

TED H. S. HONG, ESQ. PLANNING DEPARTMENT
COUNTY OF HAWAII

Attorney at Law

P. O. Box 4217

Hilo, Hawaii 96720-0217

Telephone (808) 933-1919

Facsimile (808) 935-8281

Ted@Tedhonglaw.com

2013 NOV 12 PM 2: 51

TO: SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, Hawaii 96720

CARTER K. SIU, ESQ. (Carter.K.Siu@hawaii.gov)
Deputy Attorney General
Attorney for Applicant Connections New Century Public Charter School
235 S. Beretania Street, Room 304
Honolulu, Hawaii 96813

AMY SELF, ESQ. (aself@co.hawaii.hi.us)
Deputy Corporation Counsel
Attorney for the County of Hawaii Planning Director
333 Kilauea Avenue
Hilo, Hawaii 96720

JEFF GOMES (kalanigomes@hawaiiantel.net)
Intervenor
281 Edita Street
Hilo, Hawaii 96720

DARYN ARAI (darai@co.hawaii.hi.us)
JEFF DARROW (jdarrow@co.hawaii.hi.us)
Planning Commission Staff
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

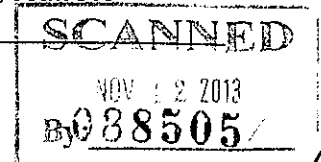
FROM: Ted H. S. Hong, Esq.

DATE: November 8, 2013

RE: Connection New Century Public Charter School and Community Based Education
Support Services; SPP No. 12-000138

Enclosed, please find the following:

Qty.	Date:	Description
1	11/08/2013	Errata to Applicants Connection New Century Public Charter School and Community Based Education Support Services (CBESS) Joint Pre-Hearing Brief; Certificate of Service



- For your information
- Per your request
- For review & comment
- Per our conversation
- For necessary action

- For signature and return INK
- For distribution
- For recording/filing
- Other:

CLP

DAVID M. LOUIE 2612
Attorney General of Hawaii

PLANNING DEPARTMENT
COUNTY OF HAWAII

2013 NOV 12 PM 2:51

CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii
235 South Beretania Street, Room304
Honolulu, Hawaii 96813
Telephone No. 808.586.1255
Carter.K.Siu@hawaii.gov

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

TED H. S. HONG 3569
Attorney at Law
P. O. Box 4217
Hilo, HI 96720
Telephone No. 808.933.1919
ted@tedhonglaw.com

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WINDWARD PLANNING COMMISSION

COUNTY OF HAWAII

In the Matter of	) SPP No. 12-000138
)
)
CONNECTION NEW CENTURY PUBLIC	) ERRATA TO APPLICANTS CONNECTION
CHARTER SCHOOL AND COMMUNITY	) NEW CENTURY PUBLIC CHARTER
BASED EDUCATION SUPPORT	) SCHOOL and COMMUNITY BASED
SERVICES	) EDUCATION SUPPORT SERVICES
	) (CBESS) JOINT PRE-HEARING BRIEF;
	) CERTIFICATE OF SERVICE
Application for Special Permit Application)
No. 12-000138	) HEARINGS OFFICER - SANDRA SONG
)
)
TMK: (3)2-5-006:141; Kaumana, South Hilo,	) <u>HEARING DATE:</u>
Island of Hawaii	) OCTOBER 21 AND 22, 2103


088505

ERRATA TO APPLICANT'S CONNECTION NEW CENTURY PUBLIC CHARTER SCHOOL and COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) JOINT SUBMISSION OF A PRE-HEARING BRIEF

Applicants CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL and COMMUNITY BASED EDUCATION SUPPORT SERVICES, by and through its undersigned counsel, CARTER K. SIU and TED H.S. HONG submit their errata sheet to their Joint Pre-Hearing Brief to correct the following:

1. At Page 10, the second sentence under Paragraph 4, should read as follows: "Based upon the comments received from various public agencies, the following will be done to ensure that the proposed use shall *not* burden public agencies:"

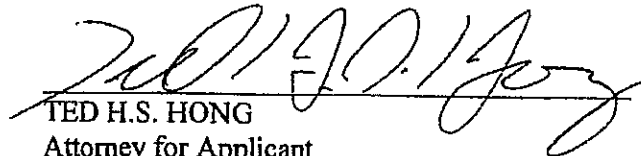
DATED: Honolulu, Hawaii, November 5, 2013.



CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney General,
State of Hawaii

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

DATED: Hilo, Hawaii, November 5, 2013.



TED H.S. HONG
Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

TED H. S. HONG 3569
Attorney at Law
P. O. Box 4217
Hilo, HI 96720
Telephone No. 808.933.1919
ted@tedhonglaw.com

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WINDWARD PLANNING COMMISSION

COUNTY OF HAWAII

In the Matter of	) SPP No. 12-000138
)
)
CONNECTION NEW CENTURY PUBLIC	) CERTIFICATE OF SERVICE
CHARTER SCHOOL AND COMMUNITY	) [RE ERRATA TO APPLICANTS
BASED EDUCATION SUPPORT	) CONNECTION NEW CENTURY PUBLIC
SERVICES	) CHARTER SCHOOL and COMMUNITY
	) BASED EDUCATION SUPPORT
	) SERVICES (CBESS) JOINT PRE-HEARING
Application for Special Permit Application	) BRIEF]
No. 12-000138)
)
TMK: (3)2-5-006:141; Kaumana, South Hilo,)
Island of Hawaii)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 8, 2013, I caused a true and correct copy of
the foregoing document to be served on the following persons by electronic and postal mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, Hawaii 96720

CARTER K. SIU, ESQ. (Carter.K.Siu@hawaii.gov)
Deputy Attorney General
Attorney for Applicant Connections New Century Public Charter School
235 S. Beretania Street, Room 304
Honolulu, Hawaii 96813

Amy Self, Esq. (aself@co.hawaii.hi.us)
Deputy Corporation Counsel
Attorney for the County of Hawaii Planning Director
333 Kilauea Avenue
Hilo, Hawaii 96720

Jeff Gomes (kalanigomes@hawaiiantel.net)
Intervenor
281 Edita Street
Hilo, Hawaii 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeff Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission Staff
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

DATED: Hilo, Hawaii, November 8, 2013.


TED H.S. HONG

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

Arai, Daryn

PLANNING DEPARTMENT
COMMUNITY DEVELOPMENT

From: Ted Hong [ted@tedhonglaw.com]
Sent: Tuesday, December 31, 2013 10:23 AM
To: sandrasong@hawaiiintel.net; lawbess@aol.com; jeff gomes; Arai, Daryn; Darrow, Jeff; Carter
Siu; Self, Amy; Sid Fuke; John Thatcher
Subject: Connections - Further Hearing

2013 DEC 31 AM 10:54

At this point, CBESS respectfully requests that the further hearing go on as scheduled. My client and Connections have been pushing for mediation, only to be asked to repeatedly delay the proceedings, with an uncertain date or deadline. All the while, Mr. Gomes and Mr. Fuke, use any delay in the proceedings to further attack my client's position.

Additionally, I have not heard from Mr. Bess for over a week in terms of using the further hearing date for mediation.

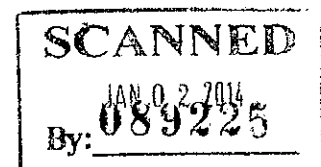
We would like to proceed with the further hearing as scheduled. If there is any remaining time, I suggest we use it to begin mediation. The Hearings Officer can close the record, pending mediation. If we can mediate, then she can issue her decision.

So as far as my client is concerned, we request that we proceed with the further hearing.

█ G: We have a subpoena duces tecum to the Planning Department that was submitted to your office several weeks ago. Please sign it so we can have it served on the Planning Department.

Thanks,

Ted



Arai, Daryn

From: Sandra Song [sandrasong@hawaiiantel.net]
Sent: Tuesday, December 31, 2013 11:03 AM
To: 'Ted Hong'; lawbess@aol.com; 'jeff gomes'; 'Arai, Daryn'; 'Darrow, Jeff'; 'Carter Siu'; Self, Amy; 'Sid Fuke'; 'John Thatcher'
Subject: RE: Connections - Further Hearing

2014 JAN -2 AM 10:33
PLANNING DEPARTMENT
GOVERNMENT CENTER

Ted,

I have not seen any subpoena duces tecum for the Planning Department. It has also been my practice to promptly sign and return all requested subpoenas.

I would suggest that you check with your staff about this matter.

With respect to the hearing set for January 8, 2014, unless all of the parties agree to a continuance, the hearing will proceed as scheduled.

Sandra P. Song
Attorney at Law
10 Kamehameha Ave.
Hilo, HI 96720
Tel: (808) 933-9212
Fax: (808) 935-4853

WARNING:

This email message and any attachments may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If you are not the intended recipient or authorized agent for the recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you received this email message in error, please immediately notify the sender by return email and delete the message and any attachments from your system. Thank you.

From: Ted Hong [mailto:ted@tedhonglaw.com]
Sent: Tuesday, December 31, 2013 10:23 AM
To: sandrasong@hawaiiantel.net; lawbess@aol.com; jeff gomes; Arai, Daryn; Darrow, Jeff; Carter Siu; Self, Amy; Sid Fuke; John Thatcher
Subject: Connections - Further Hearing

At this point, CBESS respectfully requests that the further hearing go on as scheduled. My client and Connections have been pushing for mediation, only to be asked to repeatedly delay the proceedings, with an uncertain date or deadline. All the while, Mr. Gomes and Mr. Fuke, use any delay in the proceedings to further attack my client's position.

Additionally, I have not heard from Mr. Bess for over a week in terms of using the further hearing date for mediation.

We would like to proceed with the further hearing as scheduled. If there is any remaining time, I suggest we use it to begin mediation. The Hearings Officer can close the record, pending mediation. If we can mediate, then she can issue her decision.

So as far as my client is concerned, we request that we proceed with the further hearing.

SCANNED
JAN 02 2014
By: 089251
4009

██████████ G: We have a subpoena duces tecum to the Planning Department that was submitted to your office several weeks ago. Please sign it so we can have it served on the Planning Department.

Thanks,

Ted

DAVID M. LOUIE 2612
Attorney General of Hawaii

CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii
235 South Beretania Street, Room 304
Honolulu, Hawaii 96813
Telephone No. 808.586.1255
Carter.K.Siu@hawaii.gov

Attorney for Applicant
CONNECTION NEW CENTURY
PUBLIC CHARTER SCHOOL

TED H. S. HONG 3569
Attorney at Law
P. O. Box 4217
Hilo, HI 96720
Telephone No. 808.933.1919
ted@tedhonglaw.com

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WIDWARD PLANNING COMMISSION

COUNTY OF HAWAII

In the Matter of

CONNECTION NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT
SERVICES

Application for Special Permit Application
No. 12-000138

TMK: (3)2-5-006:141; Kaumana, South Hilo,
Island of Hawaii

) SPP No. 12-000138
)
)
)
)
) APPLICANTS CONNECTION NEW
) CENTURY PUBLIC CHARTER SCHOOL and
) COMMUNITY BASED EDUCATION
) SUPPORT SERVICES (CBESS); JOINT
) PROPOSED FINDINGS OF FACT,
) CONCLUSIONS OF LAW, AND DECISION
) AND RECOMMENDATION; CERTIFICATE
) OF SERVICE

) Hearings Officer: Sandra P. Song
) Hearing Date: October 21-22, 2013
) Time: 9:00 am

SCANNED
OCT 22 2013
089994
by: _____

**APPLICANT COMMUNITY BASED EDUCATION SUPPORT SERVICES' (CBESS)
PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND
RECOMMENDATION**

Connections Public Charter School and Community Based Education Support Services filed an Application for Special Permit on July 25, 2012 to permit the development of a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres situated in the State Land Use Agricultural District on the southwest and the northeast sides of Edita Street near its intersection with Kaumana Drive and adjoining the Pacific Plantation Subdivision in Kaumana, South Hilo, Hawaii, TMK: (3) 2-5-006: 141.

After due notice, this Application was scheduled for determination before the Planning Commission on November 9, 2012. After a number of continuances, a petition for Contested Case hearing was filed on March 7, 2013 by Jeffrey Gomes. After due consideration, the Planning Commission, on March 7, 2013, found that Jeffrey Gomes had standing and granted his Petition for Contested Case Hearing and further determined that a hearings officer would be appointed. See Planning Commission Record at pg. 2155.

Sandra P. Song, Esq. was appointed Hearings Officer to preside over the contested case. The Hearings Officer, having examined the record, the testimony, the evidence and the arguments presented during the hearings held on October 21-22, 2013, November 12, 2013, January 8, 2014 and January 22, 2014 makes the following Findings of Fact, Conclusions of Law and decision and order.

FINDINGS OF FACT

1) Connections Public Charter School (hereinafter "Connections") operates in the County of Hawaii and offers a K-12 program to approximately 360 students. See Planning Commission Record, hereinafter ("Record") at pg. 25. Connections currently operates from two

separate campuses and now desires to consolidate all of its academic programs at a single location. Id. Record at 26.

2) In coordination with the State of Hawaii Department of Land and Natural Resources (hereinafter “DLNR”), a State-owned property was identified by the school as a potential site for the new campus. Id. Record at 26.

3) Connections developed a conceptual master plan that would see the development of a new academic campus that would include an elementary, intermediate and high school facilities and common facilities to support these programs. The conceptual plan also provides facilities for a forestry/conservation program, a sustainable agricultural program and a small intergenerational program that would provide childcare and elder care at a single facility. Id. Record at 28.

4) In order to receive approval from DLNR and its Board of Land and Natural Resources (hereinafter “BLNR”) Connections was required to comply with Hawaii Revised Statutes (hereinafter “HRS”) Chapter 343 by preparing an environmental assessment (hereinafter “EA”). A Draft EA was completed and published in the Office of Environmental Quality Control’s (hereinafter “OEQC”) *The Environmental Notice* in August 2009. Supporting studies appended to the Draft EA included biological surveys (e.g., botanical, invertebrate, avian and mammalian), an archeological assessment survey, and a traffic impact assessment report (hereinafter “TIAR”). Id. Record at 26.

5) During the 30-day public review of the Draft EA concerns were raised about the project’s potential impacts on Kaumana Cave, a segment of which underlies the Property’s upper parcel. In response to these concerns and at the request of the State Historic Preservation Division (“hereinafter “SHPD”) an archaeological field inspection of the accessible portion of Kaumana Cave that underlies the Property’s upper parcel was conducted. With the exception of

names carved into the cave walls, no historic elements were found during the inspection.

Connections chose to revise the conceptual campus plan by relocated the major built facilities entirely within the Property's lower parcel and maintained a minimum 100-foot buffer on either side of the cave alignment to alleviate concerns about impacting the cave ecosystem. Id. Record at 26.

6) The Draft EA was amended to address the revised conceptual campus plan and was published in *The Environmental Notice* in August 2010 initiating a second 30-day public review period. Comments received during this 2nd public review were responded to, and DLNR determined that the project as proposed and revised would not have significant environmental effects and issued a Finding of No Significant Impact. The Final EA was published in *The Environmental Notice* in November 2010. Id. Record at 26-27 55-306.

7) Connections requested and received approval BLNR for a long-term land lease for the Property. On May 1, 2012 DLNR published a public notice stating their intent to issue a direct lease of the Property to Connections. Id. Record at 26, 53-54 (the content of the lease can be found on pages 2161-2184 of the Planning Commission Record).

8) With the General Lease in place, Connections moved forward with obtaining all of the necessary entitlements for the Property.

9) On July 25, 2012, Connections, along with Community Based Education Support Services (hereinafter "CBESS") Friends of Connections, the charter school's supporting non-profit organization, submitted its Special Permit application to the Planning Department.

Id. Record at 1-3.

Special Permit Application

10) **State Land Use Designation:** The State Land Use Designation is Agricultural. Id. Record at 25.

11) **County Zoning:** The County zoning is Agricultural-1 acre (A-1a). Id. Record at 25 and 777.

12) **General Plan Land Use Pattern Allocation Guide (“LUPAG”) Map:** The property is designated as “Low Density Urban.” Id. Record at 25 and 783.

13) **Project Site.** The property Connections found is located in Kaunana, South Hilo, on the eastern side of the island of Hawaii and is identified as Tax Map Key (3) 2-5-006: 141 (hereinafter “Property”). The Property is owned by the State of Hawaii and is approximately 70 acres in size and is situated approximately 2.5 miles above Hilo town and south of Kaunana Drive. Id. Record at 27. The Property is currently undeveloped and there are no existing uses or structures. Id. Record at 27. In addition, the Property is separated into two parcels at its narrowest point by Edita Street. The upper parcel comprises roughly 33 acres and the lower parcel 37 acres. Id. Record at 27.

