

SP87-364 Kahili Adventist School



| | | |
|---|--|---|
| PETITION FILED: PETITION ACCEPTED FOR FILING: DOCKET NO./PETITIONER: SP87-364 Kahili Adventist School Koloa, Kauai, Hawaii Request to Amend Conditions #1 , and to provide a Compliance and Status Report for Use Permit U-87-41, Special Permit SP87-13, Class IV Zoning Permit Z-IV-87-51 | | ATTORNEY FOR PETITIONER Mark Valencia, Esq. Case Lombardi & Pettie Pacific Guardian Center 737 Bishop St. #2600 Honolulu, HI 96813 PH:547-5400 |
| STATE Office of Planning P. O. Box 2359 Honolulu, HI 96804-2359 | | ATTORNEY FOR STATE Deputy Attorney General Hale Auhau 425 Queen Street Honolulu, Hawaii 96813 |
| COUNTY Ian Costa, Director County of Kauai, Planning Dept. 4444 Rice Street, Suite A473 Lihue, Hawaii 96766 | | ATTORNEY FOR COUNTY Lani Nakazawa, Esq. Corportation 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 St. Suite 650 Honolulu, HI 96813 |
| PUBLIC WITNESS | | |
| | | |
| DATE | | Initial |
| 2/9/10 | Rcvd Petitioner Kahili Adventist School's Status Report; Exhibit "A", COS | RH |
| 3/1/10 | Rcvd from letter from Kauai County-Ian Costa re:Request to Amend Conditions #1 , and to provide a Compliance and Status Report for Use Permit U-87-41, Special Permit SP87-13, Class IV Zoning Permit Z-IV-87-51 and minutes of January 26, 2010 Planning Commission meeting. | RH |
| 4/1/10 | Mailed April 8-9, 2010 agenda letter to Parties and State, Hawaii, Oahu and Kauai mailing lists | RH |

| | | |
|----------|---|------------------|
| 4/7/10 | Rcvd written correspondence from the Department of Transportation-Raymond McCormick | RH |
| 4/26/10 | Mailed Decision and Order Approving Amendment to Special Use Permit to parties | RH |
| 8/14/14 | Received correspondence advising of ownership change – Kahili Adventist would no longer submit annual reports | Posted to web SD |
| 12/2/14 | Mailed Agenda notice for DEC 10, 2014 LUC Meeting to the Parties, Statewide and Kauai mailing lists | RH |
| 12/9/14 | Rcvd fax advising County had NO POSITION and would not be appearing at the DEC 10 meeting. | RH |
| 12/10/14 | Rcvd Owner's Status Report and Site Schematic Map at LUC mtg on Kauai | Posted to web |

Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Director of Planning

Nadine K. Nakamura
Managing Director

Dee M. Crowell
Deputy Director of Planning

PLANNING DEPARTMENT
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4444 Rice Street
Kapule Building, Suite A-473
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DEC 09 2014

Mr. Daniel Orodener
Executive Office
State of Hawaii Land Use Commission
235 S. Beretania Street, Suite 406
Honolulu, Hawaii 96813
Via Facsimile at 808-587-3827

Re: SP87-364 Kahili Adventist School
A11-791 Kapaa Highlands II
Statement of NO POSITION

2014 DEC -9 P 3:41
LAND USE COMMISSION
STATE OF HAWAII

Dear Mr. Orodener,

Please accept this letter on behalf of the County of Kauai. The County takes NO POSITION related to the proposed actions concerning the above referenced dockets before the Land Use Commission at its December 10, 2014 meeting. By this letter, the County waives its presence at the hearing as well and will not be in attendance.

Should you have any questions, please do not hesitate to contact us at the above information.

Me Ke Aloha Pumehana,

Michael A. Dahilig
Director of Planning

cc: Scott Derrickson, LUC Planner
Ian K. Jung, County Attorney

BELLES GRAHAM PROUDFOOT WILSON & CHUN, LLP

MAX W. J. GRAHAM, JR. 926-0
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Lihue, Kauai, Hawaii 96766
Telephone: (808) 246-6962
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Attorney for Owner,
ERIC A. KNUDSEN TRUST

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 situated at Koloa, Kauai, Hawaii,
identified by Kauai Tax Map Key
No. (4) 2-7-001:003.

SP87-364

**OWNER'S STATUS REPORT;
EXHIBITS "A" AND "B";
CERTIFICATE OF SERVICE**

**OWNER'S STATUS REPORT RE:
KAHILI ADVENTIST SCHOOL PETITION
(SP87-364)**

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OWNER'S STATUS REPORT

Comes now the ERIC A. KNUDSEN TRUST, the owner of the Property which is the subject of the above-captioned proceedings, by and through its undersigned attorney, and hereby submits the following Status Report:

SECTION 1. APPLICANT/SUBJECT PROPERTY/OWNER.

1.1 Applicant. The original applicant in this matter was the HAWAII CONFERENCE OF SEVENTH-DAY ADVENTIST (f.n.a. Hawaiian Association of Seventh-Day Adventist, d.b.a. Kahili Adventist School).

1.2 Subject Property. The property which is the subject matter of this Petition ("Subject Property") is described as Lot 396 of Land Court Application No. 956 (Map 93), located in Koloa, Kauai, Hawaii, identified by Kauai Tax Map Key No. (4) 2-7-001:003. The Subject Property contains approximately 197.463 acres.

1.3 Ownership. The ERIC A. KNUDSEN TRUST ("Knudsen Trust") is the owner of the Subject Property.

SECTION 2. LOCATION AND LAND USE DESIGNATIONS OF PROPERTY.

2.1 Location. The Subject Property is located in Koloa, Kauai, Hawaii, and is shown on the Location Map **[Exhibit "A-1"]** and on Tax Map 2-7-001 **[Exhibit "A-2"]**.

2.2 Land Use Designations. The respective State Land Use Commission ("SLUC"), Kaua'i General Plan, County of Kauai Comprehensive Zoning Ordinance ("CZO"), and other relevant land use designations for the Subject Property are as follows:

2.2.1 SLUC. As shown on the Land Use District Boundary Map **[Exhibit "A-5"]**, the Subject Property is located in the State Land Use Commission ("SLUC") Agricultural District.

2.2.2 Kaua'i General Plan. As shown on the General Plan Map **[Exhibit "A-6"]**, the Subject Property is located in the Kaua'i General Plan Agriculture Land Use Designation.

2.2.3 CZO. As shown on the Zoning Map **[Exhibit "A-4"]**, the Subject Property is located in the CZO Open District.

2.2.4 Development Plan Area. The Subject Property is located within the Koloa-Poipu-Kalaheo Development Plan Area. The Subject Property has been located within the Koloa-Poipu-Kalaheo Development Plan Area since the original adoption of the Koloa-Poipu-Kalaheo Development Plan (Ord. No. 254, June 16, 1975).

2.2.5 Special Management Area. None of the Subject Property is located within the Special Management Area ("SMA") of the County of Kauai.

2.2.6 Violations. There are no existing violations of any land use laws or regulations on the Subject Property.

2.2.7 Land Use Conditions. The Subject Property is subject to the land use conditions described below.

SECTION 3. PAST, EXISTING AND PROPOSED USES OF SUBJECT PROPERTY.

3.1 Past and Existing Uses. The Subject Property has been used for agricultural purposes, commercial recreational purposes, and church and school purposes, as described in the following sections, and as shown on the Chronology (Kahili Mountain Park) attached as **Exhibit "D-1"**.

3.2 Agricultural Uses. Prior to 1967, the area which is now the Subject Property was used for agricultural purposes, including as a lychee tree and macadamia nut tree orchard.

3.3 First KMP Permit. In 1967, the SLUC approved Special Permit SP67-48 for Kahili Mountain Park, which included a 50 acre portion of the area which is now the Subject Property ("First KMP Permit"). As described in **Exhibit "B-2"**, this Special Permit allowed: the operation of a Restaurant/Bar facility; 16 camping facilities ("Cottages"); a Horse Riding facility; and various recreational facilities. The Special Permit was subject to five (5) conditions of approval. The Knudsen Trust and the Augustus F. Knudsen Trust ("AFK Trust") were the owners. Eric Knudsen, d.b.a. Kahili Mountain Park, Inc. ("KMP, Inc."), was the applicant.

3.4 Second KMP Permit. In 1975, the SLUC approved Special Permit SP75-214 for Kahili Mountain Park, which included an expanded 215 acre portion of the area which is now the Subject Property ("Second KMP Permit"). As described in **Exhibit "B-3"**, this Special Permit allowed: the existing facilities (including a Central Lodge, a Supervisor's Residence, 15 Tent Platforms, and 7 Cottages); a new Recreation Building; and 20 new Cottages (2 bedroom/1 bathroom/1 kitchen). The Special Permit was subject to four (4) conditions of approval. The Knudsen Trust and the AFK Trust were the owners, and KMP, Inc. was the applicant.

3.5 Kahili Adventist School Permit. In 1987, the SLUC approved Special Permit SP87-364 for the Kahili Adventist School on the Subject Property ("School Permit"). By this time, a new Lot 396 had been created which includes all of what is described as the Subject Property. The applicant was the Hawaiian Association of Seventh-Day Adventist, now known as Hawaii Conference of Seventh-Day Adventist ("SDA"), which was doing business as Kahili Adventist School. SDA had acquired a leasehold interest in the Subject Property by a Lease dated December 31, 1984 between the Knudsen Trust and AFK Trust, as Lessors, and SDA, as Lessee.

As described in **Exhibit "B-4"**, this Special Permit allowed structures and uses related to the operation of an elementary and intermediate school, including: a school building; a gymnasium; a chapel; new cabins/cabinettes; staff housing; office; existing Cottages; and various accessory facilities. The existing structures are shown on the Site Plan attached as **Exhibit "A-3"** and are described in the KMP As Built Building Index attached as **Exhibit "A-7"**.

3.6 Present Use/Status of Conditions.

3.6.1 Lease Cancellation. In 2000, the AFK Trust was dissolved. As part of a partition of properties jointly owned by the Knudsen Trust and the AFK Trust, the Knudsen Trust became the sole owner of the Subject Property. Thereafter, in 2003, litigation arose between the Knudsen Trust and SDA concerning SDA's use of the Subject Property, including SDA's commercial renting of the Cottages and camping facilities at KMP for short-term rentals (transient vacation rentals). That litigation was resolved pursuant to a settlement agreement between the parties which provided that the Lease would be terminated as of June 30, 2014. Since then, SDA has vacated the Subject Property and the Kahili Adventist School is no longer in operation. SDA provided the SLUC with notice of the Lease cancellation by letter dated August 12, 2014.

3.6.2 Status of Conditions. It appears, based on a review of the last SDA Status Report letter dated April 26, 2013, that all of the Conditions of Approval for the School Permit are being adhered to, with the exception of Condition 7 relating to the educational curriculum (agriculture work study program).

3.7 Proposed Uses. The Knudsen Trust has not had sufficient time to evaluate its future use of the Subject Property. The Knudsen Trust initially approached some parties concerning the continued operation of an elementary/intermediate school on the Subject Property, but there appears to be little or no interest in this proposal. The Knudsen Trust has no intent in operating a school on the site on its own.

Other possible alternatives for the Subject Property include the following activities (or some combination thereof):

- a. Agricultural activities.
- b. Commercial recreational activities.
- c. Transient vacation rentals of the campsites and Cottages.
- d. Social events (e.g., weddings, parties, retreats).
- e. Development of farm dwellings.

The Knudsen Trust will need time to evaluate potential future uses. As a result, the Knudsen Trust is requesting an extension of time until July 1, 2015, to report to the SLUC concerning the status of SP87-364.

SECTION 4. CONCLUSION.

The Eric A. Knudsen Trust respectfully requests that the Land Use Commission of the State of Hawaii grant it an extension of time until July 1, 2015, to report on the status of Special Permit SP87-364.

DATED: Lihue, Kauai, Hawaii, December 10, 2014.

BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP

By 

MAX W. J. GRAHAM, JR.
Attorney for Owner,
ERIC A. KNUDSEN TRUST

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 situated at Koloa, Kauai, Hawaii, identified by Kauai Tax Map Key No. (4) 2-7-001:003; **OWNER'S STATUS REPORT; EXHIBITS "A" AND "B"; CERTIFICATE OF SERVICE**

EXHIBIT LIST

(Eric A. Knudsen Trust Status Report re: Kahili Adventist School)

EXHIBIT

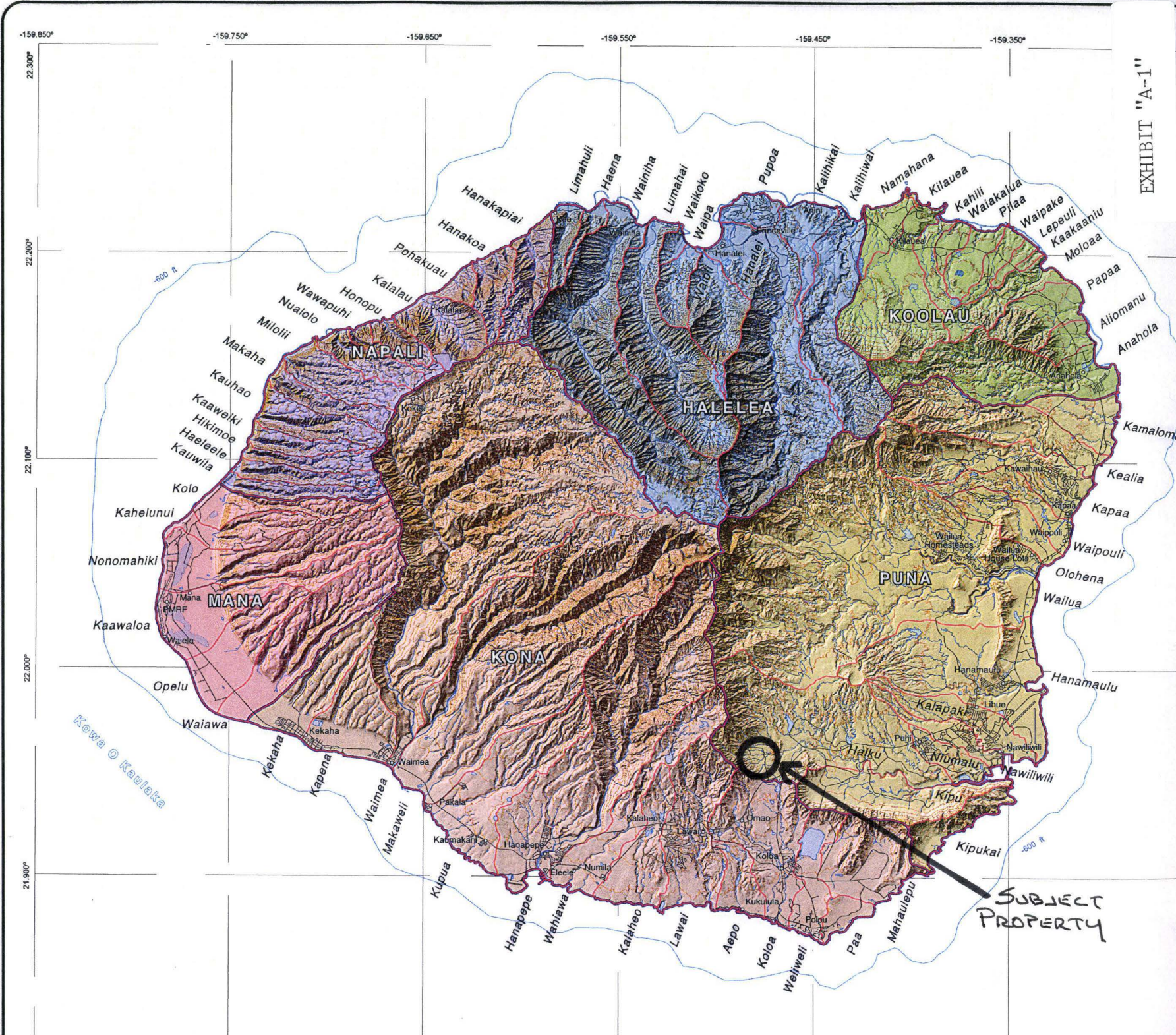
A. MAPS

| | |
|--------------------------------------|-----|
| Location Map..... | A-1 |
| Tax Map (2-7-01) | A-2 |
| Site Plan..... | A-3 |
| Zoning Map | A-4 |
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B. PERMIT SUMMARIES

| | |
|---|-----|
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| First KMP Permit (SP67-48) | B-2 |
| Second KMP Permit (SP75-214) | B-3 |
| Kahili Adventist School Permit (SP87-364) | B-4 |

EXHIBIT "A-1"



22.300°
22.200°
22.100°
22.000°
21.900°

-159.850°
-159.750°
-159.650°
-159.550°
-159.450°
-159.350°

MANA
NAPALI
KONA
HALELEA
KOOLAU
PUNA

Limahuili
Haena
Wainiha
Lumahaui
Waikoko
Waipa
Pupua
Kalihiwai
Kalihiwai
Namahana
Kilauea
Kahili
Waiakalua
Pila
Waipake
Lepeui
Kaakaani
Molooa
Papaa
Aliomanu
Anahola
Kamaloma
Kealia
Kapaa
Waipouli
Oloheua
Wailua
Hanamaulu
Kalapaki
Lihue
Nawiliwili
Kipukai
Paa
Mahaulepu
Koloa
Aieo
Lawai
Kalaheo
Wahiawa
Hanapepe
Kupua
Makaweli
Waima
Kekaha
Kapena
Opelu
Kaawaloa
Nonomahiki
Kahelunui
Kolo
Haelele
Hikimoe
Kaawiki
Kauhao
Makaha
Milolii
Nualolo
Wawapuhi
Honopu
Kalalau
Pohakuau
Hanakoa
Hanakapiai

600 ft
600 ft

Kona © Kaula

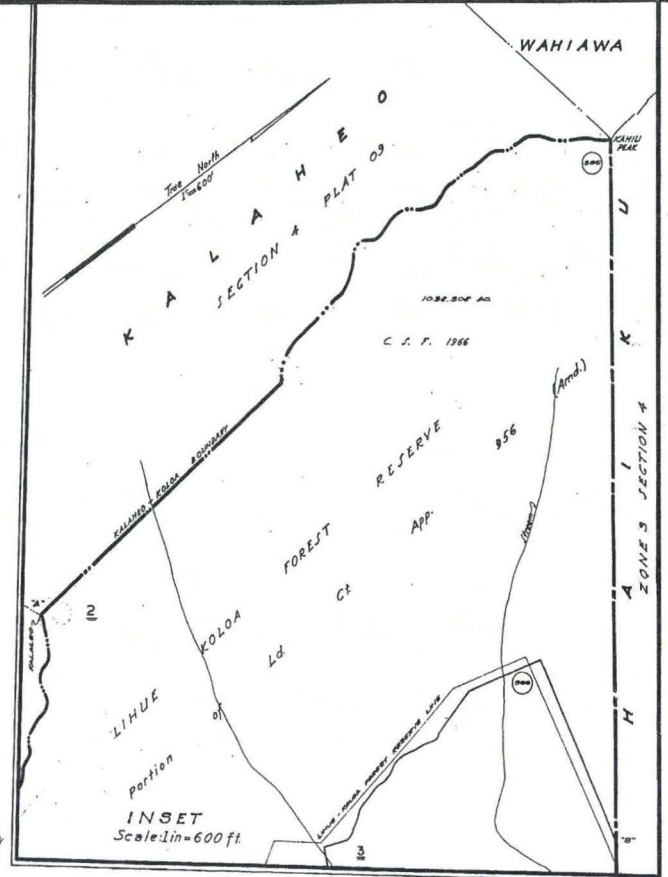
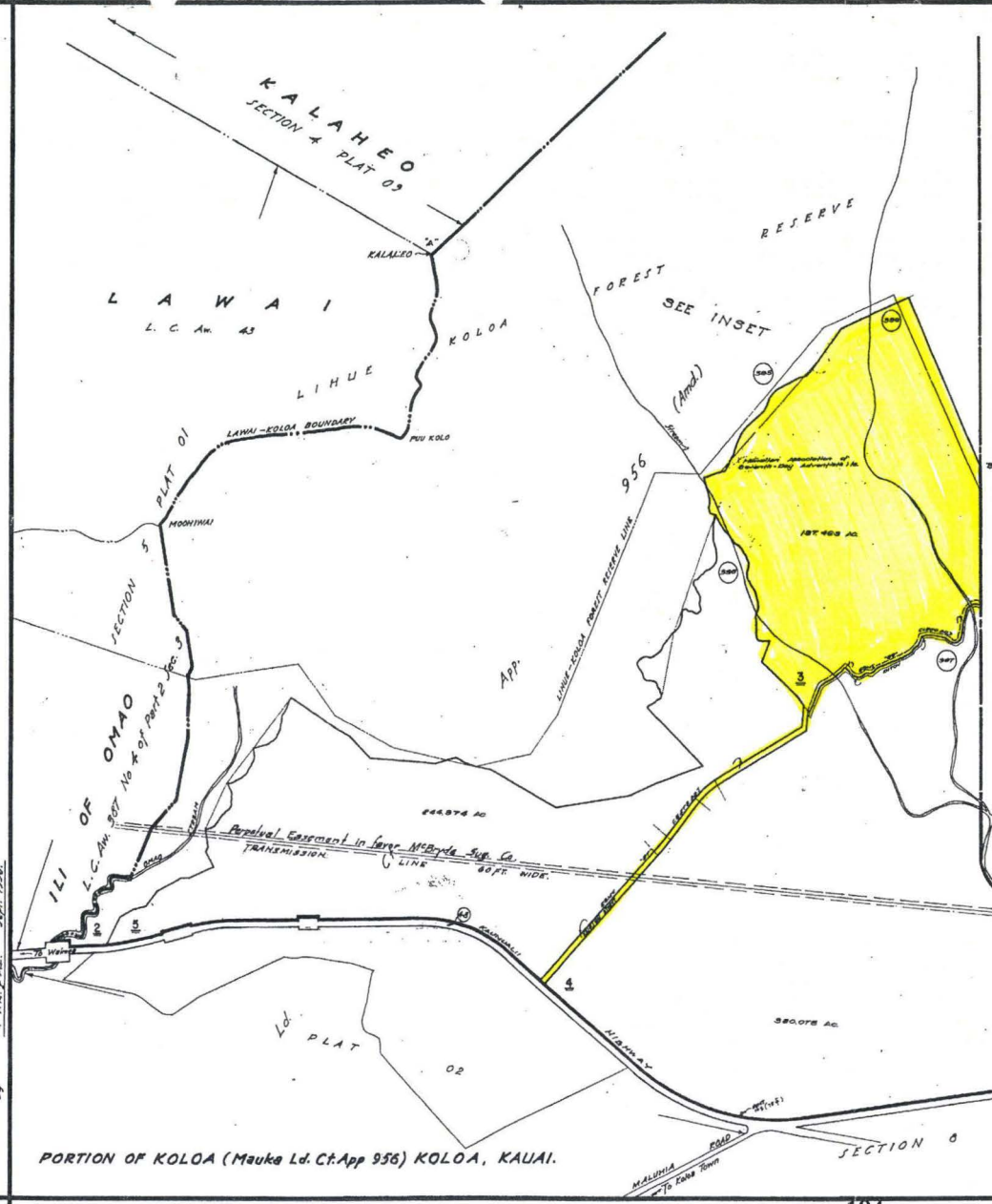
EXHIBIT "A-1"

SUBJECT
PROPERTY

EXHIBIT "A-2"

CORRECTED
 SEP 19 1966
 JUN 17 1966
 JET
 JUN 17 1966
 JUN 17 1966
 JUN 17 1966
 JUN 17 1966
 JUN 17 1966

2701



| | | |
|------------------------|----------|------|
| TAXATION MAPS BUREAU | | |
| TERRITORY OF HAWAII | | |
| TAX MAP | | |
| FOURTH | DIVISION | |
| ZONE | SEC. | PLAT |
| 2 | 7 | 01 |
| CONTAINING 7 PARCELS | | |
| SCALE: 1 in. = 600 ft. | | |
| PRINTED | | |

EXHIBIT "A-2"

EXHIBIT "A-3"

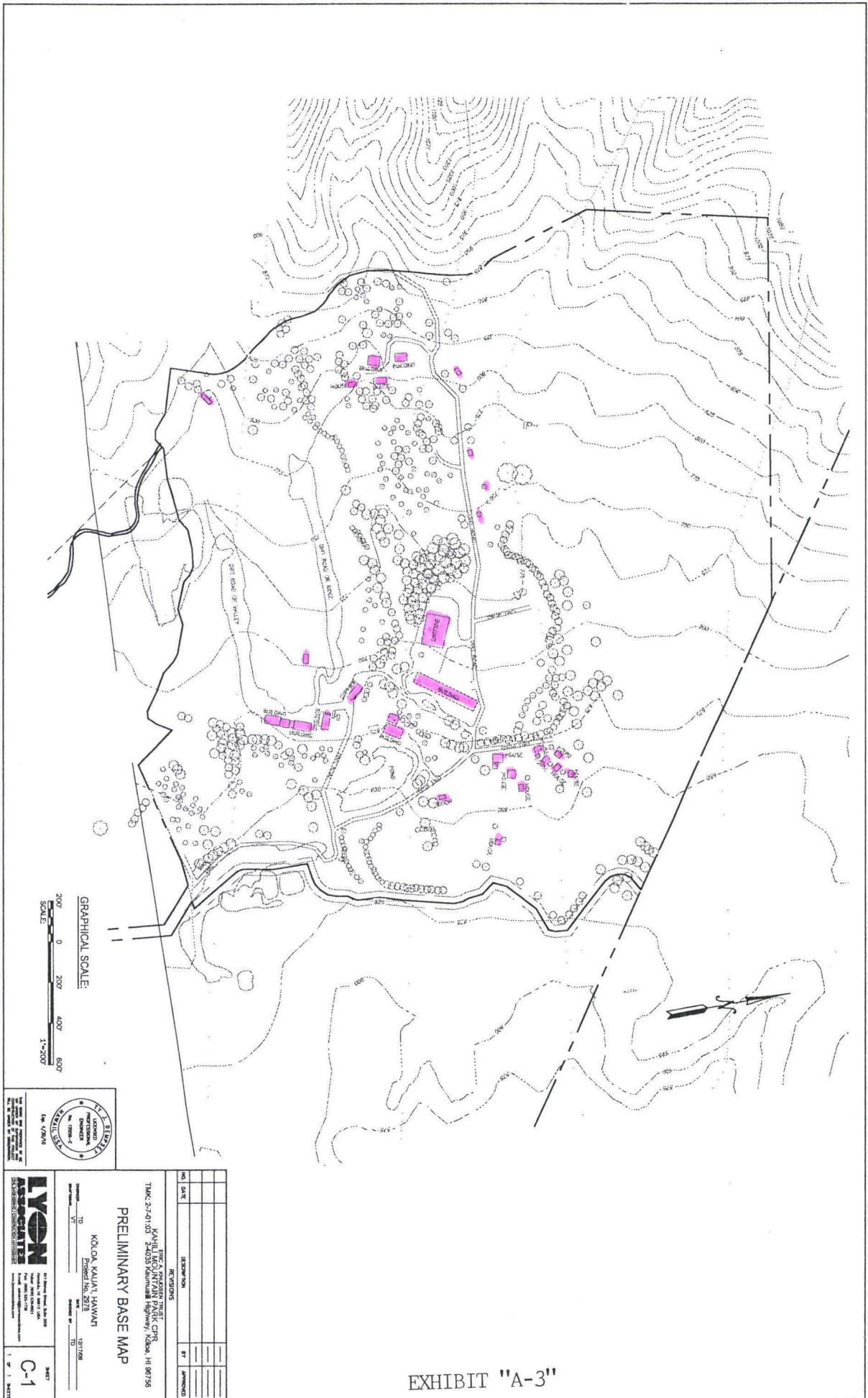


EXHIBIT "A-3"

EXHIBIT "A-4"

EXHIBIT "A-5"

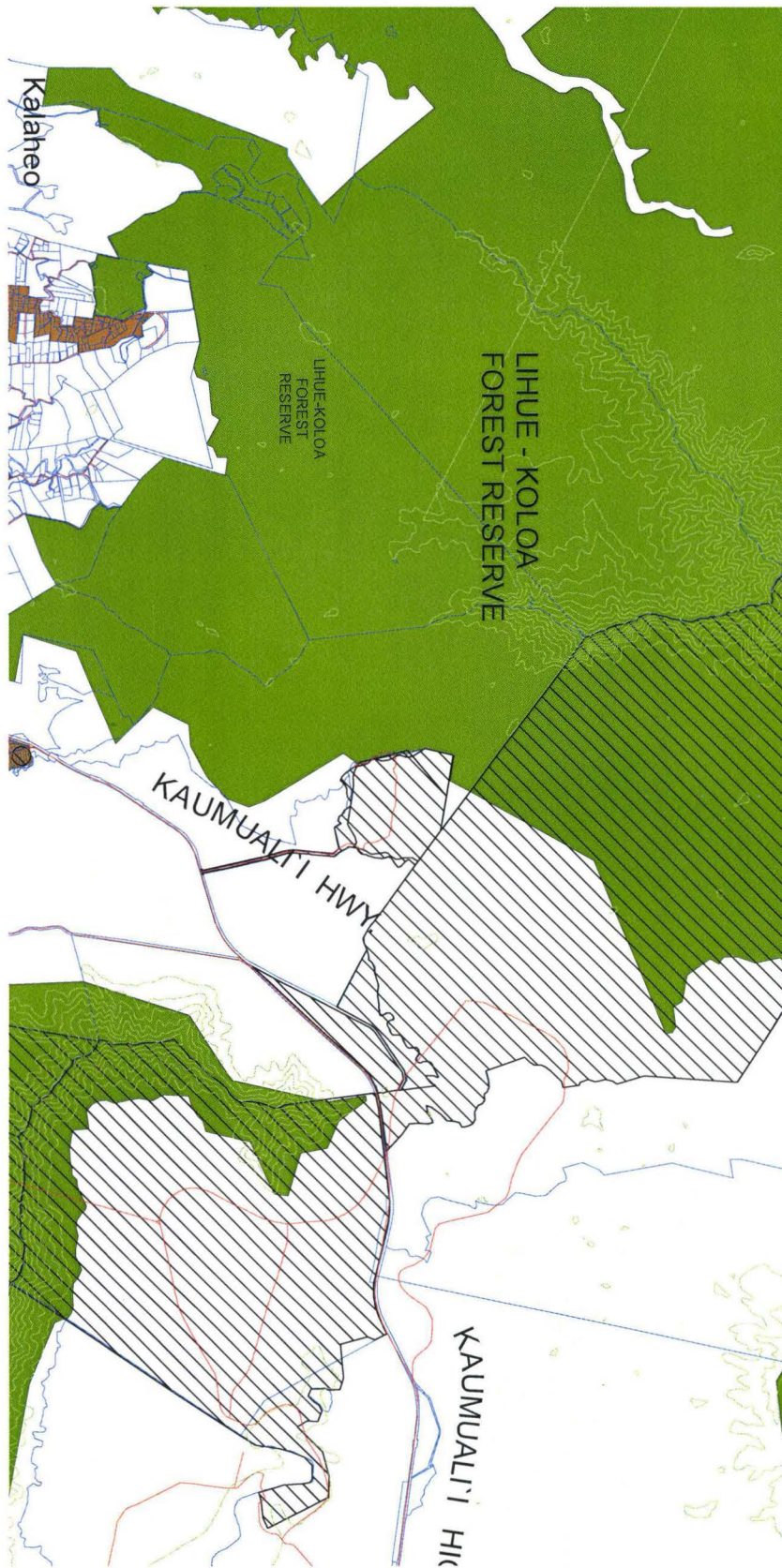
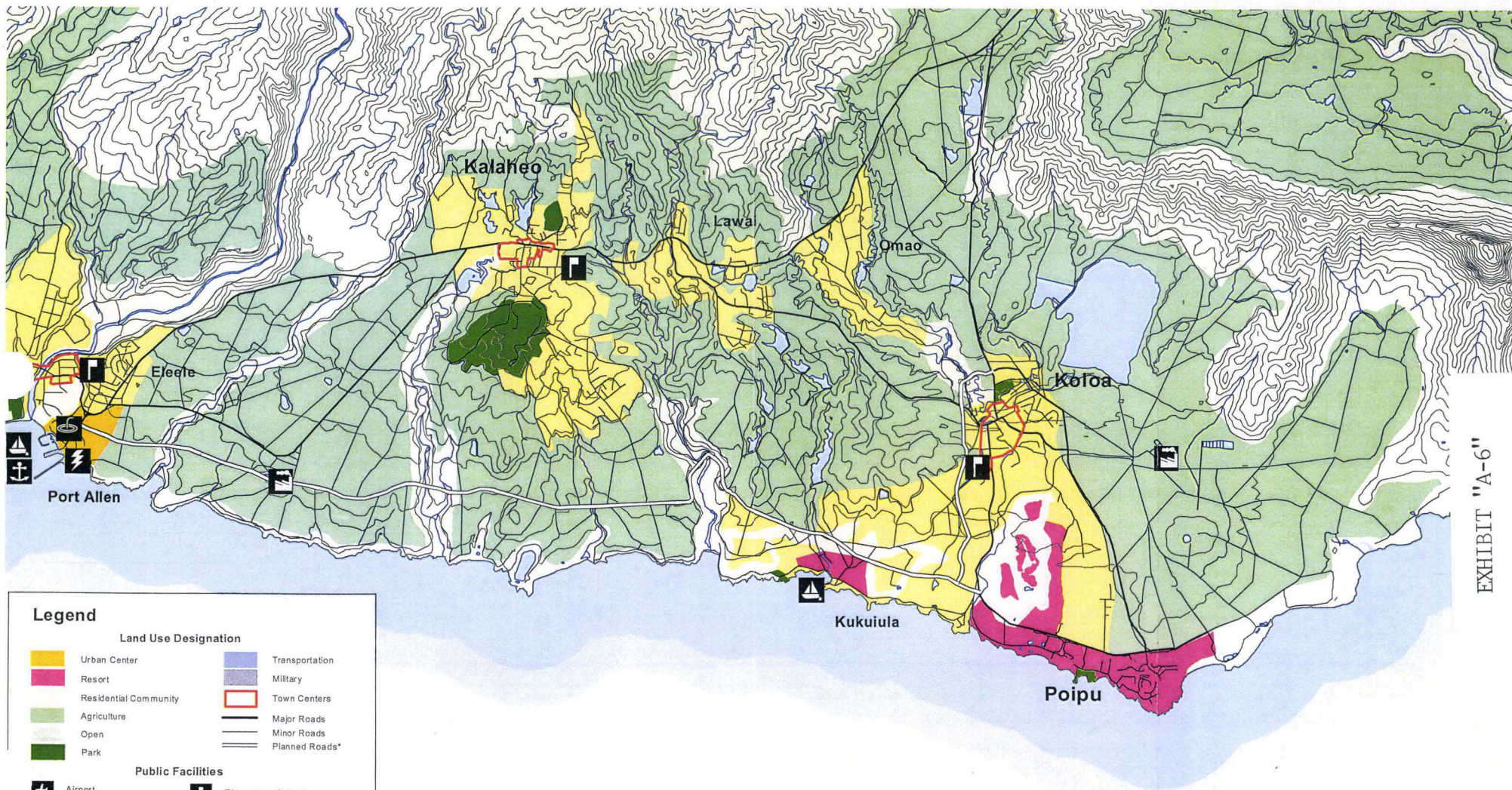


