use Agricultural and Conservation Districts as indicated on K-8 Koloa of the Land Use District Boundaries Map and the State Tax Map 2-7-01 for the Island of Kauai.

22. The Kauai County General Plan designation for the Property is Agriculture. The Property is zoned Agriculture/Open.

Summary of Major Concerns

23. The State Department of Health indicated that the proposed use may have an impact on Grove Farm's drinking water due to agricultural activities that require pesticides application; sewage disposal by individual cesspools may

adversely impact groundwater in the area, and potable water should be made available to the proposed development.

24. The State Department of Transportation stated that left turn storage lanes on Kaumualii Highway, acceleration and deceleration lanes and street lights should be provided.

25. The County Department of Public Works pointed out that access to the school site does not meet county standards and that drainage and flood studies should be made and buildings located away from the 100-year flood inundation limits.

Conformance With Special Permit Tests

26. The proposed school and church-related use of the Property is not considered contrary to the objectives sought to be accomplished by the Land Use Law since agriculture through work study programs will be emphasized within the school curriculum. Inasmuch as the school and church related improvements are dispersed throughout the parcel, a predominant portion will be utilized for agricultural uses.

27. The proposed development contains uses permissible in and compatible to the Agricultural District.

28. The school and church-related uses of the Property will not adversely affect the surrounding sugarcane operations of McBryde Sugar Company.

29. The development of the Property will not unreasonably burden public agencies to provide roads and

streets, sewers, water, drainage, and school improvements, and police and fire protection. Petitioner will be responsible for infrastructure improvements required by the State Highways Division, State Health Department, and County Public Works, Water, Fire and Planning Departments.

30. No unusual conditions have arisen since the district boundaries were established. However, the proposed use in conjunction with an agriculture work-study program can ensure that an educational base to encourage agriculture exists.

Planning Commission Recommendations

31. At its meeting held on May 27, 1987, the Planning Commission recommended approval of the Special Permit, subject to the following conditions:

"1. Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

"2. The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.

- "3. The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.
- "4. As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.
- "5. Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.
- "6. The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.
- "7. Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.
- "8. The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect and encourage development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that Special Permit Docket Number 87-364 filed by Kahili Adventist School to establish a church, school and related uses on a portion of the Property, consisting of approximately 195.673 acres, situated within the State Land Use Agricultural District at Koloa, Kauai, Tax Map Key Number 2-7-01: portion of parcel 3, be approved subject to the following conditions as recommended by the Kauai Planning Commission:

1. Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

2. The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.

3. The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.

4. As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.

5. Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.

6. The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.

7. Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.

8. The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

DOCKET NO. SP87-364 - KAHILI ADVENTIST SCHOOL

Done at Honolulu, Hawaii, this 13th day of August 1987,
per motions on July 14, 1987 and August 12, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By T. Tacbian
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By Fredrick P. Whittemore
FREDRICK P. WHITTEMORE
Vice Chairman and Commissioner

By Toru Suzuki
TORU SUZUKI
Commissioner

By Lawrence F. Chun
LAWRENCE F. CHUN
Commissioner

By Sharon R. Himeno
SHARON R. HIMENO
Commissioner

By Renton L. K. Nip
RENTON L. K. NIP
Commissioner

By Richard B. F. Choy
RICHARD B. F. CHOY
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE
Commissioner

SP87-364 Kahili Adventist School
D&O 8/13/87

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KAHILI ADVENTIST SCHOOL)
For a Special Permit to Establish)
a Church, School and Related Uses)
on Approximately 197.463 acres)
of Land within the Agricultural)
District Koloa, Kauai, Tax Map Key)
Number: 2-7-01: parcel 3)

)

DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL

This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.

AUG 13 1987 by Isaac Lee
Date Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

AUG 13 2 15 PM '87
LAND USE COMMISSION
STATE OF HAWAII

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. SP87-364
KAHILI ADVENTIST SCHOOL) KAHILI ADVENTIST SCHOOL
For a Special Permit to Establish)
a Church, School and Related Uses)
on Approximately 197.463 acres)
of Land within the Agricultural)
District Koloa, Kauai, Tax Map Key)
Number: 2-7-01: parcel 3)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Kahili Adventist School (hereinafter "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. The Petitioner filed the Special Permit application with the County of Kauai Planning Department (the "Planning Department") on March 18, 1987. The Kauai Planning Commission conducted the public hearing on May 13, 1987. No public testimony was presented at the hearing.

2. On May 27, 1987, the Kauai Planning Commission recommended approval of the Special Permit with eight conditions. A copy of the decision together with the Special Permit record of the proceeding before the Kauai Planning Commission was received by the Commission on June 4, 1987.

Description of Property

3. The proposed site, including the access road from Kaumualii Highway, is located within the State Land Use Agricultural District at Koloa, Kauai, Tax Map Key Number 2-7-01: parcel 3 (formerly known as TMK: 2-7-01: portion of parcel 1), consisting of approximately 197.463 acres (hereinafter referred to as the "Property"). According to the State of Hawaii tax map printed on June 8, 1987, and the Commission's Official Map K-8 Koloa, it appears that approximately 1.79 acres of the Property is designated within the State Land Use Conservation District.

4. The Property is owned by Augustus F. Knudsen Trust and Eric A. Knudsen Trust. Hawaii Association of the Seventh-day Adventist is the lessee.

5. The Property, also known as Kahili Mountain Park, is situated in Knudsen Gap about one mile mauka of Kaumualii Highway and abuts the Lihue-Koloa Forest Reserve. The Property currently contains 36 structures and cabins under construction. Fifty percent of the Property is in pasture or building use and the remaining balance consists of steep slope and gully land overgrown with natural vegetation.

6. Except for the forest reserve area to the north, the Property is surrounded by sugarcane cultivation.

7. Soils on the Property are classified by the U.S. Soil Conservation service as Lawai Silty Clay 0-25% slopes.

8. The Land Study Bureau's Agriculture Master Productivity Rating System rates the Property as "C", "D", and "E" ("E" being the lowest rating).

Previous Special Permits Approved for the Property

9. On December 15, 1967, the Commission approved Special Permit No. 67-48 to Kahili Mountain Park, Inc. for approximately 150 acres of land to develop a camping-recreational area and facilities building subject to five conditions.

10. On September 22, 1975, the Commission approved Special Permit No. 75-214 to Kahili Mountain Park, Inc. to expand the existing camp to add 20 two-bedroom, one-bath cabins with kitchenettes and other structures on portions of the 215 acre property subject to four conditions.

11. On December 14, 1983, the Kauai Planning Commission approved Special Permit No. SP83-1 to the Hawaiian Association of Seventh-Day Adventist to relocate the Kauai Adventist School and church from its Omao site to the Kahili Mountain Park subject to 8 conditions. The area approved was approximately 14.97 acres.

Summary of Proposed Use

12. Petitioner is requesting the Special Permit to allow the establishment of a school and church use. Petitioner's Masterplan (Exhibit G) includes the following uses and facilities::

- 1) Elementary school and playground
- 2) Intermediate school
- 3) Administration/library
- 4) High school/academy
- 5) Junior college
- 6) Student dormitories
- 7) Faculty, staff and retirement homes
- 8) Gymnasium/swimming pool
- 9) Cafeteria/bakery
- 10) Maintenance shops/vocational training/laundry
- 11) Retirement/health conditioning center
- 12) Health museum; conditioning, physical/spiritual retreat areas
- 13) Chapel
- 14) Existing and new cabins
- 15) Lodge (retreat pavillion)
- 16) Furo
- 17) Retreat office/lecture rooms
- 18) Retreat cabins
- 19) Agricultural maintenance, greenhouse and sales
- 20) Parking areas

- 21) Sewage disposal facilities
- 22) Access and interior road improvements
- 23) Water transmission improvements
- 24) Expanded telephone system
- 25) Propane gas storage

13. More specifically, petitioner's masterplan

(Exhibit G) reflects a total of 53 housing units, which are either existing and proposed (14 faculty housing units and 39 existing or proposed cabins).

14. Petitioner indicates its goal is to relocate its entire school facility (Kauai Adventist School, grade 1 thru 10), from its present Omao site to the Property. Petitioner proposes to expand its educational facilities and develop an agricultural and work-study program, and a spiritual retreat center, health conditioning center, and health museum to further work study opportunities.

15. Petitioner proposes to provide access to the Property from Kaumualii Highway over a 30-foot wide crushed cinder, coral, and dirt cane haul roadway.

16. Petitioner will provide water from the existing private water system. Petitioner states that with improvements, this system is adequate to accommodate water requirements.

17. All structures are wired for electricity for lighting and outlets. Power is presently supplied by Kauai Electric.

18. Individual gas cylinders and bulk tank storage provide propane gas, serviced by Gasco, Inc.

19. A single telephone line is provided by Hawaiian Telephone company at this time, but an expanded phone system is being designed by Hawaiian Telephone and will be installed.