14) All major school facilities are proposed to be located within the lower parcel. Id. Record at 28-29. While no major school facilities are being proposed for the upper parcel, Connections has indicated that this land area shall support a future forestry conservation program, which will focus on forest resource management and conservation, and forest ecosystem restoration. A walkway is being proposed for the upper parcel to provide access and viewing opportunities. Id. Record at 29-30.

15) **Surrounding Zoning/Land Uses.** The surrounding lands to the south and west are similarly zoned A-1a. Further south are properties zones A-20a and A-10a. To the north are properties zoned RS-10 and RS-15, with some properties zones A-3a further north across Kaunana Drive. There is a property zoned Open that adjoin the lower parcel to the northeast.

Surrounding uses consist mainly of single family residences and vacant lands, with some agricultural activity occurring in the area. Id. Record at 778.

16) **Agricultural Lands of Importance to the State of Hawaii (ALISH):** The Property is not classified. Id. Record at 25 and 777.

17) **Land Study Bureau Soil Rating:** Soils within the Property are classified as “D”. Id. Record at 25 and 777.

18) **Flood Insurance Rate Map:** The Federal Emergency Management Agency has classified the area in which the Property is located, as Zone X. Zone C is land with no recognizable flood potential and is located outside both the 100-year and 500-year floodplain. Id. Record at 36 and 781.

19) **Archaeological/Historical Resources:** An archaeological assessment survey of the Property was conducted in 2008 and a supplemental field inspection of Kaumana Cave was also conducted at the request of the State Historic Preservation Division (SHPD). Id. Record at 322-326. The entire project area is situated on the 1880-1881 lava flow and as a result it is surmised that any pre-existing archaeological or historic sites within the project area would have been destroyed by the flow. No archaeological sites were encountered during the filed investigation. Id. Record at 36-37, 258-282 and 322-326. The field inspection of the accessible portion of Kaumana Cave (which underlies the upper parcel of the Property) found that no historic elements, with the exception of pecked names, were encountered. Id. Record at 37, 258-282 and 322-326.

20) **Flora/Fauna Resources:** A biological assessment, which encompassed flora, vertebrate and invertebrates, was completed. The assessment concluded that there is nothing unique about the Property or its vegetation and the construction and operation of the proposed

school would not adversely impact native avian or mammalian resources. Id. Record at 37-38 and 238-257.

21) **Public Access:** The Property is not located adjacent to or near any shoreline or mountain areas, therefore the project would not affect public access to these resources. Id. Record at 40.

22) **Value Cultural Resources:** There have been no identified traditional or customary native Hawaiian rights exercised at the Property. Id. Record at 39.

23) **Description of Access:** Access to the Property is via Edita Street, which extends off Kaumana Drive in a southeasterly direction, forming a 3-way intersection. The paved width of Edit Street fronting the Property is approximately 48 feet, which accommodates the two travel lanes (20 feet), a 20-foot shoulder on the northeast or Makai side of the road, and an 8-foot shoulder on the southwest or mauka side. The road is in good condition. Id. Record at 40 and 779-780.

24) **Traffic Impacts:** According to a Traffic Impact Analysis Report conducted during the environmental assessment process, the proposed use is not expected to generate large increases in traffic volumes and would not result in adverse impacts to traffic and circulation patterns in the project area. Id. Record at 41 and 289-306.

25) **Energy and Communications:** Electrical services in the project area are provided by the Hawaii Electrical Light Company (HELCO) through overhead lines along Edita Street and Kaumana Drive. Communications services are also available to the Property through overhead lines along Edita Street. Id. Record at 42.

26) **Water Supply:** The Hawaii County Department of Water Supply (DWS) provides water to the area via an existing 8-inch waterline along Kaumana Drive and from an existing 8-inch waterline along Edita Street. The current water availability, which is subject to

change is limited to a maximum of seven units of water per pre-existing lot of record. Each unit of water is equal to a maximum of 600 gallons per day; therefore, a maximum of 4,200 gallons per day is available for the proposed project. Id. Record at 42 and 780-781.

27) **Wastewater:** Currently, there is no municipal wastewater system serving the Kaumana area, and the proposed project, like the surrounding area residences, would have to provide its own wastewater system. Id. Record at 42 and 781.

28) On July 31, 2012, the Planning Department acknowledged receipt of the Special Permit application and designated same as SPP 12-000138. Ms. Leithead-Todd's letter informed Connections that it must comply with Hawaii County Zoning Code, Section 25-2-4, and serve notice of the application on surrounding property owners and lessees of record within 500 feet of the perimeter boundary of the Property as well as provide a notice on the Property itself of the Special Permit application. Id. Record at 329-331.

29) Ms. Leithead-Todd also forwarded the Special Permit application to all of the necessary public agencies for review and asked that any written comments be returned by August 28, 2012. Id. Record at 332.

30) On August 8, 2012, Connections, through its attorney, Ted H.S. Hong, acknowledged to the Planning Director that it had successfully notified surrounding property owners and lessees of record within 500 feet of the perimeter boundary of the Property of SPP 12-000138. Id. Record at 334-349.

31) On August 15, 2012, Connections, through its attorney, Ted H.S. Hong, acknowledged to the Planning Director that it had posted a sign on the Property as required by the Hawaii County Zoning Code of SPP 12-000138. Id. Record at 364-373.

32) Throughout the following months, the Planning Director received responses from various county and state agencies regarding their review of the proposed development on the Property. Id. Record at 333, 350-363, 374-388, 393, 401-404.

33) By letter dated October 12, 2012, Connections received a notice from the Planning Director that its Special Permit application would be scheduled for public hearing by the Planning Commission on November 9, 2012. The Planning Director instructed Connections to again provide notice to the surrounding property owners and lessees of the upcoming hearing. Id. Record at 412-416.

34) On October 19, 2012, Connections, through its attorney, Ted H.S. Hong, acknowledged to the Planning Director that it had successfully notified surrounding property owners and lessees of record within 500 feet of the perimeter boundary of the Property of SPP 12-000138 of the upcoming hearing scheduled for November 9, 2012. Id. Record at 802-818.

35) The Planning Department and Planning Commission began receiving a number of comments from the public regarding the pending special permit application. Id. Record at 405-11, 788-93, 819-26, 829-36, 841-43, 846-48, 873-880, 897-911, 1072-197, 1201-26, 1232-1544.

36) Prior to the hearing, the Planning Director transmitted her favorable recommendation of the Special Permit application to the Planning Commission and suggested that they send a favorable recommendation to the State Land Use Commission. Included in that favorable recommendation was a list of conditions of approvals (later revised) that were established to address the concerns that several public agencies had. Id. Record at 773-787 and 1224-31.

37) On November 9, 2012, the Planning Commission met to discuss SPP-12-000138. Id. Record at 1547. After several hours of testimony, the Planning Commission voted to defer the hearing of SPP-12-000138 until December 6, 2012 so that Connections could formalize water

calculations to address the Planning Commission's concerns of an adequate water supply, have a meeting with the Mr. Brillhante, the owner of the adjacent property, to discuss access to the Puainako Street Extension, and meet with the surrounding community to address the concerns that they had expressed. Id. Record at 1640 and 1674.

38) The Planning Department, by letter dated November 13, 2012, notified surrounding property owners of the December 6, 2012 meeting. Id. Record at 1647-1673.

39) On November 21, 2012, Celia Shen of Wil Chee- Planning & Environmental submitted preliminary estimates of potable water consumption on behalf of Connections. Id. Record at 1677-1684.

40) By letter dated December 5, 2012, Connections' attorney, Mr. Hong, wrote a letter to the Planning Director to inform her that the Department of the Attorney General for the State of Hawaii would be representing the charter school. Id. Record at 1708-1709. Deputy Attorney General Monica Morris was assigned to represent Connections, but would be unable to attend the December 6, 2012 Planning Commission meeting due to a scheduling conflict.

41) Also by letter dated December 5, 2012, Connections, through its administrative assistant Eric Boyd, informed surrounding property owners and lessees that it would hold another community informational meeting on the project on December 17, 2012. Id. Record at 1716-1724.

42) At the Windward Planning Commission hearing on December 6, 2012, the Planning Commission voted to continue its consideration of Connections' Special Permit application to its next meeting on January 10, 2013. Id. Record at 1853.

43) By letter dated December 10, 2012, the Planning Director informed Ms. Morris that it was responsible for notifying surrounding property owners and lessees of the January 10,

2013 meeting of the Windward Planning Commission. Id. Record at 1854. Mr. Hong's office, which was directed by Connections, complied with the request. Id. Record at 1868-1885.

44) On or about January 8, 2013, the Planning Department received a report from Connections regarding the community meeting held on December 17, 2012. Id. Record at 1886-1891. After meeting with nearby residents, Connections offered several proposed conditions to go along with the ones provided by the Planning Director to address concerns raised by the community. Id. Record at 1890-1891.

45) The proposed conditions Connections suggested adding were: 1) providing a fifty-foot buffer around the perimeter of the lower parcel in which no occupiable structures be permitted in order to provide adjacent owners with a continued sense of open space; 2) requiring that the upper parcel shall be maintained for educational offerings and restricting the construction of occupiable structures; and 3) in order to facilitate any future roadway widening, Connections would agree to amend the Direct Lease with the State of Hawaii with the consent of DLNR and BLNR to allow for a right-of-way or road widening. Id. Record at 1890-1891.

46) At the January 10, 2013 meeting of the Windward Planning Commission, the Commission made a motion to deny the Special Permit application and directed its staff to prepare draft Findings of Fact, Conclusions of Law, and Decision and Order ("Order") for its consideration at the meeting held on March 7, 2013. Id. Record at 2057. By letter, dated January 24, 2013, Chairman Dean Au explained to Connections (through its attorney) that once the Order is prepared it would be provided to Connections with an opportunity for the filing of exceptions and presentation of argument to the Planning Commission. Id. Record at 2057.

47) By letter dated February 19, 2013, attorney for CBESS, Mr. Hong informed the Planning Commission that some procedural errors were discovered relating to: 1) the ability for parties to request a contested case; 2) the ability to intervene at the State Land Use Commission;

and 3) improper notification related to a contested case process at the Planning Commission level and the State Land Use Commission level creating a due process violation. Id. Record at 2070. In order to address these procedural errors, the preparation of the Order was suspended so that the Planning Commission could first meet. The letter was joined by Deputy Attorney General Monica T.L. Morris. Id. Record at 2072.

48) Chairman Au responded by letter dated February 28, 2013 and confirmed that the preparation of the Order would be suspended pending further discussion of procedural issues at the March 7, 2013 meeting. Id. Record at 2071.

49) At the March 7, 2013 meeting, Mr. Jeffrey Gomes executed and submitted a Petition for Standing in Contested Case Hearing stating as an adjoining property owner to the proposed project, his family would be severely impacted by the project. Id. Record at 2122-25.

50) At the March 7, 2013 meeting, the Planning Commission agreed to grant Mr. Gomes standing in a contested case and subsequently agreed to hire a hearings officer to conduct the contested case hearing on its behalf. Id. Record at 2153-55.

51) By letter dated July 12, 2013, the Planning Commission informed all of the parties that Sandra P. Song, Esq. would serve as hearings officer for the contested case hearing.

CONCLUSIONS OF LAW

1) Section 205-6, Hawaii Revised Statutes states as follows:

(a) Subject to this section, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those which the district is classified. Any person who desires to use the person's land within an agricultural or rural district other than for agricultural or rural uses, as the case may be, may petition the planning commission for the county within which the person's land is located for permission to use the person's land in the manner desired. . . . [Emphasis added.]

(c) The county planning commission may, under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the

effectiveness and objectives of this chapter; provided that a use proposed for designated important agricultural lands shall not conflict with any part of this chapter.

2) The guidelines provided in the State Land Use Law for establishment of Agricultural district boundaries are intended to provide the greatest possible protection to those lands with a high capacity for intensive cultivation. The Property's soils are classified by the LSB as "D" (Poor) for agricultural productivity and the State of Hawaii ALISH system indicates that the Property is not classified as Important Agricultural Land or Agricultural Lands of Importance to the State of Hawaii. Id. Record at 43.

3) A charter school is not considered a permitted use within the State Land Use Agricultural District; however, uses not expressly permitted may be allowed in the Agricultural District by Special Permit on lands having soils with an overall productivity rating of C, D, E or U. See, Sec. 205-2(a)(3), HRS.

4) Additionally, a charter school is not considered a permitted use within an area that has been zoned Agriculture 1 acre (A-1a); however, Hawaii County Code Section 25-572(d) provides that schools may be permitted in the Agriculture district, provided that a Special Permit is issued for the use. See Transcript of Proceedings, Vol. 4, page 539, line 14-16; see also Exhibit A26.

5) Special Permits for a parcel of land greater than 15 acres must be recommended for approval by a county planning commission and then reviewed and affirmed by the Hawaii State Land Use Commission. Malama Maha'ulepu v. Land Use Com'n, 71 Hawaii 332, 334 (1990).

6) County Planning Commissions are vested with the authority to recommend approval for special permits for parcels of land greater than 15 acres for uses that while not otherwise permitted within agricultural districts, are nonetheless "unusual and reasonable" uses

that promote the effectiveness and objectives of Chapter 205 of the Hawaii Revised Statutes. Id. at 332, 336-37; Haw. Rev. Stat. §§ 205-4.5 and 205-6.

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

8) The requirements of Rule 6-7, Rules of the Planning Commission have been satisfied by Applicant. Applicant has satisfactorily demonstrated by a preponderance of the evidence that the establishment of a K to 12 charter school campus with support facilities and related uses on approximately 70 acres of land is an unusual and reasonable use of lands within the Agricultural district and would further the objectives of the Land Use laws.

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

10) In addition, the criteria listed under Section 6-3(b)(5)(A) through (G), Rules of the Planning Commission have been satisfied by a preponderance of the evidence by Applicant.

A. **Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** The law is intended to preserve, protect and encourage the development of lands in the State of Hawaii for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. For lands in the Agricultural district, the intent is to preserve or keep lands of high agricultural potential in agricultural use. However, some agricultural lands

may not be suited for agricultural use, but are classified as such. The law allows uses that may not be strictly agricultural in nature yet are reasonable within the district. The special permit process for usual and reasonable uses within the Agricultural district is available. This is the case herein.

B. The desired use would not adversely affect surrounding properties.

An adverse effect is defined as an unwanted and unanticipated result of taking a particular action. Here, the action is to develop a K to 12 charter school campus with support facilities and related uses on approximately 70 acres of land. Anticipated impacts that would adversely affect surrounding properties from the proposed use are an increase in traffic to the area and an increase of noise. These impacts, however, can be mitigated to minimize their adverse affect to surrounding properties through conditions of approval of the Special Permit. As the TIAR recommended, a separate left turn land shall be provided for left turns from eastbound Edita Street into the Lower Campus at Road A. Additionally, to help mitigate noise and visual impacts, landscaping will be required along the perimeter of the Property.

C. Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Based upon the comments received from various public agencies, the following will be done to ensure that the proposed use shall not burden public agencies:

1. Department of Public Works – Traffic Division: As previously mentioned, a condition of approval will be added to require applicant to construct a separate turn lane for left turns from eastbound Edita Street into the Lower Campus at Road A. In addition, comments were received from DPW-Traffic Division requesting that Connections submit a traffic management plan to be

reviewed and approved by DPW-Traffic Division in consultation with the Police Department. The plan shall be implemented and provide traffic management strategies that reduce traffic congestion on surrounding County roads during special events and student pick-up/drop-off activities for the entire school campus. Finally, the Applicant shall also provide active traffic management of all student pick-up/drop-off areas so that drop-off and pick-up activity does not result in queuing of vehicles on any County Road. A Traffic Impact Analysis Report for this project was prepared by Phillip Rowell. Id. Record at 41 and 289-306. See testimony of Phillip Rowell, Transcript of Proceedings, Vol. 4, page 456, line 15-25, page 457, line 1-7, 25, page 458 line 1-25, page 459, line 1-25, page 460 line 1-25, page 461, line 1-25, page 462, line 1-25, page 463, line 1-25, page 464 line 1-4. The Traffic Impact Analysis Report for this project was evaluated by Ron Theil, Chief of the Traffic Division for the County of Hawaii. Id. Record at 733, See testimony of Ron Theil, Transcript of Proceedings, Vol. 1, page 154, line 1-25, page 155, line 1-25, page 156, line 1-25, page 157, line 1-25, page 158, line 1-25, page 159, line 1-25, page 160, line 1-25, page 161, line 1-25, page 162, line 1-25. The Department of Public Works Traffic Division supports the Planning Departments Conditions of Approval related to traffic mitigative measure. See testimony of Ron Theil, Transcript of Proceedings, Vol 1, page 173, line 1-25, page 174, line 1.