EXHIBIT "A-5"

EXHIBIT "A-6"



**Koloa-Poipu-Kalaheo Planning District
Land Use Map**



EXHIBIT "A-6"

EXHIBIT "A-7"

| Kahili Mountain Park As built building documentation project | | | | |
|--|-------------------------|----------------------------------|------------|-------------|
| Building # | Description of building | Kahili Mountain Park Designation | Total area | Living area |
| 1 | Office / Dwelling | Office/staff housing | | |
| 2 | 2 BR Dwelling | Staff housing | | |
| 3 | | Staff housing | | |
| 4 | similar to 19 | New Cabinette | | |
| 5 | similar to 19 | New Cabinette | | |
| 6 | similar to 19 | New Cabinette | | |
| 7 | similar to 19 | New Cabinette | | |
| 8 | similar to 14 | Rustic Old Cabinette | | |
| 9 | similar to 19 | Rustic Old Cabinette | | |
| 10 | similar to 14 | Rustic Old Cabinette | | |
| 11 | similar to 14 | Rustic Old Cabinette | | |
| 12 | similar to 14 | Rustic Old Cabinette | | |
| 13 | Potting Building | Potting shed | | |
| 14 | | Rustic Old Cabinette | | |
| 15 | similar to 19 | New Cabinette | | |
| 16 | similar to 19 | New Cabinette | | |
| 17 | similar to 19 | New Cabinette | | |
| 18 | similar to 19 | New Cabinette | | |
| 19 | similar to 19 | New Cabinette | | |
| 20 | Dwelling | Staff housing | | |
| 21 | Old Cabin | Old Cabin | | |
| 22 | 1 br cabin | Old Cabin | | |
| 23 | 1 br cabin | Old Cabin | | |
| 24 | | Old Cabin | | |
| 25 | | Old Cabin | | |
| 26 | | Old Cabin | | |
| 27 | | Old Cabin | | |

| | | | | |
|----|--|-----------------------------|--|--|
| 28 | | Old Cabin | | |
| 29 | | Old Cabin | | |
| 30 | | Old Cabin | | |
| 31 | | New Cabin | | |
| 32 | | New Cabin | | |
| 33 | | New Cabin | | |
| 34 | | New Cabin | | |
| 35 | | New Cabin | | |
| 36 | | Canvasback 36 | | |
| 37 | | Staff housing | | |
| 38 | | Staff housing | | |
| 39 | | Staff housing | | |
| 40 | | Staff housing | | |
| 41 | | Staff housing | | |
| 42 | | Staff housing | | |
| 43 | | Staff housing | | |
| 44 | | School | | |
| 45 | | Generator building /storage | | |
| 46 | | Lodge | | |
| 47 | | Chapel | | |
| 48 | | Classroom | | |
| 49 | | Gymnasium | | |
| 50 | | Water tank | | |
| 51 | | Workshop | | |
| 52 | | Storage shed | | |
| 53 | | Water pump shed | | |
| 54 | | small water storage tank | | |
| 55 | | Carport | | |
| 56 | | water pump shed | | |
| 57 | | small water pump shed | | |
| 58 | | covered horse stable | | |
| 59 | | Small horse stable | | |

| | | | | |
|----|--|------------------------------|--|--|
| 60 | | Storage shed behind gym. | | |
| 61 | | Pigeon Coup | | |
| 62 | | outdoor laundry building | | |
| 63 | | outdoor shower building | | |
| 64 | | outdoor bathrom building 1 | | |
| 65 | | outdoor bathrom building 2 | | |
| 66 | | detached carport / storage | | |
| 67 | | Hot Tub Building | | |
| 68 | | Barn | | |
| 69 | | Metal storage building | | |
| 70 | | Metal workshop building | | |
| 71 | | Ag storage shed | | |
| 72 | | Industrial carport structure | | |
| 73 | | Storage Shed End of road | | |
| 74 | | Shed | | |
| 75 | | Extended Carport Structure | | |

EXHIBIT "B-1"

CHRONOLOGY
(KAHILI MOUNTAIN PARK)

1936

August 11 Lot 49 and Lot 50 registered in Land Court as shown on Map 3 of Land Court Application No. 956 (Owners: Eric A. Knudsen Trust/Augustus F. Knudsen Trust)

1967

October 23 County of Kauai, Planning and Traffic Commission, approves SP67-48 (First KMP Permit)

December 15 SLUC approves SP67-48 (First KMP Permit)

1969

October 31 SLUC approves deletion of Condition 4 of SP67-48 (First KMP Permit)

1973

November 16 Lot 49 subdivided into Lot 49-A, et.al., as shown on Map 47, Land Court Application No. 956 (Owners: Eric A. Knudsen Trust/Augustus F. Knudsen Trust)

1975

August 13 Planning Commission, County of Kauai, approves Use Permit U-16-75, Class IV Zoning Permit Z-IV-75-25, Special Permit SP-75-3 (Second KMP Permit)

September 22 SLUC approves SP75-214 (Second KMP Permit)

1983

December 14 Planning Commission, County of Kauai, approves Use Permit U-2-83, Class IV Zoning Permit Z-IV-83-3, Special Permit SP-83-1 (Kahili Adventist School)

1984

- November 29 Lot 49-A and Lot 50 consolidated/subdivided into Lots 395, 396, 397 and 398 as shown on Map 93 of Land Court Application No. 956 (Owner: Eric A. Knudsen Trust/Augustus F. Knudsen Trust)
- December 31 Lease for Lot 396 between Eric A. Knudsen Trust and Augustus F. Knudsen Trust (Lessors) and Hawaiian Association of Seventh-Day Adventist (Lessee)

1987

- July 22 Planning Commission, County of Kauai, approves First Amendment to Use Permit U-87-1, Class IV Zoning Permit Z-IV-87-51, Special Permit SP-87-13 (Kahili Adventist School)
- August 13 SLUC approves SP87-364 (Kahili Adventist School)

1990

SLUC approves First Amendment to SP87-364 (Kahili Adventist School)

2000

Lot 396 transferred to Eric A. Knudsen Trust (Partition Deed dated November 3, 2000, recorded as Land Court Document No. 2662386)

2009

- September 22 SLUC Boundary Interpretation No. 08-18 (Lot 396 located in SLUC Agricultural District)

2010

- January 26 Planning Commission, County of Kauai, approves Second Amendment to Use Permit U-87-1, Class IV Zoning Permit Z-IV-87-51, Special Permit SP-87-13 (Kahili Adventist School)
- April 26 SLUC approves Second Amendment to SP87-364 (Kahili Adventist School)

2014

- June 30 Cancellation of Lease (Lot 396)

EXHIBIT "B-2"

FIRST KAHILI MOUNTAIN PARK PERMIT
(SP67-48)

- A. Approved: 12/15/67
- B. Property: Portions of Lots 49 and 50
- C. Zoning:
1. SLUC – Ag
 2. CZO – N/A
- D. Permits:
1. SLUC – Special Permit
 2. CZO – N/A
- E. Applicant: Kahili Mountain Park, Inc.
- F. Owner: Eric A. Knudsen Trust/Augustus F. Knudsen Trust
- G. Site: Kahili Farms (150 acres)
(lychee/macadamia nut trees)
50 acre portion
- H. Proposal:
1. Structures.
 - a. Main Building
 - Office
 - Restaurant/Bar
 - Lounge
 - Game Room
 - Storage
 - b. 16 Cottages
 - 4 Beds
 - Cooking Area
 - Bathroom/Shower
 - c. Recreational Facilities
 - Baseball/volleyball/swimming/horseshoes/croquet
 - Pond
 - Hiking
 - Children: seesaws/swings/slides
 - Golf Driving Range

- d. Future
 - Riding Facility
 - Tennis Courts
 - Putting Green

2. Uses.

- a. Rental to public of "separate family living units".
- b. Mountain Night Club/restaurant/bar operation.
- c. Commercial Driving Range.

3. Times.

- a. May through September.
- b. Future: Easter through September

I. Order/Conditions Of Approval:

- 1. Operation under one management.
- 2. Commercial Accessory Uses Primarily for occupants of Cottages.
- 3. No night lighting for Driving Range.
- 4. Signs – limited to Camp Site. No Restaurant/Commercial Signs.
- 5. Approval per Proposal.

J. County Approval:

- 1. Agency – Planning and Traffic Commission
- 2. Approved – 10/23/67

SP67-48 (AMENDMENT)

Proposal: Amendment To Condition 4

Approved: 10/31/69

Order: Condition 4 Deleted

EXHIBIT "B-3"

SECOND KAHILI MOUNTAIN PARK PERMIT
(SP75-214)

- A. Approved: 9/22/75
- B. Property: Portions of Lots 49-A and 50
- C. Zoning:
1. SLUC – Ag
 2. CZO – Open
- D. Permits:
1. SLUC – Special Permit
 2. CZO – Use Permit/Class IV Zoning Permit
- E. Applicant: Kahili Mountain Park, Inc.
- F. Owner: Eric A. Knudsen Trust/Augustus F. Knudsen Trust
- G. Site: 215 acre portion of Lots 49-A and 50
- H. Proposal:
1. Structures.
 - a. Existing
 - 15 Tents
 - 7 Cottages
 - Shower/Toilet facilities
 - Utility Building
 - Tennis Court
 - Supervisor's Residence
 - Generator Shack
 - Central Lodge
 - Covered Furo
 - Garage
 - Stables
 - Manager's Residence
 - b. New
 - 20 Cottages (2 bedrooms/1 bathroom/kitchenette)
 - Recreation Building

I. Order:

Approved, subject to County Conditions:

1. New Cottages to have outside faucet/garden house for Fire Protection.
2. Potable water supply for entire project to be completed per DOH requirements prior to development of New Cottages.
3. New Cottages will not be placed in 100-year Flood Zone.
4. Comply with State/County laws.

J. County Approval:

1. Agency: Planning Commission
2. Approved: 8/13/75
3. Permits: Use Permit U-16-75; Class IV Zoning Permit Z-IV-75-25;
Special Permit SP-75-3

EXHIBIT "B-4"

KAHILI ADVENTIST SCHOOL PERMIT
(SP87-364)

- A. Approved: 8/13/87
- B. Property: Lot 396 of Land Court Application No. 956
(Map 93) (197.463 acres)
Kauai Tax Map Key No. (4) 2-7-001:003
- C. Zoning:
1. SLUC – Agricultural District
 2. CZO – Open District
- D. Permits:
1. SLUC – Special Permit
 2. CZO – Use Permit/Class IV Zoning Permit
- E. Applicant: Hawaiian Association of Seventh-Day Adventist
(d.b.a. Kahili Adventist School)
- F. Owner: Eric A. Knudsen Trust/Augustus F. Knudsen Trust
- G. Site: Lot 396
- H. Proposal:
1. Structures/Uses
 - a. Elementary school and playground
 - b. Intermediate school
 - c. Administration/library
 - d. High school/academy
 - e. Junior college
 - f. Student dormitories
 - g. Faculty, staff and retirement homes
 - h. Gymnasium/swimming pool
 - i. Cafeteria/bakery
 - j. Maintenance shops/vocational training/laundry
 - k. Retirement/health conditioning center
 - l. Health museum; conditioning, physical/spiritual retreat areas
 - m. Chapel
 - n. Existing and new cabins

- o. Lodge (retreat pavilion)
- p. Furo
- q. Retreat office/lecture rooms
- r. Retreat cabins
- s. Agricultural maintenance, greenhouse and sales
- t. Parking areas
- u. Sewage disposal facilities
- v. Access and interior road improvements
- w. Water transmission improvements
- x. Expanded telephone system
- y. Propane gas storage

I. Order:

Approved, 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 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).

J. County Approval:

1. Agency: Planning Commission
2. Approved: 12/14/83
3. Permits: Use Permit U-2-83; Class IV Zoning Permit Z-IV-83-3;
Special Permit SP-83-1

SP87-364 (FIRST AMENDMENT)

- A. Proposal: Adopt 4 additional Conditions of Approval
- B. Approved: 7/17/90
- C. Order:

The following four (4) new Conditions of Approval are adopted:

1. 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".
2. 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.

3. 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.
4. 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.

D. County Approval:

1. Agency: Planning Commission
2. Approval: 7/22/87
3. Permits: Use Permit U-87-41; Class IV Zoning Permit Z-IV-87-51; Special Permit SP-87-13

SP87-364 (SECOND AMENDMENT)

- A. Proposal: Amend Conditions of Approval Numbers 1, 2 and 3
- B. Approved: 4/26/10
- C. Order:

Conditions of Approval Numbers 1, 2, 3 and 8 are amended, and a new Condition 13 is added to read, as follows:

1. Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property.
2. The Applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The Applicant shall conduct a Traffic Operational Analysis as approved by the DOT at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The Applicant shall be required to pay for and construct all improvements recommended by the analysis.

8. The Applicant is advised that prior to and/or during construction and use, additional governmental agency conditions may be imposed. It shall be the applicant's responsibility to resolve these conditions with the respective agency(ies).
13. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the Land Use Commission and the County of Kaua'i Planning Department in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

D. County Approval:

1. Agency: Planning Commission
2. Approval: 1/26/10
3. Permits: Use Permit U-87-41; Class IV Zoning Permit Z-IV-87-51;
Special Permit SP-87-13

BEFORE THE LAND USE COMMISSION

OF THE

STATE OF HAWAII

| | | |
|---|---|-------------------------------|
| In The Matter Of The Petition |) | SP87-364 |
| |) | |
| Of |) | |
| |) | |
| KAHILI ADVENTIST SCHOOL for a |) | CERTIFICATE OF SERVICE |
| Special Permit to Establish a Church, |) | |
| School and Related Uses on Approximately |) | |
| 197.463 acres of land within the Agricultural |) | |
| District situated at Koloa, Kauai, Hawaii, |) | |
| identified by Kauai Tax Map Key |) | |
| No. (4) 2-7-001:003. |) | |
| _____ |) | |

I HEREBY CERTIFY that on December 10, 2014, a true and correct copy of OWNER'S STATUS REPORT; EXHIBITS "A" AND "B"; CERTIFICATE OF SERVICE was duly served upon the following person by depositing a copy of same in the United States Mail, postage prepaid, addressed as follows:

MR. DANIEL E. ORODENKER
Executive Officer
Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96813

MR. LEO R. ASUNCION, JR.
Acting Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

MAUNA KEA TRASK, ESQ.
County Attorney
Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, Kauai, Hawaii 96766

MR. MICHAEL A. DAHILIG
Director of Planning
Planning Department
County of Kauai
4444 Rice Street, Suite 473
Lihue, Kauai, Hawaii 96766

DATED: Lihue, Kauai, Hawaii, December 10, 2014.

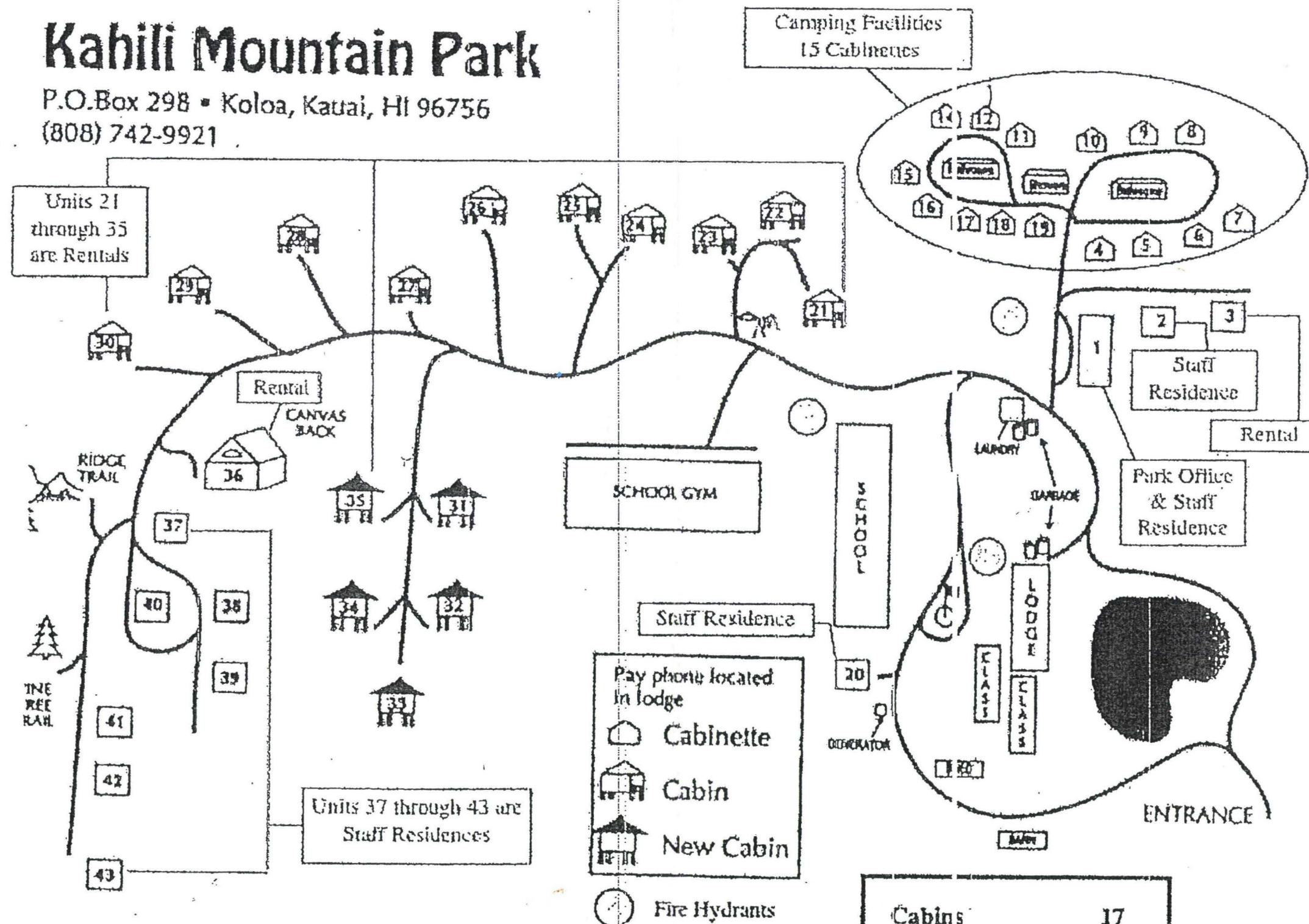
BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP

By 

MAX W. J. GRAHAM, JR.
Attorney for Owner,
ERIC A. KNUDSEN TRUST

Kahili Mountain Park

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



RECEIVED
DEC 10 2014
STATE OF HAWAII
LAND USE COMMISSION

ORIGINAL

| | |
|------------------|----|
| Cabins | 17 |
| Staff Residences | 10 |

Exhibit 7

Site Schematic

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer
Planner

Planner
BERT SARUWATARI
PLANNER

SCOTT A.K. DERRICKSON AICP
Planner

December 2, 2014

Mr. Leo Asuncion, Acting Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Asuncion,

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- SP87-364 KAHILI ADVENTIST SCHOOL (Kaua'i)
- A11-791 KAPA'A HIGHLANDS II (HG Kaua'i Joint Venture- HoKua Place) (Kaua'i)

will be acted on or heard at that time. You should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer
BERT K. SARUWATARI
PLANNER
SCOTT A.K. DERRICKSON
Planner
RILEY K. HAKODA
Chief Clerk
FRED A. TALON
Drafting Technician

December 2, 2014

Bryan Yee, Esq.
Deputy Attorney General
Hale Auhau
425 Queen Street
Honolulu, Hawaii 96813:

Dear Mr. Yee:

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- SP87-364 KAHILI ADVENTIST SCHOOL (Kaua'i)
- A11-791 KAPA'A HIGHLANDS II (HG Kaua'i Joint Venture- HoKua Place) (Kaua'i)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

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Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer
BERT K. SARUWATARI
PLANNER
SCOTT A.K. DERRICKSON
Planner
RILEY K. HAKODA
Chief Clerk
FRED A. TALON
Drafting Technician

December 2, 2014

William Yuen, Esq.
Alston, Hunt, Floyd and Ing
1001 Bishop St. Suite#1800
Honolulu, HI 96813

Dear Mr. Yuen:

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- A11-791 KAPA`A HIGHLANDS II (HG Kaua`i Joint Venture- HoKua Place)
(Kaua`i)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

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Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
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BERT K. SARUWATARI
PLANNER
SCOTT A.K. DERRICKSON
Planner
RILEY K. HAKODA
Chief Clerk
FRED A. TALON
Drafting Technician

December 2, 2014

Max W. J. Graham Jr., Esq.
Belles Graham Proudfoot Wilson & Chun, LLP
4334 Rice Street, Suite 202
Lihue, HI 96766-1388

Dear Mr. Graham:

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- SP87-364 KAHILI ADVENTIST SCHOOL (Kaua'i)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer
BERT K. SARUWATARI
PLANNER
SCOTT A.K. DERRICKSON
Planner
RILEY K. HAKODA
Chief Clerk
FRED A. TALON
Drafting Technician

December 2, 2014

Peter T. Young, President
Ho'okuleana LLC
1539 Kanapu'u Drive
Kailua, Hawai'i 96734

Dear Mr. Young:

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- A11-791 KAPA'A HIGHLANDS II (HG Kaua'i Joint Venture- HoKua Place)
(Kaua'i)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

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Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

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SCOTT A.K. DERRICKSON
Planner
RILEY K. HAKODA
Chief Clerk
FRED A. TALON
Drafting Technician

December 2, 2014

Michael A. Dahilig
Director of Planning
Maui County Planning Department
4444 Rice St. Suite 453
Lihue, HI, 96766

Dear Mr. Dahilig:

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- SP87-364 KAHILI ADVENTIST SCHOOL (Kaua'i)
- A11-791 KAPA'A HIGHLANDS II (HG Kaua'i Joint Venture- HoKua Place) (Kaua'i)

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Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

DAVID IGE
Governor

SHAN TSUTSUI
Lieutenant Governor

MARY ALICE EVANS
Acting Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

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PLANNER
SCOTT A.K. DERRICKSON
Planner
RILEY K. HAKODA
Chief Clerk
FRED A. TALON
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December 2, 2014

Maunakea Trask
Deputy Corporation Counsel, County of Kaua'i
4444 Rice Street, Suite 220
Lihue, Hawaii 96766

Dear Mr. Trask:

Enclosed is a Land Use Commission meeting agenda for the December 10, 2014 meeting.

Please note that the following:

- SP87-364 KAHILI ADVENTIST SCHOOL (Kaua'i)
- A11-791 KAPA'A HIGHLANDS II (HG Kaua'i Joint Venture- HoKua Place) (Kaua'i)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

DANIEL ORODENKER
Executive Officer

Enclosure

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Ken Taylor
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KAUAI MAILING LIST
Updated: 6/12/14

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1960 East West Road, Rm B102
Honolulu, Hawaii 96822

Anthony J.H. Ching
State of Hawaii
Hawaii Community Development Authority
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Last Updated: 11/17/14

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Ms. K. Chun
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Honolulu Star Advertiser
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Honolulu, HI 96817

Honglong Li
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American Savings Bank Tower
Honolulu, HI 96813

Alan Kaufman, DVM
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Kula, HI 96790

Karen Piltz
Chun Kerr Dodd Beaman & Wong
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Mr. David Rae
The Estate of James Campbell
1001 Kamokila Boulevard
Kapolei HI 96707

United States Marine Corps
Commander, Marine Forces Pacific
Attn: G4. Box 64118
Camp H.M. Smith, Hawaii 96861-4118

Representative Cindy Evans
7th District
State Capitol, Room 311
Honolulu, Hawaii 96813

U.S. Fish and Wildlife Service
300 Ala Moana Blvd., Rm. 3-122
Honolulu HI 96813

Department of the Army
Directorate of Public Works
Attn: Planning Division
Schofield Barracks, Hawaii 96857-5013

Mr. Albert K. Fukushima
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Pearl City HI 96782

Mr. Michael A. Dahilig, Director
Planning Department - Kauai
4444 Rice Street, Suite 473
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J. Gillmar
P. O. Box 2902
Honolulu HI 96802

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Isaac Hall, Esq.
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The Hallstrom Group, Inc.
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1003 Bishop Street
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Ms. Esther Ueda
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Pearl City HI 96782

Real Property Division
County of Kauai
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Lihue HI 96766

Mr. Randy Hara
C&C Department of Planning & Permitting
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Honolulu HI 96813

Hawaii's Thousand Friends
25 Malunui Ave., Suite 102, PMB 282
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Jacqui Hoover, President
Hawaii Leeward Planning Conference
P. O. Box 2159
Kamuela HI 96743

Mr. Gordon Pang
Honolulu Star Advertiser
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Honolulu, HI 96813

The Pele Defense Fund
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Hilo HI 96720

Jan Higa & Company LLC
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Honolulu, Hawaii 96814

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Commander in Chief, U.S. Pacific Fleet
Commander in Chief
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Pearl Harbor, HI 96860-3131

U.S. Pacific Command
Commander in Chief
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Camp H.M. Smith, Hawaii 96861-4028

Commander
Navy Region Hawaii
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Pearl Harbor HI 96860-5101

Lawrence Ing, Esq.
Ing, Horikawa & Jorgensen
2145 Wells Street, Suite 204
Wailuku, Hawaii 96793-2222

Wanda Kau-Shibata
Constituent Services Rep. Kaua
3060 Eiwa Street, #106,
Lihue 96766

Ms. Sara Collins
DLNR - Historical Preservation Division
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Kapolei HI 96707

Walter Mensching
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1658 Liholiho Street, Suite 306
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Mr. Alexander C. Kinzler
1100 Alakea Street Ste. 2900
Honolulu, HI 96813-2833

Schlack Ito-attn: Adrienne Elkind
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Jill K. Veles, Legal Assistant
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Isaac Fiesta
ILWU Local 142 - Hawaii Division
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Libbie Kamisugi
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Collette M. Sakoda
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LAND USE COMMISSION
MEETING MINUTES

Kauai State Office Bldg., Conference Rooms A, B, C-2nd Floor
3060 Eiwa Street
Lihue, Kaua'i, Hawai'i
December 10, 2014 9:30 a.m.

COMMISSIONERS PRESENT: Chad McDonald
Arnold Wong
Edmund Aczon
Kent Hiranaga
Brandon Ahakuelo
Neil Clendeninn
Sandra Song

COMMISSIONERS EXCUSED: Jonathan Scheuer
Aaron Mahi

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Diane Erickson, Deputy Attorney General
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

CALL TO ORDER

Chair McDonald called the meeting to order at 9:33 a.m.

APPROVAL OF MINUTES

Chair McDonald asked if there were any corrections or additions to the November 20-21, 2014 minutes. There were none. Commissioner Wong moved to

approve the minutes. Commissioner Aczon seconded the motion. By a voice vote the minutes were unanimously approved (7-0-2 excused).

Chair McDonald introduced Commissioner Neil Clendeninn to the audience.

TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.
- January 7, 2015 is planned for A92-683 Halekua Development adoption of order via videoconference.
- January 21-22, 2015 is currently open.
- February 4-5, 2015 is planned for A89-643 McClean Honokohau Properties-(Kona)
- Above dates represent the tentative calendar of meetings and are subject to change.
- Any questions or conflicts, please contact LUC staff.

There were no questions and comments regarding the tentative meeting schedule.

STATUS REPORT

SP87-364 Kahili Adventist School (Kaua'i)

Chair McDonald stated that this was a meeting on Docket No. SP87-364 Kahili Adventist School. to receive a status report from Petitioner on the Petition Area and adherence to other conditions in the Commission's Decision and Order and take appropriate action, if any.

APPEARANCES

Max W. J. Graham, Esq., Eric A. Knudsen Trust's (Trust) Representative

Canen Ho'okano, Property Manager, Trust

Kaua'i County Planning Department (County) advised Commission via fax that it would not be appearing.

Bryan Yee, Esq., Deputy Attorney General, State Office of Planning (OP)

Rodney Funakoshi, Land Use Administrator, OP

Leo Asuncion, Acting Director, OP

Chair McDonald updated the record, described the procedures for the hearing and asked if there were any Public Witnesses who wished to testify. There were no questions or comments on the procedures.

PUBLIC WITNESSES

None

PRESENTATION

Petitioner

Mr. Graham submitted a status update report and a schematic map of the Petition Area and provided his presentation to the Commission. He referred to his submitted material and described how the Special Permit Petition Area evolved and how the Trust was still undecided on future uses for the Petition Area and was still evaluating its options after the termination of the Kahili Adventist School lease. He also described how Knudsen Trust planned to comply with the conditions of the 2010 Decision and Order and requested that the Trust be allowed to update its report to the Commission after July 1, 2015.