20. Petitioner's tentative development timetable indicates that relocation of the present school facility (grades 1 through 10) would be completed by September 1987; the agriculture work study program would be implemented by September 1987 and the expansion of the school program (K through 12, Phase II) would be implemented 2 to 5 years from the start of Phase I.

State and County Plans and Programs

21. The Property is located within the State Land Use Agricultural and Conservation Districts as indicated on K-8 Koloa of the Land Use District Boundaries Map and the State Tax Map 2-7-01 for the Island of Kauai.

22. The Kauai County General Plan designation for the Property is Agriculture. The Property is zoned Agriculture/Open.

Summary of Major Concerns

23. The State Department of Health indicated that the proposed use may have an impact on Grove Farm's drinking water due to agricultural activities that require pesticides application; sewage disposal by individual cesspools may

adversely impact groundwater in the area, and potable water should be made available to the proposed development.

24. The State Department of Transportation stated that left turn storage lanes on Kaumualii Highway, acceleration and deceleration lanes and street lights should be provided.

25. The County Department of Public Works pointed out that access to the school site does not meet county standards and that drainage and flood studies should be made and buildings located away from the 100-year flood inundation limits.

Conformance With Special Permit Tests

26. The proposed school and church-related use of the Property is not considered contrary to the objectives sought to be accomplished by the Land Use Law since agriculture through work study programs will be emphasized within the school curriculum. Inasmuch as the school and church related improvements are dispersed throughout the parcel, a predominant portion will be utilized for agricultural uses.

27. The proposed development contains uses permissible in and compatible to the Agricultural District.

28. The school and church-related uses of the Property will not adversely affect the surrounding sugarcane operations of McBryde Sugar Company.

29. The development of the Property will not unreasonably burden public agencies to provide roads and

streets, sewers, water, drainage, and school improvements, and police and fire protection. Petitioner will be responsible for infrastructure improvements required by the State Highways Division, State Health Department, and County Public Works, Water, Fire and Planning Departments.

30. No unusual conditions have arisen since the district boundaries were established. However, the proposed use in conjunction with an agriculture work-study program can ensure that an educational base to encourage agriculture exists.

Planning Commission Recommendations

31. At its meeting held on May 27, 1987, the Planning Commission recommended approval of the Special Permit, subject to the following conditions:

- "1. Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

- "2. The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.

- "3. The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.
- "4. As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.
- "5. Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.
- "6. The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.
- "7. Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.
- "8. The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect and encourage development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that Special Permit Docket Number 87-364 filed by Kahili Adventist School to establish a church, school and related uses on a portion of the Property, consisting of approximately 195.673 acres, situated within the State Land Use Agricultural District at Koloa, Kauai, Tax Map Key Number 2-7-01: portion of parcel 3, be approved subject to the following conditions as recommended by the Kauai Planning Commission:

1. Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

2. The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.

3. The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.

4. As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.

5. Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.

6. The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.

7. Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.

8. The applicant is advised that prior to an/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies)."

DOCKET NO. SP87-364 - KAHILI ADVENTIST SCHOOL

Done at Honolulu, Hawaii, this 13th day of August 1987,
per motions on July 14, 1987 and August 12, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By T. P. Tacbian
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By Fredrick P. Whittemore
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By Toru Suzuki
TORU SUZUKI
Commissioner

By Lawrence F. Chun
LAWRENCE F. CHUN
Commissioner

By Sharon R. Himeno
SHARON R. HIMENO
Commissioner

By Renton L. K. Nip
RENTON L. K. NIP
Commissioner

By Richard B. F. Choy
RICHARD B. F. CHOY
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE
Commissioner

CASE LOMBARDI & PETTIT
A LAW CORPORATION

MICHAEL R. MARSH 1327-0
JAMES M. CRIBLEY 975-0
MARK G. VALENCIA 6783-0
Pacific Guardian Center, Mauka Tower
737 Bishop Street
Honolulu, Hawaii 96813
Telephone No.: (808) 547-5400

Attorneys for Plaintiff
HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2009 NOV 31 A 10:49
DECOI

In the matter of the Petition) SP87-364
of)
SP87-364 Kahili Adventist School (Kauai)) **PETITIONER KAHILI ADVENTIST**
) **SCHOOL'S STATUS REPORT; EXHIBIT**
) **"A"; CERTIFICATE OF SERVICE**
)
)

PETITIONER KAHILI ADVENTIST SCHOOL'S STATUS REPORT

Petitioner KAHILI ADVENTIST SCHOOL ("School"), by and through its attorneys, CASE LOMBARDI & PETTIT, hereby submits a status report regarding SP87-364.

Attached as Exhibit "A" is the School's Compliance and Status Report that was submitted on November 24, 2009 to Mr. Ian Costa, Planning Director, County of Kauai Planning Department. It will be reviewed by the County of Kauai Planning Commission.

The School will submit an additional status report after the Planning Commission meets to discuss the attached Compliance and Status Report.

The School will provide any additional information requested by the Commission.

DATED: Honolulu, Hawaii, December 1, 2009.

Mark G. Valencia
MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL

A



Kahili Adventist School

Compliance and Status Report

**Class IV Zoning Permit Z-87-51
Use Permit U-87-41
Special Permit SP-87-13**

TMK (4) 2 – 7 – 01:3
Approximately 197.463 Acres
Koloa, Kauai, Hawaii

Lessee:
Kahili Adventist School
P. O. Box 480, Lawai, HI 96765
808 742-9294

Authorized Agent:
Greg Kamm Planning & Management
P. O. Box 1200, Koloa, HI 96756
808 742-1144



November, 2009

INTRODUCTION

The rural site at the base of Mount Kahili currently being used as Kahili Adventist School's campus has been a popular upland retreat for many years, with recorded vacation uses going back to the 1940s.

Many comprehensive changes have occurred since the Class IV Zoning Permit, Use Permit, and Special Permit issuance to Kahili Adventist School in 1987, including the 1992 hurricane and several staff turnovers in the school's management team.

Educators have been responsible for the school's operation, and a consequence of the staff changes is that administrators may not have had a clear and complete understanding of the land use regulatory approvals. Additionally, for the past six years the lessee has been engaged in a lawsuit with the Knudsen Trust that has diverted the school administration's resources and attention from program development.

The purpose of this compliance and status report is to present for the Planning Commission's consideration and review—in light of the lessee's considerably more modest scope of endeavor—the school's current operations. The lessee is seeking acknowledgement of compliance with those conditions, and minor modifications to two of the conditions, to better reflect the present situation.

TABLE OF CONTENTS

Introduction.....	i
Table of Contents	ii
Exhibits.....	iii
Project Description.....	1
Existing Permits and Conditions.....	2
Timeline.....	3
Discussion of Amendments	4
Condition 1—Interior Roadway & Waterline	4
Condition 2—Interior Roadways Surface.....	7
Condition 3—State Highways.....	9
Condition 4—Drainage & Flood Studies.....	10
Condition 5—State Health, State Highways, Public Works, Fire, and Water	11
Condition 6—Additional Conditions.....	15
Condition 7—Educational Curriculum.....	16
Condition 8—Additional Conditions.....	17
Condition 9—Completion Timeframe.....	18
Condition 10—Density	20
Condition 11—Conservation District.....	21
Condition 12—Design Review	22
Conclusion	23
Exhibits 1 - 10	

EXHIBITS

1. Letter of Authorization from Lessee
2. Letter from Land Use Commission, September 22, 2009
3. Kahili Adventist School Student Enrollment Figures
1975 through 2008, Table and Chart
4. Busing Program, Table and Chart
5. Agricultural Curricula Examples (Transmittals) &
Arborist Services Memo
6. Agricultural Curriculum Pictures
7. Site Plan Location Map & Schematic
8. Agency Reports—1987
9. Smoke Detector Memo &
Emergency Vehicle Access Memo
10. Letter from Kauai Highways Division, Department of Transportation,
September 15, 2009

PROJECT DESCRIPTION

As confirmed in the attached letter from the Land Use Commission's Executive Director, the approximately 195.673-acre subject site is entirely within the Agricultural District. (See Exhibit 2, dated 9/22/09).

The Land Study Bureau's Agricultural Master Productivity Rating System rates the Property as "C," "D," and "E" with "E" being the lowest rating.

Kahili Adventist School currently operates an ecumenical school on the subject site. A table and chart showing the school's enrollment figures from 1975 through 2008 are attached as Exhibit 3. The staff and students are engaged in educational agricultural projects in keeping with the campus' rural setting and to comply with conditions in the permits granted in 1987.