2. Police Department: The Police Department commented that the section of Edita Street from Kaumana Drive leading to the Property has no pavement off of the travel portion of the roadway and would be unsafe for pedestrian traffic. To address this comment from the Police Department, a

condition of approval will be added requiring Connection to add an 8-foot paved shoulder along the northeastern (Makai) side of Edita Street from the south end of the Property to the intersection of Edita Street and Kaumana Drive.

3. Department of Water Supply: County water is available for up to a maximum daily usage of 4,200 gallons per day from an existing 8-inch waterline on Kaumana Drive for the upper campus and from an existing 8-inch waterline on Edita Street for the lower campus. The Property is assigned seven (7) units of water, which equates to an average usage of 600 gallons per day per unit of water (4,200 gpd). Additionally, the existing 8-inch waterline within Edita Street is looped and therefore adequate to provide the required 2,000 gallons per minute of flow for fire protection, as per the Department's Water System Standards for schools. Potable water needs will be met by connecting to the existing county water supply infrastructure. Non-potable water supply needs will be met with an extensive rainwater collection system consisting of catchment tanks, storage reservoirs/tanks with a network of water lines to distribute the collected water throughout the campus. The potable water system and the catchment system cannot be interconnected. The Applicant also conducted preliminary water calculation related to water usage for a campus under varying scenarios on how much water would be use on campus. Id. Record at 1678 to 1684. See testimony of Kevin Louma, Transcript of Proceedings, Vol. 1, page 139, lines 10-15, page 140, lines 1-25, page 141, lines 1-25, page 142, lines 1-25, page 143, lines 1-25. It may become evident during the design of the development that a potable well is needed, at which time Connection will then need to conduct additional detailed analysis and apply for additional permits. The Department of Water Supply also

reviewed the preliminary water calculations. See testimony of Kurt Inaba, Transcript of Proceedings, Vol. 1, page 182, line 17-25, page 183, line 1-25, page 184, line 1-25, page 185 line 1-25. The Department of Water Supply supports the Planning Department's Conditions of Approval related to water. See testimony of Kurt Inaba, Transcript of Proceedings, Vol. 1, page 187, line 8-16.

4. State Department of Health: There is no municipal wastewater system currently serving the Kaumana area. Connections will have to provide its own waste water system meeting with the State Department of Health regulations.

Based upon the above discussion, conditions of approval shall be utilized to insure that the proposed use does not burden public agencies to provide additional services.

D. **Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. Although the property and surrounding areas are designated for agricultural uses by both State and County land use laws, through the issuance of a Special Permit, various "non-agricultural" services may be allowed, including schools.

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

unsuited for agricultural uses permitted within the Agricultural District. Although the Property is unsuited for agricultural use, Connection is proposing to have an agricultural program and a forestry/conservation program as part of the curriculum. The agricultural program facilities would be conducted from the lower parcel and include green houses, a six-horse barn, and cultivated gardens. The forestry/conservation program, which focuses on forest resource management, conservation, and forest ecosystem restoration, would be located on the upper parcel.

F. **The use will not substantially alter or change the essential character of the land and the present use.** The current character and present use of the Property is undeveloped, vacant of structures and uses. The current character of the surrounding area is residential to the north and residential/agricultural to the south. The present use of the surrounding area is mainly residential with some agricultural activity and vacant land. The proposed use will alter or change the essential character of the land and its present use from its current undeveloped character. Connections has proposed to construct the school building as single story structures, similar to the surrounding residential community, to help minimize the change to the essential character of the land. Connections is encouraged to design the campus to match the surrounding rural character rather than having an institutional character typical of a public school campus.

G. **The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.** The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-

urban form for areas within the County. The Property is located in an area identified as Low Density Urban in the General Plan. The Low Density Urban designation allows for residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses where overall residential density may be up to six units per acre. The request will not be contrary to the LUPAG Map designation for this area. Additionally, the approval of the subject request would support the following goals and policies of the Economic, Public Facilities and Land Use elements of General Plan:

Economic Element

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

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

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

Land Use-Public Land

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

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

11) The proposed use is not contrary to the objectives sought to be accomplished by HRS Chapter 205A, relating to the Coastal Zone Management Program. The Property is located

over three miles from the closest shoreline and is not located within the Special Management Area.

12) There is no designated public access to the mountain areas over the Property.

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

14) The Hearings Officer concluded upon a preponderance of the evidence that the Application for Special Permit is reasonable, conforms to the standards in Section 205-6, Hawaii Revised Statutes, does not violate Section 205-4.5, Hawaii Revised Statutes, and is consistent with the standards and requirements set forth by Rule 6-3(b)(5)(A) through (G), Rules of the Planning Commission.

15) Applicant has complied with the requirements found in Rule 6-6(b), Rules of the Planning Commission and mailed a notice of the Application and hearing to owners of interests in properties within five hundred feet of the perimeter boundary of the subject property.

16) Applicant has also complied with Rule 6-6(d) and filed an appropriate proof of mailing document evidencing compliance with the rule.

17) In addition, notice of the public hearings have been published in the newspaper pursuant to Rule 6-6(d).

18) The due process requirements under the Rules of the Planning Commission have been satisfactorily complied with.



State Land Use Boundary Amendment Process is Not Applicable

19) The property in question is in a State Land Use District designated for agricultural purposes. See, Sec. 205-2(a)(3), Hawaii Revised Statutes (hereinafter referred to as "HRS")

20) The property in question is not an important agricultural lands due to the poor soil rating of "D", and such property does not need the "greatest possible protection." Sec. 205-2(a)(3), HRS. Id. Record at 25 and 777.

21) The property in question is not usable for, and not suited to, agricultural and ancillary activities by reason of topography and soils. See, Sec. 205-2(d), HRS. Id. Record at 25 and 777.

22) The property in question is greater than fifteen acres. See, Sec. 205-3.1(a), HRS. Id. Record at 25.

23) The use of the property in question, with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating "D", is restricted to the uses permitted for agricultural districts as set forth in Section 205-5(c), HRS.

24) Section 205-5(a), HRS, specifically delegates zoning power, to further define permissible uses within State Land Use Districts to the respective counties.

25) Section 205-5(b), HRS, provides that within "agricultural districts" any uses must be compatible to activities described in Section 205-2, HRS and that "accessory uses and services" may be further defined by each county by zoning ordinance. See, Sec. 205-5(b), HRS.

26) The County of Hawaii, in its Zoning Code specifically states, in relevant part:

Section 25-5-72. Permitted uses.

* * *

(d) The following uses may be permitted in the A (agricultural) district, provided that a use permit is issued for each use if the building site is outside of the State

land use agricultural district or a special permit is issued for each use of the building is within the State land use agricultural district:

* * *

(7) Schools.

See also, Sec. 15-15-25(b), Hawaii Administrative Rules.

Emphasis added and included.

27) The Hawaii State Supreme Court's decision in Neighborhood Board No. 24, et al., v. State Land Use Commission, et al., 64 Hawai'i 265, 639 P.2d 1097 (1982), does not apply to the present Petitioner:

(a) In the Neighborhood Board No. 24, supra case, the petitioner proposed a major commercial undertaking involving up to 1.5 million people annually. *Id.*, at 64 Hawai'i at 272, 639 P.2d 1103.

(b) The proposed use was not a "permitted" use as defined by the City and County of Honolulu's Zoning Code. *Id.*

(c) The purpose of the land use boundary amendment process is to "streamline the land use regulatory process by requiring the state commission's approval of such permits only **where the use desired would be of such scale as to impact the state as a whole.** (Emphasis added)" Neighborhood Board No. 24, supra ft. nt. 4, citing House Standing Committee Report No. 572, 10th Hawaii Legislature, 2nd Sessions, 1979 House Journal, at 1410.

28) In the present case, the Petitioners' proposed use is defined as a permitted use by Section 25-5-72, Hawaii County Code. See Transcript of Proceedings, Vol. 4, page 539, line 14-16; see also Exhibit A26.

29) The Petitioners' proposed use does not rise to the scale as to "impact the state as a whole." Neighborhood Board No. 24, *supra* ft. nt. 4, citing House Standing Committee Report No. 572, 10th Hawaii Legislature, 2nd Sessions, 1979 House Journal, at 1410.

30) The Petitioners' proposed use is compatible to activities described in Section 205-2, HRS and Sec. 205-5(b), HRS.

31) There is precedent, at the State Land Use Commission, allowing proposed uses for schools, to proceed using a Special Permit process under Sec. 205-6, HRS. See, Testimony of Duane Kanuha, Transcript of Proceedings, Vol. 4, page 498, lines 15-25; page 499, lines 10-19.

32) The Petitioners' proposal was evaluated by the Office of Planning, *Id.* Record at 401-406 and 758-761.

33) Pursuant to the Office of Planning, the Petitioners' proposal meets the guidelines in HAR §15-15-95, for determining an "unusual and reasonable use" for the purpose of granting a special permit pursuant to HRS. §205-6. *Id.* Record at 402-404 and 759-761.

34) The County of Hawaii Planning Department considers the recommendations of the Office of Planning. See, Testimony of Duane Kanuha, Transcript of Proceedings, Vol. 1, page 216, line 7-15.

35) The Kamehameha Schools, Keaau campus, applied for and was granted a special use permit, to build a substantial part of the school on land with the State Land Use designation for agricultural uses. See, Testimony of Bobby Jean Leithead Todd, Transcript of Proceedings, Vol. 4, page 512, lines 11-25; page 513, lines 1-23; see also, Exhibits A24 and A25.

36) The Petitioners' proposed use is reasonable and unusual under the State Land Use Designation of agricultural, pursuant to Sec. 205-6(a), HRS. See, Testimony of Bobby Jean Leithead Todd, Transcript of Proceedings, Vol. 4, page 511, lines 10-25; page 512, lines 1-10.

DECISION AND RECOMMENDATION

Based on the evidence presented and applying the standards and rules herein, along with the above Findings of Fact and Conclusions of Law, the Applicants, Connections and CBESS, have satisfied the requirements of Planning Commission Rule 6-7 and Rule 6-3(b)(5)(A)-(F). It is recommended that the Planning Commission approve the Application for Special Permit No. 12-000138 of Connections and CBESS, as recommended by the Planning Director:

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.

2. The proposed use shall be conducted in a manner that is substantially representative of plans and operational details contained within the Application for Special Permit including the amount of students and hours of operation, and representations made before the Windward Planning Commission.

3. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawaii and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this permit. The calculations must include the estimated peak flow in gallons per minute and total estimated maximum daily potable water demand in gallons per day. Should the applicant utilize more than the maximum average daily usage of potable water (4,200 gpd) from the existing County 8-inch water line, the applicant will be required to secure or construct an additional source of potable water or limit the amount of students to the amount of potable water available.

4. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.

5. Construction of the high school phase shall be completed within ten (10) years from the effective date of this permit. Prior to the start of construction for each separate school (high, intermediate, elementary), the applicant, successor(s) or assign(s) shall secure Final Plan Approval for the development of each proposed phase from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping along the perimeter of the entire 70 acre project site shall also be indicated on the plans in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) buffer yard requirements for the Village Commercial (CV) zone adjoining a Single-Family Residential (RS) Zone.

6. On plans submitted for Plan Approval review or any land alteration permit(s), the applicant shall identify the location of Kaumana Cave within the Subject Property and to ensure its protection, also identify a 100-foot wide preservation buffer along its entire perimeter. No use, structures or land alteration activities shall be permitted within this Kaumana Cave preservation buffer.

7. The applicant shall conduct an updated traffic report prior to the submittal of plans for Plan Approval for the intermediate and the elementary school phases, in a manner meeting with the approval of the Department of Public Works. If the updated traffic reports determine that additional traffic mitigation measures are required, these required improvements shall be constructed by the applicant at no cost to the County prior to the issuance of a Certificate of Occupancy for the respective school phases.

8. All driveway connections to Edita Street shall conform to Chapter 22, County Streets, of the Hawaii County Code.

9. The applicant shall construct a separate turn lane for left turns from eastbound Edita Street into the Lower Campus at Road A meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy for any portion of the project.

10. The applicant shall construct an 8-foot paved shoulder along the northeastern (Makai) side of Edita Street from the south end of the Subject Property to the intersection of Edita Street and Kaumana Drive (Standard Detail R-34) meeting with the approval of the Department of Public Works prior to the issuance of Certificate of Occupancy for any portion of the project.

11. The applicant shall submit a Traffic Management Plan to be reviewed and approved by the Department of Public Works-Traffic Division in consultation with the Police Department prior to the receipt of Final Plan Approval for any portion of the project. The comprehensive plan shall be implemented and provide traffic management strategies that reduce traffic congestion on surrounding County roads during special events and student pick-up/drop-off activities for the entire school campus. The applicant shall provide active traffic management of all student pick-up/drop-off areas so that drop-off and pick-up activity does not result in queuing of vehicles on any County Road. The applicant shall incorporate carpooling, bus and van services, and staggering school pick-up and drop-off times.

12. The applicant shall design project driveways/roads, parking and loading areas so all school traffic and congestion is confined to the project site and does not overflow onto County roads. Should adjoining lands be developed in a manner that would provide a reasonable opportunity to provide an alternate means of access to the proposed school site from the Puainako Street extension, the applicant shall provide necessary improvements within its own

property to facilitate access to the Puaninako Street extension across adjoining lands when directed by the Planning Director.

13. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. A drainage plan may be required by the Plan Approval process in accordance with Section 25-2-72(3) of the Hawaii County Code.

14. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.

15. The method of sewage disposal shall meet with the requirements of the Department of Health.

16. Prior to any ground altering activities, the applicant shall submit a monitoring plan in accordance with HAR 12-279 to the DLNR-SHPD for review and approval. A copy of the approved monitoring plan shall be provided to the Planning Department prior to issuance of Final Plan Approval.

17. All ground altering activities associated with the proposed development shall be monitored by a qualified archaeologist in a manner meeting with the approval of the DLNR-SHPD.

18. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.

19. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

20. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this Special Permit. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

21. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

- a. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
- b. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- c. Granting of the time extension would not be contrary to the original reasons for granting the permit.
- d. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
- e. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

22. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this Special Permit.

Based on the forgoing, it is ordered by the Windward Planning Commission that the Special Permit Application No. 12-000138 be approved and pursuant to Planning Commission Rule 4 Contested Case Procedure and Rule 6 Special Permits, the Windward Planning Commission shall adopt Petitioners Connections and CBESS Proposed Findings of Fact and Conclusions of Law.

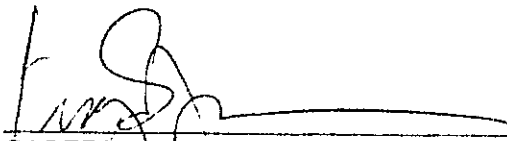
DATED: Hilo, Hawaii, _____

SANDRA P. SONG, ESQ.
HEARINGS OFFICER

CONCLUSION

Based on the evidence presented and applying the standards and rules herein, along with the above Findings of Fact and Conclusions of Law, the Applicants, Connections and CBESS, have satisfied the requirements of Planning Commission Rule 6-7 and Rule 6-3(b)(5)(A)-(F). It is recommended that the Planning Commission approve the Application for Special Permit of Connections and CBESS, as recommended by the Planning Director.

DATED: Honolulu, Hawaii, February 12, 2014.

For 
CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

DATED: Hilo, Hawaii February ____, 2014.

TED H.S. HONG
Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

CONCLUSION

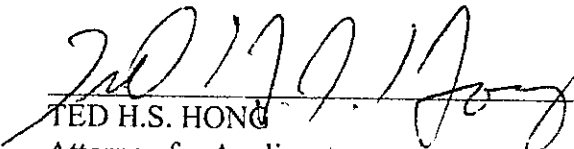
Based on the evidence presented and applying the standards and rules herein, along with the above Findings of Fact and Conclusions of Law, the Applicants, Connections and CBESS, have satisfied the requirements of Planning Commission Rule 6-7 and Rule 6-3(b)(5)(A)-(F). It is recommended that the Planning Commission approve the Application for Special Permit of Connections and CBESS, as recommended by the Planning Director.

DATED: Honolulu, Hawaii, February ____, 2014.

CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

DATED: Hilo, Hawaii February 12, 2014.