There were no questions for Mr. Graham.

AGENCY COMMENTS

County

The County advised the Commission via fax that it had NO POSITION on this matter.

OP

Mr. Yee noted that the Petition Area was still designated agricultural and that future uses would need to comply with the Special Permit conditions and deferred to the Commission regarding future status reports and monitoring. Mr. Yee also stated that if the Trust wished to alter the conditions, it would have to file to amend them with the LUC.

Commissioner Questions

Commissioner Song requested clarification from Mr. Orodener regarding the role and responsibilities of the Commission in regards to status reports and Special Permits. Chair McDonald entertained a motion for an Executive Session. Commissioner Wong moved and Commissioner Ahakuelo seconded the motion for an Executive

Session. By a voice vote, the Commission unanimously (7-0-2 excused) voted to enter into Executive Session.

The Commission entered Executive Session at 9:55 a.m. and reconvened at 10:12 a.m.

Commissioner Questions:

Commissioner Wong requested clarification on what the Trust's understanding was that the conditions "run with the land", what types of uses were being currently proposed by various entities and how the County would need to be included in the permitting process to resolve issues if amendments to the Special Permit were desired in the future. Mr. Graham provided further details on the Trust's current activities regarding uses for the Petition Area and represented that the Trust would cooperate if amendments to the Special Permit were sought.

Chair McDonald thanked the Applicant and stated that the Commission would look forward to the Trust's future report in July, 2015. Chair McDonald directed the Applicant to work with LUC staff regarding the details of the future report date.

There were no further questions or comments.

The Commission went into recess at 10:14 a.m. and reconvened at 10:19 a.m.

HEARING & ACTION

A11-791 Kapa`a Highlands Phase II (Ho`okua Place LLC) (Kaua`i)

Chair McDonald stated that this was an action meeting on Docket No. A11-791 Kapa`a Highlands Phase II (Ho`oKua Place LLC) to:

- Recognize HG Kaua`i Joint Venture (Ho`okua Place) as the successor Petitioner with standing to seek and obtain the relief requested by the Motion;
- To determine whether the Land Use Commission is the appropriate accepting authority pursuant to Chapter 343, Hawaii Revised Statutes, of an environmental impact statement relating to the development and reclassification of approximately 97 acres from the Agricultural and Rural Districts to the Urban District, Tax Map Key Nos. (4) 4-3-03: por. 1; and

- To determine whether the proposed action may have a "significant effect" to warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

APPEARANCES

William Yuen, Esq., HG Kaua'i Joint Venture LLC's (HG) Representative

Melissa Uhl, Esq., HG Representative

Craig Allen, HG

Kaua'i County Planning Department (County) advised the Commission via fax that they would not be attending

Bryan Yee, Esq., Deputy Attorney General, OP

Rodney Funakoshi, Land Use Administrator, OP

Leo Asuncion Acting Director, OP

Chair McDonald updated the record, described the procedures for the hearing and asked if there were any Public Witnesses who wished to testify. There were no questions or comments on the procedures.

Chair McDonald asked if Mr. Yuen had been advised of the LUC reimbursement policy and whether his client would comply with it. Mr. Yuen acknowledged that he had been advised and that his client would abide by it.

PUBLIC WITNESSES

None

PRESENTATION

Petitioner

Ms. Uhl made her presentation to the Commission and argued why the Substitute Petitioner should be recognized, why the LUC should be the accepting authority for the Environmental Impact Statement (EIS) and why an EIS was warranted.

AGENCY COMMENTS

County

The County advised the Commission via fax that it had NO POSITION on this matter.

OP

Mr. Yee stated that OP had No Objection to HG Kauai Joint Venture Group-LLC's Motion to Substitute Petitioner, and Designate the Land Use Commission as Approving Agency for an Environmental Impact Statement.

Commissioner Questions

None

There were no further questions.

DECISION MAKING

Commissioner Clendeninn moved to:

1. To allow the substitution of HG Kaua'i Joint Venture, LLC as the Petitioner of record, for good cause shown;
2. To identify the Land Use Commission as the "approving agency" to process and review applicant's proposed actions pursuant to Chapter 343, HRS, as the petition to amend land use district boundaries represents the earliest practicable time to determine whether an environmental impact statement (EIS) shall be required; and,
3. Direct the Petitioner to proceed directly to the preparation of an environmental impact statement preparation notice (EISPN) because the Commission has reviewed the Petition and based on its judgment and experience, informs the applicant that under section 343-5(e), HRS, the proposed action may have significant effects requiring the preparation of a full environmental impact statement. The proposed Project requires the use of State or county lands or funds (pursuant to section 343-5(a)(1), HRS) and may have a significant impact on the environment as it may (i) involve an irrevocable commitment or loss or destruction of any natural or cultural resource; (ii) substantially affect the economic or social welfare of the community or State; and, (iii) involve substantial secondary impacts, such as effects on public facilities.

Commissioner Aczon seconded the motion.

There was no discussion.

The Commission voted unanimously (7-0- with 2 excused) in favor of the motion.

Chair McDonald stated that the next item on the agenda was an Executive Session to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities with respect to various administrative appeals and other appellate proceedings affecting the Commission and entertained a motion.

EXECUTIVE SESSION

Commissioner Wong moved for such an Executive Session. Commissioner Aczon seconded the Motion. By unanimous voice vote (7-0- with 2 excused), the Commission voted to enter Executive Session.

The Commission went into Executive Session at 10:30 a.m. and exited at 11:06 a.m.

The Commission then reconvened and with no further action or other business, Chair McDonald declared the meeting adjourned at 11:06 a.m.

LAND USE COMMISSION
NOTICE OF LAND USE COMMISSION MEETING
December 10, 2014- 9:30 a.m.
Conference Rooms A, B, C,-2nd Floor
State Building, 3060 Eiwa Street, Lihue, HI 96766
A G E N D A

- I. CALL TO ORDER
- II. ADOPTION OF MINUTES
November 20-21, 2014 Minutes
- III. TENTATIVE MEETING SCHEDULE
- IV. PUBLIC TESTIMONY FOR SP 87-364
- V. STATUS REPORT
SP87-364 Kahili Adventist School
- VI. PUBLIC TESTIMONY FOR A11-791
- VII. HEARING & ACTION
A11-791 KAPA`A HIGHLANDS II (HG Kaua`I Joint Venture – HoKua Place) (Kaua`i)
To consider Petition from Successor In Interest HG Kaua`i's Motion Requesting:
(1) That HG Kaua`i Group Joint Ventures be substituted as Petitioner for this Petition and
(2) for the Land Use Commission to be the approving agency for the Environmental
Impact Statement to be filed for this Petition.
- VIII. EXECUTIVE SESSION
 - To consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities with respect to:
 - appeals of Commission decisions relating to Castle & Cooke Homes, Hawaii, Inc., D.R. Horton, Bridge `Āina Le`a, DW `Āina Le`a, and Michele Lincoln and other matters in litigation, and appropriate action, if any.
- IX. ADJOURNMENT

CASE LOMBARDI & PETTIT

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August 12, 2014

VIA FIRST CLASS MAIL

Mr. Daniel E. Orodenker, 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. Orodenker:

We are writing to inform the Land Use Commission that Kahili Adventist School is no longer the lessee or in possession of the property that is the subject of Special Permit No. 87-364. The LUC issued a Decision and Order Approving Amendment to Special Use Permit, filed April 26, 2010, which required annual status reports by the School. Because the School is no longer in possession of the property, no further status reports will be provided by the School. To the extent the LUC still requires status reports, please contact the landholder Eric A. Knudsen Trust.

Please let me know if you need any additional information. Thank you for your attention to this matter.

Sincerely,

CASE LOMBARDI & PETTIT
Mark G. Valencia
Mark G. Valencia

MGV:ckm

cc: Mr. Gary Johnson (Hawaii Conference
of Seventh-day Adventists)
Kahili Adventist School

27277/5/1943480.1

2014 AUG 14 A 7:21
STATE OF HAWAII
LAW OFFICE OF
STACEY W. FOY



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

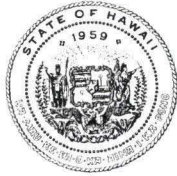
| | | |
|--|---|-----------------------|
| In The Matter Of The Petition Of |) | DOCKET NO. SP87-364 |
| |) | |
| KAHILI ADVENTIST SCHOOL |) | DECISION AND ORDER |
| |) | APPROVING AMENDMENT |
| For An Amendment To The Special Use |) | TO SPECIAL USE PERMIT |
| Permit Which Establishes A Church, |) | |
| School, And Related Uses On |) | |
| Approximately 195.673 Acres Of Land |) | |
| Within The Agricultural District, Koloa, |) | |
| Kaua'i, Hawai'i, Tax Map Key: 2-7-01: |) | |
| Por. 3 |) | |
| _____ |) | |

DECISION AND ORDER APPROVING AMENDMENT
TO SPECIAL USE PERMIT

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, Hawai'i.

April 26, 2010 by


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 |) | DECISION AND ORDER |
| |) | APPROVING AMENDMENT |
| For An Amendment To The Special Use |) | TO SPECIAL USE PERMIT |
| Permit Which Establishes A Church, |) | |
| School, And Related Uses On |) | |
| Approximately 195.673 Acres Of Land |) | |
| Within The Agricultural District, Koloa, |) | |
| Kaua`i, Hawai`i, Tax Map Key: 2-7-01: |) | |
| Por. 3 |) | |
| _____ |) | |

DECISION AND ORDER APPROVING AMENDMENT
TO SPECIAL USE PERMIT

On November 25, 2009, Gregg Kamm, authorized agent for Kahili Adventist School ("Applicant"), filed a request to amend Condition Numbers 1 and 2 of County Special Permit SP-87-13¹ with the County of Kaua`i Planning Department, pursuant to section 205-6, Hawai`i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai`i Administrative Rules ("HAR").

¹ The Land Use Commission ("LUC") had previously designated the special use permit as LUC Docket No. SP87-364 when it initially considered the establishment of the church, school and related uses on the subject property in 1987.

The LUC has jurisdiction over the Applicant's request. Section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, authorize the LUC to approve special use permits and amendments thereto for areas greater than 15 acres.

On January 26, 2010, the County of Kaua'i Planning Commission ("Planning Commission") conducted a hearing on the Applicant's request. There was no public testimony provided on the request. After due deliberation, the Planning Commission recommended approval of the following amendments to Condition Numbers 1, 2, and 3:

1. 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 the Fire Department, Water Department, and/or the Department of Public Works.
2. The applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. and adjacent drainage ditches to ensure their drainage function. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways and drainage ditches, from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The applicant shall conduct a Traffic Operational Analysis at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park and submit said report to SDOT-Highways one month prior to December 2014. Thereafter, a TOA shall be conducted every five years and be submitted to SDOT-Highways in order to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis.

On March 1, 2010, the LUC received copies of the Planning Commission's decision and the complete record on the Applicant's request.

On April 9, 2010, by videoconference, commissioner and presiding officer Thomas Contrades conducted a hearing to consider the Applicant's request in the video conference room at the Līhu'e Airport, Kaua'i, Hawai'i, and at the Kalanimoku Building, Room B10, in Honolulu, Hawai'i. Mark Valencia, Esq.; Greg Kamm; and Rob Lloyd appeared on behalf of the Applicant. Ian Jung, Esq., appeared on behalf of the County of Kaua'i. Bryan C. Yee, Esq., and Abe Mitsuda were also present on behalf of the State Office of Planning ("OP"). At the meeting, the Applicant apprised the LUC of the existing uses and facilities on the subject property

The OP expressed support for the proposed amendments to the special use permit. The OP requested that the Traffic Operational Analysis ("TOA") referenced in Condition Number 3 also be approved by the State Department of Transportation ("DOT"). The OP further recommended that a time limit be imposed for the duration of the special use permit with the possibility of a time extension. In response to the OP's comments, the Applicant noted that while a time limit on the expansion of existing or otherwise previously approved uses is appropriate, the Applicant built the school and cabins based on the permits issued at that time, and therefore they should be allowed to continue.

The Applicant also pointed out the ongoing agricultural activities on the subject property. Finally, the Applicant noted that it had approximately 36 years remaining on the lease with the landlord.

Upon questioning by the LUC, the Applicant stated that it had no objections to the OP's proposed amendment to Condition Number 3 requiring DOT approval of the TOA and to an additional condition requiring the Applicant to file annual reports.

The County of Kaua'i also had no objection to the proposed amendment to Condition Number 3.

Upon questioning by the LUC, Raymond J. McCormick, District Engineer, DOT, provided additional information to clarify the status of the roadway improvements in the vicinity of the subject property.

Thereafter, a motion was made and seconded to amend Condition Numbers 1, 2, 3, and 8, and to add an additional condition as follows:

1. Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property.
2. The Applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The Applicant shall conduct a Traffic Operational Analysis as approved by the DOT at the intersection of Kaumuali'i Highway

and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The Applicant shall be required to pay for and construct all improvements recommended by the analysis.

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).
13. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the Land Use Commission and the County of Kaua'i Planning Department in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Following deliberation by the Commissioners, a vote was taken on the motion. There being a vote tally of 6 ayes, 0 nays, and 3 absent, the motion carried.

ORDER

The LUC, having duly considered the complete record of the Applicant's request and the oral arguments presented in this matter, and a motion having been made at a video teleconference meeting on April 9, 2010, in the video conference room at the Līhu'e Airport, Kaua'i, Hawai'i, and at the Kalanimoku Building, Room B10, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

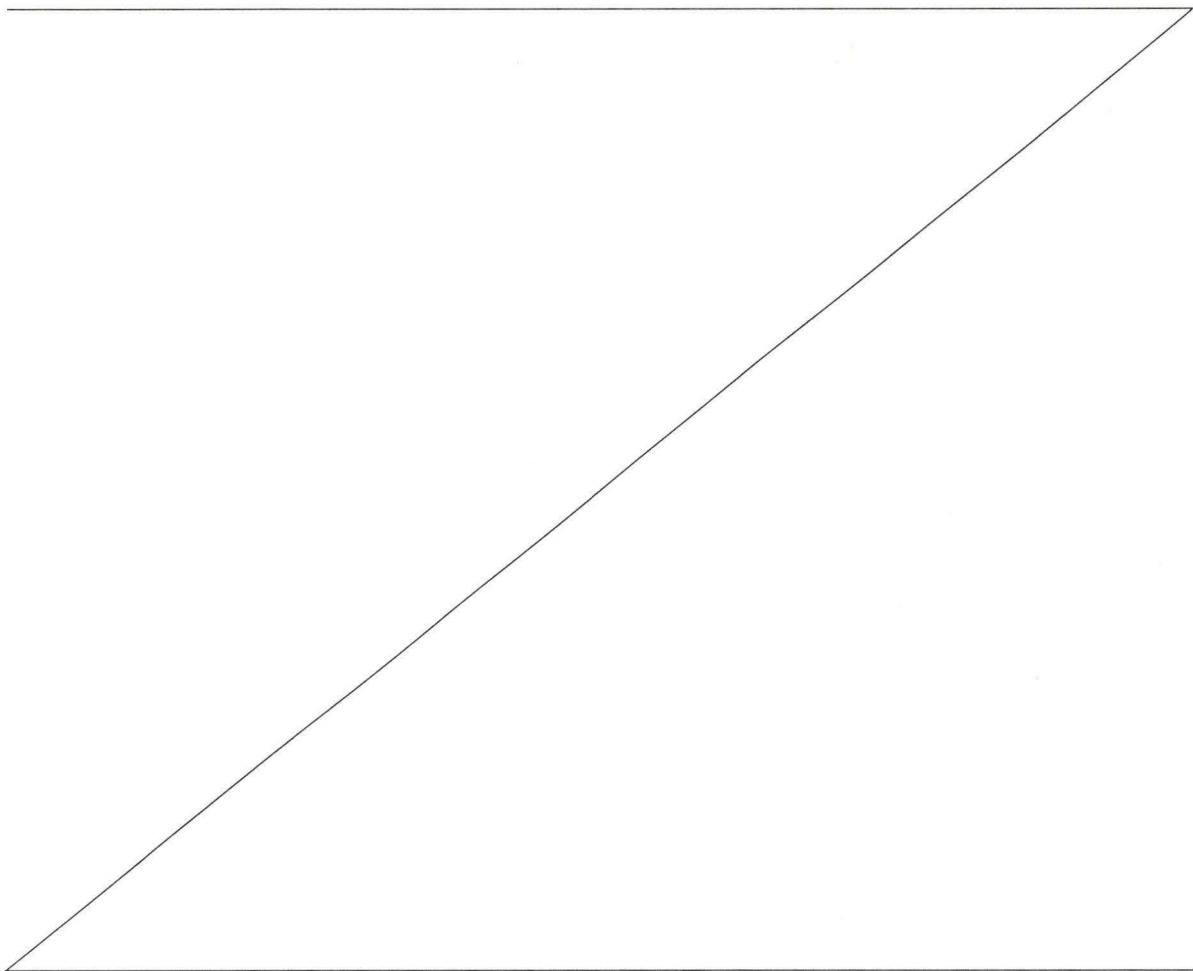
HEREBY ORDERS that the Applicant's request to amend the special use permit to establish a church, school, and related uses on approximately 195.673 acres of land² within the State Land Use Agricultural District, Koloa, Kaua'i, Hawai'i, identified as Tax Map Key: 2-7-01: por. 3, be APPROVED, subject to the following conditions:

1. Interior roadway and water line improvements shall be provided and/or extended in order to service all further development on the property.
2. The Applicant shall manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways from Kaumuali'i Highway to and within the school campus and cabin facilities.
3. The Applicant shall conduct a Traffic Operational Analysis as approved by the DOT at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The Applicant shall be required to pay for and construct all improvements recommended by the analysis.
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).

² Tax Map Key: 2-7-01: 3 consists of approximately 197.463 acres. At the time the LUC initially considered the special use permit in 1987, it was believed that approximately 1.79 acres of the parcel was designated within the State Land Use Conservation District, and therefore was specifically excluded from the special use permit. Pursuant to Boundary Interpretation No. 08-18 dated September 22, 2009, the LUC staff subsequently determined that the parcel (Lot 396) is entirely designated within the State Land Use Agricultural District.

13. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the Land Use Commission and the County of Kaua'i Planning Department in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

All other conditions to the Findings Of Fact, Conclusions Of Law, And Decision And Order dated July 17, 1990, are hereby reaffirmed and shall continue in effect.



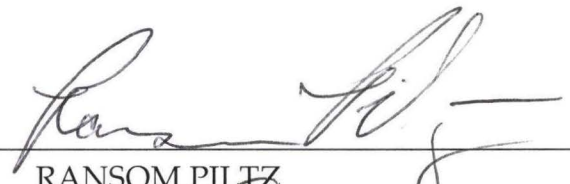
Done at Honolulu, Hawai'i, this 26th, day of April, 2010, per motion on April 9.

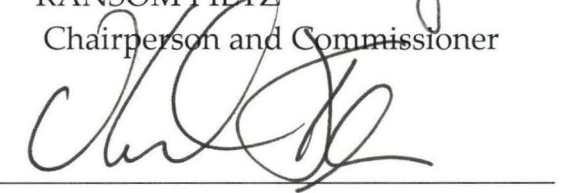
LAND USE COMMISSION


APPROVED AS TO FORM

Diane Luckin
Deputy Attorney General

STATE OF HAWAI'I

By 
RANSOM PILTZ
Chairperson and Commissioner

By 
VLADIMIR PAUL DEVENS
Vice- Chairperson and Commissioner

By 
REUBEN S.F. WONG
Vice- Chairperson and Commissioner

By 
KYLE CHOCK
Commissioner

By 
THOMAS CONTRADES
Commissioner

By (absent)

LISA JUDGE
Commissioner

By 

DUANE KANUHA
Commissioner

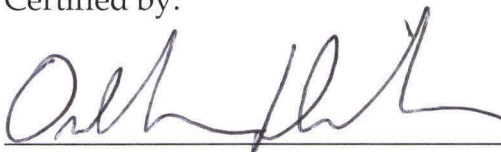
Filed and effective on:

April 26, 2010

By (absent)

NORMAND LEZY
Commissioner

Certified by:



ORLANDO DAVIDSON
Executive Officer

By (absent)

NICHOLAS W. TEVES JR.
Commissioner



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. SP87-364
)
KAHILI ADVENTIST SCHOOL) CERTIFICATE OF SERVICE
)
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,)
Kaua'i, Hawai'i, Tax Map Key: 2-7-01:)
Por. 3)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order granting Petition For An Amendment to the Special Use Permit Which Establishes A Church School and Related Uses 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:

| | HAND DELIVERED | REGULAR MAIL | CERTIFIED MAIL |
|---|-------------------|-----------------|-------------------|
| ABBEY SETH MAYER, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawaii 96813 | X | | |

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

MARK VALENCIA, Esq.
Case Lombardi & Pettie
Pacific Guardian Center
737 Bishop St. Suite #2600
Honolulu, HI 96813

2. Article Number

(Transfer from service label)

91 7108 2133 3937 7249 7042

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Era-Phale

C. Date of Delivery

4-27-16

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

LAND USE COMMISSION
STATE OF HAWAII

2010 APR 28 AM 4:43

- Sender, Please print your name, address, and ZIP+4 in this box •

State of Hawaii
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804-2359



| | HAND DELIVERED | REGULAR MAIL | CERTIFIED MAIL |
|---|---------------------------|-------------------------|---------------------------|
| BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawaii 96813 | | X | |
| Ian Costa, Director County of Kauai Planning Dept. 4444 Rice Street, Suite A473 Lihue, Hawaii 96766 | | X | |
| LANI NAKAZAWA, Esq. Corporation Counsel County of Kauai 4444 Rice Street, Suite 220 Kauai, Hawaii 96766 | | X | |
| MARK VALENCIA, Esq. Case Lombardi & Pettie Pacific Guardian Center 737 Bishop St. #2600 Honolulu, Hawaii 9681 | | | X |

Honolulu, Hawai'i, April 26, 2010.


ORLANDO DAVIDSON

LAND USE COMMISSION PUBLIC WITNESS SIGN UP SHEET
 SP87-364 Kahili Adventist School (Kauai)
 April 9, 2010

| | PRINT - Name | Address |
|----|--------------|-----------------|
| 16 | Bryan Yee | 425 S. Queen St |
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LINDA LINGLE
GOVERNOR



BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1720 HALEUKANA STREET
LIHUE, HAWAII 96766

IN REPLY REFER TO:

HWY-K 4.100174

April 7, 2010

ORIGINAL

Mr. Orlando Davidson
Executive Officer
Land Use Commission
235 S. Beretania Street
Honolulu, HI 96813

Attention: Bryan C. Yee

Dear Mr. Davidson:

Subject: Docket No. SP87-364
Kahili Adventist School (Kauai)

LAND USE COMMISSION
STATE OF HAWAII
2010 APR 12 A 7:08

The Department of Transportation (DOT) recommends that Condition No. 3 of Docket No. SP87-364 be amended to read:

"As recommended by the State Department of Transportation, the applicant shall conduct and submit to the State Department of Transportation for its approval a Traffic Operational Analysis at the intersection of Kaumualii Highway and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the approved Traffic Operational Analysis.

The DOT is recommending that Condition No. 3 be modified due to the following reasons:

1. The DOT's comments were based on the amount of additional traffic that would be generated due to the applicant's expansion plans. In meetings between the DOT and the applicant's agent, the applicant has stated that amount of growth initially hoped for has occurred and that the applicant believes there will not be significant expansion in the near future
2. Kahili Adventist School has initiated a school bus program that the majority of the students use to commute to the school.

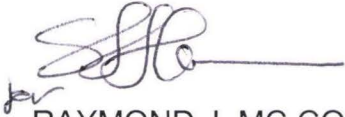
Mr. Orlando Davidson
Page 2
April 7, 2010

HWY-K 4.100174

3. The applicant has provided the DOT with copies of a Traffic Operational Analysis Report performed by the applicant's consultant, Wagner Engineering. That analysis concluded that improvements recommended by the DOT in its 1987 memo were not required for the traffic conditions currently experienced at his intersection.

If you have any questions, please call Stanford Iwamoto at 241-3015.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R. J. Mc Cormick', followed by a horizontal line.

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

SMI:JI

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1720 HALEUKANA STREET
LIHUE, HAWAII 96766

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

HWY-K 4.100174

April 7, 2010

ORIGINAL

(email)

Mr. Orlando Davidson
Executive Officer
Land Use Commission
235 S. Beretania Street
Honolulu, HI 96813

Attention: Bryan C. Yee

Dear Mr. Davidson:

Subject: Docket No. SP87-364
Kahili Adventist School (Kauai)

2010 APR -7 P. 3:46
LAND USE COMMISSION
STATE OF HAWAII

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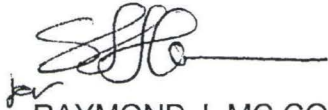
Mr. Orlando Davidson
Page 2
April 7, 2010

HWY-K 4.100174

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If you have any questions, please call Stanford Iwamoto at 241-3015.

Sincerely,

A handwritten signature in black ink, appearing to read 'RJM', followed by a horizontal line.

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

SMI:JI

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 Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SARUWATARI
Senior Planner

FRED A. TALON
Drafting Technician

April 1, 2010

Bryan Yee, Esq.
Deputy Attorney General
Hale Auhau
425 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Yee,

Enclosed is a Land Use Commission meeting agenda for the April 8-9, 2010 meeting.

Please note that the following petitions and Special Permit:

| | |
|----------|---|
| A10-785 | HHFDC/FOREST CITY KONA HAWAII LLC |
| BR09-784 | STATE OFFICE OF PLANNING, STATE OF HAWAII |
| SP87-364 | KAHILI ADVENTIST SCHOOL (KAUAI) |

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

ORLANDO DAVIDSON
Executive Officer

Enclosure

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 Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SARUWATARI
Senior Planner

FRED A. TALON
Drafting Technician

April 1, 2010

Mr. Abbey Seth Mayer, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Mayer,

Enclosed is a Land Use Commission meeting agenda for the April 8-9, 2010 meeting.

Please note that the following petitions and Special Permit:

| | |
|----------|---|
| A10-785 | HHFDC/FOREST CITY KONA HAWAII LLC |
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| SP87-364 | KAHILI ADVENTIST SCHOOL (KAUAI) |

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Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

ORLANDO DAVIDSON
Executive Officer

Enclosure

c: Abe Mitsuda

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 Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SARUWATARI
Senior Planner

FRED A. TALON
Drafting Technician

April 1, 2010

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

Dear Mr. Costa,

Enclosed is a Land Use Commission meeting agenda for the April 8-9, 2010 meeting.

Please note that the following Special Permit:

SP87-364 KAHILI ADVENTIST SCHOOL (KAUAI)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

ORLANDO DAVIDSON
Executive Officer

Enclosure:

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 Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SARUWATARI
Senior Planner

FRED A. TALON
Drafting Technician

April 1, 2010

Michael D. Tom, Esq.
Tom Petrus & Miller
1164 Bishop St. Suite 650
Honolulu, HI 96813

Dear Mr. Tom,

Enclosed is a Land Use Commission meeting agenda for the April 8-9, 2010 meeting.

Please note that the following Special Permit:

SP87-364 KAHILI ADVENTIST SCHOOL (KAUAI)

will be acted on or heard at that time.

Sincerely,

ORLANDO DAVIDSON
Executive Officer

Enclosure

April 1, 2010

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 Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SARUWATARI
Senior Planner

FRED A. TALON
Drafting Technician

April 1, 2010

Lani Nakazawa, Esq.
Corporation Counsel, County of Kauai
4444 Rice Street, Suite 220
Lihue, Hawaii, 96766

Dear Ms. Nakazawa,

Enclosed is a Land Use Commission meeting agenda for the April 8-9, 2010 meeting.

Please note that the following Special Permit:

SP87-364 KAHILI ADVENTIST SCHOOL (KAUAI)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

ORLANDO DAVIDSON
Executive Officer

Enclosure

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 Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SARUWATARI
Senior Planner

FRED A. TALON
Drafting Technician

April 1, 2010

Mark Valencia, Esq.
Case Lombardi & Pettie
Pacific Guardian Center
737 Bishop St. #2600
Honolulu, HI
96813

Dear Mr. Valencia,

Enclosed is a Land Use Commission meeting agenda for the April 8-9, 2010 meeting.

Please note that the following Special Permit:

SP87-364 KAHILI ADVENTIST SCHOOL (KAUAI)

will be acted on or heard at that time. You or your representative should be present at this meeting. If you cannot attend this meeting, please contact our office as soon as possible.

Should you have any questions on this matter, please contact this office at 587-3822.

Sincerely,

ORLANDO DAVIDSON
Executive Officer

Enclosure

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE
April 8, 2010 – 9:30 a.m.
Conference Room 405, 4th Floor, Leiopapa A Kamehameha,
235 S. Beretania Street
Honolulu, Hawaii 96813

April 9, 2010 – 9:00 a.m.- 11:30 a.m.
Video Conference Rooms at Lihue Airport, Kauai and
in Basement area, Kalanimoku Building, Mauka side Room B10
1151 Punchbowl Street
Honolulu, Hawaii 96813

A G E N D A

Thursday, April 8, 2010

I. CALL TO ORDER

II. ADOPTION OF MINUTES

March 18-19, 2010

III. TENTATIVE MEETING SCHEDULE

IV. HEARING

BR09-784 State Office of Planning, State of Hawaii

To Amend the State Land Use Urban District Boundary into the
Conservation Land Use District For Approximately 215 Acres of Lands
Situating At Ka Iwi State Park and Queen's Beach, Maunaloa, Island of
Oahu, State of Hawaii. Identified by TMK 3-9-011:002 (por.)

V. ACTION

A10-785 Hawaii Housing Finance and Development Corporation and
Forest City Hawaii, Kona, LLC

- Petitioner's Motion to Withdraw Petition without prejudice
- Petition to Intervene filed by QUEEN LILI'UOKALANI TRUST

VI. ACTION

Adoption of Procedural Administrative Rules

(see back)

**Friday, April 9, 2010 – 9:00 a.m (Video Conference between Lihue
Airport DOT and ICSD Kalanimoku Building Videoconference Centers)**

VIII. HEARING & ACTION via Video Conference

SP87-364 Kahili Adventist School (Kauai)

To consider Amendments to Conditions 1 , 2 and 3.

IX. ADJOURNMENT

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>.

State of Hawaii
Land Use Commission
P.O. Box 2359
Honolulu, HI
96804-2359

Laurel Loo, Esq.
Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, Hawaii 96766

County Engineer
Department of Public Works
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ORIGINAL

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.

On January 26, 2010, the Kauai County Planning Commission met to discuss the School's Request to Amend Conditions #1 and #2, and to provide a Compliance and Status Report for Use Permit U-87, Special Permit SP-87-13, Class IV Zoning Permit Z-IV-87-51 ("Application and Status Report"). The Commission approved the Application and Status Report.

The Commission's letter dated January 26, 2010, approving the Application and Status Report, is attached as Exhibit "A."

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

DATED: Honolulu, Hawaii, February 9, 2010.

LAND USE COMMISSION
STATE OF HAWAII

2010 FEB -9 P 2:33

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January 26, 2010

Kahili Adventist School
c/o Greg Kamm Planning & Management
P.O. Box 480
Koloa, Hawai'i 96765

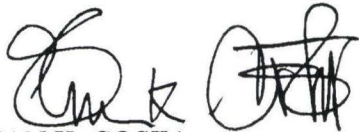
SUBJECT: Request to Amend Conditions #1 and #2, and to provide a Compliance and Status Report for Use Permit U-87-41, Special Permit SP-87-13, Class IV Zoning Permit Z-IV-87-51
Kahili Adventist School
TMK 2-7-1: 3, Koloa, Kaua'i

The Planning Commission, at its meeting held on January 26, 2010, received and approved the above request. The conditions of approval were amended as follows, utilizing the Ramseyer format:

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] , as may be required by the Fire Department, Water Department, and/or the Department of Public Works .
2. The applicant shall [provide an all weather surface from Kaumuali'i 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] manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft, and adjacent drainage ditches to ensure their drainage function. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways and drainage ditches, from Kaumuali'i Highway to and within the school campus and cabin facilities.
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] The applicant shall conduct a Traffic Operational Analysis at the

intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park and submit said report to SDOT-Highways one month prior to December 2014. Thereafter, a TOA shall be conducted every five years and be submitted to SDOT-Highways in order to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis.