The school works with a rustic vacation rental program doing business as Kahili Mountain Park. Presently 27 units on the site are used for a combination of transient rentals and staff accommodations. The 1987 Class IV permit allows the original 20 units, an additional 20 units, and 14 faculty/staff units, for a total of 54 units.

EXISTING PERMITS AND CONDITIONS

The school has maintained continuous educational operations before and after relocating Kauai Adventist School from its former Omao campus to the present location, changing the school's name to reflect its new location. The relocation to a 14-acre portion of the site was permitted under Special Permit SP-83-1, Use Permit U-2-83, and Class IV Zoning Permit Z-IV-83-3.

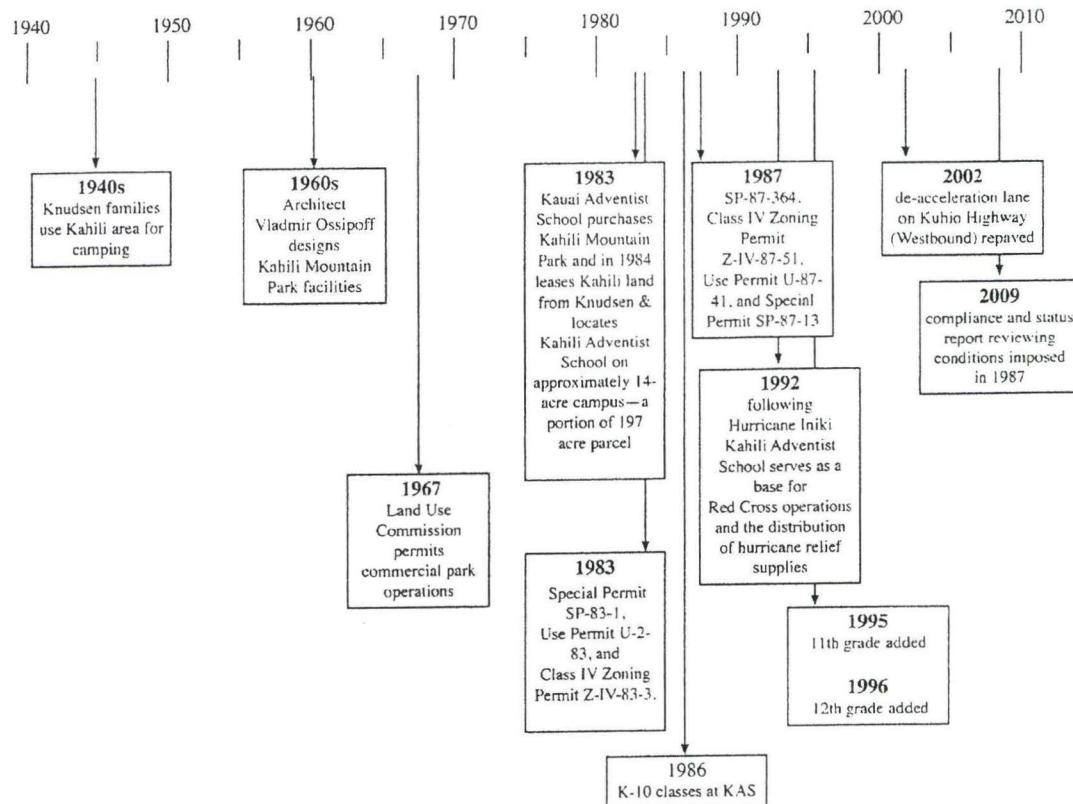
Plans to expand the educational program at the Kahili site to an area larger than 15 acres triggered the requirement for additional permits, which were granted with conditions by the State of Hawaii LUC under the provisions of Special Permit SP-87-364, and by the County of Kauai's Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, and Special Permit SP-87-13.

Since its relocation, the school has managed a rustic vacation rental program operating as Kahili Mountain Park. The park has been a popular retreat dating back to the 1940s, and features structures designed by Vladmir Ossipoff's architectural firm. The Land Use Commission permitted park operations in December 1967.

See Timeline next page.

Kahili Adventist School
 Compliance and Status Report to the County of Kauai Planning Commission
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Kahili Adventist School
 Kahili Mountain Park
 Timeline



DISCUSSION OF COMPLIANCE AND REQUESTED MODIFICATIONS

Condition 1

ORIGINAL CONDITION: Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

Interior roadway improvements shall constitute a 16 ft. penetration base treatment or better roadway width; waterline improvements shall constitute the provision of the necessary pipe width to provide sufficient fire flows. Asphalt concrete or concrete roadway improvements to the interior roadways shall be provided within 5 years from the date of Land Use Commission approval.

REQUESTED MODIFICATION: Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property, as may be required by any government agency.

Status: The interior roadway and waterline improvements had to do with the occupancy of a new gymnasium/auditorium that was being planned. The building had been completed but an occupancy permit had not been issued when Hurricane Iniki hit Kauai in September 1992. Since it was one of the few available buildings suitable for this use after the hurricane, the County gave permission for the Red Cross to use the building as its distribution center. After the Red Cross finished with it, final requirements were met and the occupancy permit was issued.

The use of penetration base treatment was abandoned due to environmental issues and was replaced with rolled base course using rock and coral chips. Ditches were dug along side of the road to divert excess rainwater run off, and other drainage measures were employed as well.

A new road was built on the lower side of the pond, twenty-five (25) feet wide and approximately eight hundred (800) feet long. Because of this, the narrow and hazardous roadway immediately adjacent to the pond could be, and was, abandoned.

An 80,000-gallon water tank was installed with an automatic control for the chlorination system. The lessee is a customer of this system, and not the operator.

A six-inch pipe from the water tank to the school area was installed. The gymnasium/auditorium has a fire sprinkler system that is fed by a four-inch water pipe. In compliance with the County Fire Department, three fire hydrants were installed at various locations around the campus. (See Exhibit 7, Site Schematic)

Request to Modify Condition: The lessee seeks that Condition 1 be modified for the following reasons:

- The lessee has completed improvements to the water facilities such that those infrastructure elements satisfactorily service the current development of the property.
- The water facilities are adequate to service current approved development. Any future developments water requirements would be confirmed by the lessee's engineers and all concerned agencies.
- The roadway matter included in Condition 1 is to assure access in the event of a fire. The lessee's agent met with Captain David Bukoski of the Kauai County Fire Department Fire Prevention Bureau in August 2008, and discussed the adequacy of the present roadway leading to the School. The Fire Prevention Bureau's view is that the primary concern is human safety in the event of a fire,

and evacuation is essential. The response time for fire fighting equipment to drive from Kalaheo or Poipu to the site is so long that structures would be consumed by the time fire trucks make it to the site, irrespective of whether the roadway is gravel or paved. If the school maintains the road in the same condition as it has been for the last twenty years, fire access will be adequate, according to Captain Bukoski.

- The property's well-drained and compacted gravel surface roadways that do not require the environmentally hazardous application of penetration base treatment have withstood the test of time, and are consistent with the desired rustic ambiance of the development.
- The Kauai Fire Department and Kauai Fire Prevention (a private firm) have indicated that there is no necessity to alter the roadways or water supply facilities for fire-fighting purposes.
- The lessee's agent met with Chief Engineer Wallace Kudo in the Engineering Division of Public Works and County Engineer Donald Fujimoto in August 2008, and confirmed that these private roadways do not concern Public Works.

Condition 2

ORIGINAL CONDITION: *The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.*

REQUESTED MODIFICATION: *The applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kauai shall be absolved of any liability issues related to these unimproved access roadways, from Kaumualii Highway to and within the school and cabin facilities.*

Status: The current road is an all-weather road that was built by the McBryde Sugar Company. This road is well built and was used by large cane hauling trailer trucks carrying loads of 20 to 30 tons. Since the sugar business has closed and the road is no longer used by these trucks it is much easier to keep it in good repair. The road is a compacted base course using basalt rock and coral chips. Kahili Adventist School has a contract with the Rudy Ramos Equipment Service to keep the road in good repair. A crew services the road on a monthly basis. The road now has a crown so water runs off and the drainage swales are kept clear. Although others use the road in addition to school generated travel, the school maintains the road in good condition at its expense, spreading rock and chipped coral as necessary.

Although the road is easily passable by passenger car, parents are encouraged to use the school's bus service, and currently over 87% of the students are enrolled in the bus program. (See Exhibit 4.) While families may choose to drive their own children if necessary, most parents prefer to take advantage of the bus service since the bus ends up being less expensive. Most of the staff lives on campus.

Request to Modify Condition: The lessee seeks that Condition 2 be modified for the following reasons:

- The lessee's agent met with the Chief Engineer in the Engineering Division of Public Works and the County Engineer in August 2008, and confirmed that these private roadways do not concern Public Works.
- Penetration base is no longer an acceptable method of roadbed stabilization due to its inherent environmental hazards.
- The lessee has improved and diligently maintained the roadway since 1987 as discussed previously.
- The roadway has served the lessee and other users in its present state since 1987, thereby demonstrating its adequacy.