TED H.S. HONG
Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

TED H. S. HONG 3569
Attorney at Law
P. O. Box 4217
Hilo, HI 96720
Telephone No. 808.933.1919
ted@tedhonglaw.com

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WINDWARD PLANNING COMMISSION

COUNTY OF HAWAII

In the Matter of	)	SPP No. 12-000138
)	
)	
CONNECTION NEW CENTURY PUBLIC)	
CHARTER SCHOOL AND COMMUNITY)	
BASED EDUCATION SUPPORT	)	APPLICANTS CONNECTIONS NEW
SERVICES	)	CENTURY PUBLIC CHARTER SCHOOL and
	)	COMMUNITY BASED EDUCATION
	)	SUPPORT SERVICES (CBESS);
Application for Special Permit Application	)	CERTIFICATE OF SERVICE
No. 12-000138)	
)	
TMK: (3)2-5-006:141; Kaumana, South Hilo,)	
Island of Hawaii)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 12, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons by electronic and postal mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, Hawaii 96720

CARTER K. SIU, ESQ. (Carter.K.Siu@hawaii.gov)
Deputy Attorney General
Attorney for Applicant Connections New Century Public Charter School
235 S. Beretania Street, Room 304
Honolulu, Hawaii 96813

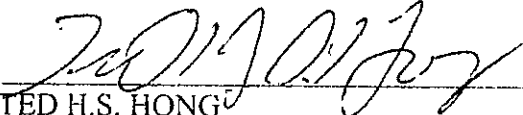
Amy Self, Esq. (aself@co.hawaii.hi.us)
Deputy Corporation Counsel

Attorney for the County of Hawaii Planning Director
333 Kilauea Avenue
Hilo, Hawaii 96720

Jeff Gomes (kalanigomes@hawaiiantel.net)
Intervenor
281 Edita Street
Hilo, Hawaii 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeff Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission Staff
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

DATED: Hilo, Hawaii February 12, 2014.


TED H.S. HONG

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WINDWARD PLANNING COMMISSION FEB 16 PM 1:16

OF THE COUNTY OF HAWAII

In the Matter of the Petition of	) APPLICATION SPP NO. 12-000138
)
CONNECTION NEW CENTURY PUBLIC	) ORDER ADOPTING PROPOSED
CHARTER SCHOOL AND COMMUNITY	) FINDINGS OF FACT, CONCLUSIONS
BASED EDUCATION SUPPORT	) OF LAW, AND DECISION AND
SERVICES	) ORDER
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141.)

**ORDER ADOPTING PROPOSED FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND ORDER DENYING APPLICATION
SPP NO. 12-000138**

I. INTRODUCTION

This matter comes before the Windward Planning Commission of the County of Hawai'i ("Planning Commission") pursuant to Chapter 205-6 of the Hawai'i Revised Statutes ("HRS") and Rule 6 of the Rules of Practice and Procedure of the Planning Commission, upon the application of CONNECTION NEW CENTURY PUBLIC CHARTER SCHOOL AND COMMUNITY BASED EDUCATION SUPPORT SERVICES ("Applicants") to establish a K to 12 charter school campus with dorm facilities and related uses.

The Planning Commission held public hearings on the Applicants' application on November 9, 2012, January 10, 2013, and March 7, 2013. At the conclusion of the March 7, 2013 public hearing, the Applicants requested and were granted a Contested Case ("CC") hearing. The CC hearing, which occurred on October 21, 2013, October 22, 2013, November 12, 2013, and January 8, 2014, was conducted by hearing officer, Ms. Sandra Song.

II. FINDINGS OF FACT

Having reviewed and examined the record in this case and carefully considering all testimony, exhibits, and arguments presented at both the public and CC hearings of this matter, while taking into account the credibility and accuracy of the evidence, the Planning Commission makes the following findings of fact by a preponderance of evidence:

A. Background

1. This matter involves the Applicants' request for a Special Permit to allow the development of a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land situated in the State Land Use Agricultural District ("**application**"). *Exhibit A1, ROA, pages 22-327*
2. The campus is proposed to be situated on property ("**property**") owned by the State of Hawai'i and located in Kaumana, South Hilo, Island and County of Hawai'i. It is further identified by TMK: (3) 2-5-006: 041. *Exhibit A1; ROA, page 27-28*
3. The State of Hawai'i entered into a General Lease No. 8-6029 with the Applicants and has consented to the filing of the Special Permit application. *ROA, page 54*
4. According to the Planning Department background report and the Applicants' application, the property is zoned Agriculture (A-1a) and designated "Low Density Urban" on the County General Plan Land Use Pattern Allocation Guide map. Adjacent properties to the south and west are also zoned A-1a and within the State Land Use Agricultural District, while adjacent properties to the north are zoned RS-10 and RS-15 and within the State Land Urban District. *Exhibit A1, ROA, pages 885-886*
5. The Planning Director recommended approval of the application, subject to a number of conditions. *Exhibit A5, ROA, pages 773-787; 1227-1231*
6. Public hearings were held by the Planning Commission on November 9, 2012, January 10, 2013, March 7, 2013, at which time a number of area residents expressed their objections, verbally or via letters/emails, to the application. *ROA, pages 405-411; 788-793; 819-822; 829-836; 841-842; 875-876; 879-880; 1203; 1253; 1263-1271; 1274-1276; 1290; 1315-1432; 1446-1544*

7. Prior to the Planning Commission's closing of the public hearing on March 7, 2013, after a motion was made and seconded to deny the application, the Applicants requested and were granted a CC hearing on the application. *ROA, pages 2133-2156*
8. At the March 7, 2013 meeting, the Planning Commission granted standing to the Applicants and granted intervention status to a surrounding property owner, Jeffrey Gomes. The Planning Director is already a party pursuant to Rule 4-6(a) of the Planning Commission Rule. The Director was represented by Ms. Amy Self, Esq. The Applicants were represented by Ted H.S. Hong, Esq. and Carter K.Siu, Esq. Mr. Gomes represented himself, *pro se*. Sidney Fuke, also a resident and private planning consultant, was acknowledged as an advisor to Mr. Gomes. *Pre-hearing transcript*
9. The Applicants' attorney subpoenaed a number of residents within the community, including Sidney Fuke, and invoked the "witness exclusion" rule. *Pre-hearing transcript*
10. CC hearings were conducted on October 21, 2013, October 22, 2013, November 12, 2013, and January 8, 2014. After the January 8, 2014 hearing, the parties went into mediation. At the January 21, 2014 hearing, after no resolution was reached, the Hearing Officer closed the CC portion of the hearing.

B. Nature of Applicants' Request

11. The submitted application called for the development of a K to 12 charter school campus with dorm facilities, intergenerational program that would provide childcare and elder care at a single facility, and related uses on approximately 70 acres of land. As the site is bisected by Edita Street, the lower portion would consist of the major school or campus facilities, while the upper portion would be used for its outdoor type of educational programs. *ROA, pages 28-30*
12. The lower campus would support a projected 167 elementary students, 107 intermediate students, 107 high school students (381 K through 12 students) and 25 intergenerational clients. Also included would be a dormitory capable of supporting 30 students, a gymnasium, and other related facilities. Two parking lots capable of supporting 140 parking stalls would be provided. *ROA, pages 28-30*

13. The Applicants anticipate that at least 50% of the projected student population will come from the Puna District. *11/09/12 PH Transcript, page 17; ROA, page 1563*
14. The Applicants represented that the school currently had 50 full-time and 17 part-time employees. *ROA, page 35*
15. The project is intended to be completed within 16 to 25 years. The first phase would include the high school and dormitory. The projected opening would be 2.5 to 3.5 years. *ROA, page 34 and CC Transcript, page 50*
16. The application included a Final Environmental Assessment (“EA”), dated October 2010, that was initially used as part of the Applicants’ request of the State Land Board to use State Land. *ROA, pages 56 – 326*
17. In its description of the “Proposed Action,” the EA acknowledged all of the uses reflected in Applicants’ application, except for the elder care facility. *ROA, page 64*

C. Project’s Infrastructure Considerations

Water

18. The application acknowledged that according to the County Department of Water Supply (“DWS”) potable water was limited to 4,200 gallons per day (“gpd”). Further, based on a 60 gpd standard, the amount of potable water could only support 70 of the estimated 381 K to 12 students, 25 intergenerational clients, and the approximate 50 full-time and 17 part-time employees. *ROA, page 32*
19. Due to the limited amount of potable water, agriculture and landscaping irrigation would rely on rainfall, recycled wastewater effluent, and rainwater catchment system. Additionally, there was a possibility that non-potable water would be used for toilet and custodial uses. *ROA, page 32*
20. Based on the 60 gpd standard noted in the EA, the project would require at least 26,100 gpd. *ROA, page 124*
21. In that regard, the application further added that it understood “that the availability of water does constrain the scope of development on the property

and intends to investigate other sources of water to support the project.” *ROA, page 32*

22. The Applicants’ witness, Mr. Kevin Louma, during the CC portion of the hearing, testified that based on his analysis, the minimum and maximum water usage for the project with a cafeteria would be 6,848 gpd to 10,828 gpd. *CC Transcript, pages 139-142 and ROA, pages 1678-1684*
23. Mr. Kurt Inaba of the DWS testified that 4,200 gpd was the limit for the entire project and that if the project used only its allocated amount, it should not affect water pressure and availability to the community. He added that at this stage, the DWS is unable to determine exactly what the projected water use would be, as that will depend on studies provided by the Applicant. *CC Transcript, pages 182-185*
24. During the course of the public and CC hearing, a surrounding property owner resident and land use planning consultant, Mr. Sidney Fuke, testified whether it was appropriate to approve a project knowing that a) based on the application, the amount of available potable water represented only 16% of the project’s requirement; b) the question of how the balance of the water was going to be provided had not been addressed; and c) whether deferring this issue to an unknown time in the future was fair and appropriate to decision-makers. *ROA, pages 1352, 1353 and CC Transcript, pages 571 and 572*

Traffic

25. The EA and the application contained a Traffic Impact Analysis Report (“TIAR”) prepared by Phillip Rowell and Associates, dated June 28, 2010. The TIAR evaluated the project’s impact relative to the intersections of the proposed project’s entrance at Edita Street and at Edita Street and Kaumana Drive. *ROA, pages 41, 288 – 308*
26. Based on traffic counts taken on Thursday, May 28, 2009, the TIAR found that at the intersection of Edita Street and Kaumana Drive, the current Level Of Service (“LOS”) operates at LOS “A” or “B”. It further concluded that at the two studied intersections, upon full build out of the proposed development, the LOS would continue to operate at levels “A” or “B”. *ROA, pages 290-292*
27. Mr. Phillip Rowell testified that he had made no contacts with or secured input from the community prior to doing his TIAR. He added that, based on

his experience, if the application were to be considered by the State Land Use Commission, an updated TIAR would be required for two reasons: 1) the traffic counts were done 4 years ago; and 2) the list of related projects and background forecasts would need to be updated. *CC Transcripts, pages 459, 463*

28. Mr. Rowell further testified that a) while he was aware that the University of Hawai'i at Hilo, Hawai'i Community College, and Kamehameha Schools had ended prior to the counts being taken, that should not have affected his analysis or conclusions; b) he was not aware of a number of residential developments in the Kaumana area and subdivisions that would utilize Edita Street and that some of that information could have surfaced after the traffic counts were done in 2009. *CC Transcripts, pages 469-470; 475-477*
29. Mr. Rowell added that a) no sidewalks along Edita Street were recommended because "we wanted all pedestrians to enter the project" and "didn't want pedestrians walking along the roadway. Sidewalks would only encourage that"; b) that other intersections proximate to Edita Street were not investigated based on input from the State and County as well as relying on the ITE guidelines which does not typically look at intersections outside of half mile; and c) reconfirmed that the best place for an updated TIAR would be at the State Land Use Commission level. *CC Transcripts, pages 479; 486-487; 488*
30. Mr. Rowell concurred that LOS deals with safety and inconvenience and that he understood that it took into account quality of life factors. His primary focus, however, is not necessarily number of movements but whether there is a change in the LOS. *CC Transcripts, pages 488-489*
31. Mr. Ron Thiel, Traffic Division Chief of the Department of Public Works testified that having traffic counts after the University of Hawai'i at Hilo, Hawai'i Community College, and Kamehameha Schools Hawaii campus ended could make a difference in the TIAR. He added that "It actually could make it (TIAR) even worse." *CC Transcripts, page 174-175*
32. The former Planning Director, Ms. Bobby Jean Leithead Todd, testified that she was aware of a proposed 45-lot subdivision adjacent to the property as well as fronting the Puainako Street Extension and added that "in the long run, access (to the subject property) through Puainako might be better for everyone." She also commented that "a better access would be off of

Puainako. And that just has to do with the fact that Puainako has been designed with broad shoulders, and so I felt that in the long run that that was a better connection. Besides it's always nice to have more than one. You know, if something happens on Kaumana, you could redirect traffic that way." *CC Transcripts, pages 515-516*

33. The school principal, Mr. John Thatcher, testified that he looked at the possibility of securing an access from the Puainako Extension and had discussions with the affected property owner, Mr. Bill Brilhante. Mr. Thatcher noted that Mr. Brilhante indicated that he had been "lobbied by people from Pacific Plantations not to let us use anything that had and that he felt – he felt threatened by their demeanor" but that he would "keep an open mind" regarding access out onto Puainako Extension. Mr. Thatcher also noted that at the initial meeting with the community on June 3, 2011, it was a priority for the school to get an alternative access. *CC Transcripts, page 53; ROA, page 1784*
34. There were considerable written and oral testimonies from area residents expressing concerns over the traffic impact of the proposed development, particularly along Edita Street and Kaumana Drive and the project's overall adverse impacts to their quality of life. *ROA, pages 405-411; 788-793; 819-822; 829-836; 841-842; 875-876; 879-880; 1203; 1253; 1263-1271; 1274-1276; 1290; 1315-1432; 1446-1544*
35. One of the area residents, Dr. Henry Lee Loy, testified and provided a map reflecting a completed 12-lot residential subdivision and a proposed 45-lot residential subdivision, both of which utilizing Edita Street as access, as well as a proposed 83-home affordable housing subdivision situated about a mile from Edita Street. *ROA, pages 1340-1345, 1822*

Wastewater

36. The Applicants are proposing to provide its own wastewater system meeting with the requirements of the State Department of Health. The preferred system would be an ecological/biological wastewater system called the "Living Machine". Should that prove to be unfeasible, it would resort to the traditional septic system with leach fields or whatever is required by the State Department of Health. *ROA, pages 33 and 425*

Drainage

37. The EA noted that Flood Insurance Rate Map designation of the site is "X" or

areas outside of the 500 year storm. It also acknowledged that during severe storms, “water has been known to overtop the concrete channel and flow across Edita Street, resulting in some flooding of adjacent areas.” It also added that at the design phase, “detailed engineering studies would be conducted in order to develop appropriate drainage plans, which would take into account any measures that might be needed to address the potential flood hazard posed by the conditions of Edita Street.” *ROA, pages 111, 113*

D. Environmental/Cultural Considerations

Flora and Fauna

38. The Planning Department, in reviewing the Applicants’ submittal and EA, noted that there was a biological assessment and botanical survey of the subject site. The biological assessment concluded that the proposed development would not adversely impact native avian or mammalian resources. Further, no protected plant species were recorded during the botanical survey. *ROA 423*

Archaeological/Cultural

39. Likewise, the Planning Department noted that there was an archaeological assessment done in 2008. The assessment did not find any archaeological sites. *ROA 422-423*

40. The State Historic Preservation Division requested a supplemental field inspection of the Kaumana Cave. The inspection report concluded that with the exception of the pecked names, no historic elements were encountered within the Cave that underlies the project site. The Applicants are proposing not to construct any major facilities on the *mauka* or upper portion of the site and maintain a 100-foot wide buffer on either side of the cave alignment. *ROA 422-423*

41. No identified traditional or customary native Hawaiian rights are being exercised at the property. *ROA 423-424*

E. Project’s Social Consideration – Community Issues

38. The application noted that there were four public meetings on the project. The initial one occurred during the EA process. During the subsequent meetings, the consistent theme raised by the immediate community related to traffic. Other concerns or questions raised related to impact on real property tax

values, Applicants' contingency plan in the event the Special Permit were denied, cultural significance of the property, benefits to the community. *ROA, pages 42, 1747, 1748, 1768, 1769, 1784*