Should there be any questions relative to the above, please contact planner Michael Laureta t 241-4068.

A handwritten signature in black ink, appearing to read 'Ian K. Costa', with a stylized flourish at the end.

IAN K. COSTA
Planning Director

C: Water Department
Fire Department
State Dept. of Transportation, Highways Division, Kauai

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 February 9, 2010:

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DATED: Honolulu, Hawaii, February 9, 2010.

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February 23, 2010

Land Use Commission
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Honolulu, Hawai'i 96813

SUBJECT: Request to Amend Conditions #1 and #2, and to provide a Compliance and Status Report for Use Permit U-87-41, Special Permit SP-87-13, Class IV Zoning Permit Z-IV-87-51
Kahili Adventist School
TMK 2-7-1: 3, Koloa, Kaua'i

The Planning Commission, at its meeting held on January 26, 2010, received and approved the above request. On February 23, 2010, the Commission approved the minutes of the January 26, 2010 meeting.

Enclosed is the entire file for the subject request to amend.

Should there be any questions relative to the above, please contact Planner Michael Laureta at at 241-4068.


IAN K. COSTA
Planning Director

2010 MAR -1 A 7:59
LAND USE COMMISSION
STATE OF HAWAII

ORIGINAL

KAUA'I PLANNING COMMISSION
REGULAR MEETING
January 26, 2010

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair, Caven, at 9:04 a.m. at the Lihu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Mr. James Nishida
Mr. Herman Texeira
Ms. Paula Morikami
Ms. Camilla Matsumoto
Mr. Cave Raco
Mr. Jan Kimura
Mr. Hartwell Blake

Discussion of the meeting, in effect, ensued:

Swearing in of Returning Commissioner, Ms. Camilla Matsumoto.

APPROVAL OF THE AGENDA

Chair: Can I get an approval of the agenda?

Mr. Texeira: So moved.

Ms. Morikami: Second.

Chair: All those in favor say aye, opposed, motion carries.

On motion made by Herman Texeira and seconded by Paula Morikami, to approve the agenda, motion carried unanimously by voice vote.

GENERAL BUSINESS MATTERS

Request (11/25/09) from Greg Kamm Planning & Management to amend Conditions No. 1 (relating to infrastructure improvements) and No. 2 (relating to the requirement of an all-weather access surface), and provision of a status report for Use Permit U-87-41, Special Permit SP-87-13 and Class IV Zoning Permit Z-IV-87-51, Tax Map Key 2-7-01:3, Kōloa, Kaua'i = *Kahili Adventist School*.

a. Staff Report pertaining to this agenda item.

Staff Planner Mike Laureta: At the meeting held of May 27, 1987 the Planning Commission approved the above referenced permits to allow master planning for school and church related uses on the entire Kahili Mountain Park site which is exhibit 1. These permits covered the entire 195 acre State Land Use, Agriculture District site, which necessitated Land Use Commission review and approval. As a result of concerns raised by the State Land Use Commission, 4 additional conditions of approval were added which are exhibits 2 and 3. For the Commission's information the original Master Plan for the site is in your packet and it 11 x 14, this is what it referred to. All the improvements proposed are at the top.

This map is the existing site, Kaumuali'i Highway going west, the tree tunnel is just about here, the entry to Kaumuali'i Highway is here. The existing school campus is located in blue, the pink is the existing cabinets which are like hard tents, no plumbing, no cooking facilities. The existing cabins are in yellow and are also including faculty housing. There are additional improvements that were approved by the Planning Commission back in the 80's which haven't really been constructed, that is why staff provided what was approved and what is existing. Does the Commission want me to read the whole thing or I can summarize it?

Chair: You can go ahead and summarize if there is no objection.

Staff: Basically the request before you is to refine two conditions of approval. The first one is regarding interior roadway and waterline improvements. The second request is related to a roadway improvement from Kaumuali'i Highway all the way in. This request was sent to all the government agencies and they all came back with no objections to the request. DOT Highways did submit a letter and requested that the conditions be refined. The justifications are provided in the staff report and we have no objection to the request based on the agency comments and recommendations basically from Water, Fire, and DOT Highways. If there are any questions I will go now.

Mr. Nishida: You know the Land Use Commission petition, it was done in that Findings of Fact and Conclusions of Law kind of presentation, why was that?

Staff: That is the standard format.

Mr. Nishida: So everything the Land Use Commission does comes out in this form?

Staff: Land Use Commission, yes.

Mr. Nishida: And then the development it's self, will the changes they are proposing today allow for future development or are they built out?

Staff: No. As reflected in the 1987 Master Plan which is the 11 x 14, there are additional improvements, cabin related improvements and school related improvements that could be constructed. But as the applicant submits their plans, they will go through Fire, Water, and DOT Highways, whatever they require will be necessary to be provided.

Mr. Nishida: And will condition 12 apply to those further improvements, which is the one about the design review?

Staff: 12 will still apply.

Mr. Texeira: Mike, could you address the provision for the penetration base. In your original recommendation one of the conditions was to include that and now it's not...I just wanted to address that.

Staff: Thinking back in the 80's, because this was one of the first urban type uses to go into Ag. lands and the churches followed quickly there after, the thinking was that County standard improvements such as roadways should accompany an urban type use in the Agriculture District. Since that time, to this day and time, there has been a lot of discussion relating to retaining the agriculture, rural ambiance and to maybe move away from urban related improvements which would cause other issues. The penetration base was at that time okay, it was widely used especially by the sugar cane companies. Staff's visualization was for a County standard asphalt/concrete driveway from Kaumuali'i all the way through but over time the Commission went through a lot of requests to retain the ambiance of the area and move away from requiring that level of improvement. So to this day and time the rolled, the base course the way it is now hasn't been an issue. They have realized that they have to maintain it to be safe but that base core is over an existing cane haul road which helps tremendously.

So requiring a capital outlay to do such an improvement of a driveway for that distance versus the impacts to the environment with the penetration base, it was considered acceptable. There haven't been any issues other than the environment has moved recognition of impacts to the environment over the penetration basins have become standard, penetration base isn't used now just because we know now that drainage off of that surface and the runoff into waterways and drainage ways, there is more of an impact to the environment with that.

Mr. Blake: There is more what?

Staff: The impact to the environment with the penetration base, the oil based penetration.

Mr. Blake: So 16 feet is then width.

Staff: 16 feet is what exists.

Mr. Blake: And the penetration base treatment is the (inaudible).

Staff: The penetration base is the oil base. What they are doing now is rocking and rolling.

Ms. Matsumoto: What is the condition of the road? Are there potholes? Is it smooth? Is it very bumpy?

Staff: Passenger cars can do it easily. It is pretty nice. The temptation to do other things on that kind of surface exists but they maintain it pretty well.

Chair: Right now there is a house that utilizes that road too, yes, from the main street. Isn't there a house there on the main drag?

Staff: On this subject property?

Chair: A little before the property.

Staff: There are no improvements from the tree tunnel. Basically the primary entrance to Kahili is at its driveway location here. There are no other residential improvements either along the highway or driveways coming up.

Chair: There is a house, right there where you are pointing.

Staff: Here, coming up.

Chair: Yes.

Staff: I am not sure if you call it a house. Let's ask the applicant.

Chair: Or a barn.

Staff: Storage facility.

Ms. Morikami: I was just wondering on the different departmental request, Public Works and Engineering, I don't see a report from them. Do they have a problem?

Staff: No. They don't comment on interior driveways.

Ms. Morikami: I know that it was marked here and also DOT, SDT, but that is not relevant?

Staff: No, Highways would be the ones.

Mr. Jung: Just for the record it is a private driveway.

Chair: Before I call up the applicant is there any more questions for the planner, if the applicant could come up, Gregg?

Mr. Gregg Kamm: Thank you Mr. Chair, thank you Commissioners, for the record my name is Gregg Kamm representing the applicant, Conference of Seventh Day Adventist. First I wanted to thank Mike for all his work on this staff report. It has taken a little while to get responses from various agencies and so forth but Mike has been very helpful and put together what I think is a very good staff report. I wanted to clarify one other matter which is, or a couple of matters which is that this is also a status report for the Commission. It has been a long time since we have been here before you or since this applicant has been here before you and it seemed appropriate to not only clarify and refine the two conditions that needed it but also provide a status report showing compliance with the remaining conditions. That is what is

contained in the application its self which I believe you each have a copy of and each condition is reviewed and the status of compliance is shown.

To answer a question which came up before, yes, there is at least one house off the private driveway going into the school. It is not on the subject property but it is used by the subject property. They actually contribute to the driveway maintenance. That is one of their businesses besides farming. I would be happy to answer any questions the Commission has on this.

Chair: Are there any questions for the applicant?

Mr. Kimura: I am familiar with that road going up there on the intersection of Kaumuali'i Highway, have there been any accidents there within the last year or year and a half?

Mr. Kamm: There have not. Unfortunately on the 20th of this month, reported in the paper, was an accident and it was reported as being near the entrance to Kahili Mountain Park. I went and got the press release, it actually was at Oma'o Bridge and it was somebody drifting over the center line at 10:00 at night so it was not there. There have been no accidents in the vicinity of this driveway, intersection. DOT was very cautious, they were supportive but they wanted us to do an intersection analysis which we did perform for them and which they accepted. And their request is that every 5 years we go back and take a look to see if there have been any substantial changes. But it has been, knock on wood, a very safe situation.

Chair: Any more questions for Gregg, thanks Gregg.

Mr. Kamm: Thank you very much.

Chair: Is there anybody in the public that would like to testify on this agenda item, seeing none...

Ms. Morikami: Mr. Chair, move to receive the request dated 11/25/09 from Gregg Kamm and also receive the staff report and approve the staff report based on the conditions imposed.

Ms. Matsumoto: Second.

Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive request from Gregg Kamm and receive and approve staff report, motion carried unanimously by voice vote.

Mr. Costa: Just to clarify, Paula you already made a motion to receive the first item.

Ms. Morikami: I moved to receive the communication from Gregg Kamm and the staff report and approve the conditions set forth in the staff report. Do you want to do it separately?

Mr. Jung: Just for clarification it would be better if you make a motion to receive and then identify a separate motion to approve the conditions as recommended.

Ms. Morikami: Mr. Chair, move to receive request dated 11/25/09 from Gregg Kamm.

Ms. Matsumoto: Second.

Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive request from Gregg Kamm, motion carried unanimously by voice vote.

COMMUNICATION

Request (1/15/10) from Hartwell K. Blake to the Planning Commission transmitting letter dated December 21, 2009 from Carlos R. Buhk regarding the status of conditions set forth by the Fifth Circuit Court Order, Civil No. 07-1-191, relating to the development of a condominium project consisting of eight (8) single-family residents on CPR units 1 to 8 and 72 multi-family units on CPR unit 9 for Use Permit U-2000-20 and Class IV Zoning Permit Z-IV-2007-24, Tax Map Key 2-8-09:1, Kōloa, Kaua'i = *Kōloa Creekside Estates LLC*.

Chair: B.1. Before there is a motion I would have to recuse myself as the Chair on this and the Co-Chair would take that motion.

Vice Chair Texeira: Commissioners, what would you like to do in this matter?

Ms. Morikami: Mr. Chair, move to receive this communication from Hartwell Blake date 1/15/10.

Ms. Matsumoto: Second.

Vice Chair: Any questions, all those in favor say aye.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive communication from Hartwell Blake, motion carried unanimously by voice vote.

Vice Chair: Any other motions at this time? At this time I would like to open it up for public comment. All those wishing to speak on this item, could you please just raise your hand, I want to know how many people. Do you want to come forward?

Mr. Ted Blake: Good morning Mr. Chair and Commissioners. My name is Ted Blake, I am a resident of Kōloa and I am one of the parties and residents and members of the Community Association concerned with this letter that Mr. Buhk has sent to the Planning Commission. I believe the letter was dated sometime in December. My concern is that the rules were set by the developer by sticking to time tables, he took the County to court because of the time tables and now he is playing with the rules and not sticking to the time tables. So what he held the County to I would expect the County to hold them to the same rules that they won their suit on. And the conditions imposed by the judge have to be looked at carefully because there are numerous conditions that have not been met at the dates and times they were supposed to and adhered to.

Vice Chair: Any questions for Mr. Blake?

Mr. Blake: When this comes up on the 9th you will have another discussion, I mean open to public testimony won't you?

Vice Chair: I'm not too sure.

Mr. Jung: This is just a communication so if there is a request to the department to look into it and that motion is seconded and the department looks into it, then if it gets on the agenda a second time then there will...

Mr. Blake: So there is no, it is not sure that it will be entered on to the agenda on February 9th?

Mr. Jung: That would be up to the Commission.

Mr. Blake: What process are we going through right now?

Mr. Jung: This is just a communication from Commissioner Blake.

Mr. Blake: To put Mr. Buhk's letter on to the...

Mr. Jung: He made a request.

Mr. Blake: So after the vote we will know whether or not it gets on the agenda, correct?

Mr. Jung: That is how it would work, yes.

Mr. Blake: And if it gets on the agenda there is another opportunity for public testimony?

Mr. Jung: If it gets on the agenda. Every agenda item is open for public.

Mr. Blake: Thank you Mr. Jung, I appreciate that.

Vice Chair: Anybody else wishing to speak on this matter?

Mr. Louie Abrahams: Commissioners, Louie Abrahams, President of the Kōloa Community Association. Our board took a look at this letter and also had some comments about it and we think there are some issues that the Commission needs to help us get through. As you are well aware the Kōloa area is historic design district treated, STC and we are not clear exactly how we would go about evaluating those properties in the STC whether they be individual single family dwelling units or multi-family dwelling units. And I think part of that is some of the concern that we have seen. As you know you entertained an application for Mr. Buhk's house as being in the STC after it was actually constructed because there was an attempt to take a look at the ordinance and apply it and we thought that was a good idea. We have also seen in the STC area some other dwellings come up that we would normally expect some sort of public hearing on.

What we are trying to do is come to some sort of understanding as to just exactly what is this historic district and how does that ordinance apply. In reading the ordinance, the report, it is a little vague and we would like to basically come to some sort of understanding as we go through evaluating any more projects or homes to whether or not we are going to be looking at those. We understand there is this one another lawsuit that is under court order and there are a lot of questions as to whether or not how the CZO applies, whatever, and I don't know if it's handled on the County Attorney's side or at the Planning Department side. But we think that these are good issues that we can come to some clarity on and then be able to apply in the future, thank you.

Mr. Jonathan Chun: Good morning Mr. Chair, Jonathan Chun on behalf of the applicant. I was not going to comment but I need to correct some of the statements that were made earlier in regards to the statements made by Mr. Blake. The developer did not set the time table, it was agreed upon by both the County and the developer. The developer has met all the time tables except one which is the delayed report and that was delayed by about a month and a half. We want to also point out that he pointed out that the County has met all the time tables but the County has not. I just want to make it clear on the record, the County has consistently violated all the time tables that the court set forth in its order and my client has consciously made a decision not to bring these matters to the court because of the County's violations but to work with the County and traditionally has been consistently doing that. So I think my client takes very seriously its obligations and we have been very open to working with the County.

What concerns me with the Community Association and Mr. Buhk and others want to get involved, I want to remind the Commission that in the order it specifically stated there is a liaison person to handle these issues. We have appointed a liaison person and I want to make it clear that our liaison has never been contacted by the County, has never been contacted by the Community Association or any member of the community about any concerns they have and not they are bringing it in front of the Commission. Talk about violating the terms of the order, that is exactly what they are doing, they are trying to involve the Commission when the order basically says work it out with the liaison. And so again I am going to make it clear, we are open, we have appointed our liaison. Nobody has ever contacted us about any of their concerns.

As far as Mr. Abrahams comments, that is clear. We are glad that the Commission did impose a requirement of a Use Permit on Mr. Buhk after the fact, after he constructed the house and after he finished it but the process that we are following with the single family house that was built on Kōloa Creekside, it was based on the court's order submitted to the County for review. The County looked at it and passed the review and we have done that so I don't know

what other process they want us to follow because it is in the order its self and we have done that and we have complied. That is all I have to say.

Vice Chair: Does anyone have any questions?

Mr. Blake: Mr. Chun, have you received a copy of the Buhk letter?

Mr. Chun: I saw somewhat of a copy. I think there were a couple pages that didn't come through but I did see a copy of the first and last page, I believe.

Mr. Blake: So have you attempted to get a copy?

Mr. Chun: My understanding in talking with the staff was that they were going to send a communication to us in terms of...because we did file the report. The report was filed with the Commission on January 4th with the department. My discussion with the staff is that they were going to take a look at that and if there were any additional comments that they want on the report or questions that they were going to communicate those questions or comments back to us. So I thought it might be more appropriate to wait for the department in terms of their questions and concerns as apposed to reading another letter from somebody else regarding the same matter.

Mr. Blake: So has the community liaison attempted on his own initiative or her own initiative to discern what these concerns are and try to work it out with the Community Association?

Mr. Chun: Based upon the court order we submitted a communication...

Mr. Blake: Just yes, or no.

Mr. Chun: We have contacted the community association with the name of the liaison. We have not received any communication from them since.

Mr. Nishida: Chair, can I interrupt. I have a question on the agenda item. The agenda item is a letter requesting that the department, well basically it is responding to Carlos Buhk's issues so I was kind of wondering, we know now that there are issues. Jonathan presented...there are two sides to these issues as far as the Carlos Buhk letter so to me it seems like the agenda item is related to this communication from Hartwell asking the department to look into, the Commission to direct the department to look into this. I don't know the exact wording but basically what can result from this is a motion to have the department look into it and then come up with recommendations or status report or something. So I was thinking that maybe this discussion, we are not at that point yet and it should be more related to the letter from Hartwell.

Vice Chair: I concur.

Mr. Blake: I asked in the letter that the department prepare a brief report addressing the specific court ordered conditions to be met by Creekside as set forth by Mr. Buhk and I would like to move that that be done.

Mr. Nishida: Second.

Vice Chair: Any questions?

Ms. Morikami: Can you repeat again the motion?

Mr. Blake: I move that the department prepare a brief report addressing the specific court ordered conditions to be met by Kōloa Creekside as set forth by Mr. Buhk in his letter.

Vice Chair: It has been moved and seconded, do you have any further questions?

Ms. Morikami: I have one more question for the Director, based on this motion, what is the time frame we are looking at as far as getting the report if we vote to get a report from them?

Mr. Costa: I believe we would be prepared to report back at the next Commission meeting. What is the date?

Ms. Morikami: February 9th.

Ms. Matsumoto: I have another question. Would that process involve the liaison, communication with the liaison or when would that happen?

Mr. Jung: If I could interject here. I think what is happening is there is a motion on the floor for the department to look into whether or not there has been compliance with certain conditions in a court ordered approval of a permit. If the request is for the department to review and do somewhat of a status report to give you general information about where the conditions are then that is a valid request. But if you are getting to the point of looking at whether or not conditions have been met then there are separate protocols that can be followed under our rules. But if the request is by the Commission to go look into and do a status report then that is proper.

Mr. Blake: I have a question based on what you just said. If the Commission does a status report, if you look at Mr. Buhk's letter he states the condition and he says complied, and then there is a blank check off for complied or did not comply. Does the status report respond to the comply or not comply question?

Mr. Jung: I think that would be up to the Director to make that call in looking at what the status report says submitted by the applicant and compared to how the department feels these conditions have been met. I think a better forum, if the motion is approved, is to address that at a later meeting rather than getting into detail now because it is just that direct request.

Mr. Costa: If the Commission asks in the motion it would be our intent to do a summary of the court order as well as whether actions have been done to comply with that order or not. And then copies of that would be supplied to the applicant as well as the liaison if appropriate.

Mr. Nishida: I have a question, the role of the Commission and the department when the subject was part of a court order, so in saying that the department will come up with a report, are we violating any part of the court order. Well the question is whether we still cover, whether the Commission still covers these issues even though the court has ordered these conditions to be met.

Mr. Jung: I can address that. What we will do is if the request is noted and passed by the Commission we will work hand in hand with the department in addressing those concerns.

Vice Chair: Any other questions?

Mr. Blake: So as I understand what the Director said, the department will look at the whole of the court order in addition to what Mr. Buhk raised or the issues that Mr. Buhk raised on his own address the status of that court order visa vi the developer. We are not just looking at Mr. Buhk's issues are we?

Mr. Costa: Actually we have received a status report so we would analyze the status report and its compliance with the conditions as reiterated by Mr. Buhk's letter.

Ms. Morikami: I have a question. In following up what Commissioner Nishida asked, I am not clear on what the role is of the Planning Department, the County Attorney's office, and the Planning Commission. What role do we play based on this communication, the Planning Commission? I am not familiar with the court order. I am not familiar with the original approvals so I would like to know what role the Planning Commission has in this matter. In reviewing it I don't know if just the Planning Department, the County Attorney's office...I am not clear on what we do as the Commission.

Mr. Jung: That is a valid question because we would have to, because this request takes into consideration what was issued, what the court ordered the Planning Commission to do, we would have to do some research. Our office would have to do some research into what necessary steps there are if there is say a noncompliance. But we will address that if it is requested upon us and I am sure the department will address that no matter what.

Ms. Morikami: Thank you.

Vice Chair: Anybody else?

Mr. Blake: So Mr. Nishida you are asking about whether, if I understand you correctly, you are asking whether the court is now the Planning Commission and department or whether those duties still remain with us, those duties and responsibilities. Was that your question?

Mr. Nishida: Kind of the whole range, what is the role of the Commission given that there is a court order and what lies with the court and what lies with the Commission and what lies with the court.

Mr. Costa: I think to clarify that question we will work closely with the County Attorney to lay that out as well.

Vice Chair: Any other questions, if not all those in favor say aye, opposed, motion carried.

On motion made by Hartwell Blake and seconded by James Nishida, for Planning Department to review and provide status report, motion carried unanimously by voice vote.

Commission recessed at 9:45 a.m.

Meeting was called back to order at 10:00 a.m.

SUBDIVISION

Mr. Nishida: Subdivision Committee report No. 12, committee members present, Jimmy Nishida, Camilla Matsumoto and Jan Kimura. General business, none, communication, none, unfinished business, none, final subdivision action for S-2009-10, State of Hawai'i, County Department of Water, TMK 1-2-002: por. of parcel 001, approved, 3-0. S-2009-18, Alexander & Baldwin, Inc./McBryde Sugar Company, Ltd., TMK 2-5-1:002, 008, 011, approved 3-0, S-2010-3, K.D. Kapule, LLC, TMK 3-5-001:165, approved 3-0. Move to approve Subdivision Committee report.

Ms. Matsumoto: Second.

Chair: All those in favor say aye, hold on...

Ms. Morikami: Mr. Chair, just for the record I will be abstaining from voting on item D.1.b. I have a pending claim with Kukui'ula Village which is directly within.

Chair: Thank you Paula, take them up separately.

Mr. Nishida: Motion to approve item D.1.a and D.1.c.

Mr. Blake: Second.

Chair: All those in favor say aye, motion carries.

On motion made by James Nishida and seconded by Hartwell Blake, to approve D.1.a and D.1.c, motion carried unanimously by voice vote.

Mr. Nishida: Move to approve D.1.b.

Mr. Blake: Second.

Chair: All those in favor say aye, motion carries.

On motion made by James Nishida and seconded by Hartwell Blake, to approve D.1.b, motion carried unanimously by voice vote.

UNFINISHED BUSINESS

Memorandum (9/2/09) from Director Ian K. Costa to James Nishida, Chair, Kaua'i Planning Commission, recommending the Commission consent to the issuance on Non-Conforming Use Certificates pertaining to Transient Vacation Rentals (see Agenda Attachment "A"). [Action deferred 9/8/09].

- a. Staff Reports pertaining to the recommendation to consent to issuance of Non-Conforming Use Certificates for Transient Vacation Rentals listed in Attachment A.

Mr. Costa: Chair, I guess if I could make a summary. This has to do with the TVR ordinance which was approved by the County Council in March, 08, that ordinance set forth an application deadline to not only register transient accommodations which included multi-family projects by October, 08. Upon that registration or application deadline we did receive a total of 3,497 applications for registration and a subsequent deadline of March, 09, was set in the ordinance for single-family transient accommodations who had been in prior existence to obtain approval from the Planning Department by March 30, 2009. Of the 3,497 registration applications there were a total of 543 that applied for a nonconforming use certificate for the single-family transient vacation rentals. To date, a total of, of that 543, a total of 198 have been denied. The batch before you as part of this memo are some of those applications for the nonconforming use certificates that did not get approved by the department by March 30th for one reason or another and there are numerous reasons, either permits had to be verified or further work needed to be done that prevented us from approving by March 30th. At that point we did not have the authority to approve and that is what is before you today.

Mr. Texeira: The 32 are part of the 198?

Mr. Aiu: No.

Mr. Texeira: It's separate.

Mr. Costa: Yes.

Mr. Aiu: We didn't count those. These technically can't be counted as approved so the numbers given are to date.

Mr. Costa: The 198 I reported denied are approved prior to today, I mean denied prior to today.

Mr. Aiu: Chair, the Director did summarize very well what is in the staff report so if you would like I can just move on to the conclusion and recommendation of the final amended staff report which should have been in your addendum. It is titled "Amended Staff Report" and has a list of 20 TVR's for approval. Each TVR does contain, each TVR for approval is included in the larger packet with the smaller staff report (on file).

Chair: Questions?

Mr. Texeira: What about the other 12?

Mr. Aiu: The other 12 were either found to still have violations and so should not be approved or there were a number or two that due to mistakes with the log and paperwork had already been subsequently approved. Those that were already approved, the reports are included in this packet.

Mr. Jung: If I could just clarify Mr. Texeira, there was the original September memo, September, 2009 memo, and then the new memo references the ones requesting consent to approval and that list is 20. And just for the record these are all TVR's that were previously operating prior to March 7, 2008. They are not new TVR's.

Mr. Teixeira: Of the 20 are you recommending approval of all 20, right?

Mr. Jung: Yes.

Mr. Teixeira: I thought I saw one that was recommended for denial.

Mr. Aiu: There was one that was recommended for denial and was included in a staff report in here, mistakenly, but it is not included in this list. That is Peter White and it has been removed from the list so it is not amongst the 20 that is recommended now.

Mr. Nishida: The last one on the list, the Santelli, is it still on that list?

Mr. Aiu: Yes I believe it is.

Mr. Nishida: That one there, the zoning is Ag./Ag. I thought we weren't doing that?

Mr. Aiu: You can approve a TVR on Ag. if it was built prior to 1976 and the Santelli property was built prior to 76. I believe it was built around 63 or so.

Mr. Nishida: I noticed the approval letters don't have dates on them and the confirmation, there's no information on the confirmation receipts.

Mr. Aiu: On the confirmation receipts...

Mr. Nishida: Some of these applications were deemed approved.

Mr. Aiu: Yes.

Mr. Nishida: That means those letters were sent out already.

Mr. Aiu: Yes.

Mr. Nishida: But they don't have any dates on them. That is just how it was done?

Mr. Aiu: Because those were filled in later and Xeroxed over to the files without that.

Ms. Matsumoto: Some of these have...I am looking at one, Sara Grossman's, the issue was a lock-out issue, possible lock-out issue. So then after inspection everything was okay, does that mean she fixed it?

Mr. Aiu: No. The violation in those cases were like ostensible on-site violations when we went out and looked at it, it had the conditions that presented it's self as looking like a lock-out. However when we did subsequent research we found that the building was indeed built as permitted and subsequent research into their web operation revealed that it wasn't being operated as a multi rental unit.

Mr. Costa: To provide further clarification on that, the CZO does not prohibit placement of locks on doors and that does not necessarily constitute a second unit.

Ms. Matsumoto: That was just an example but my main question is say somebody has a violation and you ask them to fix it, they fix it, and then it is approved. After that is there any kind of way to make sure that they don't return to do what they did before?

Mr. Aiu: The only way to really do that is subsequent inspections at renewal. Obviously we cannot be out there daily or really even weekly with this number of inspections so we just have to keep watching the websites and watch on the renewal inspections.

Ms. Matsumoto: So is it every year?

Mr. Aiu: Renewal is annual.

Mr. Costa: An inspection would be done on the renewal as well as in response to any complaint receipts.

Chair: Are there any more questions?

Mr. Blake: You probably answered this already and I missed it but we initially had 32 to consider, that has been pared down to 20?

Mr. Aiu: Yes.

Mr. Blake: And the 12 that are not on the updated or the most recent list have been disapproved?

Mr. Aiu: Not all of them. Some of them were actually already approved so really didn't need any Commission action.

Mr. Blake: Are there any of the 12 that are going to disapproved?

Mr. Aiu: There are some that are still standing in denial, yes, 3 of them actually.

Mr. Jung: Remember, per the ordinance, if they are not approved by March 30, 2009 they are denied.

Mr. Aiu: So that is why they are off the list. No Commission action is necessary to deny those, they already are denied so they just stand as such.

Mr. Blake: If someone is legally operating a TVR in 2010, that operator has to reapply every year?

Mr. Aiu: Yes, per the ordinance, yes they have to reapply by July 31st every year.

Chair: Did you say illegally or legally?

Mr. Blake: Legally.

Mr. Aiu: That is what I heard too because I wouldn't have the same answer for illegally.

Mr. Blake: Are we under time constraints to get the inspections completed by a certain date?

Mr. Aiu: Renewal, the ordinance only specifies that they have to apply for renewal by July 31st. It does not specify a date that renewal has to be issued or completed by. None the less, that doesn't mean we can sit on it indefinitely of course but it does not necessarily either put us under any time constraints like the March 30th approval deadline did.

Chair: Any more questions? I will call up if there is anybody in the public who would like to testify on this agenda item you can come up now. Being that this is one agenda item the 3 minutes will apply to the entire agenda item and not each individual so if there is anybody in the public who would like to testify you can come up.

Mr. Dennis Smith: My name is Dennis Smith. We picked this up off the internet. We didn't even realize that this was happening today so we picked it up off the internet and came in. Actually we applied No. 14 on the entire island, we have been operating completely legal, we have nothing on our property that is nonconforming but when the list came out we had a denial so that is why we are here today, No. 31.

Chair: And on the new list he is No. 22.

Mr. Aiu: He is No. 19 on then new list.

Mr. Smith: I am No. 19 on which list is that?

Mr. Aiu: The amended list.

Mr. Smith: So we are approved then?

Mr. Aiu: Well you are approved if the Commission takes action to approve.

Chair: We will see if you are approved today.

Mr. Smith: We have been trying. We never received any type of a letter from the County at all we just saw a denial on the internet and we were told we could even reapply or couldn't pay our fee for this last year but we did. I have the receipt for it here. We have never been late on any of our taxes to the State. We have nothing noncompliant on our property, never have. We actually did an address change too because we had a problem coming off of Kūhi'ō Highway, we had to go across 3 or 4 properties and they gave us an address change on Alanii Road last year. I forget the exact date but it's all been through...we don't even have a shed on our property, the property is clean. When Bambi came out to look at the property he came and said you have one kitchen, there was just no problem with it at all.

Chair: Thank you Dennis. Is there anybody else in the public who would like to speak on this agenda item, seeing none I will entertain a motion.

Ms. Morikami: Mr. Chair, move to receive the staff report and also the amended staff report that we received today, exhibit A.

Chair: As amended?

Ms. Morikami: Second.

Ms. Matsumoto: Second.

Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive staff report and amended staff report, motion carried unanimously by voice vote.

Ms. Morikami: Mr. Chair, move that this Commission consent to the issuance of nonconforming use certificates pertaining to transient vacation rentals.