Condition 3

The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of review and approval by the Land Use Commission.

Status: This lessee has complied with this condition. It has to do with exiting Kaumuali'i Highway onto Kahili Wai Street to continue on to the school. The school paid the State to install a de-acceleration lane on the Kaumuali'i Highway thus allowing vehicles to move out of the traffic lane before turning onto the school road. When the highway was repaved in the fall of 2002, the de-acceleration lane was also repaved.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 3 be regarded as complied with for the following reasons:

- A Traffic Analysis Operational Report on the intersection was prepared by a registered professional engineer to gauge the necessity for alterations to the current configuration. The report resulting from that study concludes that the current intersection layout adequately serves the peak hour volumes, and therefore no mitigating measures are necessary for this project.
- The Kauai District office of the State of Hawaii Department of Transportation, Highways Division has accepted the above referenced report (See Exhibit 10.)
- The Department of Transportation has responded that at the current range of use no alterations to the present intersection configuration are required.

Condition 4

As recommended by the Public Works Department, drainage and flood studies shall be made prior to additional development of the property.

Status: Kodani and Associates, Inc., a consulting engineering firm, prepared a flood study for the School. It was submitted to the Kauai County Public Works Department and was approved. Additionally, the lessee believes that both Belt, Collins Incorporated and Portugal and Associates prepared drainage studies. However, due to the age of these three studies and the intervening disruptions caused by Hurricane Iniki neither the lessee nor Public Works has been able to locate these studies.

The Chief of Engineering at Public Works does recall the submission of a drainage study for the School, and the site has been free of any flooding incidents since the permits were issued.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 4 be recognized as complied with for the following reasons:

- The Chief Engineer in the Engineering Division of Public Works confirmed that a study was submitted and approved.
- The lessee acknowledges that any future development may require an additional drainage and flood study.

Condition 5

Applicant shall discuss, resolve and comply with the requirements of the State Health Department and Highways Division, and the County Public Works, Fire and Water Departments.

Status: Kahili Adventist School is in compliance with all known State and County requirements.

The water system operator meets all State water quality requirements, and the school is a customer of this system. There have been no reported instances of any water-borne illnesses.

The school has a contract with Kauai Fire Protection to assure that all fire and safety requirements are met. The County Fire Department sends an inspector each year to check to see that all equipment is operating correctly.

Additional detail is provided below.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 5 be recognized as complied with for the following reasons. See prior agency reports in Exhibit 8.

State Health Department comments from April 2, 1987:

- Comment 1: The lessee acknowledges Comment 1. Not only are there no agricultural operations near the drinking water source, all water sources are well outside the leased land boundary.
- Comment 2: The lessee is no longer seeking to operate a health or therapeutic retreat; hence this comment is no longer applicable.

- Comment 3: The cesspools and septic systems on site are compliant with all Department of Health standards.
- Comment 4: There are no cafeteria operations in effect or planned for the site. In the event that the lessee seeks to construct a cafeteria, the design and use will conform to the then existing rules.
- Comment 5 (housing): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 6 (sanitation): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 7: There is no watercress being grown on site.
- Comment 8: Currently no swimming pool exists at the site. In the event that the lessee seeks to construct a swimming pool, the design and use will conform to the then existing rules.
- Comment 9 (no open burning): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 10 (grubbed material): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 11 (dust & erosion control): The lessee acknowledges this comment, has complied with it, and will continue to do so.
- Comment 12 (potable water): The lessee acknowledges this comment, has complied with it, and will continue to do so. The school is supplied with potable water from an approved source by Grove Farm Company, Incorporated.

State Highways Division comments from March 20, 1987.

- A Traffic Operational Analysis Report compiled in April 2009 concludes that no mitigating measures are necessary for this project.

Fire Department comments from August 13, 1982 (indicated as unchanged for the 1987 Application):

- Comment 1 (unobstructed access): The lessee's agent met with Captain David Bukoski of the Kauai County Fire Department Fire Prevention Bureau in August 2008, and discussed the adequacy of the present roadway leading to the school. The Fire Prevention Bureau's view is that the primary concern is human safety in the event of a fire, and evacuation is essential. The response time for fire fighting equipment to drive from Kalaheo or Poipu to the site is so long that structures would be consumed by the time fire trucks make it to the site, irrespective of whether the roadway is gravel or paved. If the school maintains the road in the same condition as it has been for the last twenty years, fire and emergency access will be adequate. Width, turning radii, and vertical clearance are all adequate.

(See Exhibit 9, Emergency Vehicle Access Memo)

- Comment 2 (fire hydrants): There are three fire hydrants on the site. The staff housing areas are deemed residential by the Fire Department, and not subject to any fire requirements other than those imposed through the building permit process.
- Comment 3 (fire extinguishers): All of the park rental cabins have smoke detectors and fire extinguishers. (See Exhibit 9, Smoke Detectors Memo) An

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

evacuation plan in place for both the park and school facilities. Additionally, there are fire cabinets with hoses located at appropriate points around the school buildings.

- Comment 4 (code compliance): The lessee acknowledges this comment.

Condition 6

The Planning Commission reserves the right to impose additional conditions or restrictions, or revoke the permits through proper procedures, should problems be generated from this project that are detrimental to public health, safety and welfare.

Status: Kahili Adventist School acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary.

As of this date no additional conditions or restrictions have been imposed.

There have been no issues concerning public health, safety or welfare to the best of the lessee's knowledge. In fact, the school served the general community as a base for Red Cross operations and the distribution of hurricane relief supplies in the months following Hurricane Iniki.

The Department of Transportation has told the lessee that the intersection with Kaumualii Highway is not considered a high-risk location. Since 1970 there have been no traffic accidents at the intersection with Kaumualii Highway as reported by the Department of Transportation, and the 1970 accident involved a cane haul truck.

Condition 7

Applicant shall submit a copy of the education curriculum each Fall to the Planning Department in order to verify the provision of an agricultural-work study program as represented.

Status: Attached are copies of the September 18, 2008 and August 18, 2009 transmittals conveying samples of the school's 2008-2009 and 2009-2010 agricultural curricula to the Planning Department and the State of Hawaii Land Use Commission. (See Exhibit 5.) The agricultural work-study program is in effect for both the elementary and secondary students. Also please note the response to Condition 9b below. The agricultural work-study program remains one of the school's recognized on-going obligations.

In addition to being a recognized condition, the agricultural work-study program is a key component of the school's educational philosophy.

Condition 8

The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed, it shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

Kahili Adventist School acknowledges the obligation and responsibility to resolve all additional conditions that may be imposed by government agencies.

Condition 9

Based on the timetable submitted, Petitioner shall complete within five (5) years of Land Use Commission approval:

- a. Expansion of the school program (K-12);*
- b. Agricultural work study program;*
- c. Campground site facilities.*
- d. Health conditioning, physical and spiritual retreat center and*
- e. Establishment of orchards as per Exhibit "G."*

Status: Kahili Adventist School is in compliance. More specifically:

a. The school started at this location as a K-10 school in 1986. During the 1995-96 school year the 11th grade was added. The following year the 12th grade was added. The program has been conducted as shown in the census attached as Exhibit 3.

b. Kahili Adventist School has an active agricultural work-study program. Portions of the agricultural curriculum were transmitted on September 18, 2008 to the Planning Department and Land Use Commission. (See Exhibit 5) The program started with lychee trees that currently number approximately 700. Presently, a two-acre parcel is planted with cut flowers and bananas. An orange tree grove has been planted. Bananas are available at the school office and flowers and bananas are sold at the farmers' market. Students work in the gardens weekly. Students have learned how to plan, develop, and care for flowerbeds and vegetable gardens around the campus. Please see the pictures in Exhibit 6.

c. The campground site has been completed with cabinettes (camping facilities—not units) and cabin facilities (units) that are available for use.

d. The health conditioning, physical, and spiritual retreat center was occupied in 1993. Over the years various organizations have used the facilities—some 27 groups held

meetings during 2002. After making a diligent effort to promote the health conditioning, physical, and spiritual retreat center, it is at this time not deemed a feasible component of the school's and park's operations, and therefore is not being actively marketed or operated. Rather, the lessee's focus is on nurturing the school's growth.

e. Seven hundred lychee trees were planted with mixed results. Previously the lessee consulted with the University of Hawaii School of Tropical Agriculture. The lessee currently has an arborist on site working to improve lychee yields. The lessee has been successful with other fruit trees as well.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 9 be recognized as complied with for the following reasons:

As stated above, the school has demonstrated continuing compliance with sections a. through e. of Condition 9.

Condition 10

The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed or the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, and Class IV Zoning Permits shall be required. In addition to the 20 cabins/units, 14 more faculty/staff housing units (as per Petitioner's Exhibit "G") are permissible.