39. At the June 3, 2011 community meeting, Mr. John Thatcher confirmed that presently 50% of the students come from Puna and that should the school be established at the proposed site, students from the immediate neighborhood would not necessarily receive any preferential entrance privilege. *ROA, page 1784*
40. Relative to the traffic issue, the application cited that even with the project, the resultant levels of service would still be acceptable and that on the matter of construction access, the applicant is in discussion with the adjoining property owner (Mr. Bill Brilhante). *ROA, page 43*
41. The concerns raised to the Applicants at these public meetings occurred prior to the first Planning Commission hearing on this matter. Subsequent to the filing of the application on July 25, 2012 and at the various public hearings before the Planning Commission, opposition from a considerable number of residents and/or property owners within the community were expressed. These came in the form of emails, letters, and public testimonies. *ROA pages 405-411; 788-793; 819-822; 829-836; 841-842; 875-876; 879-880; 1203; 1253; 1263-1271; 1274-1276; 1290; 1315-1432; 1446-1544; 1892-1900; 1902-1919; 1921-1931; 1960-1999*
42. A petition was presented to the Planning Commission noting that 92% of the residents/landowners within the Pacific Plantation Subdivision opposed the project at this location. Of those within 500 feet of the project, 68% signed a petition opposing the project. Most of the others were vacant lots and could not be personally contacted. *ROA, pages 1368-1413; 1964*
43. Since the Applicants' initial meeting with the community over two years ago on June 3, 2011, concerns, particularly traffic related, were raised, with a suggestion for an alternative access. While there were reported discussions between the Applicants and Mr. Brilhante, nothing has materialized. *ROA, page 1889*
44. Among other things, a) because nothing has materialized on the alternative access issue; b) the Applicants', through Mr. William Boyd, expression that this is their only site; c) and that the impression that the application will be

approved even before its filing as evidenced by comments made by Ms. Bobby Jean Leithead Todd at the September 2, 2011 community meeting that the State Land Use Commission would probably approve the request and Mr. John Thatcher's testimony that the Special Permit would be approved, a number of members of the community feel that there is a deep chasm of trust with the Applicants and, to some extent, the County. *ROA, page 1889, 1768; CC Transcript, page 103 ROA, page 1768*

45. In the EA, while there is a section relating to "Socio-Economic Considerations", there was little discussion relative to the development's impact to the surrounding areas. The discussion focused more on the short term construction-related jobs and the overall improvement of educational services for "Hilo's" children. Without being specific, it noted that the development would have "noticeable, but negligible, cumulative effects on thon a presently undeveloped site, and the associated increase in vehicular traffic volume." *ROA, page 136-137*
46. The application, unlike in the areas of flora, fauna, archaeological, or even TIAR, did not include any commissioned and comprehensive social impact analysis for the project. *Exhibit A-1, ROA pages 56-163*
47. The County Police Department commented that this development "is being placed in a residential area that will likely effect (sic) the quality of life for residents that border this proposed site. There will be an increase in noise, crime, and traffic. *ROA, page 363*
48. Through the various testimonies, members of the community have expressed concerns regarding the adverse impact a development of this scope and size would have on their quality of life. Based on the TIAR, the percentage increase of the added traffic resulting by this development on Kaumana Drive is 58% over the current levels and over 330% increase at the Kaumana Drive/ Edita Street intersection. Further, quality of life impacts are not necessarily measured by LOS but are more perceptual and personal. *ROA, pages 1984*
49. The Planning Department, in its revised recommendation, defined an adverse affect as "an unwanted and unanticipated result of taking a particular action." It added that the adverse affect to surrounding properties would come in the form of increase in traffic and noise. Further, while acknowledging that there will be adverse impacts, conditions of approval will be added to address

traffic and noise that will mitigate and minimize these impacts." *ROA, page 778*

50. The Planning Department continued that "The proposed school will alter or change the essential character of the land and its present use from its current undeveloped character." *ROA, page 890*

F. Alternatives

51. Members of the community have expressed their opposition not necessarily to the nature and/or quality of the Applicants' proposed development but to its location and the possible availability of alternative sites. *ROA, pages 1965, 1966*

52. Page 16 of the EA identified a number of sites in the Hilo area that were considered for the proposed development. A number of them were dismissed because their small size, configuration, and access limitation. However, at least three were summarily dismissed because they were too large. Private lands, too, were summarily dismissed because of its cost. There was no examination of government lands in Puna, where 50% of the student population would come from. *ROA, page 77*

53. Mr. Fuke testified that the larger properties could have been subdivided, which could have addressed the size issue. *ROA, page 1992*

G. Regulatory Considerations

54. Mr. Terence Yoshioka, retired judge and a resident within the Pacific Plantation Subdivision, testified about the Hawai'i State Supreme Court's decision on Neighborhood Board No. 24 (Waianae Coast) v. State Land Use Commission ("LUC") regarding the LUC's approval of a Special Permit for a 103-acre recreational theme park. He pointed out that the Court:

- found that approval of the theme park via the Special Permit route "frustrates the objectives and effectiveness of the Hawaii's land use scheme";
- did "not believe the legislature envisioned the special use technique to be used as a method of circumventing district boundary amendment procedures to allow the ad hoc infusion of major urban uses into agricultural districts"; and

- the purpose of the Special Permit process “is to provide land owners relief in exceptional situations where the use desired **would not change the essential character of the district nor be inconsistent therewith.**” (Emphasis added)

He then summarized the Court’s opinion noting that “the use of the special permit process to effectuate what amounts to be district boundary amendment would frustrate the effectiveness and objectives of HRS Chapter 205 rather than to promote them.” *CC Transcript, pages 10-11*

55. Judge Yoshioka (Ret.) then opined that “If this commission (Planning Commission) follows the principles enunciated in the Neighborhood Board decision, I believe you will conclude that the construction of this school will be contrary to the 6-3(b)(51) of the Planning Commission Rules of Practice and Procedures as it will substantially alter or change the essential character of the land and the present use, thereby requiring a district boundary amendment rather than a special permit.” *CC Transcript, page 11-12*
56. In response to questions by the Applicants’ attorney, Judge Yoshioka (Ret.) noted that he was not aware the majority of the land upon which the Kamehameha Schools is situated falls within the State Land Use Agricultural District. *CC Transcript, page 365*
57. In response to a cross-examination by the Applicants’ attorney, Mr. Fuke acknowledged that he erred in representing that the Kamehameha Schools was situated entirely within the State Land Use Urban District. Nevertheless, those schools are situated outside of the core of existing communities. *CC Transcript, pages 550-553; ROA, page 1967*
58. Mr. Fuke also testified that the Use Permit and Special Permit process is a discretionary as opposed to a ministerial decision-making process. As such, while community support is not necessarily an expressed criterion for approval, public input is sought. It would then be up to decision-makers to weigh the public input relative to other factors and/or criteria. *CC Transcript, pages 568, 569, 575, 576.*
59. Chapter 25 of the Hawai’i County Zoning Code outlines uses that are allowed in the various zoning districts. Within the County Agricultural zone, schools are not allowed. However, if a site falls within the State Land Use Urban District, the Planning Commission can issue a Use Permit – which is a form of

zoning variance - for a school only if it meets the test for a Use Permit.
Exhibit A-26; CC Transcript, pages 575, 576

60. The County Zoning Code is designed to implement the General Plan. As such, when evaluating a proposed development's relation to the General Plan, applicable provisions of the Zoning Code need to be considered. In this case, the Zoning Code allows schools in the commercial zones, for there is recognition of their commercial-level type of impacts. However, within the Single Family Residential or Agriculture districts (as in the case with lots surrounding and/or proximate to this site), a Use Permit is required because of its potential adverse impacts. The Use Permit process and criteria are generally similar to the Special Permit.

The criteria for a Use Permit read that a proposed use:

Shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character, to surrounding properties; and Shall not unreasonably burden public agencies to provide roads, and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure. (Emphasis added)

61. According to the County Planning Department background report, the County General Plan Land Use Pattern Allocation Guide Map designates the property Low Density Urban. The pertinent policies of the General Plan outlined in the Planning Department revised recommendation were:

Economic Element

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

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

- Encourage the establishment of additional schools as the need arises

Land Use – Public Lands

- Encourage uses of public lands that will satisfy specific public needs,

such as housing, recreation, open space and education. *ROA, pages 421, 891*

62. In his presentation to the Planning Commission, Mr. Fuke outlined other pertinent goals and objectives of the General Plan. These were:

Public Facilities Element – Goal

- Encourage the provision of public facilities that effectively service the community and visitor needs and seek ways of improving public service through better and more functional facilities in keeping with the environmental and aesthetic concerns of the community. (Emphasis added)

Land Use Element – Policy

- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environments. (Emphasis added) *ROA, pages 1997,1998*

H. Special Permit

Based on the aforementioned findings of fact as well as taking notices of appropriate and governing State statutes, County zoning ordinance, and their Rules, this section evaluates the proposed project relative to the Special Permit criteria.

63. Pursuant to Chapter 205-6, HRS and State LUC Rules 15-15-95, Rule 6-7 of Planning Commission Rules identifies the grounds for issuance of a Special Permit. Specifically, the Rule states that:

“The (Planning) Commission shall not approve a Special Permit unless it is found that the proposed use:

- (a) Is an unusual and reasonable use of land situated within the Agricultural or Rural district, whichever the case may be; and
- (b) Would promote the effectiveness and objectives of Chapter 205, Hawai`i Revised Statutes, as amended.

The Commission shall also consider the criteria listed under Section 6.3(b)(5)(A) through (G).” (Emphasis added)

64. Schools can have significant infrastructural and community impacts. Thus, they are not permitted in the State Land Use Agricultural District as well as

the County Agricultural zone. Either a Special Permit or Use Permit, as the case may be, would be required, and only after a public hearing. This is to enable the community to weigh in on the request and to have full public disclosure of the project and its impacts.

65. Schools have been approved through the Special Permit process in the past. As such, the concept of a school in the Agricultural District is not necessarily an “unusual” use but should not be considered axiomatically allowed. If it were, it would have been listed as a permitted use. In this case while a use may not necessarily be “unusual,” the operative and twin criterion in this instance is whether it is a “reasonable” use at a particular location and whether it would promote the effectiveness and objectives of Chapter 205, HRS. To help with this assessment, a discussion of the request relative to these criteria follows.

66. Rule 6-3(b)(5)(A): Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The purposes of Chapter 205 (Land Use Law), HRS, as amended, are to:

- preserve, protect and encourage the development of lands in the State for their best uses in the interest of the public welfare; and
- protect, conserve, and rationally develop the State’s urban, agricultural, and conservation lands using a coordinated and balanced approach.

To achieve those purposes, four districts (Agricultural, Rural, Urban, and Conservation) were created and responsible enforcement governing entities were established. A process to establish uses other than what was permitted was also established, such as the State Land Use boundary amendment or Special Permit processes. Hence, the State Land Use Law, as also expressed by the Commission’s rule, is not limited only to the promotion of objectives but its effectiveness. And the concept of effectiveness is measured also by the process by which certain uses are allowed.

Because the soil of the subject site is classified “D” or “Poor” by the Land Study Bureau’s Detailed Land Classification System, it could be maintained that the land is unsuited for agricultural purposes and the proposed use would not result in the removal of critical agricultural lands. Notwithstanding that classification, however, it should be noted that while intensive soil-based crops may be difficult to sustain on the subject site, other agricultural activities that are not heavily soil-based can take place. The fact that the site is not barren but consists of ohia trees and other vegetation attests to this potential.

Further, while the Applicants' agricultural curriculum may arguably be considered agriculturally-related, that is only one small component of the overall basic use. The basic use is still a pre-K to 12 school capable of accommodating nearly 400 students, a dormitory, a gymnasium, about 50 full-time and 17 part-time employees, as well as their associated support requirement that spans over 70 acres of land. Thus, the issue here is not necessarily limited to the proposed use itself, as some schools have been allowed through the Special Permit process. The issue is whether the proposed development – because of its scale - is a “reasonable” use at this particular location and whether it would promote the effectiveness and objectives of Chapter 205, HRS

Judge Yoshioka (Ret.) in his testimony, talked about the State Supreme Court's decision on Neighborhood Board No. 24 (Waianae Coast) v. State Land Use Commission wherein the Court determined that the use of the Special Permit process for a proposed recreational theme park on 102 acres “frustrates the objectives and effectiveness of the Hawaii's land use scheme”. The purpose of the Special Permit process “is to provide land owners relief in exceptional situations where the use desired would not change the essential character of the district nor be inconsistent therewith.” (Emphasis added)

He then opined that “If this commission (Planning Commission) follows the principles enunciated in the Neighborhood Board decision, I believe you will conclude that the construction of this school will be contrary to the 6-3(b)(5) of the Planning Commission Rules of Practice and Procedures as it will substantially alter or change the essential character of the land and the present use, thereby requiring a district boundary amendment rather than a special permit.”

While it is true that a considerable portion of the Kamehameha Schools campus in Keaau sits on State Land Use Agricultural district and was issued a Special Permit by the State LUC, it was not judicially challenged and, unlike this application, there were no intervenors contesting the decision.

It should also be noted that almost all of the Hokulia development in South Kona is situated on lands within the SLU Agricultural District. The project has a golf course, a members clubhouse, and a number of 1-acre sized lots with agricultural covenants – principally coffee. In spite of the golf course being allowed then without a Special Permit and 1-acre sized lots being permitted by both the County Zoning Code and State Land Use Law, in 2003, Judge Ronald Ibarra ruled that the project was more of an urban use and thus ordered, among other things, that the lands be reclassified into either the Urban or Rural district.

Along those lines, the issue is whether the use of the Special Permit process for the proposed school – particularly given its size and scale and attendant impacts, as well as its proximity and adjacency on the north end to properties within the State Land Use Urban district - would frustrate and undermine the objectives and effectiveness of the State Land Use Law. In this situation, the proposed development does have the effect of urbanizing the site.

It should be noted that the schools are considered a permitted use in the commercial zones of the County Zoning Code. The recognition here is that a school generates impacts comparable to commercial projects. Schools, however, are not permitted within the County Single-Family Residential and Agricultural zones. They could be allowed only if a Use Permit – which is a form of a zoning variance - is granted by the Planning Commission.

The concept of the Use Permit is similar to the Special Permit. The breadth, size, scale, and associated impacts of a proposed use help dictate whether either a) the Use Permit or the rezoning process or b) the Special Permit or Boundary amendment process – as the case may be - is more appropriate. A Use Permit is issued by an administrative agency (Planning Commission), whereas rezoning requires approval of an elected body, the County Council. A Special Permit is issued by the Planning Commission, except as in this situation, if the site exceeds 15 acres subsequent approval by the State LUC. A boundary amendment requires approval of the State LUC and subsequently rezoning approval by the County Council.

Given the project's proposed urbanizing impact to the adjoining community and residents, the more rigorous and transparent land use permitting process would be more appropriate.

67. Rule 6-3(b)(5)(B): The desired use would not adversely affect surrounding properties.

The Planning Department, in its revised favorable recommendation, did clearly acknowledge that the proposed use would have adverse affects on surrounding properties, while adding that they could be mitigated. However, while there is consensus between Mr. Gomes and the Planning Department that the proposed use will have adverse impacts, there is a difference relative to whether these impacts could be mitigated. Mr. Gomes believes that the proposed traffic and noise mitigation are not commensurate with the proposed adverse impacts. Further, the adverse impacts are not necessarily limited to traffic and noise.

While community support of a development is not a mandate for receipt of a *favorable* consideration of an application, having the community weigh in on

a matter is not only consistent with the principles of democracy but lends some insight of the community's thoughts to decision-makers.

In that regard, as made painfully evident by the number of verbal and written testimonies by residents who live or own properties adjacent and/or proximate to the proposed development, the project would have an adverse impact to surrounding properties. A petition was presented to the Planning Commission noting that 92% of the residents/landowners within the Pacific Plantation Subdivision opposed the project at this location. Of those within 500 feet of the project, 68% signed a petition opposing the project. Of the remaining 32% lot owners or residents, many were vacant lots and could not be personally contacted.

These concerns relate to possible adverse real property tax implications as well as diminished quality of life associated with the traffic, noise, and visual impacts resulting from this project. This diminution of quality of life is further supported by the Police Department who concluded that *"This proposed school is being placed in a residential area that will likely effect (sic) the quality of life for residents that border this proposed site. There will be an increase in noise, crime and traffic."*

The development will result in the removal of a substantial amount of ohia trees and associated vegetation, particularly on the lower portion of Edita Street. The trees will be replaced by a number of large non-residential looking structures, parking lots, and other improvements that cannot visually take on a low density residential flavor. These structures would thus not be visually compatible with the surrounding residential area.

Concerns over the proposed development's traffic impact were raised by members of the community at the Applicants' initial meeting with the community on June 3, 2011. This has been a consistent theme expressed throughout the various meetings between the Applicants and the community and before the Planning Commission.

At the same time, the Applicants have steadfastly maintained that the project is *"not expected to generate large increases in traffic volumes and would not result in adverse impacts to traffic and circulation pattern in the project area."* They also noted that *"the findings of the TIAR (Traffic Impact Analysis Report) are conservative and likely overestimates total trip generation for the project"* as it does not take into account that *"approximately 30 percent of Connections' students are bused to school...."*

It should be noted that that percentage relates to the school's existing operation, not projected for this location. Relative to this school, the Applicants have commented that they will have 2 buses. At an average of 30 students per bus, that amounts to 60 students out of its projected estimate of 400 students. This means that only 15% and not 30% percent of the students will be bused to school. The rest will presumably be driven, as evidenced by the comments of the traffic consultant who stated that no sidewalks are needed along Edita Street as students will not be walking to the school.