Mr. Jung: Just to clarify, that is on the revised list indicating 20?

Ms. Morikami: Yes, the one we received, revised exhibit A, D.1.A.a.

Mr. Nishida: Second.

Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by James Nishida, for Commission to consent to issuance of nonconforming use certificates pertaining to transient vacation rentals, revised list of 20, motion carried unanimously by voice vote.

Commission recessed for lunch at 10:18 a.m.

Meeting was called back to order at 1:30 p.m.

Executive Session: Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to these agenda items.

There was no executive session held.

CONTINUED PUBLIC HEARING

There were no continued public hearings.

NEW PUBLIC HEARING

Zoning Amendment ZA-2010-6 to amend the zoning from Open District (O) to Residential District (R-4) for a property located in Waimea Valley, Kaua'i, approx. 350 ft. east of Maile Road and Waimea Valley Road intersection, further identified as Tax Map Key 1-6-5:18, and containing as area of approx. 45,280 sq. ft. = C. Ahko, Inc.

a. Staff Report pertaining to this agenda item.

Staff Planner Bryan Mamaclay: Thank Chairperson Raco. I would like to have the Commission bring its attention to the tack board and staff would like to identify the location of the subject property. This is a 400 scale zoning map of the Waimea Urban Core, the ocean is here, my pointer is on Kaumuali'i Highway heading west towards Kekaha. This is Waimea River, the river mouth and at the intersection of Waimea Valley Road we have Big Save and the Waimea Fire and Police Substation. The subject property is identified by this red pin which is just north of the intersection next to Ching Park, the small park in Waimea Valley.

Staff Planner Bryan Mamaclay read staff report (on file).

Staff: As far as the agency comments, staff has received all of the agency comments except for Parks and Recreation Division. In talking with the Parks and Recreation Division I believe they would have no objections to the proposed amendment because as I found in a previous staff report back in 2006, and I would like to thank Walton Hong for bringing this to me attention, I did say for the record at that time that the Parks and Recreation Division has focused it's resources on the development and maintenance of the larger regional and active parks in the planning area such as Waimea Canyon Park, Lucy Right Park and the Kekaha Beach Park. So believe they are in the same mode, I don't think they have any plans to expand this park and this concludes staff's findings.

Chair: Thanks Bryan, are there any questions for the Planner before I call up the applicant to make his presentation?

Mr. Texeira: Bryan, what is on the property right now?

Staff: There is a single family residence and most recently I found aerial photos there may be a storage shed on the property as well.

Mr. Texeira: How do you access the property?

Staff: It's from Waimea Valley Road.

Mr. Texeira: Is there a driveway?

Staff: I believe there is a driveway or there may not be a driveway according to the aerial photos.

Mr. Costa: Bryan, do you know when the residence was built?

Staff: I cannot pinpoint an exact date. I think the applicant can best answer that.

Mr. Texeira: Waimea Valley Road is a standard road, not substandard?

Staff: According to the Public Works Department it is a collector roadway classification and apparently the right-of-way width and pavement width are narrow for that classification but it is a collector street.

Mr. Texeira: So how would that roadway comply with the subdivision?

Staff: Generally when a developer comes in to subdivide the property further, lands would have to be dedicated or perhaps a setback area but that would be determined at the time they come in for subdivision. And we could set the standards at this point in time as well.

Mr. Texeira: Has Public Works indicated any plans to widen that road? Have you received any plans or discussed anything with Public Works concerning that road?

Staff: Normally they would indicate that in their comments but they haven't made those kinds of comments in their report to the Commission.

Ms. Matsumoto: There is a photograph; this must be the house you are talking about.

Staff: Yes, that would be the house as you pointed out and the storage shed I believe is shown on exhibit (f). It is tent like structures. Exhibit (e) also shows the storage tent. I will call it a tent rather than a shed.

Mr. Texeira: Bryan, the surrounding properties, can you tell me something about them in terms of conforming to his request?

Staff: If you look at the zoning map where it identifies the subject property, it is similar to the zoning map here on the tack board, as you can see to the north and to the east lands are zoned R-4. So the property is perfectly surrounded by residential zoned properties with the exception of Ching Park to the south. So generally it is a bedroom community of Waimea Town.

Chair: Any more questions? Then we will go ahead and call the applicant up to give his presentation.

Mr. Walton Hong: Thank you Mr. Chairman and members of the Commission, for the record my name is Walton Hong representing the applicant C. Ahko, Inc. et. al. With me in the background are two individuals, Dr. Howard Ahko who is one of the sons of Ching Chung Ming Ahko, the patriarch I guess and the other is Ralph Keon who is the husband of Janet Keon who is another daughter of Ching Chung Ming Ahko. So there are two other relatives owning the property.

When we came in 2006 I am not sure which of the Commissioners were already here and which are new so if I may just spend a few minutes going over the background of this property. This property is a family property that has been in the Ching Ahko family for generations. The present ownership consists of four people, C. Ahko, Inc. which is a corporation of which the principals, officers, and directors are all children, spouses and one grandson of the Ahko patriarch. The other one half is owned, one sixth by Howard Ahko, son, one sixth by Janet Keon, daughter, and one sixth by Anna Li Trust. Anna was the third child of Ching Chung Ming Ahko. So it has been a family owned property for literally generations.

The family as you should know is originally from Kaua'i and they used to run the Ahko general merchandise store in Waimea until I think the mid 80's or thereabouts. The children grew up on Kaua'i, helped in the store and when they reached college age went away for schooling or for job opportunities so frankly none of them live on Kaua'i although they have owned the property for as I said decades and decades. I was told by Janet in a letter that they used to plant rice on the property back in the 1930's until they found they couldn't compete with the California rice growers and they just gave it up and the property has been vacant since then.

The petitioners are not large landowners. What they are seeking is to rezone the property from its current open zoning to residential R-4. If you look at the zoning map it is like a donut with the center of the donut being the County Park and this property, the only two parcels in the area being zoned Open. And we suspect the reason it was zoned Open was in case the County needed to expand the County Park it would be less expensive to condemn Open zoned land than it would be to condemn Residential land. However as Mr. Mamclay has indicated it is true that the County has indicated in writing to us that they have no plans to expand the park, the park is not a park of high intensity use, so we feel that...all we are asking is that we be treated like anybody else, be fairly treated. If everybody else's is R-4 then we should be entitled to the same privileges if you will for an R-4 zoning.

As I said we came before you in 2006 and we are coming before you again and of course the question is what has changes since then. First of all, when we first came to you in 2006 we asked for an R-6 zoning. Our rationale was we had essentially six members and its kind of hard to develop a property with four units and divide it amongst six family members. So we asked for R-6, hoping each one would get one unit. However we recognize now the reality that R-6 is not going to be possible and we came in and said okay, let's make it R-4 like everybody else and they will work out how they divide up the usage of the property among the family members. At the time that we came in there was a question, was there a requirement for affordable housing or not? That was up in the air, there was no County housing policy at that time. Now there is a County housing policy that makes it very clear, given the size of the lot and the possible density, there is no housing requirement. That was something that was hanging over our heads and was real uncertain that cause us some concern.

Thirdly, at the time we came in 2006 there was a question, was there available sewer capacity. In 2006 there was talk about sometime in the future they were going to expand the Waimea Sewage Treatment System. It is now fact; the contract has been let out for the expansion for the Waimea Sewage Treatment Plant. The contract was for 24 months and we would expect within 24 months there will be sufficient capacity to service this property. Fourth, the time we came in for the property was just left vacant, Kiawe bushes, scrub bushes, and actually in a very un-kept state. Since then we have cleared the property, we have built one residence on the property and a tenant is using the property at will to graze as you can see from the photographs that were attached to the petition until the property can be developed.

Lastly, at the last go around we did not have the support of the community. I gave Bryan and I think he gave all of you copies, we have 16 letters, the last two came in this morning, 16 letters from people within the 300 feet of the property. And I know it is 300 feet because when we sent out the notice of public hearing we enclosed that letter that you have in front of you and said if you do not object to it we would appreciate you indicating so and we got 16 letters back and I think this shows that the community surrounding the property has no objections to the rezoning. Some of the issues that were raised in the prior rezoning request and I am going to (inaudible) because I think it bears mention, that the owner is a big developer who lives off island and who will reap profits from the development of this property. As I indicated the owners are not big developers they are family members that have owned the property since I don't know how long, perhaps 70 years, 80 years. As I said the three children grew up in Waimea, worked the fields in Waimea, helped run the store, even helped farm this property until they gave it up due to the competition from rice so that is not a fact any longer. Yes, they no longer live on Kaua'i, that is true but the fact that they no longer live on Kaua'i should not be a reason or should not penalize them from having the same treatment or same zoning as everybody else around them.

Another issue that was raised in the first go around was the General Plan provides that the property be kept in Open Space for future generations. That was the issue. We beg to differ with this because the property is no General Plan Open, the General Plan designation for this property is Residential Community and this recognizes development as Bryan indicated. This is a bedroom community for Waimea, we should be able to develop homes on this property. The purpose of the Open zoning is to keep lands available for future generations, Open Space, where there are certain esthetic or preservation qualities. If you look at it logically and reasonably there is no reason to keep it in Open any longer. All we want to do is do whatever the surrounding community has been able to do with their properties which is develop residences on the property. Given these circumstances and the nature of the surrounding neighborhood we submit that logic and reason would dictate that the rezoning of this property from Open to Residential R-4 is proper, is logical and should be granted.

When we went before the Council on the first go around I remember one of the Council members asking us a very (inaudible) question, you see the issue with this petition is fairness, what is fair. And I think it still applies here, what is fair. Why should the Ahko family be treated any differently from anybody else? They are Kaua'i born. Yes, they don't live on Kaua'i but they have owned the property, they are not land speculators. Why shouldn't they not enjoy the same privileges and opportunities as other landowners in the area and that is all we are asking. Give us a chance to enjoy the property like everybody else does. With that, I don't have anything else to say other than to respectfully ask that you recommend approval of the rezoning to the Council, we still have to go to the Council on this. And with that I will be glad to answer

or respond to any issues or questions which you may have or if I cannot then as I said I have Dr. Ahko or Mr. Keon available also to respond to any questions, thank you.

Chair: Thank you Mr. Hong, are there any questions?

Mr. Texeira: The landowners, you mentioned that the sewage be completed in 24 months, so does that mean that the landowner should this subdivision be approved, consider not building until 24 months are up?

Mr. Hong: Realistically it is going to take about that long, it is going to take I would say at least possibly through this summer to get through this zoning process and then if they come in for subdivision immediately then they will have to go through the subdivision process. They are not going to get clearance from the Department of Public Works for wastewater treatment until such time as it is available so we don't have a problem with that.

Chair: Any more questions? He would have to go in front of Subdivision if he gets his approval from Council on the zoning amendment.

Mr. Costa: That is correct and probably could not be issued final subdivision until the subject sewer improvements are done.

Chair: Are there anymore questions for Mr. Hong before I call for any public testimony? Thank you. Is there anybody in the public who would like to testify on this agenda item, please come forward, seeing none...

Ms. Morikami: Mr. Chair, move to receive the three communications, one is from the applicant, the other one is to receive the staff report and the communication received today.

Ms. Matsumoto: Second.

Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive communications, motion carried unanimously by voice vote.

Ms. Morikami: Mr. Chair, move close this public hearing.

Mr. Kimura: Second.

Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Jan Kimura, to close public hearing, motion carried unanimously by voice vote.

Request to Amend Condition No. 19, sub d), e) and h) of Zoning Ordinance PM-2004-370, and Condition No. 3 and No. 4 of Zoning Ordinance No. PM-2005-374 relating to the Kukui'ula Workforce Housing project which is adjacent to and east of Po'ipū Road on former McBryde Sugar Company plantation lands, located on Tax Map Key 2-6-4: por. 19, and containing an area of 9.4 acres, more or less = *Kukui'ula Development Company (Hawai'i), LLC.*

a. Staff Report pertaining to this agenda item.

Staff Planner Mike Laureta read staff report (on file).

Chair: Are there any questions for the planner?

Ms. Matsumoto: The third existing condition, No. 19(h), and what they want, the idea being able to sell properties, are they going to sell them at the housing rate?

Staff: I think any specific conditions relating to this request should be directed to the applicant and/or Housing because these conditions were negotiated at the County Council level,

it was never brought to the Planning Commission. So these housing conditions in the ordinance were negotiated at the Council level between the applicant, Housing and Council so any of the specific questions, I will defer them to the applicants and/or Housing Agency.

Chair: So we can ask Housing or the applicant, are there anymore questions, seeing none I will call the applicant up.

Mr. Tom Shigemoto: Good afternoon Chair and members of the Planning Commission, for the record my name is Tom Shigemoto. I am representing A&B and Kukui'ula Development Company, Hawai'i. To really understand what our application is all about you folks should have four different documents in front of you, the three ordinances and there is a Housing agreement. I know a lot of you don't have the background on this project because it has been ongoing for so many years so what I want to do is give you a real brief history on our housing condition relative to Kukui'ula.

In the late 80's and early 90's, back then the County's Housing requirement was 10% of what we were proposing to build. In 93/94 time period A&B met this obligation of 176 units so at that time we were proposing 1,760 units. We met the 176 unit requirement in the form of 116 house and lots and vacant lots at Eleele Nani and also we dedicated land at Paa Nau Village, plus we gave the County free sewer hookups which total 176 units. So we met our housing obligation. When we did that there was not one market housing unit built for 9 years. Our first housing project was developed in 1999 and I think we sold out in 2001 but for 9 years we had built the affordable housing, we sold all of them and we had complied with that. We have letters to that affect from the Housing Agency on file.

In 2004 when the joint venture, well the joint venture was formed in 2002 but in 2004 when we applied for our down zoning we were required to provide more affordable housing to the tune of 75 units which we agree to. And remember, of the 75 units, 45 were supposed to be for employees of Kukui'ula and 34 members of the general public that were employed on Kauai in three different price ranges, 80 to 110, 110 to 140 and 140 to 180. When we applied for the zoning this was imposed on us, we agreed to it, we have an agreement in place but now we are here to ask for your consideration in amending some of the terms of these 75 units. We are not asking to get out of building the 75 units or providing 75 units, we are asking for three things as Mike pointed out. One was to reduce the 90 year buy back condition that was imposed on us. This 90 year buy back plus the ability to sell the units on the open market once we exhaust going through all of the different income levels, trying to sell the units or market the units. If we cannot sell those then let us sell that on the open market. That is no different than what the County Housing Agency does today.

And the third was to give the County the first option to purchase the units versus the first option being placed on the developers, on us. So those are the three things we are asking for to be amended in this application. Again we are not trying to get out of building affordable homes, we are just trying to see if we can amend the conditions. And what happened to since 2004 was in 2007 the County Council adopted the County Housing policy. In that Housing policy there is a 20 and 30 year buy back provision, 20 and 10, correction, and it does allow resales to the open market once you exhaust the sales. So what we are basically asking is to allow us to conform to the County Housing, the current County Housing policy instead of having to meet the current conditions of our approval. The Housing Ordinance as I said was adopted in 2007 and was effective June, 2008. I don't have anything else to add except you heard Walton Hong about fairness, all we are asking is to be treated like everybody else, thank you.

Chair: Are there any questions for the applicant?

Ms. Matsumoto: I had asked that question about the retention of selling at a housing rate, is that what the plan is, affordable housing rate?

Mr. Shigemoto: That is the intent. That is what is contained in our current ordinance and again we intend to sell or offer for sale the units over a specified time. If you look in the County Housing ordinance 860 you will see a marketing period restriction and what that does is allow you to sell the units and hold the sales for a certain period of time and when you exhaust that time period and there are still units available then you can sell it at the next higher income level.

After you exhaust that you go to the third and then after you exhaust that then you can sell the units to the open market. That is in the ordinance. That is what we are asking to be able to do.

Chair: Any more questions?

Mr. Texeira: Tom, you know that 20 year for all units sold, beginning from what time frame?

Mr. Shigemoto: The 20 year time frame, from the time that the units are built I believe. When the units are initially put out to sale there is a 20 year time period.

Mr. Texeira: So what is your anticipated date of that?

Mr. Shigemoto: To start the project we have a deadline of July, 2013 to start.

Mr. Texeira: Based on the economy right now do you anticipate asking for an extension at some point?

Mr. Shigemoto: Hopefully not. Hopefully the market improves; the economy improves where we can actually start building. As you know Mr. Texeira in this depressed market right now there is nobody looking for affordable homes or if they can whether they can qualify or get loans. These are difficult times so it all depends on how soon the economy improves.

Mr. Blake: If you have an inventory of houses and they are not sold to the people that you are offering them to initially then they can be offered to the next level and so you are talking about the next income level?

Mr. Shigemoto: Yes, the next income level. So you start with group in the 80 to 110% of the median and then you go from the 110 to the 140 and then the 140 the 180 and if there are units still available after that then you can sell it to the open market.

Mr. Blake: Does the price of the home stay the same as you are offering it to people that are better able to afford it?

Mr. Shigemoto: I believe the price of the units go up.

Mr. Blake: The price will go up as you offer it to...

Mr. Shigemoto: The higher income groups, yes. These are all controlled by the County's selling price too, their affordable sales price, it is tied to that.

Ms. Matsumoto: So each property will be taken by an individual basis so for example if this one gets sold at level one but this one can't be it goes up to level two, it will just be mixed.

Mr. Shigemoto: Yes.

Mr. Blake: So if you have side by side properties and you offer one to the, just for the sake of discussion, 100 thousand dollar property to the first level and then you cannot sell the second one. So you are going to now offer the second one to the second income level, that same property which had been formerly offered at 100 thousand could now be offered at 140 thousand?

Mr. Shigemoto: That is how it works, yes.

Chair: So the price would rise.

Mr. Shigemoto: The price would rise. As I said, the prices are dictated by the County's housing formula, not formula but they have a table that you cannot exceed the sales price.

Mr. Nishida: I think housing should come out and explain that.

Chair: I don't see County Housing.

Mr. Nishida: Mike, I thought you said somebody from County Housing was here?

Staff: They were asked to attend because we knew there was going to be questions.

Mr. Nishida: Maybe I can clarify some of those questions. The 80% is of median income. The median income is determined by...maybe you can explain how all the prices get arrived at.

Mr. Shigemoto: I can explain how the prices get arrived at. The County and I am guessing that this is a State established median income and it rises every year and so based on that median income the lower priced units can or would be sold to those qualifying making between 80 and 110% of that median. So they are earn a certain amount, right, and for lets say a 3 bedroom/2 bath home, the prices are all set by this agency or the State or Federal government or maybe HUD, it is established. So as developers or sellers, we cannot exceed the price that is listed in this standard. So again when you are selling a unit, the same 3 bedroom/2 bath home, selling the unit 80 to 110% income folks you have to sell it at a certain price. Now when you jump to the 110 to 140 the price of that same unit is a little bit higher, you can sell it for that higher price.

Mr. Nishida: I am going to speculate a little bit because when I was working with KEO there were these tables that you looked at. Maybe we should have them come so they can explain it but I am pretty sure what it is, is that the median price is set by the Federal government I think and then there is a certain percentage of your income that you qualify for housing. So the prices that are set up are based on that income level and how much you can afford at that income level to pay for your housing.

Mr. Jung: Commissioners, if I could just interject real quick, the nuances of ordinance 860 which is the Housing policy now implemented, it gets a little complicated and the terms are fairly complex when it gets to how you categorize certain numbers so it would be more beneficial if we ask someone from the Housing Agency here. But remember this is not really a zoning issue. What happens is when there is a zoning amendment request or a subdivision request and there are conditions and the conditions of the Housing policy are met between the applicant and the Housing Agency. So it's not really connect to a zoning application other than the conditions so all they have to do is meet with an agreement the terms of the Housing policy. So understanding the nuances of the Housing policy, it would be beneficial for your general information but in terms of zoning issues, it's not really appropriate to look at.

Mr. Texeira: So how does this impact us?

Mr. Jung: It impacts us because you have to make a recommendation to Council based on the zoning amendments because this term is...one of these conditions are conditions of the zoning amendment that passed in 2004 and 2005.

Mr. Nishida: Just to clarify, whatever we recommend today goes to County Council to be looked at again?

Mr. Jung: What happens is when it comes to zoning amendments you do serve in an advisory capacity but if you disapprove the request then it is done unless the applicant wants to sort of appeal that within 15 days to get it up to Council. So ultimately the Council has the final call.

Mr. Texeira: So the questions we are asking right now are irrelevant?

Mr. Jung: They are relevant to the point of you can dictate more of a somewhat of a policy call and what housing standard you want but remember this was done pre-Housing Ordinance, pre-860. So what I think they attempting to do is align it to the provisions of 860 but it would be more beneficial to have the Housing Agency here who set the deal up which Kukui'ula signed off on the agreement as to why these conditions were imposed.

Mr. Texeira: So being that Housing is not here...

Ms. Matsumoto: Are they coming?

Chair: What we could do is maybe take public testimony and then take a 5 minute recess and find out if Housing will come over but we cannot force them to come. I think the planner said that he invited...

Staff: They were asked yesterday and they didn't exhibit any willingness to want to come but to Commissioner Texeira's questions, the housing conditions as they came up are treated more like agency comments. The specifics have to be worked out with the Housing Agency the same as Engineering, Water Department, Fire Department, Public Works. The level of interest that you are seeking lies with the agency, they are the ones who enforce, it's their jurisdiction especially because these conditions were established in negotiations at the Council level without any input from the Planning Commission or the department. The kind of questions you are asking, it might be good to know but the specifics is left up to the Housing Agency in more negotiations that are going to occur if this bill goes up. So however this goes up, it will go up and it's going to back to where it started, the negotiations between the applicant, Housing and the County Council.

Mr. Jung: Commissioners, we are at the public hearing stage, this is set for public hearing so there will be a second opportunity once the recommendations come down from the department to reassess and look at the issues presented.

Mr. Texeira: So the worst case scenario is that nothing will change.

Staff: The worst case scenario in the way staff has visualized it is it goes with no comment or it can go with comment or recommendations but Housing Agency's comments will be attached because this was a Council negotiated item. Specifically because of that reason if the Commission is going to get involved in it, you are trying to sink your teeth in it, like Commissioner Nishida said and Ian, this is a really technical thing. It is going to be very hard for you to sink your teeth in to and if it is not your jurisdiction in theory, if you want to spend that energy it would be helpful if someone could guide you through it. But for you, the Commission, to try and make recommendations in areas that they never did is going to be kind of confusing.

Mr. Nishida: Mike, just to clarify, the proposed conditions are addressing the buy back provision and the changes to how the different income levels get approached and when they go to market and how long they move to the next one.

Staff: And the time frame, everything that was negotiated with the Council, with the applicant, and with input from housing.

Mr. Nishida: The levels that they are dealing with all stays in place?

Staff: That is with Housing. That is strictly Housing's jurisdiction.

Mr. Blake: So no matter what we recommend or do not recommend, all the action takes place up at the Council level.

Chair: Yes.

Staff: In theory yes but because the Planning Commission is advisory, if you feel like you must input something it is still going to go up there for negotiations and that is where it started. But any input you provide is not going to be, or could impact the standards that exist now which no one really completely understands except for Housing, the applicant and Council.

Mr. Jung: Commissioners, your policy deliberations do hold water when they go up to Council so no matter what you deliberate or discuss, whatever is discussed here goes and gets transmitted. So Council, if they read the minutes they will understand the debate that went on here and they do take that into consideration.

Ms. Matsumoto: I am reading this here, we are talking about the prices going up from low to high, what if you reach the highest mark and then nothing sells. Do you go back down?

Staff: That is Housing's policy so even if I knew the answer, I don't. The applicant will have to resolve it with the Housing Department so all those steps, all the numbers, all the values, all have to be worked out with Housing. And they did have an agreement between the applicant and the Housing Department.

Mr. Nishida: Mike, according to the proposed amendment, so once they pass all those different levels of income it goes to market?

Staff: Right.

Mr. Nishida: And then it is up to the...they just sell them at whatever they can get, they make the decision on how much the units are going to be and it is open to everybody. They don't go back down to the...

Staff: That is between the applicant and Housing. That is like the Commission coming in and trying to tell someone from Engineering you have to build your house 15 feet when the flood ordinance says 10. That is someone else's jurisdiction. The specifics are best known by them.

Mr. Teixeira: How do we have an educated debate without meaningful input from Housing?

Mr. Costa: I did check with the Housing Agency and nobody is available today anyway to come and testify but I was given some information in terms of housing ranges but for what specifically?

Mr. Teixeira: I am not too sure what to ask.

Staff: Mr. Teixeira, the Housing Agency did submit comments, kind of detailed, towards one of the requests.

Chair: Are the comments in the application?

Staff: The comments are in with the staff report.

Chair: Is there anything you want to add?

Mr. Shigemoto: I can tell Mr. Teixeira what the Housing Agency basically said. They agree that 90 years is too long but they are recommending 25 years and they oppose the other two requests that we are making.

Staff: But Tom is it true that Housing's recommendation of 25 years still exceeds what the Housing ordinance limitations are, 10 and 20?

Mr. Shigemoto: Yes it does and that is something that again we feel...we question where the 25 years came from. We do have a housing ordinance now, ordinance 860, which specifies a 10 and 20 year buy back period and all we are asking for again is to be allowed to comply with the new housing policy ordinance.

Chair: With that said I will excuse you and take public testimony if there is anybody in the public who would like to testify on this agenda item which I do not see anyone.

Ms. Morikami: Mr. Chair, move to receive the request to amend condition No. 19, sub d), e), f) and h), zoning ordinance Pm-2004-370 and conditions No. 3 and 4, zoning ordinance PM-2005-374 from the applicant, Kukui'ula, workforce housing, dated November 23, 2009. Also move to receive the staff report.

Ms. Matsumoto: Second.

Mr. Teixeira: So the question is Mr. Chair, this is just to receive, right?

Chair: Yes.

Mr. Jung: The Commission can also entertain a motion to close the public hearing.

Mr. Costa: Or to continue it if you so choose.

Chair: Lets vote on the receive first and then if there is any discussion after that, all in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive request to amend and staff report, motion carried unanimously by voice vote.

Ms. Morikami: Mr. Chair, move to close the public hearing.

Mr. Texeira: Second.

Chair: Is there any discussion with that, all those in favor say aye, no, motion carries.

On motion made by Paula Morikami and seconded by Herman Texeira, to close public hearing, motion carried unanimously by voice vote.

NEW BUSINESS

For Acceptance into Record – Director’s Reports for Projects Scheduled for Public Hearing for 2/9/10 Public Hearing.

Amendment to Use Permit U-2001-13 and Class IV Zoning Permit Z-IV-2001-17 to permit the replacement of a 40 ft. high monopole with a 70 ft. high stealth monopine (a monopole designed to look like a pine tree) and associated equipment at an existing telecommunication facility in Moloa'a, Kaua'i, situated approx. 1,400 ft. north of the southern intersection of Koolau Road and Kūhi'ō Highway, adjacent to the Moloa'a water tank on Puu Auau, further identified as Tax Map Key 4-9-009:009, and affecting a 1,350 sq. ft. portion of a 311.598 acre parcel = *Crown Castle International*.

On motion made by James Nishida and seconded by Jan Kimura, to accept Director’s Report into record, motion carried unanimously voice vote.

Use Permit U-2010-7 and Class IV Zoning Z-IV-2010-8 to allow the conversion of an existing building previously used for restaurant and food service into a medical care facility on property situated in Kīlauea, along the east side of Oka Street immediately at its intersection with the dead-end section of Aalona Street, further identified as Tax Map Key 5-2-14:49, and containing a total area of 20,389 sq. ft. = *Kaua'i Community Health Alliance*.

On motion made by James Nishida and seconded by Jan Kimura, to accept Director’s Report into record, motion carried unanimously by voice vote.

For Acceptance and Finalization – Director’s Report for Shoreline Determination.

There were no Director’s Reports for Shoreline determination.

Memorandum (1/20/10) from Director Ian K. Costa to Caven Raco, Chair, Kaua'i Planning Commission, recommending the Commission consent to the issuance on Non-Conforming Use Certificates pertaining to Transient Vacation Rentals (see Agenda Attachment “B”).

- a. Staff Reports pertaining to the recommendation to consent to issuance of Non-Conforming Use Certificates for Transient Vacation Rentals listed in Attachment B.

Deputy Director Imai Aiu read staff report (on file).

Ms. Morikami: Mr. Chair, move to receive the staff report.

Ms. Matsumoto: Second.

Chair: All those in favor say aye, no, motion carried.

On motion made by Paula Morikami and seconded by Camilla Matsumoto, to receive staff report, motion carried unanimously by voice vote.

Chair: Is there anybody in the public that would like to testify on this agenda item, seeing none.

Ms. Morikami: Mr. Chair, move that this Commission consent to issuance in accordance with the subjects to all applicable provisions of section 8-17.10 and the Kaua'i County Code, No. 1, Gill and Kramer, and No. 2, lot 217, Wainiha Hui Lands.

Ms. Matsumoto: Second.

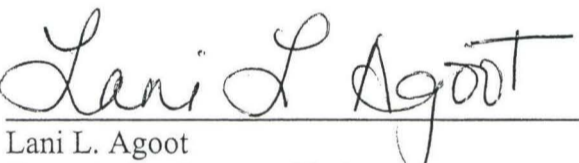
Chair: All those in favor say aye, no, motion carries.

On motion made by Paula Morikami and Camilla Matsumoto, to consent to issuance of Non-Conforming Use Certificates, motion carried unanimously by voice vote.

ADJOURNMENT

The Commission adjourned the meeting at 2:29 p.m.

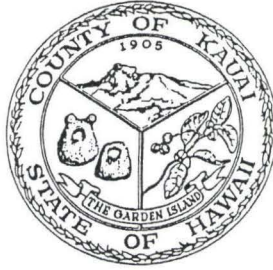
Respectfully Submitted.



Lani L. Agoot
Commission Support Clerk

BERNARD P. CARVALHO, JR.
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



COPY

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January 26, 2010

Kahili Adventist School
c/o Greg Kamm Planning & Management
P.O. Box 480
Koloa, Hawai'i 96765

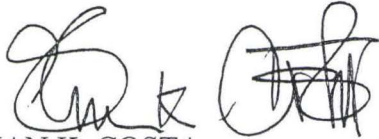
SUBJECT: Request to Amend Conditions #1 and #2, and to provide a Compliance and Status Report for Use Permit U-87-41, Special Permit SP-87-13, Class IV Zoning Permit Z-IV-87-51
Kahili Adventist School
TMK 2-7-1: 3, Koloa, Kaua'i

The Planning Commission, at its meeting held on January 26, 2010, received and approved the above request. The conditions of approval were amended as follows, utilizing the Ramseyer format:

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] , as may be required by the Fire Department, Water Department, and/or the Department of Public Works .
2. The applicant shall [provide an all weather surface from Kaumuali'i 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] manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft, and adjacent drainage ditches to ensure their drainage function. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways and drainage ditches, from Kaumuali'i Highway to and within the school campus and cabin facilities.
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] The applicant shall conduct a Traffic Operational Analysis at the

intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park and submit said report to SDOT-Highways one month prior to December 2014. Thereafter, a TOA shall be conducted every five years and be submitted to SDOT-Highways in order to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis.

Should there be any questions relative to the above, please contact planner Michael Laureta t 241-4068.

A handwritten signature in black ink, appearing to read 'Ian K. Costa', with a stylized flourish at the end.

IAN K. COSTA
Planning Director

C: Water Department
Fire Department
State Dept. of Transportation, Highways Division, Kauai

RE: Use Permit U-87-41
Special Permit SP-87-13
Class IV Zoning Permit Z-IV-87-51
TMK 2-7-1: 3, Koloa, Kauai

SUBJECT TO CHANGE

REQUEST: Amend Conditions #1 and #2, and to provide a Compliance and Status Report on conditions of approval

APPLICANT: Kahili Adventist School

Background

At its meeting held on May 27, 1987 the Planning Commission approved the above referenced permits to allow master planning for school and church-related uses on the entire Kahili Mountain Park site. SEE Exhibit 1. These permits covered the entire 195+ acre State Land Use "Agriculture" District site, which necessitated Land Use Commission review and approval.