Status: Kahili Adventist School acknowledges the Condition, and is in compliance with the approved density. At this point, ten staff residences and seventeen rental cabins (units) are in use. An additional four staff homes and twenty-three rental cabins are still permissible under the presently approved density. See Exhibit 7.

Condition 11

A Conservation District boundary interpretation shall be secured and the subdivision creating the subject lot shall be revised accordingly such that the Conservation District is not included as part of this lot or development.

Status: In accordance with this condition, the Knudsen Trust contacted and employed Belt, Collins Incorporated in Honolulu to realign the boundaries of the land that was to be leased to the school. The original lease called for a 200-acre plot to be leased. The lease is for approximately 197 acres after the boundaries were redrawn.

Request to Recognize Compliance with the Condition: The lessee seeks that Condition 11 be recognized as complied with for the following reasons:

- A Conservation District Boundary Interpretation was obtained from the Land Use Commission. (See Exhibit 2, dated 9/22/09)
- The Land Use Commission has verified that the entire parcel is within the State Agricultural District.

Condition 12

All proposed future buildings (dormitory, health museum, physical retreat center, etc.) shall be subject to design review and approval by the Planning Department prior to building permit application.

Status: Kahili Adventist School acknowledges that any future buildings are subject to design review and approval by the Planning Department.

Request to Recognize Compliance with Condition: The lessee seeks that Condition 12 be recognized as complied with for the following reason:

- In the years since Condition 12 was written, the Planning Department's review process has been streamlined. To be consistent with current practice—which reduces the work load on the County—the lessee requests that rather than being required to obtain a design review approval from the Planning Department prior to Building Permit Application submittal, the Planning Department's design review be part of the standard Building Permit Application review and approval process.

Conclusion

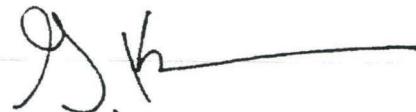
In the body of this application, the lessee has endeavored to demonstrate the propriety of amending the existing Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, and Special Permit SP-87-13 as follows:

- Condition 1: Request to modify the Condition
- Condition 2: Request to modify the Condition
- Condition 3: Request to recognize compliance with the Condition
- Condition 4: Request to recognize compliance with the Condition
- Condition 5: Request to recognize compliance with the Condition
- Condition 6: The lessee acknowledges the right of the Planning Commission to impose additional conditions or restrictions as deemed necessary.
- Condition 7: The lessee will continue to submit annual agricultural curriculum samples to the Planning Department. (The entire current school year curriculum—approximately 700 pages—is available upon request.)
- Condition 8: The lessee acknowledges the obligation and responsibility to resolve all additional conditions that may be imposed by government agencies.
- Condition 9: Request to recognize compliance with the Condition
- Condition 10: The lessee acknowledges and will continue to comply with the Condition.
- Condition 11: Request to recognize compliance with the Condition
- Condition 12: Request to recognize compliance with the Condition

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

The staff and management of the Kahili Adventist School are dedicated and committed to sustaining and expanding the school's standing and influence in the community. With humility and in a spirit of diligent endeavor, this status report is presented to the Planning Department and Planning Commission with the intent of better enabling the school to face the challenges of developing and sustaining the best possible educational program for the student body at the base of Mount Kahili.

Very truly,

A handwritten signature in black ink, appearing to read "GK" followed by a horizontal line.

Greg Kamm

Agent for the lessee

Exhibit 1

Letter of Authorization

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Hawaiian Association

2728 Pali Highway
Honolulu HI 96817
Telephone: (808) 545-7261
Fax: (808) 545-7375

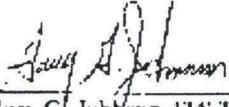
May 7, 2009

RE: Letter of Authorization – Kahili Adventist Park & School

To Whom It May Concern:

As holder of a recorded lease with more than 5 years remaining, this letter authorizes Greg Kamm Planning & Management to seek any necessary permits and approvals relative to Kahili Mountain Park and Kahili Adventist School, TMK: (4) 2-7-01:03.

Hawaiian Association of Seventh-Day Adventists


Gary C. Johnson, H.A.S. Treasurer

May 11, 2009

Date

Exhibit 2

Letter from Land Use Commission

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

LINDA LINGLE
Governor

JAMES R. AYONA, JR.
Lieutenant Governor

THEODORE E. LIU
Director

MARK K. ANDERSON
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawaii

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SAWARUHATARI
Planner

FRED A. TALON
Drafting Technician

September 22, 2009

Mr. Greg Kamm
Greg Kamm Planning & Management
P.O. Box 1200
Koloa, Kauai, Hawaii 96756

Dear Mr. Kamm:

Subject: BOUNDARY INTERPRETATION No. 08-18
Tax Map Key: 2-7-001: 003,
Kahili Mountain Park/Kahili Adventist School, Koloa, Kauai, Hawaii

We received your letter requesting a boundary interpretation for the subject parcel on September 29, 2008. We apologize for the lateness of our response.

Upon receipt of your request, we reviewed the Commission's records currently on file at our office and the information that you provided. According to your map that you provided entitled *Land Court Application 956 Consolidation of Lot 49-A as Shown on Map 47 and Lot 50 as Shown on Map 3 and Resubdivision of Said Consolidation Into Lots 395, 396, 397 and 398 and Designation of Easements 86 and 87 Affecting Lot 396*, dated August 14, 1984; we have determined that the subject parcel (Lot 396) containing approximately 197.463 acres is entirely designated within the State Land Use Agricultural District.

Should you require clarification or further assistance in this matter, please feel free to call Fred Talon at 587-3822.

Sincerely,

A handwritten signature in black ink, appearing to read "Orlando Davidson".

ORLANDO DAVIDSON
Executive Officer

Enclosure

c: Samuel J. Lemmo, Administrator, Office of Conservation and Coastal Lands,
Department of Land and Natural Resources (w/enclosure)
Ian Costa, Planning Director, County of Kauai, Planning Department (w/enclosure)
Domie Bucasas, Supervisor, Real Property Assessment Division, County of Kauai,
Finance Department (w/enclosure)
Harry Beatty, GIS Coordinator, County of Kauai, (w/enclosure)

Exhibit 3

Kahili Adventist School Census 1975-2008

Kahili Adventist School Enrollment Chart By Five-Year Periods—1975-2008

Kahili Adventist School
 Compliance and Status Report to the County of Kauai Planning Commission
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Office of the Principal

Kahili Adventist School

School Census (1975 – 2008)

	1975-76 Grades 1-8	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83 Grades 1-10	1983-84	1984-85	1985-86
K											
1	9	10	4	6	5	8	9	9	10	8	11
2	1	6	7	6	4	4	11	9	8	7	8
3	7	6	7	5	6	4	6	10	11	9	7
4	3	6	7	6	8	7	3	6	9	10	9
5	3	6	7	8	8	10	11	3	6	12	14
6	3	4	5	6	7	7	10	12	9	6	11
7	2	4	4	4	7	7	10	7	11	10	8
8	1	3	3	4	4	6	9	7	8	16	8
9				2	0	0	7	6	11	13	15
10								8	4	12	5
Total	29	45	44	47	49	53	76	77	87	103	96
	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
			Grades K-10								Grades K-12
K			11	7	13	12	15	15	19		9
1	5		13	12	5	8	13	8	14		15
2	8		12	18	20	3	8	10	10		16
3	13		5	12	20	15	4	7	10		12
4	4		17	11	15	18	17	8	9		12
5	9		14	26	12	16	17	19	8		13
6	12		6	18	20	9	21	20	18		8
7	11		13	15	18	20	19	23	27		10
8	4		8	17	17	20	20	17	19		22
9	4		10	9	20	12	11	26	13		14
10	5		0	12	8	17	5	8	14		8
11											9
12											11
Total	75	n/a	109	157	168	150	150	161	161	n/a	159
	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
K	7	12	11	11	6	6	7	12	7	7	4
1	8	6	12	10	8	8	5	5	12	4	6
2	14	6	5	10	10	9	7	5	3	10	4
3	16	12	10	4	12	11	13	6	4	3	5
4	11	11	13	9	6	12	14	10	6	5	3
5	12	14	13	13	10	3	15	10	8	6	4
6	11	17	17	9	10	9	7	10	13	8	4
7	12	12	19	7	8	7	9	7	10	11	3
8	11	12	14	8	6	8	6	8	6	7	8
9	18	9	5	8	5	3	5	11	8	3	4
10	13	18	4	2	7	5	4	7	8	3	1
11	2	11	11	4	2	5	3	2	3	4	1
12	9	1	8	6	6	4	5	4	2	2	4
Total	144	141	142	101	96	90	100	97	90	73	51