According to the TIAR, the project is anticipated to generate 187 movements during the AM peak hours on Kaumana Drive. The TIAR also notes that the existing movements are 321. This amounts to a 58% increase over the existing levels. Relative to Edita Street, there are 62 total movements. With the school's projected 187 movements, that would amount to over a 330% increase. Collectively, then, the impacts will be substantial, particularly along Edita Street. Nevertheless, the TIAR maintains that even with the development, the levels of service or LOS will continue to operate at "A" or "B".

LOS does not fully account for variation in perceptions of quality of life. The ones who will be mostly impacted by the project are the adjoining residents and property owners. An overwhelming majority of them have maintained that impacts would be adverse. If it were only one or two, that would be a different story, but that is not the case here. But there was no contact with the community by the traffic consultant, Mr. Phillip Rowell, on this matter during the research and preparation of the TIAR.

The TIAR was based on traffic counts taken on May 28, 2009. Mr. Rowell testified that his conclusion would not change in spite of the counts not taking into consideration the fact that the seniors at Hilo High School had already graduated and that the University of Hawai'i at Hilo, Hawai'i Community College, and Kamehameha School had also all ended. This is a conclusion not explicitly supported by the County Traffic Engineer, Mr. Ron Thiel, who testified that "It (its exclusion) actually could make it (TIAR) even worse."

At the same time, Mr. Rowell testified no sidewalks along Edita Street were needed, as students were not expected to walk to the campus, thus suggesting that all students, faculty, and employees would be driven or bused to the project area. Additionally, while the ITE guidelines which were used to

develop the TIAR suggests that intersections within ½ mile of the project area be evaluated, there was no evaluation of the Chong Street/Kaumana Drive intersection, an intersection coming at a sharp curve and located about ½ mile from Edita Street. Further, the former Planning Director, Ms. Leithead Todd, testified that the project would benefit by having an alternative access.

Mr. Rowell also testified that based on his experience, if the request were to be considered by the State LUC, it would be the best place for an updated TIAR. He added that an updated TIAR would be appropriate for two reasons: 1) the traffic counts were done 4 years ago; and 2) the list of related projects and background forecasts would need to be updated.

On this application, while the State LUC has the authority to approve the Special Permit, the Planning Commission has the initial ability to deny the Special Permit. Given Mr. Rowell's testimony that the TIAR should be updated, it would thus be only logical that the decision-maker – whether for approval or denial – should be equipped to have this report. In this instance, the Planning Commission does NOT have the benefit of this updated TIAR, let alone one that takes into account the proposed development's traffic impact to Chong Street and the possible need for an alternate access.

Unlike areas relating to flora, fauna, archaeological, and even traffic, there was no commissioned social impact analysis or report. Had that been done and made part of the Applicants' submittal, many of the aforementioned concerns raised by Mr. Gomes and the community would have been clearly identified. And from there, it could have been more reasonably determined whether the impacts would be adverse and, in fact, mitigatable.

Given the above plus the fact that nothing has tangibly materialized or proposed in terms of an alternative access, it would be difficult for the Planning Commission to conclude, at this stage, that the proposed development would have "no adverse impact" based on the existing TIAR and absence of a credible social impact analysis or study.

- 68. Rule 6-3(b)(5)(C): Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.**

The application represented that based on a 60 gpd standard, the amount of potable water required is 26,100 gpd. According to the DWS, potable water

was limited to 4,200 gpd. The application further added that it understood “that the availability of water does constrain the scope of development on the property and intends to investigate other sources of water to support the project.”

The application and, as of late, the Applicants’ pre-hearing brief, suggest that because of the 4,200 gpd cap, the proposed development will have to proceed in phase. However, the Applicants’ witness, Kevin Louma, testified that through the use of LEED principles, the minimum and maximum water usage for the project with a cafeteria would be 6,848 gpd to 10,828 gpd (which is considerably less than the initial represented requirement of 60 gpd or 26,100 gpd for the entire development). In spite of that being more than the 4,200 gpd that can be provided by the DWS, there is no assurance that the proposed development, because of inherent initial infrastructure costs associated with a LEED certified project, will actually be developed as such. Thus, the consequence of the project exceeding its allocation becomes of concern.

Specifically, whether the proposed development needs 6,848 gpd, 10,828 gpd or 26,100 gpd, the projected water use will still exceed the 4,200 gpd allocation. And the Applicants have not indicated how they will address the need to secure additional potable water. While the Applicants discussed use of the water catchment system, it was not to address the potable requirements.

Not having this information is important, for as Mr. Kurt Inaba of the DWS testified, if the proposed development exceeded the 4,200 gpd allocation, it could have an impact to the neighboring area both in terms of pressure and availability. And the unavailability of adequate potable water for not only the proposed development but the community could burden the DWS to find means to address this need.

Like the TIAR, not having this information and deferring it to some other governmental entity or time in the unknown future forces the Planning Commission to conclude and render a decision on issues that have not been fully addressed and are of significant concerns to adjoining property owners and the immediate community.

As noted earlier, the Police Department has already commented that a school in this area will create an increase in noise, traffic, and crime. While noise may not necessarily directly relate to a Police function, traffic and crime do.

Given the Police Department's comments, the proposed use would invariably create additional demand for police service.

Further, because of the honeycomb of caves in this area, drainage and wastewater systems need to be carefully planned so as to mitigate their potential impacts to surrounding properties, particularly those situated *makai* or east of the subject site. The Applicants have not sufficiently demonstrated how these would be addressed except to say that they would comply with prevailing regulations. However, there is insufficient information at this time on this matter to conclude that there will be no drainage or wastewater impacts.

69. Rule 6-3(b)(5)(D): Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.

The subject site abuts the State Land Use ("SLU") Urban district and County residentially zoned properties to the north. Adjacent properties to the southwest although within the SLU Agricultural district and County zoned A-1a, have been developed and used for rural-residential purposes. The General Plan also designates the proposed site Low Density Urban. As such, the subject site could be considered an area generally bounded by urban and/or quasi-urban residential uses and thus, graphically and functionally, be considered a southerly extension of the existing SLU Urban district.

Therefore, given the size and scope of the proposed development as well as its adjacency to the SLU Urban district, the property should be processed through the more rigorous and transparent SLU boundary amendment and County rezoning processes instead of as a Special Permit.

While the concept of charter schools was given birth to after the district boundaries were established, they are not necessarily immune or exempt from the land use objectives. In that regard, while the filing of this application suggests a need for a new educational facility, the question is whether the proposed site is appropriate.

As noted earlier, given that at least 50% of the projected student population will come from the Puna District and the adverse impacts the proposed development would have to the immediate community, insufficient analysis or thought was given to other properties, be they private or publicly-owned.

The State lands identified in the EA for the South Hilo District did not take into account their ability to be subdivided. Further, a cursory examination of other State lands in this area suggests that properties fronting the well-accessed Puainako Extension were not given careful consideration. In addition to looking at only State lands in the South Hilo District, the Applicants did not examine other potential State lands in the Puna District or any private lands. Potentially, some private lands – although with a higher initial acquisition cost – could be less costly to develop given the needed off-site infrastructure costs and the cost of new buildings and site improvement.

Thus, it is difficult to conclude that there are unusual conditions, trends, and needs that justify the proposed use at this location.

70. Rule 6-3(b)(5)(E): The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

While the site's Land Study Bureau soil classification rating of "D" or "Poor" suggests the land may be unsuited for agricultural uses, it could still be utilized for different type of non-intensive agricultural uses, including hydroponically grown vegetables. Also, in this general area, it is not uncommon to find citrus, avocado and other fruit-bearing trees.

Additionally, forestry and conservation uses are permitted in the Agricultural District. The subject site has a considerable stand of Ohia trees and veins of the Kaumana Caves extend throughout the site. The Hawaiian Hawk and Hawaiian hoary bats are known to roost in this area.

Finally, the Applicants themselves have maintained that they can successfully conduct an agricultural program on the property, thus conceding that the land has agricultural potential.

As such, it is difficult to readily and unequivocally conclude that the site is "unsuited" for these permitted uses as well as having the potential of non-intensive agricultural uses.

71. Rule 6-3(b)(5)(F): The use will not substantially alter or change the essential character of the land and the present use.

The character of the land is primarily an ohia forest. It is vacant of any structures. To accommodate the proposed development, structures such as a dormitory, 10,500 square foot gymnasium, cafeteria, classrooms, etc. will all have to be constructed; parking lots to accommodate more than 140 vehicles will have to be provided; and

paved or improved access to and around the campus must be created. These structures and improvements are planned for at least 20 acres of the lower 37-acre campus.

As such, from a relatively pristine ohio-forested area, a considerable amount of the lower portion of the site will now have urbanized structures and improvements consisting of concrete, asphalt, glass, steel, and wood. Thus the development will definitely and substantially alter and permanently change the essential character of the land and its present forestry/open space use. This is a position and finding that has also been echoed by the Planning Department.

72. Rule 6-3(b)(5)(G): The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.

The General Plan Land Use Pattern Allocation Guide Map designates the area for Low Density Urban uses. However, a school use is not necessarily a “low density” type of use.

The County Zoning Code is designed to implement the General Plan. The Zoning Code allows schools within the various Commercial but not Agricultural or any of the residential districts, without first having a Use Permit. This is understandable, as a school – as in this instance with its nearly 400 students with direct and indirect support resulting in nearly 500 persons per day at the site – can easily generate commercial type of impacts.

Because of the potentially adverse impacts a school may have on surrounding properties and/or immediate neighborhood, a Use Permit is required within the Agricultural or Residential zones. This process enables the community to weigh in on the application, while helping decision-makers understand the community’s concerns. This type of transparency in the decision-making process is important to the democratic process and needed to help neutralize comments such as those from the Applicants that the Special Permit would be approved even before the application is filed or public testimony is given or the former Planning Director that the project would probably be approved.

The Use Permit process and criteria are generally similar to the Special Permit.

The criteria for a Use Permit read that a proposed use:

Shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character, to surrounding properties; and

Shall not unreasonably burden public agencies to provide roads, and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure. (Emphasis added)

As discussed above, the proposed development would not meet those two criteria, particularly its adverse impact to the community's character and to surrounding properties. The adverse impact to the community has been well attested to by the numerous testimonies, letters, emails, and petition from area residents who oppose the use of the subject property for the Applicants' development.

Thus, since the Zoning Code implements the General Plan and if a project – as in this case - cannot meet the Use Permit test, it would be difficult to conclude that the request would be consistent with the General Plan.

In that regard, there are a number of pertinent elements in the General Plan that cannot support the proposed development. These are as follow:

Economic Element

Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural, and social environment. (emphasis added.)

Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.

Again, while the concept of a school may have some economic benefits, it would not be compatible with the surrounding rural/residential uses. Further, directly impacted residents would have their quality of life diminished, not enhanced.

Public Facilities Element

Goal: *Encourage the provision of public facilities that effectively service the community and visitor needs and seek ways of improving public service through better and more functional facilities in keeping with the environmental and aesthetic concerns of the community.* (emphasis added.)

Policy: *Coordinate with appropriate State agencies for the provision of public facilities to serve the needs of the community.*

The issue here is not the wisdom of the Applicants' school. The issues are whether the proposed development at this specific location is appropriate and whether the proposed development would be effectively serving the community in a manner that would be in keeping with the environmental and aesthetic concerns of the community. It is concluded that this goal and policy would not be achieved at this location.

The student community for the most part is from areas outside of the immediate community and there is no administrative assurance that children from the area would be able to gain entrance to the facility. The immediate community, which is going to have to bear the effects of this proposed use, has expressed environmental, social, and aesthetic concerns. The Applicants have not demonstrated that they have seriously investigated other properties that could better service their student population at a location where community and infrastructural issues would be less.

Land Use Element

Policy: *Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environments.*

Because of its adverse impacts, approval of this request at this location would disrupt the existing community. In so doing, its development would not be in balance with the physical and social environments of this area.

While perhaps serving a regional need, the proposed development would not necessarily and effectively serve the needs of the adjoining community that will have to bear the brunt of impacts. If designed to serve a regional need, like the Kamehameha School in Keaau, the proposed development would be

more appropriate in an area where impacts to adjoining properties are not significant and/or impacts can be clearly mitigated.

73. Video clearly shows floodwaters not filling up or overflowing. Also showing water draining away directly under Connections proposed building site.

The “Drywell on Edita Street” video clearly shows water flowing freely from mauka to makai in the bottom of the drywell without over flowing.

EXHIBIT JG2

74. Pacific Legacy confirms the drywell on Edita Street is connected to Kaumana Cave and the school plans to build directly over the cave system.

As experts hired by CPCS to investigate the Kaumana Lava Tube Complex stated in their investigation, “In more recent conversations with local residents”

“If it did connect with Kaumana Cave, somewhere further makai, then the floodwaters would not fill up the well and overflow, but would be drained away.” This detailed investigation by Pacific Legacy proves the proposed plan to build the school on the makai parcel would be done directly over the Kaumana Cave system. *ROA page1070.*

75. EDSPECS requires 50 acres for a high school.

John Thatcher testified under sworn oath that he used the EDSPECS to decide on the current property.

John Thatcher states, “One of the findings there, if the school had a high school campus it should be 50 acres or more.

The chosen site only has 35 acres for their high school.

ROA page1832

76. County Planning Department requires applicant remains responsible for all other governmental requirements in connection with the approved use.

EDSPECS requires; Fencing (minimum 6 feet) around the perimeter and secure gates at the entrances/exits are provided to allow the school control/deter traffic (pedestrian and vehicular) onto the campus.
ROA page 892, EXHIBIT JG6

77. Planning Department consideration; “the new K-12 school should not attempt to isolate itself from the community”

The school illegally put up 4 feet hog wire fence in total disregard to EDSPECS requirement of a 6 feet chain link fence after stating at a community meeting that a six feet fence would be built. *ROA 884, EXHIBIT JG-6 SECTION 901-1, ROA 1263-1264*

“You will see 16 red and white keep out signs posted on the hog wire fence”
Henry K Lee Loy SUBMITTED WRITTEN TESTIMONY DATED 11/12/2013

John Thatcher testified under oath that there were four community meetings. He states, “the hardest concerns for us to understand were the concerns that the students, because they were poor, would be breaking into peoples houses.” Minutes from all community meetings show nothing of anyone concerned about students breaking into homes or ever making such an awful statement. *CC Transcript page 68-69, ROA pages 948-950, 969-970, 972-981*

Mario Patino, former CPCS Board member, in written testimony to the Windward Planning Commission states, “The opposition has not offered to give us land in other areas of our town, nor offered much alternatives for our school other than placing signs of HATE on their lawns.” There is no evidence of HATE signs. *ROA page 1226*

May 14, 2012, John Thatcher attacks, threatens and bullies Sidney Fuke.
ROA pages 1416-1420

November 19, 2012, John Thatcher continues to attack Sidney Fuke and calls Sidney, “One of the angry Kaumana neighbors.”
ROA page 1804

Jason Turner submitted written testimony. The ohia forest proposed for development is an important habitat for the endangered Hawaiian Hawk and

Hawaiian Hoary bat, and Connections School has neglected USFWS recommendations IAW EA report. *ROA pages 1263-1264, 251 para 1 & 2*

Kerri Marks testified that as a Kaumana resident she had not heard of the project but saw the signs along Kaumana Drive. While trying to get information about the project from Ted Hong, when Kerri Marks identified herself as a neighbor who lives up the hill Ted Hong says, "Oh, you're the opposition." *ROA page 1614*

John Rushlow testified, "I was not made aware at anytime about the school being built, about the fencing coming in, about the bulldozing going in" *ROA page 1612*

John Thatcher's written testimony to the Windward Planning Commission states, "a community meeting was held at Kaumana Elementary School to discuss the CPCS Kaumana campus development. Community concerns were noted. One clearly articulated concern was for a fence to be erected around the part of the property that would be used as the main campus facility." Minutes from all community meetings prove that on one asked for a fence to be built. *ROA page 1146, ROA pages 948-950, ROA pages 963-970, ROA pages 972-976*

Ted Hong testifies to the Board of Land and Natural Resources, "They had four community meetings. In those community meetings several community members said you should fence the property to protect it and they did that. Again, same misleading story about the illegal fence project with no evidence of community members asking for a fence in the minutes. *Exhibit JG-4 page 13, ROA pages 948-950, ROA pages 963-970, ROA pages 972-976*

Connections hires personal friends of Ted Hong and John Thatcher who have criminal records, to illegally bulldoze perimeter of makai property and put up 4 feet hog wire fencing. Connections accuses the contractor they hired to do illegal land clearing and fencing of stealing ohia trees from the project site. Ted Hong releases this statement to the Hawaii Tribune Herald, "We were victims of a crime," he said. "We didn't know what they were doing." *ROA page 824, ROA pages 1057-1058*

June 13, 2012, contract between CPCS and On The Line Fencing is signed by Eric Boyd to illegally bulldoze and install illegal 4 feet hog wire fence. *ROA pages 1057-1058*

July 18, 2012, Ted H. S. Hong finally submits request for RIGHT OF ENTRY AUTHORIZATION after illegal land clearing and fencing have already been underway. No mention of bulldozing, land clearing or fencing is in the ROE for topographic survey. *ROA pages 1013-1014.*

Ted H. S. Hong submits as evidence Contractor Complaint Form from the State of Hawaii Department of Commerce and Consumer Affairs signed by Sue Lee Loy. This form has no case number or stamped seal and was never submitted. DCCA has no record of this complaint. *ROA pages 153-1056*

July 14, 2014, Justin Thatcher files police report describing theft of ohia trees, four days before Ted H. S. Hong files for right of entry which made no mention of bulldozing or fencing. *ROA page 1018*

August 01, 2012 William Eric Boyd gives investigating HPD officer C. Acob a home address of 161 B Lanikaula Street, Hilo, HI 96720. This is the arboretum. *ROA page 1034.*

November 2012, Officer Edwin Shishido conducts follow up investigation on tree theft and concludes, "that CCS knew of the ongoing violations that was occurring. It is difficult to believe that CCS knew nothing of the bulldozing, grubbing, land clearing fencing and removal of ohia tree logs." *Exhibit JG-5 last page*

October 2012, press release by Ted H. S. Hong. "a coordinated campaign of bullying, intimidation and harassment against Connections Charter School got uglier." *ROA page 825*

These types of illegal events, misleading statements and hurtful language by Connections Public Charter School and their representatives towards the residents of Kaumana, not only isolate the school from the community but, create huge barriers of distrust towards the school's administration and their ability to follow rules and regulations.