As a result of concerns raised by the State Land Use Commission, 4 additional conditions of approval were added. SEE Exhibits 2 & 3

Request

Applicant is requesting to refine Conditions #1 and #2 as follows:

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."

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.

Justification

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 25 ft wide and approximately 800 ft long. Because of this, the narrow and hazardous roadway immediately adjacent to the pond 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. And, a 6" pipe from the water tank to the school area was installed. The gymnasium/auditorium has a fire sprinkler system that is fed by a 4" water line. In compliance with the Fire Department, 3 fire hydrants were installed at various locations around the campus.

Based on the above:

- Applicant has completed improvements to the water facilities and infrastructure to satisfactorily service the current development of the property. Any water requirements for future development would be confirmed by the Water and Fire Departments.
 - The roadway matter reflected in Condition 1 is to assure access in the event of a fire. The Fire Department has confirmed that if the school maintains the road in the same condition as it has been for the last 20 years, fire access will be adequate. The well drained, compacted and maintained gravel surface roadways have withstood the test of time, are consistent with the desired rustic ambiance of the school, and avoids the environmentally hazardous application of penetration base treatment on the roadways.
2. "The applicant shall provide an all weather surface from Kaumuali'i 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 Kaua'i shall be absolved of any liability issues related to these unimproved access roadways, from Kaumuali'i Highway to and within the school and cabin facilities.

Justification

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. The 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 there are others that use road in addition to school generated travel, the school maintains the road in good condition at its expense, spreading road 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. Most of the staff also lives on campus.

Based on the above:

- Penetration base is no longer an environmentally acceptable method of roadbed stabilization;
- Applicant has improved and diligently maintained the roadway since 1987, and
- The roadway has served the applicant and other users in its present state since 1987 without adverse situations occurring to the users or environment.

Comments submitted by DOT Highways dated 12/18/09

DOT requests that its comments be revised to read:

3. The applicant shall conduct a Traffic Operational Analysis at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis.

DOT is requesting to modify its original comments for the following reasons:

- The DOT's comments were based on the amount of additional traffic that would be generated due to the applicant's expansion plans. In meetings between the DOT and the applicant's agent, the applicant has stated that amount of growth initially hoped for has not occurred and that the applicant believes there will not be significant expansion in the near future. As shown in applicant's Exhibit 3, current enrollment is below 1987 levels.
- Kahili Adventist school has initiated a school bus program that the majority of the students use to commute to the school; and
- The applicant has provided the DOT with copies of a Traffic Operational Analysis Report performed by the applicant's consultant, Wagner Engineering, that concluded that improvements recommended by the DOT in its 1987 memo were not required for traffic conditions currently experienced at its intersection.

Conclusion

The requested modification/refinements by both the Applicant and DOT Highways are reasonable, given the comments and recommendations from the government agencies that were most affected.

Recommendation

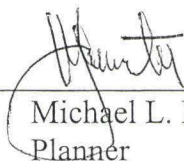
Based on the foregoing, it is recommended that the subject permits be amended as follows, utilizing the Ramseyer format (deletions are within [brackets], new language is underlined):

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] , as may be required by the Fire Department, Water Department, and/or the Department of Public Works .
2. The applicant shall [provide an all weather surface from Kaumuali'i 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] manage and maintain the compacted gravel surface roadways to a minimum width of 16 ft, and adjacent drainage ditches to ensure their drainage function. The County of Kaua'i shall be absolved of any liability issues related to these unimproved access roadways and drainage ditches, from Kaumuali'i Highway to and within the school campus and cabin facilities.

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] The applicant shall conduct a Traffic Operational Analysis at the intersection of Kaumuali'i Highway and the roadway to Kahili Mountain Park and submit said report to SDOT-Highways one month prior to December 2014. Thereafter, a TOA shall be conducted every five years and be submitted to SDOT-Highways in order to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis.

By



Michael L. Laureta
Planner

Approved & Recommended to Commission:



Ian K. Costa
Planning Director

Date: 1/13/10

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

APPLICANT: Kahili Adventist School

EVALUATION:

In applying the test for Special Permits as specified in the Land Use Commission's Rules and Regulations, the following are noted:

1. The proposed 20-year master plan of school and church-related uses for the entire 197+ acres site is not considered contrary to the objectives sought to be accomplished by the Land Use Law and Regulations 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.
2. The school and church-related uses of the property will not adversely affect the surrounding sugar cane operations of McBryde.
3. 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. Applicant will be responsible for any infrastructure improvements required by the State Highways Division, State Health Department, and County Public Works, Water, Fire and Planning Departments.
4. No unusual conditions have arisen since the district boundaries and regulations were established. However, a growing trend both locally and statewide has been towards stressing the importance of agriculture and its diversification for local economies. The proposed use in conjunction with an agriculture work-study program can ensure that an educational base to further encourage agriculture exists.
5. The Kahili Mountain site has uses occurring that are permissible within the State "Agriculture" Land Use District, such as recreational day camp, raising of livestock, and riding stable and barn with accessory structures. The proposed master planned development could be considered to be compatible to the Agriculture District on the basis that many of those uses mentioned above will be maintained, although the emphasis will now be placed on education rather than only recreation.

Relative to the standards for the issuance of a Use Permit, as reflected by Section 8.05-A of the Comprehensive Zoning Ordinance (CZO), we are of the opinion that the ultimate development of the property over a 20+-year time span as reflected by the master plan, is a compatible use to the surrounding environment. Provided infrastructure improvements occur in conjunction

with subsequent development of the site as required by the government agencies, we are of the opinion that the use would not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters, and will not be inconsistent with the intent of the CZO and General Plan.

Infrastructure improvements to ensure public health, safety and welfare, such as water line improvements to provide sufficient fire flow, and roadway improvements to include a 16 ft. asphalt concrete or concrete pavement width from the bridge entry to the site would be required prior to the issuance of an occupancy permit for any development proposed within the master plan. Deferral of these improvements will not be in the public's best interests since safety is our foremost concern. Additionally, other agency requirements such as State Highways for highway improvements, and Public Works for a flood study, should be resolved prior to any further development of the property.

Relative to the primary access from Kaumualii Highway to the site entry over an existing cane haul road, we believe all weather roadway improvements (asphalt concrete paving to County standards) should also be provided. However, realizing the wear and tear caused by cane haul trucks over this roadway portion, we believe paving to County standards can be deferred until such time: a) a government agency determines the inadequacy of the cane haul road for safe access; or b) sugar cane production is discontinued from the surrounding properties; or c) the Planning Department determines that the intensity of use of the property warrants pavement of the roadway to ensure public health, safety and welfare. In the interim, an acceptable all-weather improvement for the cane haul roadway portion from Kaumualii Highway to the site would be penetration base treatment.

CONCLUSION:

Based on the foregoing findings and evaluation, it is concluded that the proposed master plan and potential use of the site is consistent with the criteria for a Special Permit as established by the State Land Use Law, and a Use Permit as established by County's Comprehensive Zoning Ordinance.

It is further concluded that on-site infrastructure improvements as discussed in this report must accompany any additional development of the property in order to ensure public health, safety and welfare.

RECOMMENDATIONS:

Based on the foregoing findings, evaluation and conclusion, it is hereby recommended that Use Permit U-87-41, Special Permit SP-87-13 and Class IV Zoning Permit Z-IV-87-51 be approved and forwarded to the State Land Use Commission, subject to the following conditions:

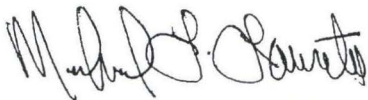
1. Interior roadway and waterline improvements shall be provided and/or extended in order to service all further development on the property. Such improvements shall be provided prior to the issuance of an occupancy permit.

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.

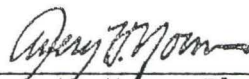
2. The applicant shall provide an all weather surface from Kaumualii Highway to the school within 5 years from the date of review and approval by the Land Use Commission, or earlier. All weather surface shall mean provision of penetration base treatment or better.
3. The improvements required by the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

Approved & Recommended to Commission:

By



Michael Laureta, Planner



Avery H. Youn, Planning Director

TONY T. KUNIMURA
MAYOR



AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

June 2, 1987

Pastor Shigenobu Arakaki
Kahili Adventist School
P. O. Box 298
Koloa, Kauai, Hawaii 96756

Subject: Use Permit U-87-41
Special Permit SP-87-13
Class IV Zoning Permit Z-IV-87-51
Kahili Adventist School
TMK: 2-7-01: 3 Koloa, Kauai

The Planning Commission at its meeting held on May 27, 1987, approved the subject permits to allow master planning for school and church-related uses on the entire Kahili Mountain Park site. Approval was 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.

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Pastor Shigenobu Arakaki
Kahili Adventist School
Page 2
June 2, 1987

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 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).

Please be advised that the Special Permit must be approved by the Land Use Commission prior to commencement of work on the site.

Tom H. Shigemoto

TOM H. SHIGEMOTO
Deputy Planning Director

cc: Mayor
Pub. Works Dept.
Water Dept.
Health Dept.
Highways Div.
Fire Dept.
Real Property Div.

TONY T. KUNIMURA
MAYOR



AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

July 1, 1987

C
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P
Y
Mr. Phil Tacbian, Chairman
Land Use Commission
State of Hawaii
Room 104, Old Federal Building
335 Merchant Street
Honolulu, Hawaii 96813

Re: Kahili Adventist School
Koloa, Kauai

At the Land Use Commission meeting on June 23, 1987, several points were raised which required further review and clarification. In addressing the concerns raised by the Land Use Commission staff, our responses are as follows:

1. Time limit to establish the use: Because a time limit for performance was not included, we recommend the following condition be added:

"Based on the timetable submitted, the applicant 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

Mr. Phil Tacbian, Chairman
Land Use Commission
Page 2
July 1, 1987

e. Establishment of orchards as per Exhibit "G."

"A status report shall be submitted to the Planning Commission for review at the end of the five (5) year period."

2. Portions of property within State Conservation District: This discrepancy was not known to the County because we believe that a previous subdivision separated the agriculture lot from the Conservation District. The intent here is to maintain the Conservation District; therefore, we will recall the subdivision which created the subject site and have the owner or applicant adjust the subdivision line, if necessary, to stay out of the Conservation District.
3. Request to clarify why proposal was not considered for district boundary amendment: In viewing the site, the character reflected is very rural, open, and isolated from urban areas. The school facilities proposed are anticipated to reflect the rural character that exists. The utilization of a major portion of the site for orchards, horse stables, and campground type uses support keeping this site within the Agriculture District. Furthermore, maintaining this site in the Agriculture District will afford the County more control over the uses permitted as compared to placing it in the Urban District where a much wider range of urban-type uses would be allowable. Based on previous experience, the Planning Commission has found that the Use Permit and Special Permit procedure, and the establishment of conditions accordingly, has been a very effective way of managing urban-type uses in the Agriculture District.
4. Voiding previous Special Permits approved for the area: It is not necessary to void previous Special Permits because construction of buildings and performance of conditions have occurred on previous approvals, with one exception. SP75-214 approved 20 cabins in 1975, these of which were never constructed. The County, in 1983, approved SP-83-1 which was for relocation of the school in Lawai to this site, along with the construction of several buildings. It also nullified the previous Use Permit and Special Permit approvals which approved the 20 cabins.

The applicant was given the option to reapply for these cabins in this present application; although this request was not included in the project description, it is reflected on the proposed development

Mr. Phil Tacbian, Chairman
Land Use Commission
Page 3
July 1, 1987

map (Exhibit "G") and again discussed in Section V of the application. Because the intent is to maintain the approval of the 20 cabins, previous Special Permits should not be nullified at this time.

Kauai Planning Department Concerns:

We raised a point relative to the density of the project, in reference to the "retirement home," the staff housing, and the faculty housing proposed for the project.

Exhibit "G" shows an additional 17 cabins and 14 faculty housing units. These units coupled with the existing 22 cabins/cabinettes will yield a total density of 53 units. In order to maintain density controls, we recommend that the previously approved density of 20 cabins or units be reinstated. This density can apply to the proposed faculty/staff housing and to the retirement home. Any units proposed over and above 20 units must be subject to a new Special Permit, Use Permit and zoning permit approval.

We further suggest that the following conditions be included also to address concerns raised:

1. 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.
2. 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.

Please be informed that these concerns will be brought before the Planning Commission also for their consideration to incorporate these concerns as part of the Use Permit, Special Permit and zoning permit approvals.

I hope the above items will clarify concerns raised about the project. Should you have any questions, please do not hesitate to call.



AVERY H. YOUN
Planning Director

cc: Kahili Adventist School

COUNTY OF KAUAI
PLANNING DEPARTMENT
LIHUE, KAUAI

STAFF REPORT

TO: Planning Commission

RE: Kahili Adventist School
Special Permit SP-87-13
Use Permit U-87-41
Class IV Zoning Permit Z-IV-87-51

Relative to concerns raised by the Land Use Commission as discussed in the attached letter, the following additional conditions must be included as part of the Special Permit, Use Permit & Class IV Zoning Permit approvals.

9. Based on the timetable submitted, the applicant 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."
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, & Class IV Zoning Permits shall be required. In addition to the 20 cabins/units, 14 more faculty/staff housing units (as per Exhibit "G") are permissible.
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.
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.

By


Avery H. Young, Planning Director

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KAHILI ADVENTIST SCHOOL)
For an Amendment to the Special)
Permit Which Establishes a)
Church, School and Related Uses)
on Approximately 195.673 Acres)
of Land Within the Agricultural)
District at Koloa, Kauai, Tax)
Map Key No.: 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.

JUL 17 1990 by *Esther [Signature]*
Date Executive Officer

Z-11-83-3

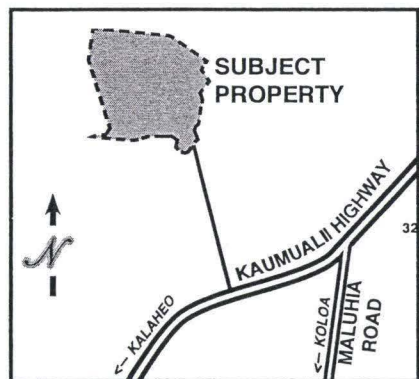
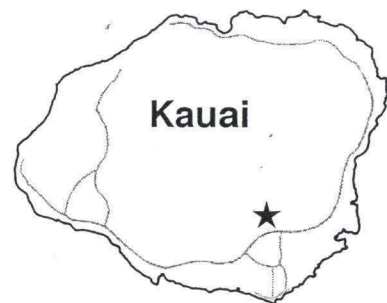
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
JUL 17 8 25 AM '90

ROUTE 1

| | |
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| <input checked="" type="checkbox"/> | Laureta |
| <input checked="" type="checkbox"/> | Mamaclay |
| <input checked="" type="checkbox"/> | Harvey |
| <input checked="" type="checkbox"/> | Hironaka |
| <input checked="" type="checkbox"/> | Nakamura |
| <input checked="" type="checkbox"/> | Motono |
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| <input checked="" type="checkbox"/> | Ferrara |
| <input checked="" type="checkbox"/> | Kashiwabara |
| <input checked="" type="checkbox"/> | Yamashiro |

COUNTY OF KAUAI
JUL 18 2:42 PM '90
PLANNING DEPT.



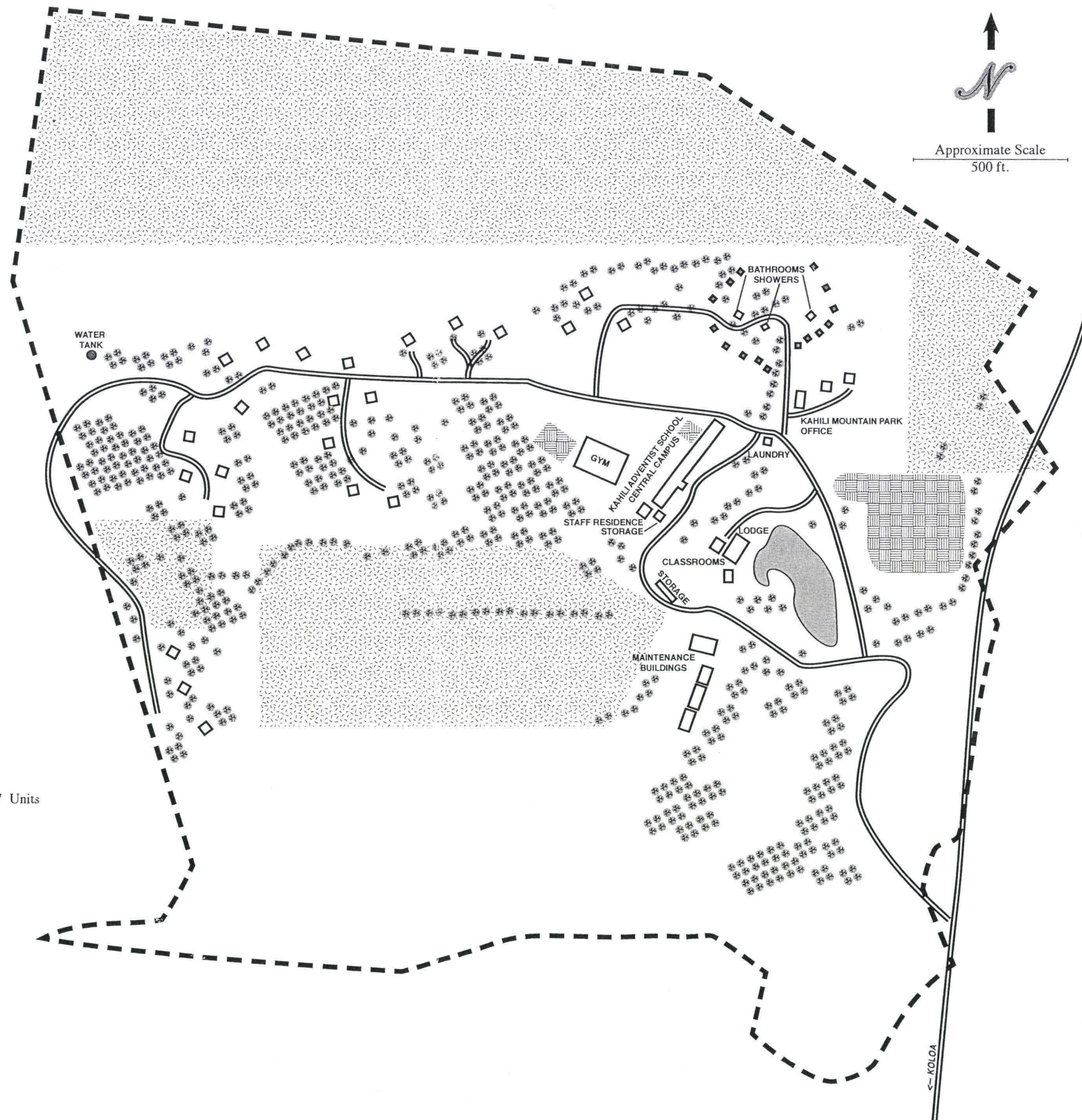
Kahili Adventist School Kahili Mountain Park SITE PLAN

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

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

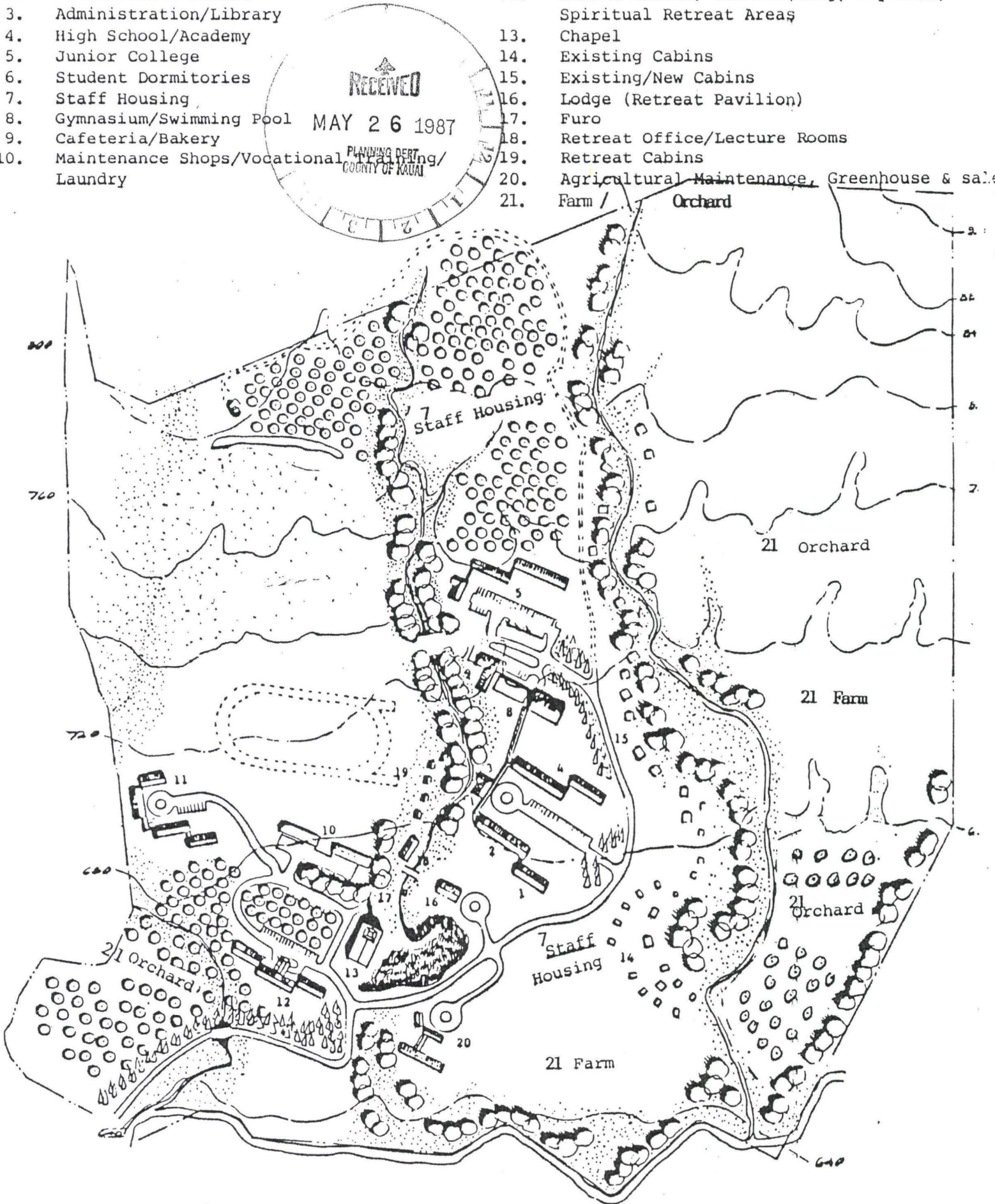
- Cabinettes (no kitchen) = 15 Camping Facilities
- Rental Cabins (17) & Staff Residences (10) = 27 Units
- Other Buildings
- * Cultivated Fruit Trees
- ▨ Pasture
- ▨ Gardens

Locations Approximate
Prepared January 5, 2010



Building Legend

- | | |
|---|---|
| 1. Elementary School and Playground | 11. Retirement/Health Conditioning Center |
| 2. Intermediate School | 12. Health Museum; Conditioning, Physical/Spiritual Retreat Areas |
| 3. Administration/Library | 13. Chapel |
| 4. High School/Academy | 14. Existing Cabins |
| 5. Junior College | 15. Existing/New Cabins |
| 6. Student Dormitories | 16. Lodge (Retreat Pavilion) |
| 7. Staff Housing | 17. Furo |
| 8. Gymnasium/Swimming Pool | 18. Retreat Office/Lecture Rooms |
| 9. Cafeteria/Bakery | 19. Retreat Cabins |
| 10. Maintenance Shops/Vocational Training/Laundry | 20. Agricultural Maintenance, Greenhouse & sales |
| | 21. Farm / Orchard |



Kahili Mountain Adventist School • Kauai
Hawaii Conference of Seventh-Day Adventists



0 100 150 200

"The Standard of True Education"

KAUAIKAKA & CHUN
ARCHITECTS

EXHIBIT G
Proposed Development

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 an Amendment to the Special |) | |
| Permit Which Establishes a |) | |
| Church, School and Related Uses |) | |
| on Approximately 195.673 Acres |) | |
| of Land Within the Agricultural |) | |
| District at Koloa, Kauai, Tax |) | |
| Map Key No.: 2-7-01: parcel 3 |) | |
| <hr/> | | |

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Kahili Adventist School (hereinafter "Petitioner") initiated its First Amendment to Special Permit 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 original Special Permit application was filed by Petitioner with the County of Kauai Planning Department on March 18, 1987.

2. The Commission held a meeting on June 23, 1987, which was subsequently deferred in order to allow the Kauai

Planning Department an opportunity to address concerns raised by the Commission.

3. The Commission continued the matter to July 14, 1987, wherein it approved the Special Permit request as originally proposed and recommended for approval by the Kauai Planning Commission. Additional conditions, proposed by the Planning Department were not included in the Commission's approval.

4. On July 22, 1987, the Kauai Planning Commission adopted the recommendation of the Planning Department to incorporate four additional conditions to the Special Permit.

5. On August 3, 1987, the Commission received a copy of a letter dated July 31, 1987, from Avery H. Youn to Shigenobu Arakaki informing him of the Kauai Planning Commission's decision to adopt four additional conditions of approval.

6. On August 17, 1987, the Commission confirmed with the Planning Department the understanding that the record of the Kauai Planning Commission's proceedings on the adoption of four additional conditions of approval would be submitted to the Commission for approval.

7. On August 13, 1987, the Commission filed its Decision and Order approving the Special Permit, subject to eight conditions.

8. On June 7, 1990, the Commission received the record of the Kauai Planning Commission for the first amendment to the Special Permit.

Description of the Property

9. The subject property, including the access road from Kaumualii Highway, consists of approximately 195.673 acres, TMK: 2-7-01: portion of parcel 3, Koloa, Kauai (hereinafter referred to as the "Property").

10. The Property is represented to be designated within the Agricultural District except for a 1.79-acre portion of the Property which is represented to be designated within the Conservation District.

11. According to the City and County of Honolulu Finance Department records, the Property is owned by Augustus F. Knudsen Trust and Eric A. Knudsen Trust and is leased to the Hawaii Association of the Seventh-day Adventist.

12. 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.

13. In 1987, the Property contained 36 structures and cabins under construction. Fifty percent of the Property was in pasture or building use and the remaining balance consisted of steep slope and gully land overgrown with natural vegetation.

14. Except for the forest reserve area to the north, the Property was surrounded by sugarcane cultivation.

15. Soils on the Property are classified by the U.S. Soil Conservation Service as Lawai Silty Clay 0-25% slopes.

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

SUMMARY OF PROPOSED USE AND PROPOSED ADDITIONAL CONDITIONS

17. In its original request, Petitioner proposed the establishment of a school and church use. Petitioner's Masterplan included 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 pavilion)
- 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

18. Specifically, Petitioner's masterplan reflected a total of 53 housing units which were either existing or proposed (14 faculty housing units and 39 existing or proposed cabins).

19. Petitioner proposed to provide access to the Property from Kaumualii Highway over a 30-foot wide crushed cinder, coral, and dirt cane haul roadway.

20. Petitioner indicated that water from the existing private water system, with improvements, was adequate to accommodate water requirements.

21. All structures were to be wired for electricity for lighting and outlets. Electricity was being supplied by Kauai Electric and gas by individual gas cylinders.

22. An expanded phone system was being designed which would be installed by Hawaiian Telephone Company.

23. Petitioner's tentative development timetable at the time indicated 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.

24. This request is to amend the Special Permit by adopting the following four additional conditions:

"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."

"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, & 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.

"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.

"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."

CONCLUSIONS OF LAW

The request to amend the Special Permit which establishes a church, school and related uses, by incorporating four additional conditions as reflected in the Order below, is reasonable and non-violative of Section 205-6, Hawaii Revised Statutes and 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 First Amendment to Special Permit Docket No. 87-364/Kahili Adventist School, to incorporate four additional conditions, is hereby approved, and the conditions of the Special Permit, including the additional

four conditions as recommended by the Kauai Planning Commission, shall be as follows:

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).

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."

10. The previously approved density of 20 cabins or units shall be reinstated, and shall apply to the additional cabins proposed on the retirement home. Should the number of additional cabins or retirement home units cumulatively exceed 20 units, then new Special, Use, & 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.

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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.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1720 HALEUKANA STREET
LIHUE, HAWAII 96766

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

HWY-K 4.091088

December 18, 2009

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

09 DEC 22 P3:40

PLANNING DEPT.

Attention: Michael Laureta

Dear Mr. Costa:

Subject: Request to amend Condition #1 and #2 , Use permit U-87-4, Special Permit SP-87-13, and Class IV Zoning permit Z-IV-87-51
TMK (4) 2-7-01: 003
Koloa, Kauai, Hawaii

We have no objections or any other comment on the applicant's requests to amend Condition Nos. 1 and 2, of the subject permits.

We would, however, like to comment on the status of Condition 3 which reads "The improvements required by the State Highways Division shall be provided as required, but no later than 5 years from the date of the review and approval by the Land Use Commission". The Department of Transportation (DOT) listed four comments in its memo to the Planning Department dated March 20, 1987. A copy of the memo is included in the Exhibit 8 of the Compliance and Status Report.

Those comments were:

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 the highway right-of-way
4. Allow DOT to review construction plans.

The only improvement to date that has been constructed at the intersection has been the acceleration lane. The DOT recommends that its original comments be revised to read:

"The applicant shall conduct a Traffic Operational Analysis at the intersection of Kaumualii Highway and the roadway to Kahili Mountain Park every five years to determine if improvements at the intersection such as a left turn lane, acceleration lane, and deceleration lanes are required. The applicant shall be required to pay for and construct all improvements recommended by the analysis."

The DOT is modifying its comments due to the following reasons:

1. The DOT's comments were based on the amount of additional traffic that would be generated due to the applicant's expansion plans. In meetings between the DOT and the applicant's agent, the applicant has stated that amount of growth initially hoped for has not occurred and that the applicant believes there will not be significant expansion in the near future. As shown in Exhibit 3, current enrollment is below 1987 levels.
2. Kahili Adventist School has initiated a school bus program that the majority of the students use to commute to the school.
3. The applicant has provided the DOT with copies of a Traffic Operational Analysis Report performed by the applicant's consultant, Wagner Engineering, that concluded that improvements recommended by the DOT in its 1987 memo were not required for the traffic conditions currently experienced at his intersection.

If you have any questions, please call Stanford Iwamoto at 241-3015.

Sincerely,



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

SMI:JI

COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE A473, LIHUE, HI 96766
(808)241-4050

FROM: Ian K. Costa, Director (mikey)

Date: November 25, 2009

SUBJECT: Request to amend Condition #1 (relating to infrastructure improvements), and #2 (relating to the requirement of an all-weather access surface), Use Permit U-87-4, Special Permit SP-87-13, and Class IV Zoning Permit Z-IV-87-51, TMK 2-7-1: 3, Kōloa, Kaua'i, **Kahili Adventist School**

TO:

09 DEC 16 P2:33

| | |
|--|-----------------------------|
| (X) Department of Transportation - STP | (X) PW - Engineering |
| (X) DOT - Highways, Kauai | () PW - Waste Water |
| () DOT - Airports, Kauai (info only) | () PW - Building |
| () DOT - Harbors, Kauai (info only) | () PW - Parks & Recreation |
| (X) State Department of Health | () PW - Solid Waste |
| () State Historic Preservation Division | (X) Fire Department |
| () State Department of Agriculture | () Housing Agency |
| () Office of State Planning | () Economic Development |
| () Land Use Commission | () KHPRC |
| () DLNR - Land Management | (X) Water Department |
| () DLNR - Forestry & Wildlife | () Kauai Civil Defense |
| () DLNR - Aquatic Resources | () U.S. Postal Department |
| | () _____ |

FOR YOUR COMMENTS (pertaining to your department):

12/15/09

The Fire Dept. suggests that Condition #12 remain unaltered. Any future development should be reviewed by the Fire Dept. before Building Permits are issued due to changes in the Fire Code from past to present.

