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June 27, 2016

Mr. Daniel Orodenker
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, HI 96804-2359

Dear Mr. Orodenker:

2016 Annual Report
Docket No. A07-773
Emmanuel Lutheran Church and School

Emmanuel Lutheran Church and School (“ELCS”) submits this first annual progress report to the Land Use Commission (“LUC”), the Office of Planning, and the County of Maui Planning Department pursuant to condition 19 on our “Findings of Fact, Conclusions of Law, and Decision and Order” document, dated March 7, 2008. The matter under consideration in that document was the petition of Emmanuel Lutheran Church of Maui to “Amend the Land Use District Boundary Of Certain Lands Situated at Wailuku, Island of Maui, State of Hawai’i, Consisting Of 25.263 Acres from the Agriculture District to the Urban District, Tax Map Key No. 3-5-002: 011.

As a first matter, we must admit that we have been negligent in supplying our Annual Reports, as ordered by the LUC. A brief timeline of how our project has progressed and also stalled will be provided, in order to inform the LUC of our status. We also received your letter, **dated June 2, 2016**, notifying us of the conditions, and requesting this report.

Project timeline:

December 2004—ELCS closes a purchase of 25 acres of land from Wailuku Agriculture

2007-2008--ELCS petitions LUC for District Boundary Amendment

March 2008—ELCS contracts Maui Architectural Group to develop plans for approximately 15 acres of construction of a new church and school, in three phases

September 2008—Capital Campaign kickoff dinner held at Maui Tropical Plantation, with a goal of raising \$1 million from our church and school community. Creative Fundraising Associates (CFR) was hired as the fundraiser/grant-writer.

2009—ELCS listed the current campus, with existing church and school buildings, for sale, to leverage the value of our current land to start the new construction. No buyers or offers were presented, and the listing was removed.

2011—three year capital campaign generated approximately \$800,000, which, together with prior funds, was largely expended on architectural, civil engineering, and rezoning expenses.

December 2014—Chairman of the Land Use Committee, Richard Sudheimer, passed away.

March 2015—In the absence of a majority of the original land use committee leaders from our congregation, who had died or moved away, a temporary committee was formed to gather up a summary of what had been tried and accomplished so far, and to find new leadership for the ELCS project.

April 2016—Decision was made by the Voter’s Assembly to list up to 15 acres of the 25 acre parcel for sale, to pay down the remaining debt on the land (approximately \$425,000), and gain some seed money for the future construction of the ELCS project, on a smaller, 10 acre footprint.

June 2016—We are weighing offers on the land. There is no set date for future construction plans, as everything has been on hold with our current financial situation.

Summary of status:

During the years immediately following the LUC decision, the project was promoted in earnest and work was proceeding quickly with the architects, to get things ready for the anticipated breaking of ground. Simultaneously ELCS faced the new realities of the economic downturn. The school receives no government funding, and is tuition based. With the growing financial need of our parents and families, and eventual declines in enrollment, the financial picture has weakened significantly. Just prior to the recession, enrollment ran as high as 205+ students in Preschool-8th grade, with waiting lists for certain grade levels. Present enrollment is approximately 170 students, with waiting lists only at the preschool level. In addition, the expectation of funds available through educational grant foundations, fell significantly short of the \$1.5-2 million that was represented by our fundraiser. For several years, following the unsuccessful attempt to sell the current ELCS campus, several opportunities were explored for revenue to be generated from the 25 acres of land—such as a solar farm, leasing a portion of the land, etc.

Regrettably, as former president of the congregation, and chairperson of the ELCS land use committee, Richard Sudheimer was one of the primary “drivers” of the project, Pastor Schneider and others on the committee were not well acquainted with the Decision and Order of the LUC document, and the conditions stated below. Since construction was indefinitely postponed, these items had not been given the review and attention they were due. ELCS submits this document with the intention of compliance with the conditions, as ELCS continues to evaluate how the project may be preserved for the future, when enrollments increase and the financial position is stronger once again.

Status of Compliance with Conditions

The conditions to reclassification are reproduced boldface followed by a description of the progress being made to comply with them.

1. Compliance with Representations to the Commission.

Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification or change to a more appropriate classification.