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

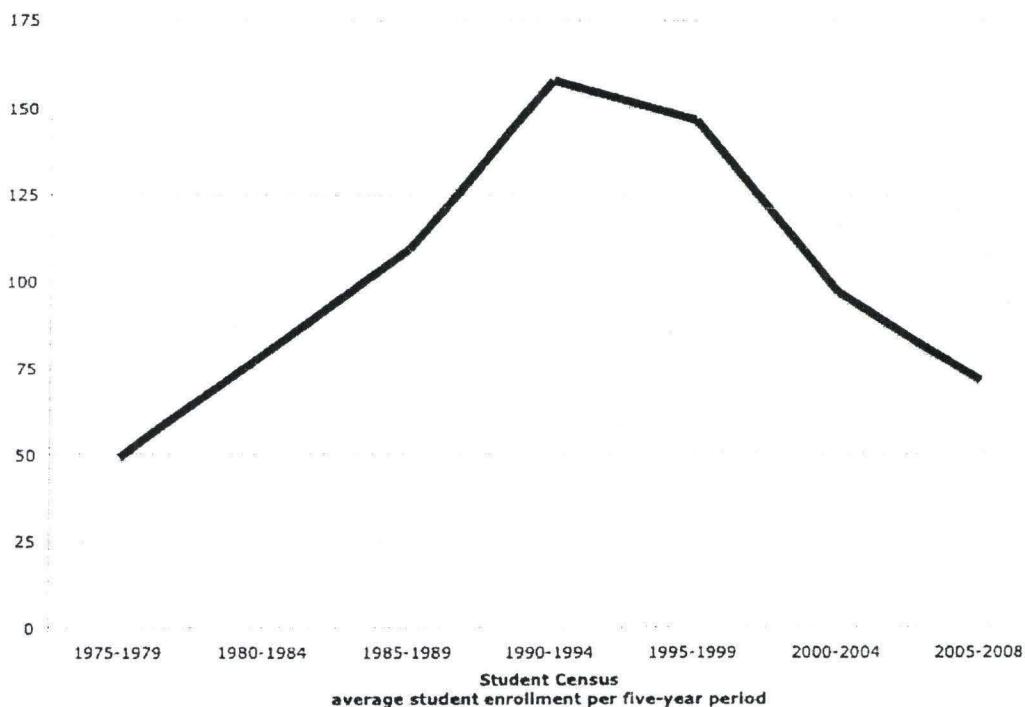


Exhibit 4

Bussing Program Table and Chart

Kahili Adventist School
 Compliance and Status Report to the County of Kauai Planning Commission
 Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Office of the Principal

Kahili Adventist School

2008-2009 School Year					
# of Students	# Using Bus	# Drive or Carpool	Staff		KMP Visitors (1/08 - 7/08)
			#	Role	
40	35	5	1	Principal	0
			4	Teachers	1
			1	Bus/Book-keeper	0
			2	Bus Drivers	0
			5	KMP Staff	0

2007-2008 School Year					
# of Students	# Using Bus	# Drive or Carpool	Staff		KMP Visitors (1/07 - 12/07)
			#	Role	
50	38	7	1	Principal	0
			4	Teachers	1
			1	Bus/Book-keeper	0
			1	Secretary	0
			2	Bus Drivers	0
			5	KMP Staff	1

2006-2007 School Year					
# of Students	# Using Bus	# Drive or Carpool	Staff		KMP Visitors (1/06 - 12/06)
			#	Role	
73	47	26	1	Principal	0
			10	Teachers	3
			1	Bus/Book-keeper	0
			1	Secretary	0
			2	Bus Drivers	0
			7	KMP Staff	2

2005-2006 School Year					
# of Students	# Using Bus	# Drive or Carpool	Staff		KMP Visitors (1/05 - 12/05)
			#	Role	
82	61	22	1	Principal	0
			10	Teachers	3
			1	Bus/Book-keeper	0
			1	Secretary	0
			2	Bus Drivers	0
			7	KMP Staff	2

Bus Policy: Parents are encouraged to use our bus service, but may choose to drive their own children if necessary. (Note: Most parents choose to use the bus since the bus ends up being less expensive. Most of the staff live on campus.)

Mailing Address:
 19-2260 Kauai
 Lihue HI 96766

Street Address:
 2-36-12 Kauai Hwy
 Lihue HI 96766

Telephone:
 School: 808-742-5212
 Fax: 808-742-5628

Accredited by:
 Western Association of Schools and Colleges
 www.wasc.org

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

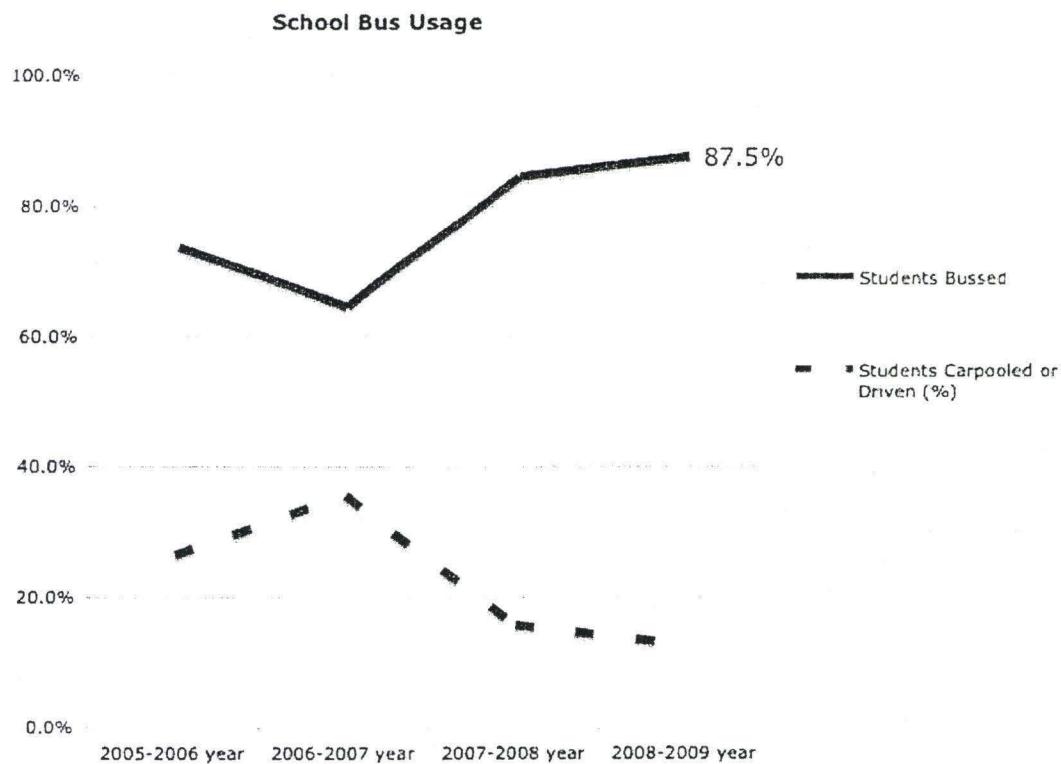


Exhibit 5

Agricultural Curricula Examples Transmittals

&

Arborist Services Memo

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



TRANSMITTAL

DATE: September 18, 2008
TO: Mr. Ian Cosia, Director
County of Kauai Planning Department
4444 Rice Street—Building A, Suite 473
Lihue HI 96766
Attn: Mr. Michael Laureta, Senior Planner
COPIES TO: Mr. Orlando Davidson, Executive Director
State of Hawaii Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, HI 96813
Mr. Mark G. Valencia
Case Lombardi & Pettit
737 Bishop Street, Suite 2600
Honolulu, HI 96813-3283
Mr. Greg Kamm
Greg Kamm Planning & Management
P. O. Box 1200
Koloa, HI 96756
FROM: Ms. Wanda Lee, Principal
Kahili Adventist School
SUBJECT: Kahili Adventist School—Agricultural Education Curriculum
Class IV Zoning Permit Z-IV-87-51
Special Permit SP 87-13, Use Permit U-87-41
LUC Docket No. SP 87-364

Per the requirements of the above-referenced permits for an annual submittal, attached please find an exemplary portion of Kahili Adventist School's agricultural curriculum for the 2008-2009 academic year. The complete 4-year agricultural program (containing 133 Lessons, approximately 700 pages) is outlined in the Table of Contents, and is available upon request. Each of the following Units is an example of a single Lesson.