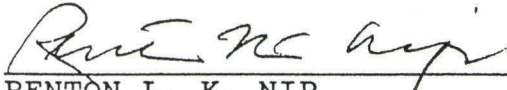



This matter is scheduled for a public hearing before the County of Kauai Planning Commission on January 26, 2010, at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 1:30 pm or soon thereafter.

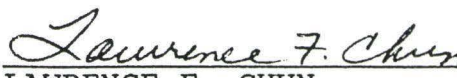
If we do not receive your agency comments within 1 month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

Done at Honolulu, Hawaii, this 17th day of July 1990,
per motions on June 28, 1990 and July 13, 1990.

LAND USE COMMISSION
STATE OF HAWAII


By 
RENTON L. K. NIP
Chairman and Commissioner


By 
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

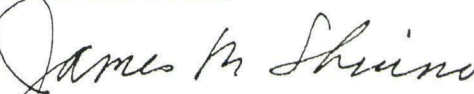
By 
LAWRENCE F. CHUN
Commissioner


By 
SHARON R. HIMENO
Commissioner

By (absent)
ALLEN K. HOE
Commissioner

By 
ALLEN Y. KAJIOKA
Commissioner

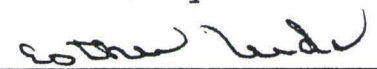
By 
EUSEBIO LAPENIA, JR.
Commissioner

By 
JAMES M. SHINNO
Commissioner

By 
ELTON WADA
Commissioner

Filed and effective on
July 17, 1990

Certified by:


Executive Officer



Water has no substitute.....Conserve it!

4398 PUA LOKE STREET, PO BOX 1706
LIHU'E, KAUAI, HAWAII 96766
PHONE: 808-245-5160 FAX: 808-245-5813

DATE: December 2, 2009

LU-UID #624

TO: Planning Department
Ian K. Costa, Director (Mikey)

SUBJECT: Request to amend Condition #1 (relating to infrastructure improvements), and
#2 (relating to the requirement of an all-weather access surface), Use Permit U-87-4,
Special Permit SP-87-13, and Class IV Zoning Permit Z-IV-87-51, TMK: 2-7-01:003,
Koloa, Kauai, **Kahili Adventist School**

DOW COMMENTS:

Water service from the Department of Water, County of Kauai (DOW) is not available to
TMK: 2-7-01:003. The Kahili Adventist School obtains water from a private source.

The DOW does not object to the request to amend Condition #1 (relating to infrastructure
improvements) and Condition #2 (relating to the requirement of an all-weather access surface)
for the subject Use Permit U-87-4, Special Permit SP-87-13, and Class IV Zoning Permit
Z-IV-87-51.

for Edward D.
Gregg Fujikawa
Chief of Water Resources and Planning Division

12/23/09
Date

Z-IV-87-51 Kahili Adventist School

If we do not receive your agency comments by January 26, 2010, we will assume there are no
objections to this permit request. Mahalo!

COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE A473, LIHUE, HI 96766
(808)241-4050

DEC - 3 2009
Ch

FROM: Ian K. Costa, Director (mikey)

Date: November 25, 2009

SUBJECT: Request to amend Condition #1 (relating to infrastructure improvements), and #2 (relating to the requirement of an all-weather access surface), Use Permit U-87-4, Special Permit SP-87-13, and Class IV Zoning Permit Z-IV-87-51, TMK 2-7-1: 3, Kōloa, Kauaʻi, ***Kahili Adventist School***


TO: '09 DEC 11 P2:37

| | |
|---|-----------------------------|
| (X) Department of Transportation - STP | (X) PW – Engineering |
| (X) PLANNING DEPT DOT – Highways, Kauai | () PW – Waste Water |
| () DOT – Airports, Kauai (info only) | () PW – Building |
| () DOT – Harbors, Kauai (info only) | () PW – Parks & Recreation |
| (X) State Department of Health | () PW – Solid Waste |
| () State Historic Preservation Division | (X) Fire Department |
| () State Department of Agriculture | () Housing Agency |
| () Office of State Planning | () Economic Development |
| () Land Use Commission | () KHPRC |
| () DLNR – Land Management | (X) Water Department |
| () DLNR – Forestry & Wildlife | () Kauai Civil Defense |
| () DLNR – Aquatic Resources | () U.S. Postal Department |
| | () _____ |

FOR YOUR COMMENTS (pertaining to your department):

Based on our review of the application, we have no environmental health concerns for your consideration at this time. However, due to the general nature of the application submitted, we reserve the right to implement future environmental health restrictions when more detailed information is submitted.

December 7, 2009


Gerald N. Takamura, Chief
District Environmental Health Program
Kauai

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on January 26, 2010, at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 1:30 pm or soon thereafter.

If we do not receive your agency comments within 1 month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

KAUAI PLANNING COMMISSION
REGULAR MEETING

Tuesday, January 26, 2010

9:00 A.M.

Lihue Civic Center, Moikeha Building
Meeting Room 2A-2B

4444 Rice Street, Lihue, Kauai, Hawaii

RECEIVED

JAN 20 P3:15

AGENDA

OFFICE
THE COUNTY CLERK
COUNTY OF KAUAI

Call to Order

Swearing In of New Commissioner

Approval of the Agenda

A. GENERAL BUSINESS MATTERS (For Action)

ML

1. Request (11/25/09) from Greg Kamm Planning & Management to amend Conditions No. 1 (relating to infrastructure improvements) and No. 2 (relating to the requirement of an all-weather access surface), and provision of a status report for Use Permit U-87-41, Special Permit SP-87-13 and Class IV Zoning Permit Z-IV-87-51, Tax Map Key 2-7-01: 3, Kōloa, Kaua'i = *Kahili Adventist School*.

- a. Staff Report pertaining to this agenda item.

B. COMMUNICATION

BM

1. Request (1/15/10) from Hartwell H. K. Blake to the Planning Commission transmitting letter dated December 21, 2009 from Carlos R. Buhk regarding the status of conditions set forth by the Fifth Circuit Court Order, Civil No. 07-1-191, relating to the development of a condominium project consisting of eight (8) single-family residents on CPR units 1 to 8 and 72 multi-family units on CPR unit 9 for Use Permit U-2000-20 and Class IV Zoning Permit Z-IV-2007-24, Tax Map Key 2-8-09: 1, Kōloa, Kaua'i = *Kōloa Creekside Estates LLC*.

C. SUBDIVISION – Action on subdivision matters listed in the Subdivision Committee Agenda (attached).

D. UNFINISHED BUSINESS (For Action)

IA

1. Memorandum (9/2/09) from Director Ian K. Costa to James Nishida, Chair, Kaua'i Planning Commission, recommending the Commission consent to the issuance on Non-Conforming Use Certificates pertaining to Transient Vacation Rentals (see Agenda Attachment "A"). [Action deferred 9/8/09.]
 - a. Staff Reports pertaining to the recommendation to consent to issuance of Non-Conforming Use Certificates for Transient Vacation Rentals listed in Attachment A.

Executive Session: Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to these agenda items.

E. PUBLIC HEARING (1:30 P.M. OR SHORTLY THEREAFTER)

1. Continued Hearing: (NONE)

2. New Public Hearing:

BM

- a. Zoning Amendment ZA-2010-6 to amend the zoning from Open District (O) to Residential District (R-4) for a property located in Waimea Valley, Kaua'i, approx. 350 ft. east of the Maile Road and Waimea Valley Road intersection, further identified as Tax Map Key 1-6-5: 18, and containing an area of approx. 45,280 sq. ft. = *C. Ahko, Inc.*

1. Staff Report pertaining to this agenda item.

ML

- b. Request to Amend Condition No. 19, sub d), e), f) and h) of Zoning Ordinance PM-2004-370, and Conditions No. 3 and No. 4 of Zoning Ordinance No. PM-2005-374 relating to the Kukui'ula Workforce Housing project which is adjacent to and east of Po'ipū Road on former McBryde Sugar Company plantation lands, located on Tax Map Key 2-6-4: por. 19, and containing an area of 9.4 acres, more or less = *Kukui'ula Development Company (Hawai'i), LLC.*

1. Staff Report pertaining to this agenda item.

F. NEW BUSINESS

1. For Action – See Agenda E for Project Descriptions.

- a. Zoning Amendment ZA-2010-6 = *C. Ahko, Inc.*
- b. Zoning Ordinance PM-2004-370 and Zoning Ordinance No. PM-2005-374 = *Kukui'ula Development Company (Hawai'i), LLC.*

2. For Acceptance into Record – Director's Reports for Projects Scheduled for Public Hearing for 2/9/10 Public Hearing.

KH

- a. Amendment to Use Permit U-2001-13 and Class IV Zoning Permit Z-IV-2001-17 to permit the replacement of a 40 ft. high monopole with a 70 ft. high stealth monopine (a monopole designed to look like a pine tree) and associated equipment at an existing telecommunication facility in Moloa'a, Kaua'i, situated approx. 1,400 ft. north of the southern intersection of Koolau Road and Kūhi'ō Highway, adjacent to the Moloa'a water tank on Puu Auau, further identified as Tax Map Key 4-9-009: 009, and affecting a 1,350 sq. ft. portion of a 311.598 acre parcel = *Crown Castle International.*

KH

- b. Use Permit U-2010-7 and Class IV Zoning Z-IV-2010-8 to allow the conversion of an existing building previously used for restaurant and food service into a medical care facility on property situated in Kīlauea, along the east side of Oka Street immediately at its intersection with the dead-end section of Aalona Street, further identified as Tax Map Key 5-2-14: 49, and containing a total area of 20,389 sq. ft. = *Kaua'i Community Health Alliance.*

3. For Acceptance and Finalization – Director's Report for Shoreline Determination. (NONE)

F. NEW BUSINESS (Cont'd)

4. Memorandum (1/20/10) from Director Ian K. Costa to Caven Raco, Chair, Kaua'i Planning Commission, recommending the Commission consent to the issuance on Non-Conforming Use Certificates pertaining to Transient Vacation Rentals (see Agenda Attachment "B").
 - a. Staff Reports pertaining to the recommendation to consent to issuance of Non-Conforming Use Certificates for Transient Vacation Rentals listed in Attachment B.

G. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes ("H.R.S."), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Lihue, Hawaii 96766. Telephone: 241-4050.

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

COUNTY OF KAUAI

'09 DEC -2 P2:46

Attorneys for Plaintiff

HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS

PLANNING DEPT.

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII

2009 NOV 31 A 10:49

In the matter of the Petition

of

SP87-364 Kahili Adventist School (Kauai)

) SP87-364
)
) **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



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.

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| Condition 4—Drainage & Flood Studies..... | 10 |
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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.

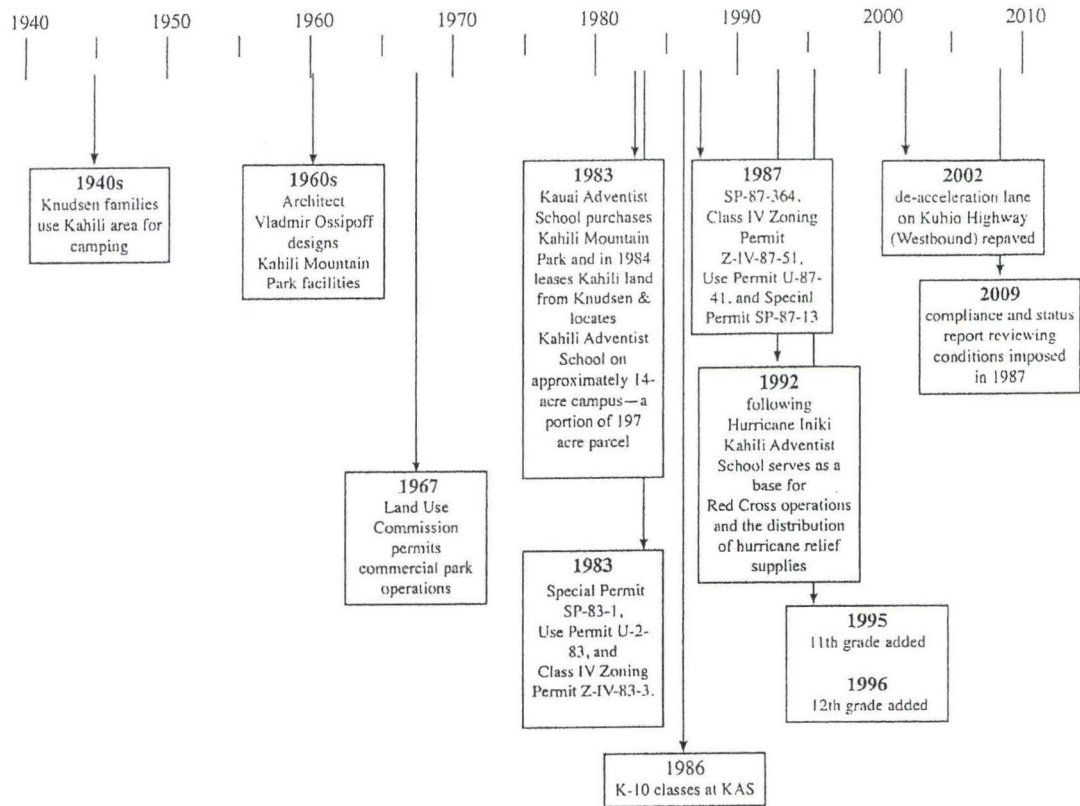
Plans to expand the educational program at the Kahili site to an area larger than 15 acres triggered the requirement for additional permits, which were granted with conditions by the State of Hawaii LUC under the provisions of Special Permit SP-87-364, and by the County of Kauai's Class IV Zoning Permit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

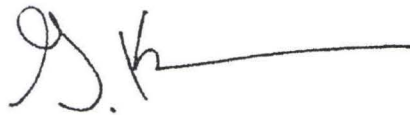
Conclusion

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

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 be 'G. Kamm', followed by a long horizontal line extending to the right.

Greg Kamm

Agent for the lessee

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 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 Pal Highway
Honolulu HI 96817
Telephone: (808) 942-1161
Fax: (808) 942-7345

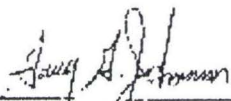
May 7, 2009

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 C. Johnson, HSA Treasurer

May 11, 2009

Date

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 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. AONA, JR.
Lieutenant Governor

THEODORE E. LIU
Director

MARK K. ANDERSON
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SAWARUWATARI
Planner

FRED A. TALON
Drafting Technician

September 22, 2009

Mr. Greg Kamm
Greg Kamm Planning & Management
P.O. Box 1200
Koloa, Kauai, Hawai'i 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,

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)

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 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

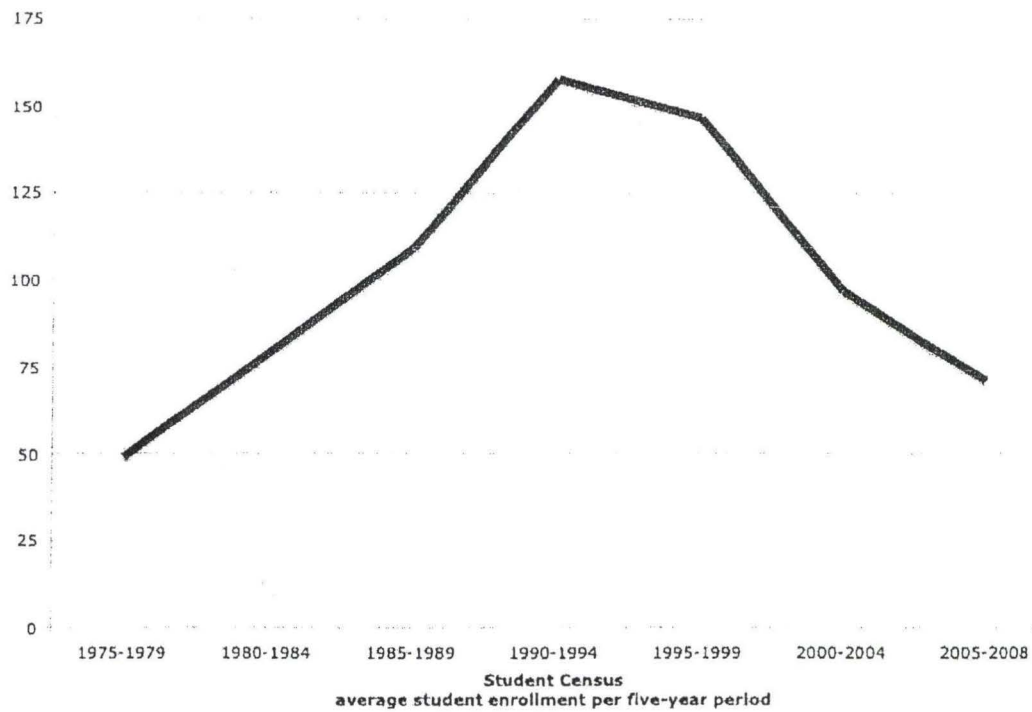
School Census (1975 - 2008)

| | 1975-76 | 1976-77 | 1977-78 | 1978-79 | 1979-80 | 1980-81 | 1981-82 | 1982-83 | 1983-84 | 1984-85 | 1985-86 |
|--------------|------------|---------|---------|------------|---------|---------|---------|-------------|---------|---------|---------|
| | Grades 1-3 | | | Grades 1-9 | | | | 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 | | | 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
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
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



Office of the Principal

Kahili Adventist School

| 2008-2009 School Year | | | | | | |
|-----------------------|-------------|--------------------|---|-----------------|--------------------|----------------------------|
| # of Students | # Using Bus | # Drive or Carpool | # | Staff Role | # Drive or Carpool | KMP Visitors (1/08 - 7/08) |
| 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 Role | # Drive or Carpool | KMP Visitors (1/07 - 12/07) |
| 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 Role | # Drive or Carpool | KMP Visitors (1/06 - 12/06) |
| 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 Role | # Drive or Carpool | KMP Visitors (1/05 - 12/05) |
| 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:

190 Box 186

Lanana HI 96763

Street Address:

21015 Kaimanani Hwy

Kahala HI 96761

Telephone:

School: 808.742.9292

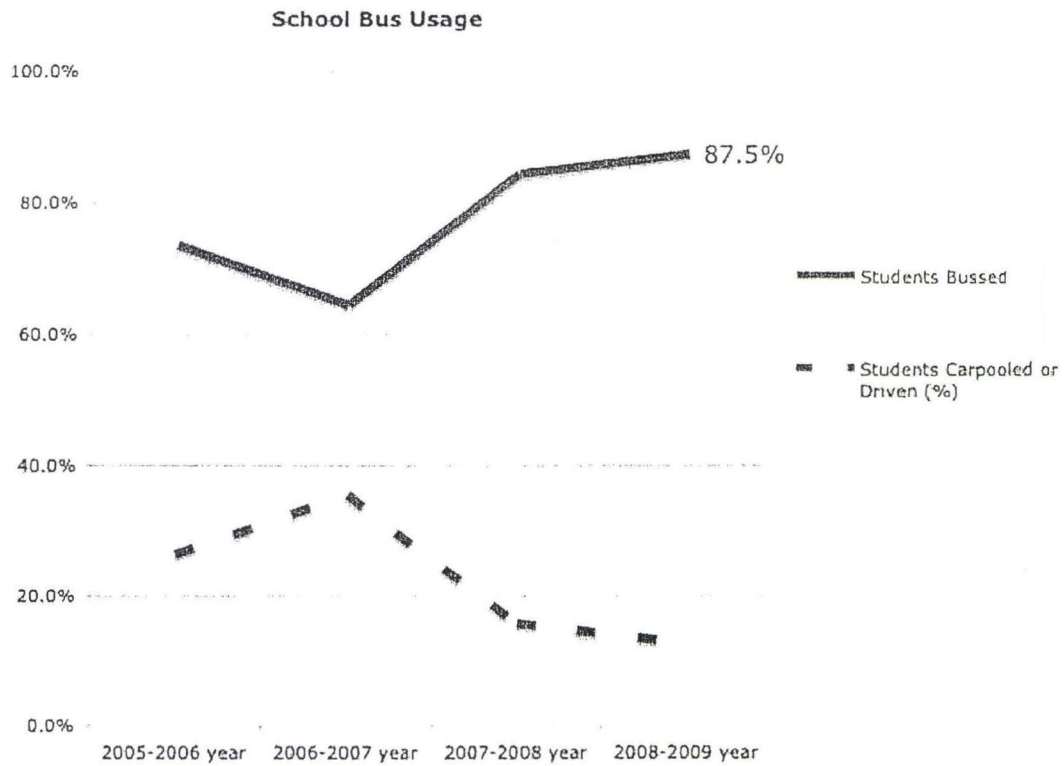
Fax: 808.742.6828

Accredited by:

National Council for Private Education

www.kahili.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



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



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:
Kahili Adventist School
Lihue, HI 96766

Street Address:
21015 Kaimanawa Road
Lihue, HI 96766

Telephone:
School: (808) 712-8292
Fax: (808) 712-8626

Accredited by:
National Council for Private Education
www.nacpe.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

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
Lanai, HI 96765
Street Address:
2-4035 Kaunaulii Hwy
Koloa, HI 96756

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

Accredited by:
National Council for Private
Education



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

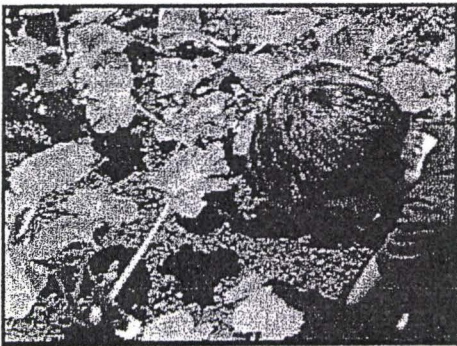
Mailing Address
P.O. Box 100
Kahili, HI 96731
Street Address
4400 W. Kalia Road
Kahili, HI 96731
Telephone
(808) 241-1234
FAX
(808) 241-1234
Approved by
[Signature]
Date

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 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.

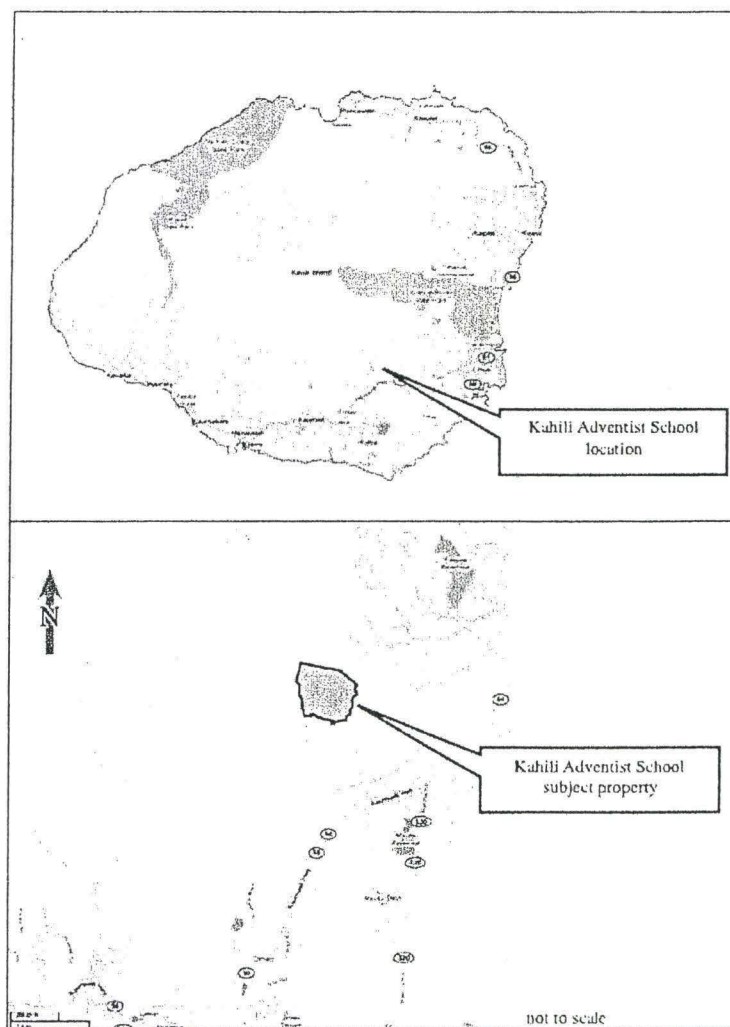
Top Right: Recycled tires are used for students' individual gardening plots.

Center: tending the vegetable garden.

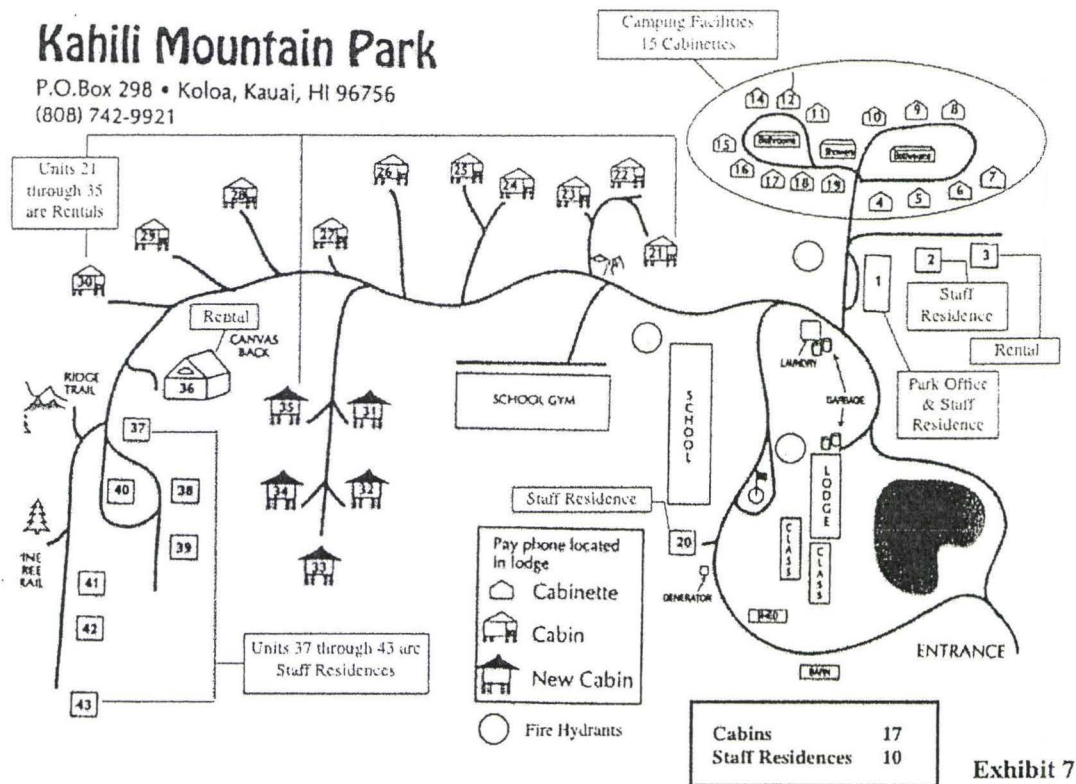
Bottom: Students care for ornamental plant beds.

Exhibit 7

Site Plan Location Map & Schematic



Site Location



Site Schematic

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



FOR YOUR COMMENTS (pertaining to your department):

1 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

2. 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.
3. 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.
10. Grubbed material shall be disposed in a manner and at a site aproved by the Department of health.
11. Effective dust and soil erosion control measures shall be implmented 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.

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

L: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. 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.

() Fire Dept.
() Sam Lee (DINR)
() 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 Kaunualii Highway;
2. Provide acceleration and deceleration lanes at the junction with Kaunualii 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 *Shigetoshi Yamaguchi*
SHIGETO 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

TXK 2-7-01: Por 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.
→ ~~State Dept. of Agriculture~~ 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
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 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

Mailing Address:
1000 W. 4th St.
Lihue, HI 96766
School Address:
2100 S. Highway 110
Lihue, HI 96766
Telephone:
(808) 346-2100
(808) 346-2100
Accredited by:
Western Association of Schools and Colleges
WASC CASI

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,

Jamie M. Lee
Kahili Mountain Park Manager

Mailing Address:
2344 N. 1st St.
Honolulu, HI 96817
Phone Address:
808-941-1111
Fax Address:
808-941-1111
E-mail Address:
info@kahiliadventist.org
Approved by:
[Signature]
[Title]

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 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 LINDO, E.
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1725 HALEKUPANA STREET
LILUI, HAWAII 96730

IREMONT T. MORIKAWA
DIRECTOR

DEPUTY DIRECTOR
MICHAEL D. FORNEY
FRANCIS SAIN, KEEHO
BRUNN K. BEK OUCHI
JINDA SUNDARA

HAIRLY 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
Kaunualii 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,

A handwritten signature in black ink that reads "RJM = Cormick".

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

of

SP87-364 Kahili Adventist School (Kauai)

) SP87-364

)

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 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

GREG KAMM
Planning & Management
P.O. BOX 1200 KOLOA, KAUAI, HI 96756

FAX: (808) 742-1751 PHONE: (808) 742-1144 CELL: (808) 639-1144

TRANSMITTAL

DATE: 11/25/09
VIA: HAND DELIVERY
TO: Mr. Ian Costa
Attn: Mr. Mike Laureta
County of Kauai Planning Department

FROM: Greg Kamm *GK by m*

COUNTY OF KAUAI
NOV 25 PM 2:18
PLANNING DEPT.

Subject: 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, Koloa, Kauai, Hawaii

ENCLOSURES: Twenty-five copies of a Compliance and Status Report, for Planning Commission review and acceptance.

We are also requesting refinement of the following two Conditions:

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 REFINEMENT: "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."

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 REFINEMENT: "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."

Thank you for your assistance.

A.I.

JAN 26 2010



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.

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| | |
|--|-----|
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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.

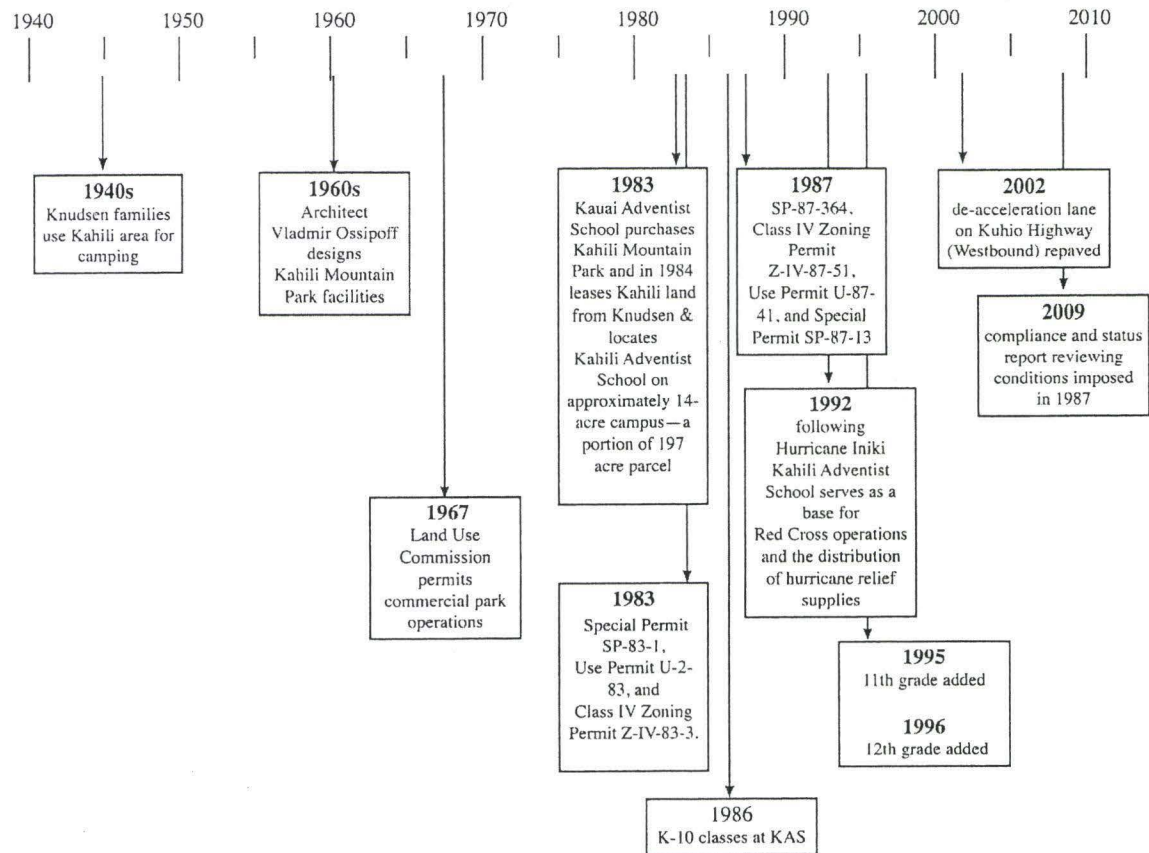
Plans to expand the educational program at the Kahili site to an area larger than 15 acres triggered the requirement for additional permits, which were granted with conditions by the State of Hawaii LUC under the provisions of Special Permit SP-87-364, and by the County of Kauai's Class IV Zoning Permit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

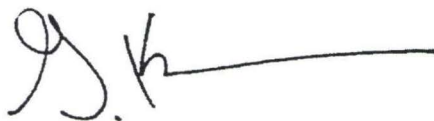
Conclusion

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

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 be 'G. Kamm', followed by a long horizontal line extending to the right.