At present there has not been any development of the Petition Area, except to grub and clear a small, gated section, that is used for periodic outdoor worship services.

2. Reversion of District Classification. Petitioner shall develop the Petition Area and complete construction of the Project no later than ten (10) years from the date of the decision and order. If Petitioner fails to complete Project construction within ten (10) years from the date of the decision and order, the Commission may, on its own motion or at the request of any party, file an Order to Show Cause and require Petitioner to appear before the Commission to explain why the Petition Area should not revert to its previous Agricultural classification.

At present ELCS does not have a timeframe for anticipated construction, and would not be able to complete the project before the March 7, 2018 deadline of ten years. The present plan of ELCS is to sell 15 acres, and retain 10, for the future development of the project, perhaps at a reduced scale.

3. Water Resource Allocation. Petitioner shall provide drinking and irrigation water source, storage, and transmission facilities and improvements to accommodate development of the Petition Area, to the satisfaction of the County of Maui Department of Water Supply and other appropriate State and County agencies. Petitioner shall notify the Commission of changes to its proposed water source for the Project's irrigation water needs.

No potable water supply has been brought to the property, as this has been cost-prohibitive to ELCS. An agricultural water meter was originally installed, but never activated, and was later removed by Wailuku Water Company.

4. Wastewater. Petitioner shall develop a wastewater collection and transmission system and other sewer improvements in the Petition Area, as required by the State of Hawaii Department of Health ("DOH") and the County of Maui Department of Environmental Management. Petitioner shall pay a pro-rata share of off-site wastewater treatment improvements, as determined by the County of Maui.

ELCS will comply with this condition, upon construction of project.

5. Highways and Roads. Petitioner shall prepare a revised TIAR, to be initiated after Phase 1 is completed and approximately three months after the date upon which the school opens for classes, using assumptions and methods that are mutually agreed upon by the State Department of Transportation ("DOT") and the Petitioner, to determine the regional and local traffic impacts of the Project and recommended appropriate mitigation measures. In its assessment of current traffic conditions, the Petitioner's revised TIAR shall use actual traffic counts and actual intersection turn counts taken during peak morning and afternoon periods approximately three months after the school opens. Based on the findings and recommendations of the revised TIAR, the Petitioner shall contribute to or construct state highway improvements in the immediate vicinity of the Petition Area to alleviate the

cumulative traffic improvements including those generated by the Project and uses, as agreed to by the Petitioner and DOT. All state highway improvements shall be coordinated with and submitted for review and approval to DOT Highways Division. Such improvements must be planned, designed, and constructed in compliance with State requirements and the current standards established by the American Association of State Highway and Transportation Officials, and shall be provided at no cost to the State.

See attached TIAR, 2006, by Philip Rowell.

6. Stormwater. Petitioner shall fund, design, and construct drainage system improvements to manage runoff resulting from development of the Petition Area, to the satisfaction of appropriate State and County agencies, based on one-hour of runoff from a 50-year storm. Petitioner shall prevent runoff from adversely affecting State and County highway and roadway facilities or other properties located down grade from the Petition Area.

ELCS will comply with this condition, upon construction of project.

7. Civil Defense. Petitioner shall fund and construct, on a fairshare basis, adequate solar-powered civil defense measures to serve the Petition Area, as determined by the State of Hawaii Department of Defense, Office of Civil Defense, and County of Maui Civil Defense Agency.

ELCS will comply with this condition, upon construction of project.

8. Archaeological Field Report and Historic Preservation Mitigation Plan. Prior to commencement of any ground-altering activities, Petitioner shall obtain written approval and acceptance of the Petitioner's archaeological field report and monitoring plan from the State of Hawaii Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). A copy of the approval of the monitoring plan from SHPD shall be provided to the Commission within thirty (30) days of receipt by the Petitioner.

See attached survey by Archaeological Services Hawaii, 2004.

9. Previously Unidentified Burial/Archaeological/Historic Sites. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from SHPD that mitigative measures have been implemented to its satisfaction.

ELCS will comply with this condition, upon construction of project.