II. CONCLUSIONS OF LAW

Based on the foregoing proposed Findings of Fact, the Planning Commission makes the following Conclusions of Law

1. To the extent that any of the Findings of Fact constitute Conclusions of Law, or Conclusions of Law constitute Findings of Fact, they shall be considered and construed as such.
2. The Planning Commission has jurisdiction over the Special Permit Application, including the ability to deny or recommend its approval to the State Land Use Commission, pursuant to Chapter 205-6, HRS and Rule 6 of the Planning Commission Rules.
3. Pursuant to HRS Section 91-10, the Applicants had the burden of proof on this matter before the Planning Commission, including the burden of producing evidence as well as the burden of persuasion to demonstrate how their request is consistent with the guidelines for a Special Permit as outlined by Chapter 205-6 and Planning Commission Rule 6. The Applicants have not adequately satisfied and thus failed to meet this burden.
4. The proposed development does not adequately meet the test or guidelines for a Special Permit as outlined by Chapter 205-6 and Planning Commission Rule 6.
5. The proposed development would not be consistent with the pertinent policies and objectives of the County General Plan, particularly as it might relate to impacts to the immediate community.
6. The Planning Commission does not rule upon questions of constitutional law.

III. DECISION AND ORDER

Based upon the evidence presented in this matter and in accordance with the foregoing Findings of Fact and Conclusions of Law, and pursuant to Rules 4 (Contested Case Procedure) and 6 (Special Permits) of the Planning Commission Rules, the Planning Commission has adopted intervenor Jeffrey Gomes' Proposed Findings of Fact and Conclusions of Law and has ruled to reject the Applicants' Proposed Findings of Fact and Conclusions of Law.

It is thus hereby decided and ordered by the Planning Commission that the Special Permit Application (SPP NO. 12-000138) of Connection New Century Public Charter School and Community Based Education Support Services be denied.

BEFORE THE WINDWARD PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition of) APPLICATION SPP NO. 12-000138
)
CONNECTION NEW CENTURY PUBLIC) ORDER ADOPTING PROPOSED
CHARTER SCHOOL AND COMMUNITY) FINDINGS OF FACT, CONCLUSIONS
BASED EDUCATION SUPPORT) OF LAW, AND DECISION AND
SERVICES) ORDER
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February _____, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons via Electronic Mail and U.S. Postal Mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, HI 96720

TED H. S. HONG, ESQ. (ted@tedhonglaw.com)
Attorney for Applicant – Community Based Education Support Services (CBESS)
P.O. Box 4217
Hilo, HI 96720

CARTER K. SIU, ESQ (Carter.K.Siu@hawaii.gov)
Attorney for Applicant – Connections New Century Public Charter School
Department of the Attorney General
State of Hawai'i
233 South Beretania Street, Rom 304
Honolulu, HI 9813

AMY SELF, ESQ. (aself@co.hawaii.hi.us)
Attorney for the County of Hawaii Planning Director
Office of the Corporation Counsel
County of Hawai'i
333 Kilauea Avenue
Hilo, HI 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeffrey Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission staff
Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, HI 96720

DATED: Hilo, Hawai'i February ____, 2014

JEFF GOMES
Intervenor
281 Edita Street
Hilo, HI 96720

Arai, Daryn

PLANNING DEPARTMENT
APR 11 2014

From: Fujio, Mary
Sent: Wednesday, February 12, 2014 3:52 PM
To: sandrasong@hawaiiantel.net; Carter.K.Siu@hawaii.gov; ted@tedhonglaw.com;
kalanigomes@hawaiiantel.net; Arai, Daryn; Darrow, Jeff
Cc: Self, Amy; Kualii, Jennifer
Subject: Connections New Century Public Charter School application, SPP 12-000138
Attachments: COH Statement of No Position as to the Submission of FOF-COL-Decision-Or....pdf

2014 FEB 10 PM 1:15

Good afternoon –

Please find attached the Planning Director's Statement of Taking No Position as to the Submission of Findings of Fact, Conclusions of Law and Decision and Order.

Thank you.

Mary E. Fujio
Legal Technician to Diane Noda, Molly Stebbins, and Melody Parker
and Secretary to the County Board of Ethics
Office of the Corporation Counsel
333 Kilauea Avenue, 2nd Floor
Hilo, Hawaii 96720
Telephone: (808) 961-8251
Facsimile: (808) 961-8622

SCANNED
FEB 18 2014
By: 090033

LINCOLN S. T. ASHIDA 4478
Corporation Counsel

AMY G. SELF 7628
Deputy Corporation Counsel
Office of the Corporation Counsel
333 Kilauea Avenue, Suite 210
Hilo, Hawai'i 96720
Tel. No. (808) 961-8251
Fax No. (808) 961-8622
Email: aself@co.hawaii.hi.us

Attorneys for Duane Kanuha, County of Hawai'i Planning Director

BEFORE THE COUNTY OF HAWAI'I

WINDWARD PLANNING COMMISSION

In the Matter of

CONNECTIONS NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT SERVICES

Application for Special Permit Application No.
12-000138

TMK: (3) 2-5-006:141; Kaūmana, South Hilo,
Hawai'i

SPP-12-000138

DUANE KANUHA, COUNTY OF HAWAI'I
PLANNING DIRECTOR'S STATEMENT OF
TAKING NO POSITION AS TO THE
SUBMISSION OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION
AND ORDER; CERTIFICATE OF SERVICE

**DUANE KANUHA, COUNTY OF HAWAI'I PLANNING DIRECTOR'S STATEMENT
OF TAKING NO POSITION AS TO THE SUBMISSION OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION AND ORDER**

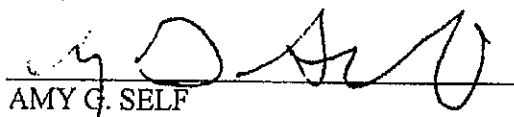
DUANE KANUHA, COUNTY OF HAWAI'I PLANNING DIRECTOR, by and through
his undersigned counsel, and in lieu of submitting Findings of Fact, Conclusions of Law and
Decision and Order, states that he will take no position in this matter, but reserves his right to
submit exceptions to the Findings of Fact, Conclusions of Law and Decision and Order
submitted by the other parties in this matter.

Furthermore, the Planning Director takes no position in this matter without prejudice to his ability to later participate should the need arise when the matter is before the Windward Planning Commission.

Dated: Hilo, Hawai'i, February 12, 2014.

DUANE KANUHA, COUNTY OF HAWAI'I
PLANNING DIRECTOR

By


AMY G. SELF
Deputy(Corporation Counsel
His Attorney

AND COMMUNITY BASED EDUCATION SUPPORT SERVICES
Application for Special Permit Application No. 12-000138

DUANE KANUHA, COUNTY OF HAWAI'I PLANNING DIRECTOR'S STATEMENT OF
TAKING NO POSITION AS TO THE SUBMISSION OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION AND ORDER

BEFORE THE COUNTY OF HAWAI'I
WINDWARD PLANNING COMMISSION

In the Matter of

SPP-12-000138

CONNECTIONS NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT SERVICES

CERTIFICATE OF SERVICE

Application for Special Permit Application No.
12-000138

TMK: (3) 2-5-006:141; Kaūmana, South Hilo,
Hawai'i

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 12, 2014, a copy of the foregoing document was served upon the following in the manner indicated below:

	<u>Hand Delivery</u>	<u>Mail</u>	<u>Email</u>
SANDRA P. SONG, ESQ. 10 Kamehameha Avenue Hilo, Hawai'i 96720 Email: sandrasong@hawaiiantel.net Hearings Officer			(X)
CARTER SIU, ESQ. Deputy Attorney General State of Hawai'i 235 S. Beretania Street, Room 304 Honolulu, Hawai'i 96813 Email: Carter.K.Siu@hawaii.gov Attorney for CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL			(X)
TED H.S. HONG, ESQ. P. O. Box 4217 Hilo, Hawai'i 96720 Email: ted@tedhonglaw.com Attorney for COMMUNITY BASED EDUCATION SUPPORT SERVICES			(X)

Hand Delivery

Mail

Email

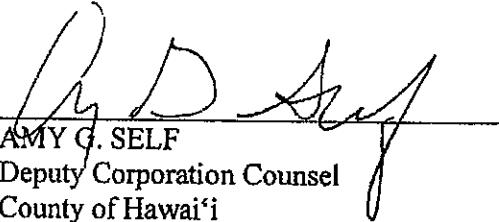
JEFF GOMES
281 Edita Street
Hilo, Hawai'i 96720
Email: kalanigomes@hawaiiantel.net
Intervenor

(X)

DARYN ARAI
JEFF DARROW
County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Email: darai@co.hawaii.hi.us
jdarrow@co.hawaii.hi.us
Windward Planning Commission

(X)

Dated: Hilo, Hawai'i, February 12, 2014.



AMY G. SELF
Deputy Corporation Counsel
County of Hawai'i

BEFORE THE WINDWARD PLANNING COMMISSION

OF THE COUNTY OF HAWAI'I

In the Matter of the Petition of) APPLICATION SPP NO. 12-000138
)
CONNECTION NEW CENTURY PUBLIC) ORDER ADOPTING PROPOSED
CHARTER SCHOOL AND COMMUNITY) FINDINGS OF FACT, CONCLUSIONS
BASED EDUCATION SUPPORT) OF LAW, AND DECISION AND
SERVICES) ORDER
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February _____, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons via Electronic Mail and U.S. Postal Mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, HI 96720

TED H. S. HONG, ESQ. (ted@tedhonglaw.com)
Attorney for Applicant – Community Based Education Support Services (CBESS)
P.O. Box 4217
Hilo, HI 96720

CARTER K. SIU, ESQ (Carter.K.Siu@hawaii.gov)
Attorney for Applicant – Connections New Century Public Charter School
Department of the Attorney General
State of Hawai'i
233 South Beretania Street, Rom 304
Honolulu, HI 9813

AMY SELF, ESQ. (aself@co.hawaii.hi.us)
Attorney for the County of Hawaii Planning Director
Office of the Corporation Counsel
County of Hawai'i
333 Kilauea Avenue
Hilo, HI 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeffrey Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission staff
Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, HI 96720

DATED: Hilo, Hawai'i February ____, 2014

JEFF GOMES
Intervenor
281 Edita Street
Hilo, HI 96720

Ted H.S. Hong
Attorney at Law

Employment, Workplace Law & Litigation

Sue Lee Loy
Planner and Legal Assistant

March 13, 2014

The Honorable Duane Kanuha, Director
County of Hawaii Planning Department
The Honorable Ronald Gonzales, Chairman and Members
County of Hawaii Windward Planning Commission
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

RE: TIME EXTENSION FOR HEARINGS OFFICER SANDY SONG
Special Permit Application (SPP12-000138)
Connections New Century Public Charter School ("Connections") and Community Based
Education Support Services ("CBESS")
TMK(3)2-5-006:141

Dear Mr. Kanuha, Mr. Gozales and Members:

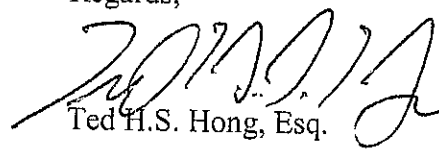
On behalf of Connections New Century Public Charter School ("Connections") and Community Based Education Support Services ("CBESS"), hereinafter Applicant, allow this letter to provide Hearings Officer Sandy Song an extension of time to prepare Findings of Fact, Conclusions of Law and a Decision and Order for the Contested Case in for the above-entitled matter.

Pursuant to Rule 4-23 *"The Commission shall render its decision, order, or ruling within a period of not more than ninety days, after the close of the hearing, unless a longer period of time is agreed upon by all parties."*

The Applicant understands that Hearings Officer Song has request additional time to prepare her report and recommendation to the Windward Planning Commission while being mindful at addressing pressing personal health issues. Based on this information, the Applicant agrees to an additional 30-days for Hearings Officer Song to prepare her report and recommendation to the Windward Planning Commission.

As always, should you have any other comments questions or concerns, please feel free to call Sue Lee Loy or myself at 933.1919.

Regards,


Ted H.S. Hong, Esq.

SCANNED
MAR 13 2014
09:05:82

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokaloie Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

April 7, 2014

Dear Surrounding Property Owner:

Discussion and Action on the Hearings Officer's Report and Recommendation
Special Permit Application (SPP 12-000138)

Applicant: Connections New Century Public Charter School and Community
Based Education Support Services

Request: To Develop a K to 12 Charter School Campus with Dorm Facilities,
And Related Uses

Tax Map Key: 2-5-006:141

This is to inform you that the above-referenced matter is scheduled for a public hearing by the
Windward Planning Commission. Said hearing, among others, will be held beginning at
10:00 a.m. on Thursday, May 1, 2014, at the County of Hawai'i Aupuni Center Conference
Room, 101 Pauahi Street, Hilo, Hawai'i.

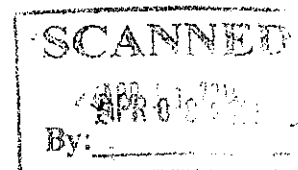
You are invited to comment on the application at the hearing or submit written comments prior
to the hearing. Written comments (original and nine copies) will be appreciated at least one
week prior to the hearing date in the Planning Department.

Should you have any questions regarding the above, please do not hesitate to contact Jeff Darrow
of this department at (808) 961-8158.

Sincerely,


DUANE KANUHA
Planning Director

cc: Ted H. S. Hong, Esq.
Amy Self, Esq.
Carter Siu, Esq.
Mr. Jeff Gomes



AGENDA

WINDWARD PLANNING COMMISSION COUNTY OF HAWAI'I

NOTICE IS HEREBY GIVEN of the following matters to be considered by the Windward Planning Commission of the County of Hawai'i in accordance with the provisions of Chapters 91 and 92, Hawai'i Revised Statutes, Section 6-7.5(a) of the Charter of the County of Hawai'i, and the Planning Commission's Rules of Practice and Procedure.

DATE: Thursday, May 1, 2014
TIME: 9:00 a.m.
PLACE: County of Hawai'i Aupuni Center Conference Room
101 Pauahi Street, Hilo, HI 96720

STATEMENTS FROM THE PUBLIC – Note that statements from the public regarding any particular item on this agenda will be taken at the time the particular item is called to order.

NEW BUSINESS – 9:00 a.m.