Greg Kamm

Agent for the lessee

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 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) 585-7891
Fax: (808) 585-7375

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, HIS Treasurer

May 11, 2009
Date

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 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. AIOA, JR.
Lieutenant Governor

THEODORE E. LIU
Director

MARK K. ANDERSON
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

ORLANDO "DAN" DAVIDSON
Executive Officer

BERT K. SAWARUWATARI
Planner

FRED A. TALON
Drafting Technician

September 22, 2009

Mr. Greg Kamm
Greg Kamm Planning & Managment
P.O. Box 1200
Koloa, Kauai, Hawai'i 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,

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



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 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 Grades K-10 | 1989-90 | 1990-91 | 1991-92 | 1992-93 | 1993-94 | 1994-95 | 1995-96 | 1996-97 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
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

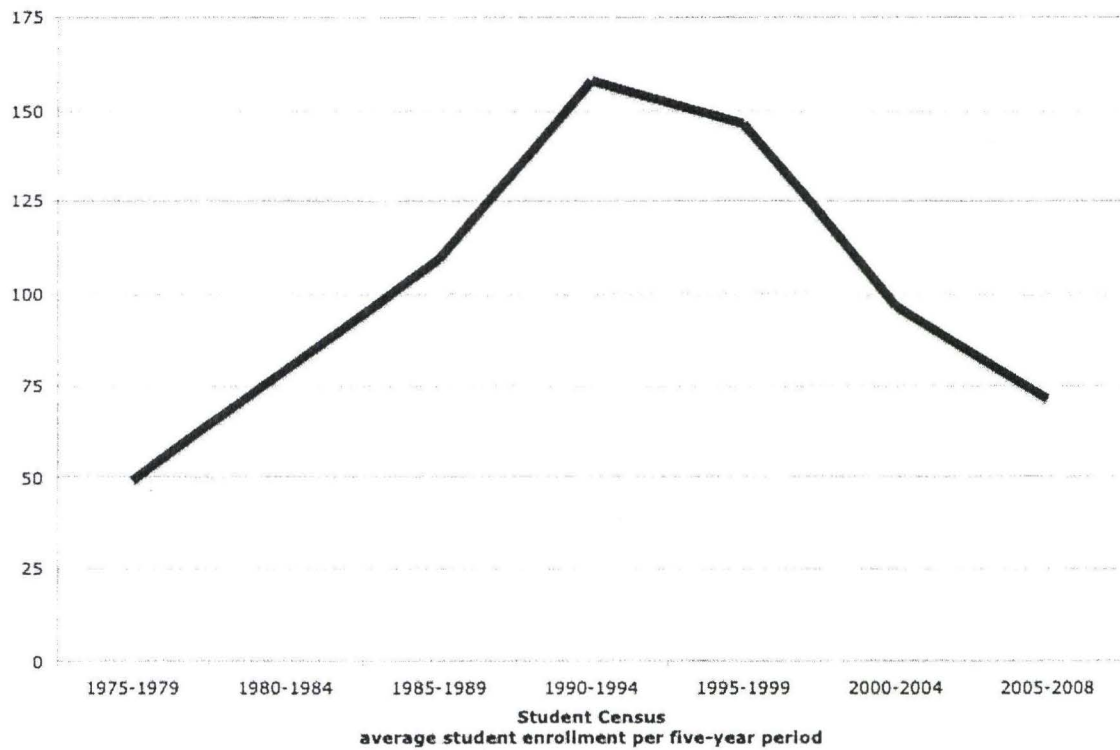


Exhibit 4

Bussing Program Table and Chart



Office of the Principal

Kahili Adventist School

| 2008-2009 School Year | | | | | | |
|-----------------------|-------------|--------------------|---|-----------------|--------------------|----------------------------|
| # of Students | # Using Bus | # Drive or Carpool | # | Staff Role | # Drive or Carpool | KMP Visitors (1/08 – 7/08) |
| 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 Role | # Drive or Carpool | KMP Visitors (1/07 – 12/07) |
| 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 Role | # Drive or Carpool | KMP Visitors (1/06 – 12/06) |
| 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 Role | # Drive or Carpool | KMP Visitors (1/05 – 12/05) |
| 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:

181 Box 150

Lanai, HI 96763

Street Address:

23035 Kaimanali Pkwy

Lanai, HI 96763

Telephone:

School (808) 712-9294

Fax (808) 712-6628

Accredited by:

Association of Private Schools

www.kahili.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

School Bus Usage

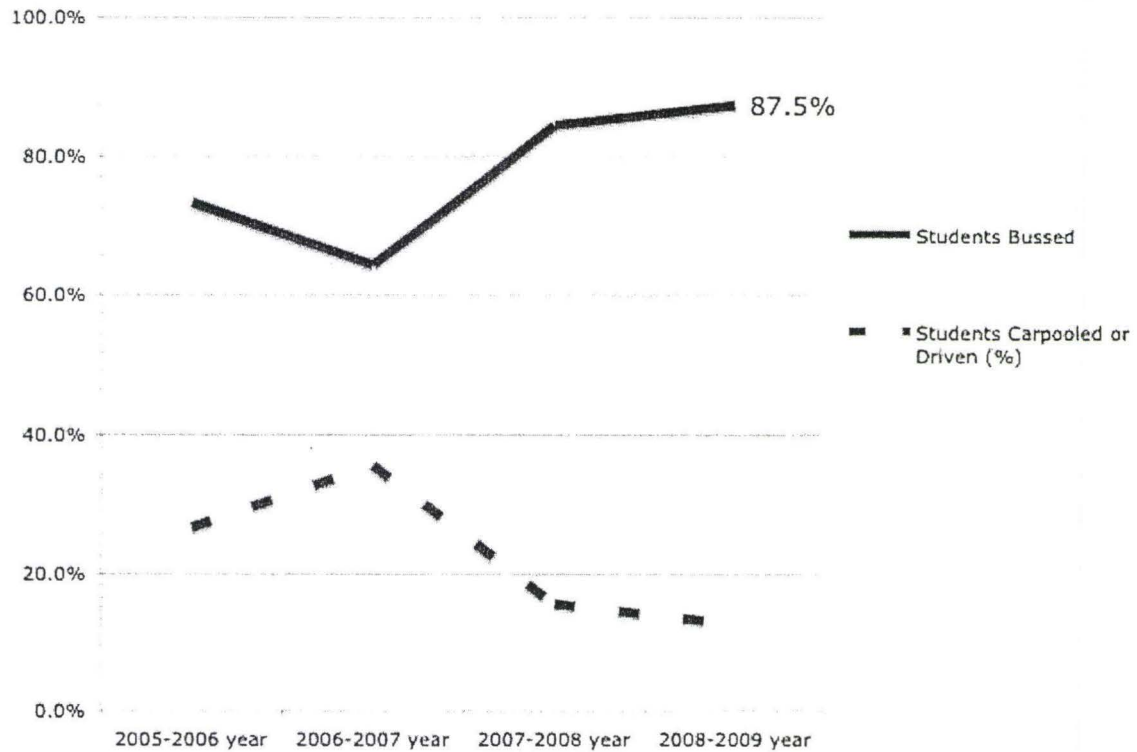


Exhibit 5

Agricultural Curricula Examples Transmittals

&

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:
1901 Rice Street
Lihue, HI 96766

Street Address:
24015 Kaimanalo Drive
Koloa, HI 96756

Telephone:
School: (808) 732-9294
Fax: (808) 732-9828

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



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 

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 Kaunualii Hwy
Koloa, HI 96756

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

Accredited by:
National Council for Private
Education



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
12345 Main St
Kauai, HI 96741

Street Address
12345 Main St
Kauai, HI 96741

Telephone
(808) 555-1234
(808) 555-1234

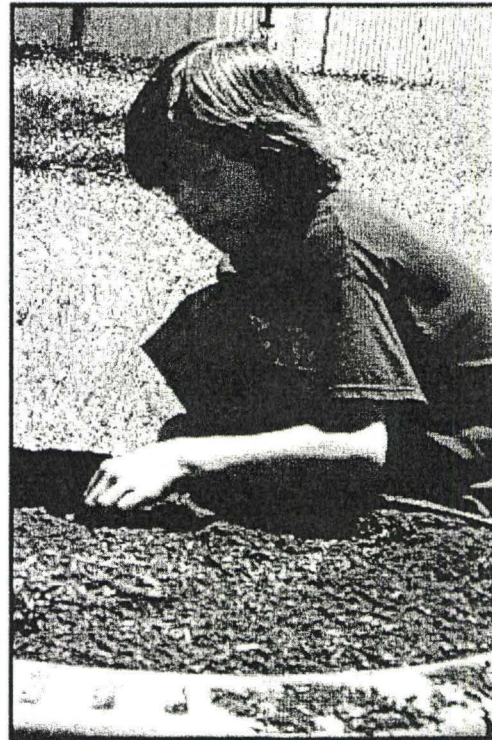
Approved by
[Signature]
Date: 9/17/08

Exhibit 6

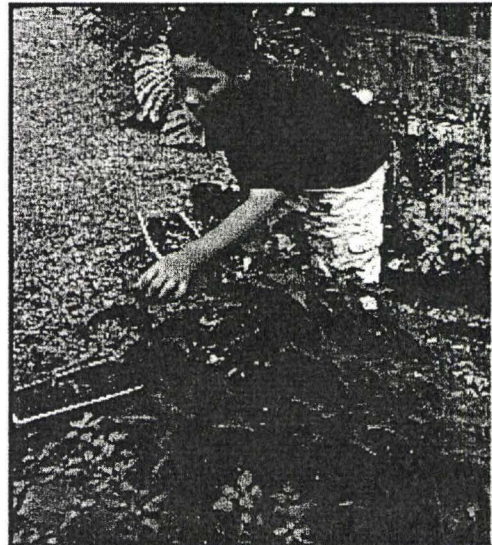
Agricultural Curriculum Pictures



Top Left: Students collect compost for their garden.



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

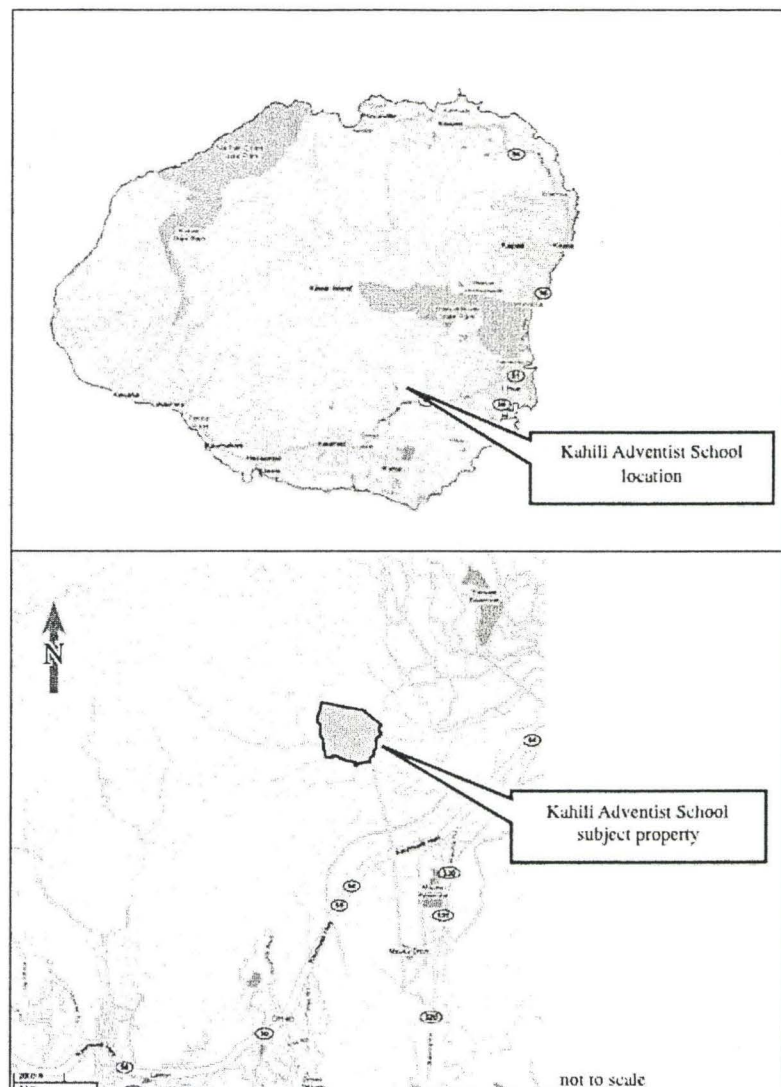


Center: tending the vegetable garden.

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

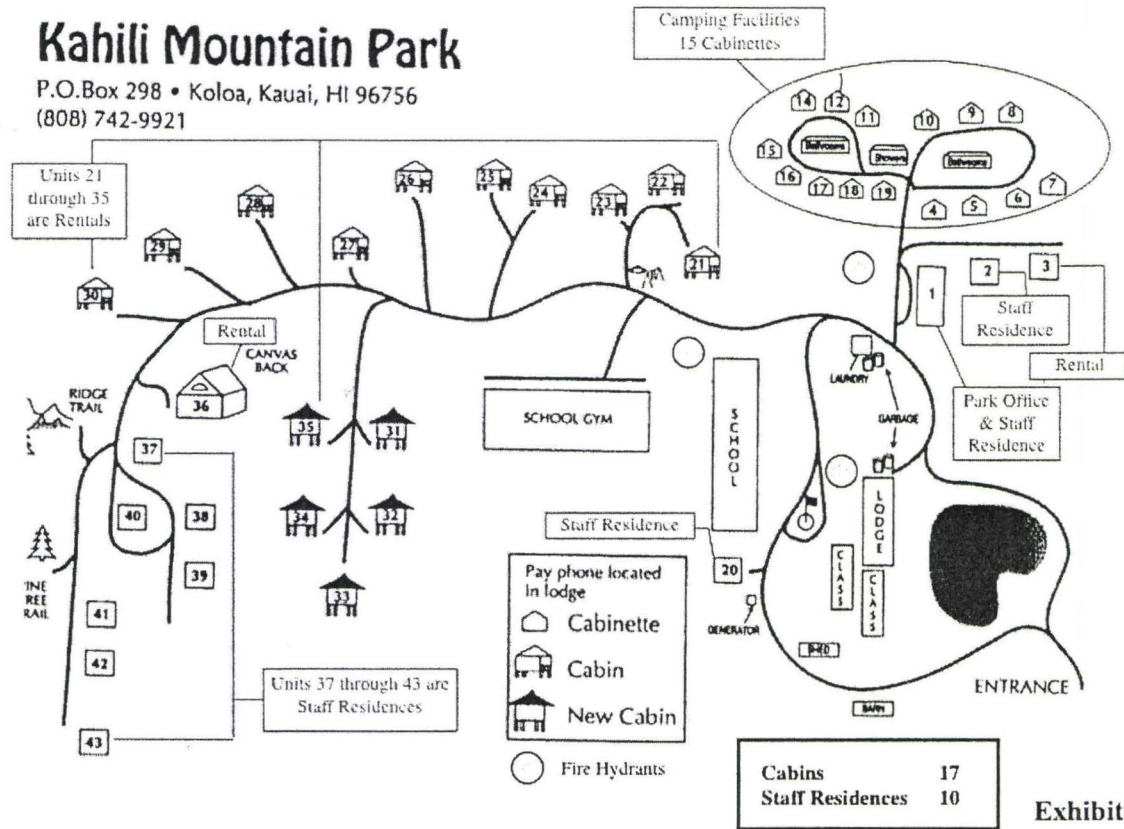


Exhibit 7

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



FOR YOUR COMMENTS (pertaining to your department):

2 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.

2. 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.
3. The proposed watercress raising site shall be approved by the Department of Health.
4. The proposed swimming pool shall conform to the requirements of Chapter 13, Public Swimming Pools, of Title 11, Administrative Rules, State of Hawaii.
5. Open burning is prohibited unless an agricultural burning permit is obtained from the Department of health.
6. Grubbed material shall be disposed in a manner and at a site aproved by the Department of health.
7. Effective dust and soil erosion control measures shall be implemented during all phases of development by the developer.
8. 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.

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

CC:GNT/pla

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: (xx) Public Works Dept.

(xx) Water Dept.

(xx) State Health Dept.

[REDACTED]

(xx) 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 Kaunualii Highway;
2. Provide acceleration and deceleration lanes at the junction with Kaunualii Highway;
3. Install street lights within highway R/W; and
4. Allow us to review construction plans.

SY:jf

Signature

Shigetomo Yamaguchi
SHIGETOMO YAMAGUCHI

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

Fire Department Agency Report, 1987

TMX 2-7-01; Por 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.

→ ~~State Dept. of Agriculture~~ 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

Mailing Address:
Kahili Mountain Park
Kahili, HI 96731
Street Address:
21000 Kahili Road
Kahili, HI 96731
Tel: (808) 241-2224
Fax: (808) 241-2224
Accredited by:
Western Association of Schools and Colleges
WASC CASI

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,

Jamie M. Lee
Kahili Mountain Park Manager

Mailing Address:
Box 100
Kahili, HI 96731
Phone Address:
808-833-1111
Fax Address:
808-833-1111
E-mail Address:
info@kahiliadventist.org
Approved by:
[Signature]
Date: 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 LING JE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
KAUAI DISTRICT
1725 MALEUPANA STREET
LILUIE, HAWAII 96788

URENMON T. MORIKAWA
DIRECTOR

CHIEF ENGINEER
MICHAEL D. FORNEY
FRANCIS SAIN, KEEBO
BRAND K. SEK BUCHI
JUDY A. SUMADA

REPORT 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
Kalihi 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

| | |
|---|--|
| PETITION FILED: PETITION ACCEPTED FOR FILING: DOCKET NO./PETITIONER: SP87-364 Kahili Adventist School Koloa, Kauai, Hawaii | ATTORNEY FOR PETITIONER Mark Valencia, Esq. Case Lombardi & Pettie Pacific Guardian Center 737 Bishop St. #2600 Honolulu, HI 96813 PH: 547-5400 |
|---|--|

| | |
|---|---|
| STATE Mary Lou Kobayashi Office of Planning P. O. Box 2359 Honolulu, HI 96804-2359 | ATTORNEY FOR STATE Bryan Yee, Esq. Deputy Attorney General Hale Auhau 425 Queen Street Honolulu, Hawaii 96813 |
|---|---|

| | |
|---|---|
| COUNTY Ian Costa, Director County of Kauai, Planning Department 4444 Rice Street, Suite A473 Lihue, Hawaii 96766 | ATTORNEY FOR COUNTY Lani Nakazawa, Esq. Corporation Counsel, County of Kauai 4444 Rice Street, Suite 220 Lihue, Hawaii 96766 |
|---|---|

| | |
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| INTERVENOR | ATTORNEY FOR LANDOWNER (Knudsen Trust) Michael D. Tom, Esq. Tom Petrus & Miller 1164 Bishop Street, Suite 650 Honolulu, Hawaii 96813 |
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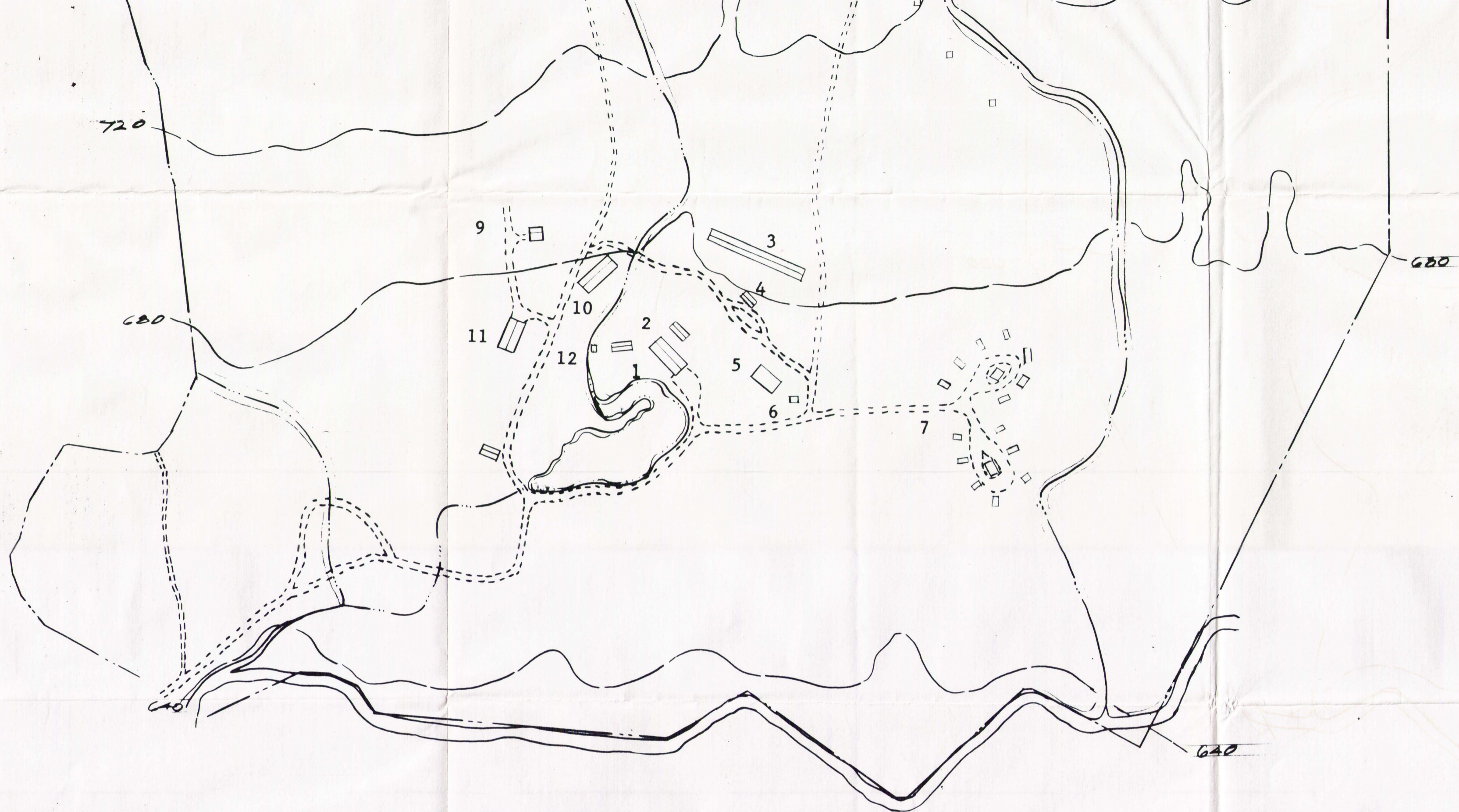
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| PUBLIC WITNESS 9AM 11:30 1:30 pm 2:44 188 3pm 3:43 277 528-5583 8382962 | |
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| DATE | Initial |
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SP87.364

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Kahili Mountain Adventist School • Kauai
Hawaii Conference of Seventh-Day Adventists

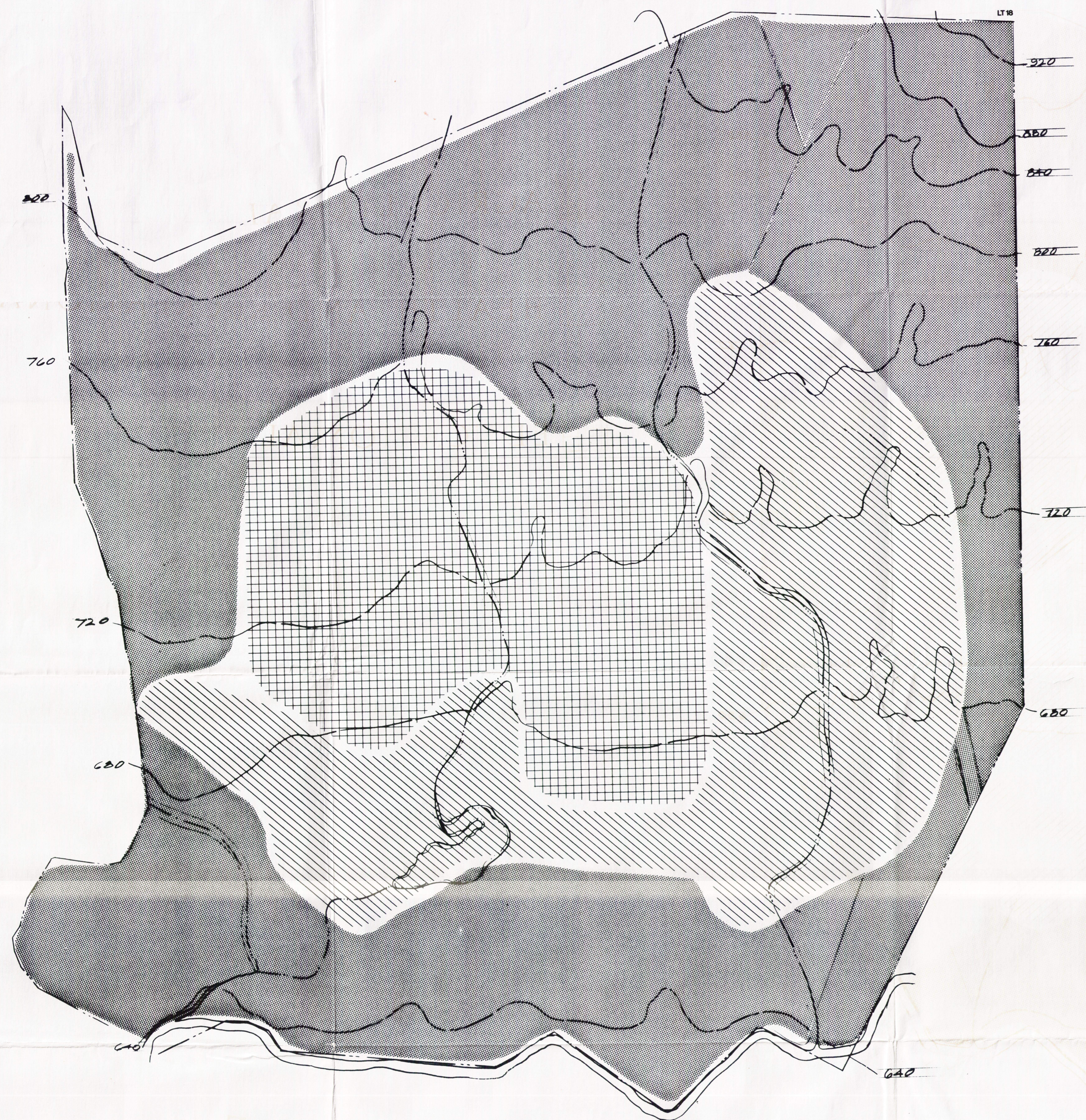
"The Standard of True Education"

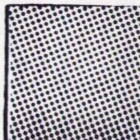
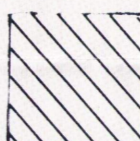

KAUAHIKAUA & CHUN
ARCHITECTS



EXHIBIT E Existing Site Zoning

1"=200'-0"



-  AGRICULTURAL
-  HEALTH AND RECREATIONAL
-  EDUCATIONAL

Kahili Mountain Adventist School • Kauai
Hawaii Conference of Seventh-Day Adventists

"The Standard of True Education"

KAUAIKAWA & CHUN
ARCHITECTS

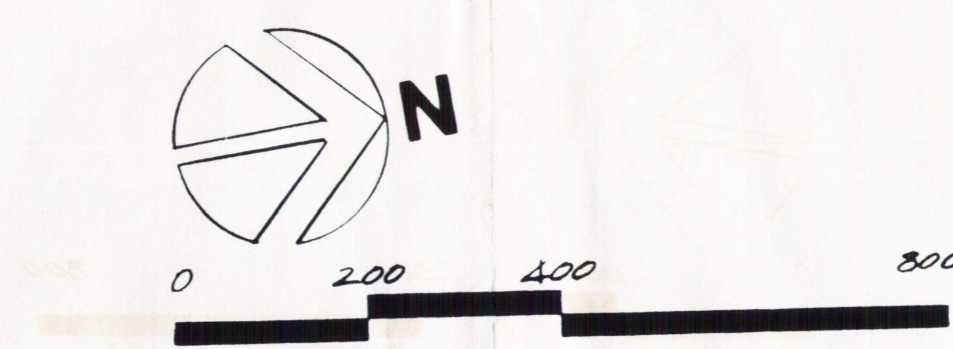


EXHIBIT F Proposed Site Zoning

1"=200'-0"



- Building Legend
- 1) Elementary School and Playground
 - 2) Intermediate School
 - 3) Administration/Library
 - 4) High School/Academy
 - 5) Junior college
 - 6) Student Dormitories
 - 7) Faculty 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 Cabins
 - 15) Existing/New Cabins
 - 16) Lodge (Retreat Pavilion)
 - 17) Furo
 - 18) Retreat Office/Lecture Rooms
 - 19) Retreat Cabins
 - 20) Agricultural Maintenance,Greenhouse and Sales

Kahili Mountain Adventist School • Kauai Hawaii Conference of Seventh-Day Adventists

"The Standard of True Education"

KAUAIHIKAUA & CHUN
ARCHITECTS

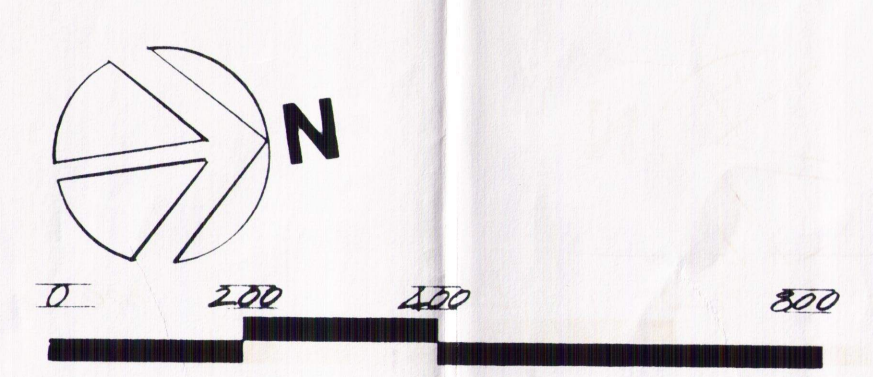


EXHIBIT G Proposed Development

1"=200'-0"