- Agriculture Curriculum Table of Contents—4 pages
- Unit 2.04: Introduction to Agriculture—26 pages
- Unit 8.04: Soil and Its Effects on Agriculture—13 pages
- Unit 13.05: Forestry and Natural Resources—12 pages
- Unit 18.01: Careers in Agriculture and Agribusiness—10 pages

Mailing Address
Wanda Lee, Principal
Lihue HI 96766

Street Address
2-16-25 Kauai Kai Kai
Koloa HI 96756

Telephone
School: (808) 742-3274
Fax: (808) 742-3623

Accredited by
Adventist International Division Education
www.aied.org

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Office of the Principal

Kahili Adventist School

TRANSMITTAL

DATE: August 18, 2009
VIA: US Mail

TO: Mr. Ian Costa
Planning Department
4444 Rice Street—Building A Suite 473
Lihue HI 96766
Attn: Mr. Michael Laureta

COPIES TO: Mr. Orlando Davidson
Land Use Commission
235 South Beretania Street # 406
Honolulu, HI 96813

Mr. Mark Valencia
Case Lombardi & Pettit
737 Bishop Street, Suite 2600
Honolulu, HI 96813-3283

Mr. Greg Kamm
Greg Kamm Planning & Management
P. O. Box 1200
Koloa, HI 96756

FROM: Ms. Wanda Lee
Principal, Kahili Adventist School *[Signature]*

SUBJECT: Kahili Adventist School—Agricultural Education Curriculum
Class IV Zoning Permit Z-IV-87-51
Special Use Permit SP 87-13, Use Permit U-87-41
Docket No. SP87-364

Per the requirements of the above referenced documents for an annual submittal, attached please find a sample of Kahili Adventist School's agricultural curriculum for the 2009-2010 academic year. Each lesson is the first lesson in the units to be taught this year. The complete 4-year program is outlined in the Table of Contents

- Agriculture Curriculum Table of Contents—4 pages
- Unit 11, Lesson 1: What is Food Processing—14 pages
- Unit 12, Lesson 1: The Importance of Agriculture Mechanics Technology—5 pages
- Unit 13, Lesson 1: Introduction to Wildlife Management—5 pages
- Unit 14, Lesson 1: How Organisms and Wildlife Work Together—7 pages

Mailing Address:
PO Box 480
Lihue, HI 96765

Street Address:
2-4035 Kaumualii Hwy
Koloa, HI 96756

Telephone:
School: (808) 742-9204
Fax: (808) 742-6628

Accredited by:
National Council for Private
Education



Kahili Adventist School

September 17, 2008

Memo: Arborist Services & Agricultural Plan

To Whom It May Concern:

As of September 14, 2008 Kahili Mountain Park has a 4 month extendable contract with arborist Amra Boanerges.

Mr. Boanerges is ISA certified with 30 years of experience in the planting and care of trees. He has also worked for 10 years with a tree surgeon

He is currently mapping and helping to maintain our fruit orchards, banana groves, and flower fields. Preliminary work on the mapping will be complete by September 18th.

We are also beginning work on adding a large garden to expand our existing agriculture program.

Our plan is to continue to grow crops that can be used by staff and sold at the farmers market.

Thank you.

Jamie M. Lee
Kahili Mountain Park Manager

Meeting Address
1200 Kauai
Kauai, HI 96740
Second Address
1200 Kauai
Kauai, HI 96740
Telephone
(808) 822-1477 ext 101
(808) 822-1477
Arranged by
Kahili Mountain Park Manager
Date 9/17/08

Exhibit 6

Agricultural Curriculum Pictures

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13



Top Left: Students collect compost for their garden.

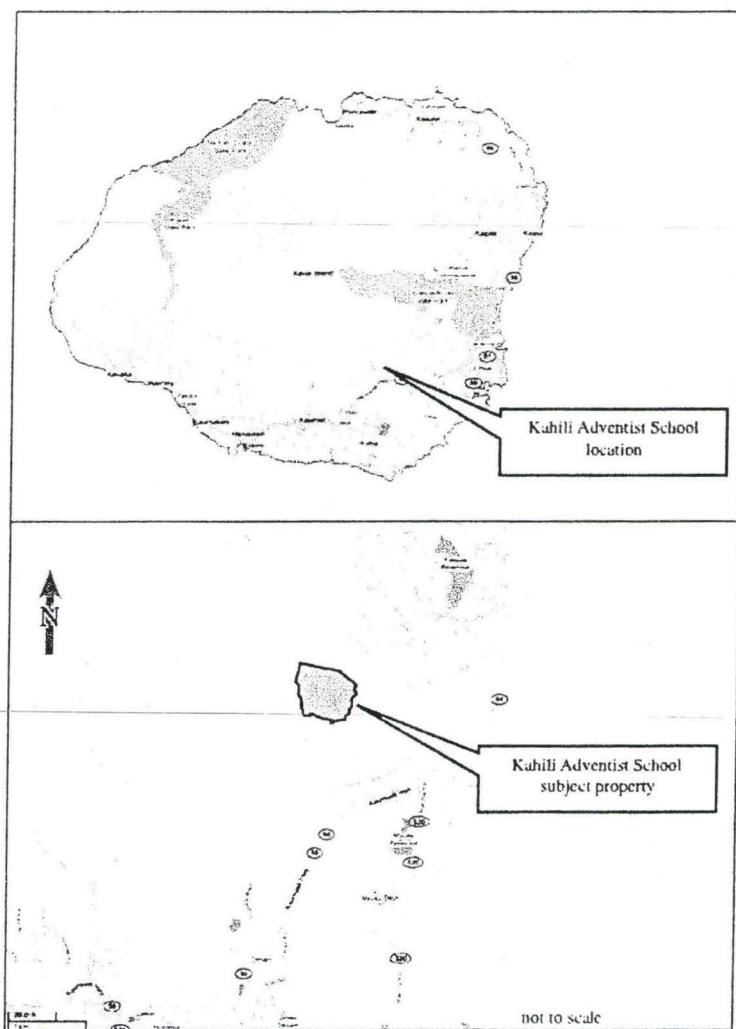
Top Right: Recycled tires are used for students' individual gardening plots.

Center: tending the vegetable garden.

Bottom: Students care for ornamental plant beds.

Exhibit 7

Site Plan Location Map & Schematic



Site Location

Kahili Mountain Park

P.O.Box 298 • Koloa, Kauai, HI 96756
(808) 742-9921

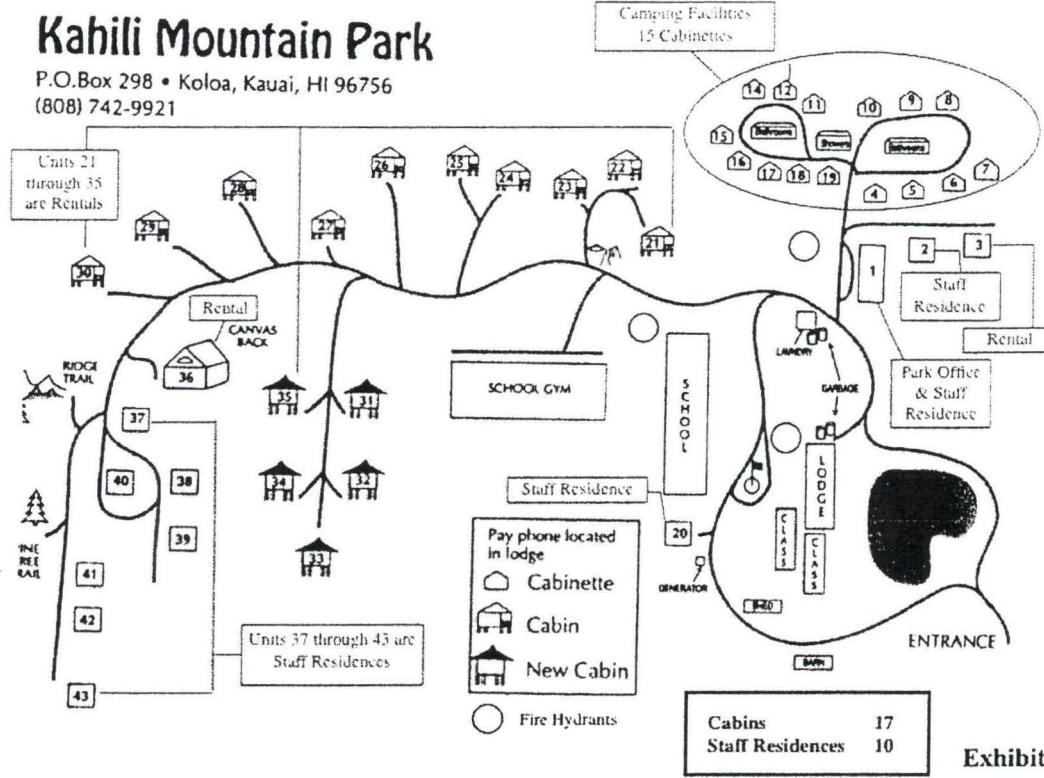


Exhibit 7

Site Schematic

Exhibit 8

Agency Reports—1987

Department of Health

Department of Transportation

&

Fire Department

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Department of Health Agency Report, 1987

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987

SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit Appl. SP-87-13, KAHILI ADVENTIST SCHOOL

TO: Public Works Dept.

