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February 17, 2018

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

Dear Mr. Orodener:

2017 Annual Report
Docket No. A07-773
Emmanuel Lutheran Church and School

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LAND USE COMMISSION
STATE OF HAWAII

Emmanuel Lutheran Church and School ("ELCS") submits this annual progress report to the Land Use Commission ("LUC"), the Office of Planning, and the County of Maui Planning Department pursuant to condition 19 of the LUC's "Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment", dated March 7, 2008. The matter under consideration in that Docket was Emmanuel Lutheran Church of Maui's petition to amend the district boundaries of approximately 25.263 acres of land located in Wailuku, Maui, located at Tax Map Key No. (2) 3-5-002: 011. Our last annual report was submitted in June 2016. However, representatives of ELCS have meet with you over the past year to discuss the status of development. .

Project developments, 2016-present

April 2016—Decision was made by the Voter's Assembly to list a portion of the 25-acre Petition Area for sale to pay down the remaining debt on the land and gain some seed money for the future construction of the ELCS project within a smaller footprint than originally planned. .

December 2016—ELC and Waikapu Development Venture, LLC ("WDV") have an agreement whereby WDV will purchase approximately half of the Petition Area, once subdivided. WDV's plan is to develop a 100% affordable and workforce housing project on that property. The WDV project is proposed to have 80 residential units that will be available for sale to qualified individuals earning within 70% to 140% of the Maui area median income. The remaining portion of the Petition Area will be used for the ELCS project.

Summary of status:

We have been very pleased to locate a buyer that is agreeable to working with the existing conditions of our land, and to cooperate significantly with us to go through the process of

subdivision. We are also pleased that the nature of the development is oriented to something the community of Maui badly needs—affordable housing. We are hopeful that the Land Use Commission will look favorably on this partnership and allow us to move forward—helping us to relieve ourselves of our current financial burden, and allowing us to downscale and revise the ELCS project to something more appropriate for our present size and enrollment.

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. ELCS understands that the proposed changes to the originally presented development plan will need Commission approval.

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.

As noted in our 2016 report, ELCS still does not have the ability to begin or complete construction by the March 7, 2018 deadline of ten years. As explained in our 2016 report, ELCS has faced numerous factors, such as economic troubles, lower enrollments over a period of years, and lack of financial grants, that have made the development of the project under the proposed timeline impossible. However, we are optimistic that our proposal to subdivide and sell half of the Petition Area, will position us much better to address this in the future. We also note that there is considerable Urban development in the areas surrounding the Petition Area, including the 70-unit affordable housing project (Waiale Affordable Housing Project) located on approximately 10.36 acres on Waiale Road, just north of the Waikapu Gardens subdivision, which is being developed under HRS Chapter 201H.

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 at this time. The agricultural water meter that was originally installed was never activated and has been removed by Wailuku Water Company. As such, ELCS anticipates changes to our originally proposed source of irrigation water. However, water and other utility hook ups will be addressed through the proposed development of the Waikapu Development Venture 201H affordable housing project.

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.

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

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 ELCS 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 ELCS 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.

ELCS has previously submitted Archaeological reports, and will continue to comply with this condition.

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 ELCS 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.

An Environmental Site Assessment Phase 1 Investigation of the Petition Area was performed by Malama Environmental, dated Nov. 4, 2016.

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 ELCS 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.

ELCS will comply with this condition. However, we note that there are no current agricultural use of the lands adjacent to 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.

ELCS will comply with this condition.

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 ELCS 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 ELCS 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 ELCS 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 ELCS 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.

ELCS will comply with this condition.

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

As noted above, ELCS is working with Waikapu Development Venture on the possibility of WDV purchasing a portion of the Petition Area for the development of a 100% affordable housing project. Commission approval will be sought as appropriate.

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.

ELCS will comply with this condition.

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 Notice of Imposition of Conditions by the Land Use Commission was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2008-040595.

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 Declaration of Conditions Applicable to an Amendment of District Boundary from Agricultural to Urban, was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2008-076754, on May 8, 2008.

Thank you for reviewing our report and if there is any further information we can provide, please contact us.

Respectfully submitted,


Pastor Joshua Schneider