10. Soil Analysis. Petitioner shall conduct a soil analysis study of the Petition Area in consultation with the DOH, Hazard Evaluation and Emergency Response Office ("HEER"), to determine any impacts on the proposed use from fertilizers, pesticides, and

other chemical contaminants that may be present at elevated levels in the Petition Area. Petitioner shall undertake measures to abate and remove any hazardous materials identified during said study, to the satisfaction of HEER.

ELCS will comply with this condition, upon construction of project.

11. Air Quality. Petitioner shall implement soil erosion and dust control measures and participate in an air quality monitoring program as specified by the DOH.

ELCS will comply with this condition, upon construction of project.

12. Established Access Rights Protected. Petitioner shall preserve any established access rights of Native Hawaiians who have customarily and traditionally used the Petition Area for access to other areas to exercise subsistence, cultural, or religious practices.

ELCS is not aware of any past or present use of the petition area for the stated purposes, but will comply with this condition.

13. Notification of Potential Nuisances. Petitioner shall disclose to all prospective buyers and/or lessees of the Petition Area that potential odor, noise, and dust pollution may result from agricultural uses on adjacent lands.

N/A, there is no current agricultural use of the petition area.

14. Provisions of the Hawaii Right to Farm Act. If any lands adjacent to the Petition Area remain in the Agricultural District, Petitioner shall notify all prospective buyers and/or lessees of the Petition Area that the Hawaii Right to Farm Act, Chapter 165, HRS, limits the circumstances under which preexisting farm activities may be deemed a nuisance.

N/A, there is no current agricultural use of the lands adjacent to the petition area.

15. Integrated Solid Waste Management Plan. Petitioner shall develop a Solid Waste Management Plan for the Petition Area in conformance with the Integrated Solid Waste Management Act, Chapter 342G, HRS, and the solid waste disposal requirements set forth by the County Department of Public Works and the County Department of Environmental Management.

ELCS will comply with this condition, upon construction of project.

16. Best Management Practices. Petitioner shall implement BMPs to preserve air quality and protect surface and groundwater resources. The BMPs shall be designed to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and groundwater pollution, and control dust during and after development of the Project in accordance with DOH guidelines and the County of Maui's grading ordinance.

ELCS will comply with this condition, upon construction of project.

17. Water Conservation Measures. Petitioner shall implement water conservation measures, as may be required by the applicable provisions of the Maui County Code, including, but not limited to, low-flow water fixtures, and shall also implement BMPs, such as use of indigenous and drought tolerant plants and turf, and incorporate such measures into the Project's landscape planting.

ELCS will comply with this condition, upon construction of project.

18. Energy Conservation Measures. Petitioner shall implement energy conservation and sustainable design measures, that are feasible and practicable, such as use of solar energy and solar heating and the standards and guidelines promulgated by the Building Industry Association of Hawaii, the U.S. Green Building Council, the Hawaii Commercial Building Guidelines for Energy Efficiency, the Guidelines for Sustainable Building Design in Hawaii, and the applicable county building codes, as amended, into the design and construction of the Project and the structures within the Petition Area.

ELCS will comply with this condition, upon construction of project.

19. Annual Reports. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Maui Planning Department in connection with the status of the Project and Petitioner'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.

The present report is submitted to address this requirement.

20. Sale of Petition Area. Petitioner shall secure prior approval of the Commission of any sale of the Petition Area or any portion thereof.

ELCS has contacted Scott Derrickson of the LUC to notify that ELCS is looking into selling 15 acres of the 25, to preserve the project. ELCS has acknowledged that LUC conditions are inherited by the prospective buyer, and has notified the realtor to make these disclosures to prospective buyers.

21. Release of Conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

Not requested at present.

22. Notice of Imposition of Conditions. Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the

Petition Area, and (b) shall file a certified copy of such recorded statement with the Commission.

The conditions were filed and recorded with the Bureau of Conveyances on May 8, 2008. See attached file.

23. Recordation of Conditions. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, HAR.

The conditions were filed and recorded with the Bureau of Conveyances on May 8, 2008. See attached file.

Thank you for reviewing our report, and I apologize for the delays. If there is any further information we can provide, please contact us.

Respectfully submitted,
June 28, 2016

Pastor Joshua Schneider