Water Dept.

~~RECEIVED~~ State Highways Div.

Fire Dept.

Sam Lee (DLNR)

State Dept. of Agriculture

Police Dept.



FOR YOUR COMMENTS (pertaining to your department):

? April 87

Our department's concerns are as follows:

1. Agricultural activities that require spraying should not encroach towards Grove Farm's drinking water surface supply.
2. The applicant shall confer with Department of Health, Hospital and Medical Facility Branch to determine if the proposed "Health Conditioning/Physical Retreat Center" must conform to the requirements of Chapter 98, Special Treatment Facility, of Title 11, Administrative Rules, State of Hawaii.
3. No building will be permitted to use cesspools or other individual wastewater systems as a means of sewage disposal if it generates wastewater in excess of 800 gallons per day. If the applicant is considering an alternative method of sewage disposal beside individual wastewater systems, they should be made aware that injection wells will not be permitted for effluent disposal. The proposed development shall conform to Act 262, S.L.H. 1985 and as amended by Act 302, S.L.H. 1986.
4. The proposed "Cafeteria/Bakery" shall conform to the requirements of Chapter 11-A, Food Service and Food Establishment Sanitation Code, Public Health Regulations, State of Hawaii.
5. The proposed cabins, Faculty homes and student dormitories, shall conform to the requirements of Chapter 14, Housing, of Title 11, Administrative Rules, State of Hawaii.

continued on back

Signature _____

Please return one (1) copy by April 2, 1987. Thank you.

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

- 6. The proposed classrooms and other buildings other than dwellings shall conform to the requirements of Chapter 11, Sanitation, of Title 11, Administrative Rules, State of Hawaii.
- 7. The proposed watercress raising site shall be approved by the Department of Health.
- 8. The proposed swimming pool shall conform to the requirements of Chapter 13, Public Swimming Pools, of Title 11, Administrative Rules, State of Hawaii.
- 9. Open burning is prohibited unless an agricultural burning permit is obtained from the Department of Health.
- 10. Grubbed material shall be disposed in a manner and at a site approved by the Department of Health.
- 11. Effective dust and soil erosion control measures shall be implemented during all phases of development by the developer.
- 12. The proposed development shall be provided with potable water from an approved source.

Due to the general nature of the application submitted, we reserve the right to implement further environmental restrictions when more detailed plans are submitted.

Clyde Takekuma
(for) Ted Inouye, Chief Sanitarian, Kauai

1:GNT/pla

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Dept. of Transportation, Highways Agency Report, 1987

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987
SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit
Appl. SP-87-13, KAHILI ADVENTIST SCHOOL
TO: Public Works Dept.
 Water Dept.
 State Health Dept.
 [REDACTED] ← STATE HIGHWAYS DIVISION
 Fire Dept.
 Sam Lee (DLNR)
 State Dept. of Agriculture
 Police Dept.



FOR YOUR COMMENTS (pertaining to your department):

March 20, 1987

1. Provide left turn storage lanes on Kaumualii Highway;
2. Provide acceleration and deceleration lanes at the junction with Kaumualii Highway;
3. Install street lights within highway R/W; and
4. Allow us to review construction plans.

Signature Seigetsu Yamaguchi
SY:jf SEIGETSU YAMAGUCHI

Please return one (1) copy by April 2, 1987. Thank you.

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

Fire Department Agency Report, 1987

TYK 2-7-01:Par 1

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML) DATE: March 18, 1987

SUBJECT: Zoning Permit Appl. Z-IV-87-51, Use Permit Appl. U-87-41 and Special Permit
Appl. SP-87-13, KAHILI ADVENTIST SCHOOL

TO: (xx) Public Works Dept.

(xx) Water Dept.

(xx) State Health Dept.

(xx) State Highways Div.

→ **RECEIVED** MAR 18 1987 FIRE DEP.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



FOR YOUR COMMENTS (pertaining to your department):

The fire department comments remain the same as previously submitted to the planning department.

(As submitted on August 13, 1982 by the Fire Department:

The Fire Department has no objections to the proposed permit application provided:

1. Access roadways have all-weather driving surface of not less than 20 feet of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of the fire apparatus and having a minimum of 13 feet 6 inches of vertical clearance.
2. County approved water lines with fire hydrants having the required fire flow be located within 250 feet to all sections of the proposed buildings to be protected.
3. All buildings shall have a minimum 2-A rated ABC type of fire extinguisher mounted 4 feet from the floor near the exit.
4. Comply with all other requirements of the Kauai County Fire Code.)

Signature 

Please return one (1) copy by April 2, 1987. Thank you.

Exhibit 9

Smoke Detector Memo

&

Emergency Vehicle Access Memo

Exhibit 9—Smoke Detector Memo



School Office

Kahili Adventist School

September 17, 2008

Memo: Smoke Detectors

To Whom It May Concern:

We have confirmed that every occupied building on the grounds has at least one smoke detector installed.

Thank you,

Jamie M. Lee
Kahili Mountain Park Manager

Building Address
101 In. 4A
Phone: 808-824-2663
Street Address
21035 Kahili Mountain
Kahili, HI 96733
Fax: 808-824-2663
Email: 808-824-2663
Fax: 808-824-2663
Accredited by
Accredited by
Accredited by

Exhibit 9—Emergency Vehicle Access Memo



Kahili Adventist School

August 29, 2008

Memo: Emergency Vehicle Access

To Whom It May Concern:

On August 14, 2008 we called 911 and requested emergency service at cabin #43. That cabin is the most remote cabin on the grounds and is at the end of our interior road.

EMT's and the fire department responded to the call. After attending to the emergency, I asked the gentlemen that responded from the fire department if they had any trouble locating the cabin or traversing our roads. They all responded saying they had no trouble finding the cabin- they had a detailed map.

They also affirmed that they had no trouble traversing our roads.

Thank you,

Jamie M. Lee
Kahili Mountain Park Manager

MAILING ADDRESS
23-440-12
Kahili, Kauai
PHONE NUMBER
808-824-2777
FAX NUMBER
808-824-2777
E-MAIL ADDRESS
jamie.lee@kauai.k12.hi.us
APPROVED BY
Kahili Mountain Park Manager
8/29/08

Exhibit 10

Letter from Department of Transportation, Highways Division, Kauai District

Kahili Adventist School
Compliance and Status Report to the County of Kauai Planning Commission
Class IV Zoning Permit Z-IV-87-51, Use Permit U-87-41, Special Permit SP-87-13

LINDA LINOLO
GOVEMER



BRENNON T. MORIOKA
DIRECTOR

Deputy Director
MICHAEL D. FORBES
FRANCIS SAIN, KESB
BRIAN N. SEKOUCHI
JORDA SUNADA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1725 HAELUMANA STREET
LIHUE, HAWAII 96766

MAILING REPORT

HWY-K 4.090840

September 15, 2009

Mr. Ronald Wagner
Wagner Engineering Services, Inc.
P.O. Box 851
Hanalei, Hawaii 96714

Dear Mr. Wagner:

Subject: Traffic Operational Analysis Report
Kahili Adventist School
Kaumualii Highway and Kahili Wai Street Intersection
Ko'olau, Kauai, Hawaii
TMK (4) 2-7-01:

We have reviewed the subject Traffic Operational Analysis Report that is dated April 2009 and revised September 2009. We have no further comments on the report.

Please provide us a copy for our files that you have stamped and signed. If you have any questions, please call Stanford Iwamoto at 241-3015.

Sincerely,

Raymond J. McCormick

RAYMOND J. MC CORMICK, P.E.
District Engineer

sm:jl

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition

) SP87-364

of

) **CERTIFICATE OF SERVICE**

SP87-364 Kahili Adventist School (Kauai)

)

)

)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Petitioner Kahili Adventist School's Status Report; Exhibit "A" was served upon the following by either hand delivery or depositing same in the United States Mail, postage-prepaid on December 1, 2009:

Mr. Dan Davidson
Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

Abbey Meyer, Director
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804-2359

Bryan C. Yee, Esq.
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

Matthew Pyun, Esq.
County of Kauai
4444 Rice Street, Suite 220
Lihue, Kauai, Hawaii 96766

Ian Costa, Director
Department of Planning
County of Kauai
4444 Rice Street, Suite A473
Lihue, Kauai, Hawaii 96766

Michael D. Tom, Esq.
Tom Petrus & Miller
1164 Bishop Street, Suite 650
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, December 1, 2009.

Mark G. Valencia
MICHAEL R. MARSH
JAMES M. CRIBLEY
MARK G. VALENCIA
Attorneys for Petitioner
KAHILI ADVENTIST SCHOOL