1. **APPLICANT: B2-II EDUCATIONAL TRUST (REZ 14-172)**
Application for a Change of Zone from an Agricultural 3-acre (A-3a) and an Agricultural 1-acre (A-1a) to a Family Agricultural 1-acre (FA-1a) zoned district for 3.012 acres of land. The property is located at the end of Ho'ohoaloha Street, approximately 1,500 feet south from its intersection with Ainaola Drive, Waiākea Homestead 2nd Series, South Hilo, Hawai'i, TMK: 2-4-034:046.
2. **APPLICANT: JASON DEPONTE (REZ 14-173)**
Application for a Change of Zone from an Agricultural-3 acre (A-3a) to a Residential and Agricultural-1 acre (RA-1a) zoning district for 3.23 acres of land. The property is located along the east (makai) side of Kupulau Street approximately 100 feet south of its intersection with the driveway entrance to New Hope Christian Fellowship Church, portion of Waiākea Homestead 2nd Series, South Hilo, Hawai'i, TMK: 2-4-038:012
3. **APPLICANTS: RICHARD AND CINDY VOGEL (Amend SPP 09-077)**
Amendment to Special Permit No. 09-077 to increase the number of permitted bed and breakfast bedrooms units from one (1) bedroom unit to three (3) bedroom units. Special Permit No. 09-077 was originally approved to allow the establishment of a 1-bedroom bed and breakfast establishment within an existing 4-bedroom single family dwelling situated on 1-acre of land within the State Land Use Agricultural District. The property is located at 13-3357 Ho'okupu Street, Leilani Estates Subdivision, Keahialaka, Puna, Hawai'i, TMK: 1-3-31:66.

NEW BUSINESS – 9:30 a.m.

4. APPLICANT: JOHN HABERMANN (SPP 14-159)

Application for a Special Permit to establish an auto repair shop on .91-acre of land situated in the State Land Use Agricultural District. The property is located on the southwest side of 33rd Avenue, approximately 1,000 feet northwest of its intersection with Maku'u Drive, Hawaiian Paradise Parks Subdivision, Kea'au, Puna, Hawai'i, TMK: 1-5-016:169.

5. INITIATOR, COUNTY COUNCIL (Bill No. 191)

An ordinance amending Chapter 25, Article 5, Division 14 of the Hawai'i County Code 1983 (2005 Edition, as Amended) by allowing Village Commercial (CV) zoning district uses within the Limited Industrial (ML) zoning district.

6. INITIATOR, COUNTY COUNCIL (Bill No. 192)

An ordinance amending Chapter 25, Article 5, Division 14 of the Hawai'i County Code 1983 (2005 Edition, as Amended) by allowing Village Commercial (CV) zoning district uses within the Industrial-Commercial Mixed Use (MCX) zoning district.

UNFINISHED BUSINESS – 10:00 a.m.

7. APPLICANTS: CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/ CBESS (SPP 12-138)

Discussion and action on the Hearings Officer's report and recommendation on an application for a Special Permit to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land situated in the State Land Use Agricultural District. The property is located on both the southwest and northeast sides of Edita Street near its intersection with Kaūmana Drive and adjoining the Pacific Plantation Subdivision in Kaūmana, South Hilo, Hawai'i, TMK: 2-5-006:141.

The Commission anticipates convening an executive meeting regarding the above matter, pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes, for the purpose of consulting with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. A 2/3 vote pursuant to Hawai'i Revised Statutes, Section 92-4 and Planning Commission Rule 1-5(e) is necessary to hold an executive meeting.

MINUTES

Approval of Minutes of the April 3, 2014 meeting

ADMINISTRATIVE MATTERS

1. Status of applications heard by Windward Planning Commission that are pending before County Council.

ANNOUNCEMENTS

ADJOURNMENT

The purpose of the public hearings is to afford all interested persons a reasonable opportunity to be heard on the above matters.

Submitting Testimony: According to Rule 1 (General Rules) of the Planning Commission, a person desiring to submit oral or written testimony shall indicate her/his name; residence address; and whether the testimony is on her/his behalf or as a representative of an organization or individual. If testimony is being submitted on behalf of an organization, documentation showing membership ratification should accompany the testimony. Written testimony shall be submitted with an original and nine copies prior to testifying. The Commission would appreciate timely submittal to the Planning Department at least one week prior to the hearing date to allow for mailing and thorough Commission review. Testimony that is irrelevant or unduly repetitious may be limited by the Chairperson pursuant to Rule 1.

Pursuant to Rule 4, Contested Case Procedure, of the County of Hawai'i Planning Commission Rules of Practice and Procedure, any person seeking to intervene as a party to a contested case hearing on Agenda Item Nos. 3 & 4 above is required to file a written request which must be received in the office of the Planning Department no later than seven (7) calendar days prior to the Planning Commission's first public meeting on the matter. Such written request shall be in conformity with Rule 4, in a form as provided by the Planning Department entitled "Petition for Standing in a Contested Case Hearing." The written petition/request shall be filed with the Planning Commission at Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawai'i 96720, and accompanied by a filing fee of \$200 payable to the Director of Finance. Any party may retain counsel if that person so desires. Rule 4 may be inspected or purchased (\$2.50) at the above-cited location. Rule 4 may also be viewed at the County of Hawai'i website (<http://www.co.Hawaii.hi.us>).

Anyone who requires an auxiliary aid or service, other reasonable modification, or language interpretation to access this meeting please contact Sarah Hata-Finley (961-8157) or Daryn Arai (961-8142) of the Planning Department as soon as possible, but no later than five days prior to the meeting date, to arrange for accommodations. "Other reasonable modification" refers to communication methods or devices for people with disabilities who are mentally and/or physically challenged.

Hawai'i County is an Equal Opportunity Provider and Employer.

WINDWARD PLANNING COMMISSION
RONALD GONZALES, Chairperson

(Hawaii Tribune Herald: Friday, April 11, 2014)
(West Hawaii Today: Friday, April 11, 2014)

TMK(3)2-5-027:053
Karl Tsuchiya
1175 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:056
Tatsuo Inouye Trust
June Inouye Trust
2230 Apoepoe Street
Pearl City, Hawaii 96782

TMK(3)2-5-027:008
Mary Jane Oliveira
Manuel Oliveira III
Manual Oliveira Jr.
1150 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:052
Ezekiel Harvey Luiz Trust
Noreen Mai Luiz Trust
PO Box 116
Pepeekeo, Hawaii 96783

TMK(3)2-5-027:036
Perreira Family 2008 Trust
1266 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:037
Ryan & Aimee Kaneko
1294 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:023
Tsuruyo Nakamoto Trust
1348 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:020
Hiroshi/Shizoho Ota Trust
6 Pokole Way
Hilo, Hawaii 96720

TMK(3)2-5-027:076 and 081
Kyle Chock Trust
1100 Launa Street
Hilo, Hawaii 96720

TMK(3)2-5-027:030
Wesley and Sandra Takai
1222 E. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:054
Paul and Shawn Paiva
1169 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:047
Melvin and Evelyn Kanja Goya
1170 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:009
Michiko Yahata
98-459 Hoono Street
Pearl City, Hawaii 96782

TMK(3)2-5-027:034
Bryce and Sharyl Nakamura
Post Office Box 294
Captain Cook, Hawaii 96704

TMK(3)2-5-027:014
Miyoko M. Hoshide
1280 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:038
Jan Yokoyama
1300 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:016
James Otani
1360 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:013
Site Engineering, Inc
c/o Masutani MK
545 Kaaahi Street
Honolulu, Hawaii 96817

TMK(3)2-5-027:012, 072, 077, 078
Laura Y Chock Trust
555 Naniakea Street
Hilo, Hawaii 96720

TMK(3)2-5-027:010
Kerry Keith Long
Post Office Box 1481
Hilo, Hawaii 96720

TMK(3)2-5-027:055
Garret Komatsu
1155 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:057, 007
Bryson and Lorna Kuwahara
1142 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:042
David and Lauri Mattos
1209 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:035
Paulette Robledo Trust
1260 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:040
Hajime & Aileen Shinjo
1272 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:039
Stanley Fujisawa
Tammy Fujisawa
Curtis Fujisawa
Minerva Fujisawa
1296 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:041
Russell & Lorraine Matsu
1352 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:032
Leandro & Wand Quiocho
1222-A Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:073 and 079
Theone Keam Yung Chock
1051 Hoomaikai Street
Honolulu, Hawaii 96817

TMK(3)2-5-027:011
Wesley and Sandra Takai
1222 E. Kaumana Drive
Hilo, Hawaii 96720



TMK(3)2-5-027:028 and 022
John and Pamela Thatcher
1188 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:011
Doreen and Tara Leao
1503 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:008
Ellen Etsuko Hirayama, Ellen Setsuko Hirayama
Kimiko Kitamura, Susan Kitamura
Tadayuki Kitamura, Wayne Kitamura
1479 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:036
Brendan J. and Melissa Johnson
2417 Oakenshield Road, Apt 10
Davis CA 95616-2962

TMK(3)2-5-040:004
Anne Tiogangco
Jordan Tiogangco
1391 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:040
Mark Kitagawa
1101 Malanani Place
Hilo, Hawaii 96720

TMK(3)2-5-040:041
James Shaver
1027 Kagawa Street
Pacific Palisades, California 90272

TMK(3)2-5-040:042
Martha and Francis Rodillas
50 Akala Road
Hilo, Hawaii 96720

TMK(3)2-5-040:013
Karen and Lloyd Rubio
226 Akala Road
Hilo, Hawaii 96720

TMK(3)2-5-014:001
Wallace Chong Trust
74 Ponahawai Street
Hilo, Hawaii 96720

TMK(3)2-5-027:074 and 080
Lorrin S.K. Chock Trust
Naomi Takemoto-Chock Trust
1978 Komohana Ext.
Hilo, Hawaii 96720

TMK(3)2-5-040:010
Kelli Jennifer Leihua Tomota
PO Box 2155
Volcano, Hawaii 96785-2155

TMK(3)2-5-040:007
Frances and Richard Oldfield
1473 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:005
Chiseko Yoshimura
Gary Yoshimura
1441 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:003
Calvin Enoki
Sandra Sayama-Enoki
1381 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:001
Dain Oblero
Sean Oblero
Henry Rezentos
Raquel Rezentos
1367 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:015
Richard Lee-Ching Trust
1468 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-014:048
Albert and Sharon Chong
6 Chong Street Apt A
Hilo, Hawaii 96720

TMK(3)2-5-040:019
Marc Butz
Desiree Butz
55 Akala Road
Hilo, Hawaii 96720

TMK(3)2-5-014:005
Lam Doan
Nghie Nguyen
33 W Naauao Street
Hilo, Hawaii 96720

TMK(3)2-5-027:033
Carole and Mark Abril
1222 B. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:009
Noriaki Otani, Fujie Otani
Brad Otani, Max Otani
Shawn Paiva
1489 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:006
Jewels and Mark Almeida
561 Alihi Place
Kailua, Hawaii 96734

TMK(3)2-5-040:035
David Hasegawa
250 N. Judd Street
Honolulu, Hawaii 96817

TMK(3)2-5-040:002
George Kaitoku
Joyce Kaitoku
1375 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:039
Bryson Toma
1374 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:014
Byron Fujimoto
Shirley Iwase
142 Puhili Street
Hilo, Hawaii 96720

TMK(3)2-5-040:018
Leslie and Betty Jean Botelho
78 Akala Road
Hilo, Hawaii 96720

TMK(3)2-5-040:020
Shawn and Jeanie Flood
1600 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-040:013
Albert Chong
Sharon Chong
1476 Kikiaha Street
Hilo, Hawaii 96720

TMK(3)2-5-006-003,12 State of Hawaii - DLNR 75 Aupuni Street Hilo, Hawaii 96720	TMK(3)2-5-006-052 Wesley and Phyllis Segawa 19 Puuko Street Hilo, Hawaii 96720-1832	TMK(3)2-5-006-061 Kidds Development c/o James Pappas 616 Moaniala Street Honolulu, Hawaii 96821
TMK(3)2-5-006-160 Brilhante-Hawaii, Inc. 1342 Kilauea Avenue Hilo, Hawaii 96720	TMK(3)2-5-006-151 Marilyn J. Pappas Trust 616 Moaniala Street Honolulu, Hawaii 96821	TMK(3)2-5-061-033 Randell A. Riley 282 Edita Street Hilo, Hawaii 96720
TMK(3)2-5-061-032 Roxanne-Joy Cano Batalla 272 Edita Street Hilo, Hawaii 96720	TMK(3)2-5-061-031 Lorna and Neil Yamashiro 50 Manulele Street Hilo, Hawaii 96720	TMK(3)2-5-061-029 Alan and Patsy Iwasaki 232 Edita Street Hilo, Hawaii 96720
TMK(3)2-5-061-028 Ivan S. Mochida Trust 77 Kukila Street Hilo, Hawaii 96720	TMK(3)2-5-061-001 Jeffrey Kalani Gomes Wendy Keiko Gomes 281 Edita Street Hilo, Hawaii 96720	TMK(3)2-5-061-002 Glenn and Karyn Tada 259 Edita Street Hilo, Hawaii 96720-1707
TMK(3)2-5-061-003 Lester O. Oshiro 25-121 Pukanala Street Hilo, Hawaii 96720-1344	TMK(3)2-5-061-012 Chun Y Akamine, Trust 1360-D Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:011 Lorrin T and Margareta Araujo 1358-D Mele Manu Street Hilo, Hawaii 96720
TMK(3)2-5-061:010 Aileen and Sidney Fuke 1358 C. Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:013 Douglas Shiro 1360 C. Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:014 Bevington Family Trust 1360 Mele Manu Street #B Hilo, Hawaii 96720
TMK(3)2-5-061:017 Brenda and David Camacho 1414 A Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:018 Nelson Nishimoto & Patty Kiyoko Omoto 1414 Mele Manu Street, Apt B Hilo, Hawaii 96720	TMK(3)2-5-061:019 Allen and Layne Novak 1414 C Mele Manu Street Hilo, Hawaii 96720
TMK(3)2-5-061:020 Elain Ludoff, Steve and Patricia Wilhelm 1416 C. Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:021 Brice and Christine Takata c/o 777 Ainako Avenue Hilo, Hawaii 96720	TMK(3)2-5-061:030 Mark Chun & Marianne Takamiya 250 Edita Street Hilo, Hawaii 96720
TMK(3)2-5-061:022 Markus Herzog 2010 Trust Post Office Box 5915 Hilo, Hawaii 96720	TMK(3)2-5-061:041 Trust Mok 1464 Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:042 Noemi and Rudy Arzaga 1468 Mele Manu Street Hilo, Hawaii 96720
TMK(3)2-5-061:043 Daniel Robert Hudak 1488 Mele Manu Street Hilo, Hawaii 96720-1794	TMK(3)2-5-061:044 Franklin & Virginia Veriato 1500 Mele Manu Street Hilo, Hawaii 96720	TMK(3)2-5-061:045 Gary & Jacqueline Murai 299 S. Alu Road Wailuku, Hawaii 96793



TMK(3)2-5-061:046
Kip Masao & Valerie Kanahale
1520 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061: 107, 111, 105, 104, 103, 102
Brilhante-Hawaii, Inc.
1342 Kilauea Avenue
Hilo, Hawaii 96720

TMK(3)2-5-061:049
Joel & Elizabeth Truesdell
250 Kristiano Street
Hilo, Hawaii 96720

TMK(3)2-5-061:048
Robert & Celeste Santor
1540 Melel Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:047
Lee & Adriann Wilson
1536 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:068
Larry Kimura
243 Mikala Street
Hilo, Hawaii 96720

TMK(3)2-5-061:069
Glenn & Gail Ogawa
1495 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:070
Michael, Pam, Lee Botelho Trust
1485 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:071
Raymond Yamane
1473 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:072
Gary & Rochelle Yamashita
1457 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:073
Erwin & Julie Iida
1449 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:026
Lester Sakamoto
1439 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:025
Michael & Claudia Ignacio
1411 Mele Manu Street
Hilo, Hawaii 96720-1795

TMK(3)2-5-061:024
Jon & Patti Tokuuke
1395 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:016
Eric & Barbara Shozuya
1380 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:015
HHL Melemanu LLC
c/o Dana Kenny
Hawaiian Island Homes
162 Kinoole Street
Hilo, Hawaii 96720

TMK(3)2-5-061:008
Melvin & Jan Yokota
1358 A Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:009
Wayne & Amy Kanemoto
1358 B Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:007
Bryan Hiroaki Family Sugiyama
72 Palua Loop
Hilo, Hawaii 96720

TMK(3)2-5-061:006
John & Gail Kimura
1300 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:005
Kelly Leong & Alyson Kakugawa Trust
1290 Mele Manu Street
Hilo, Hawaii 96720

TMK(3)2-5-061:004
Wataru Hirano
Phyllis Sano
Naomi Hirano-Omizo Trust
Shinae Hirano
235 Edita Street
Hilo, Hawaii 96720

TMK(3)2-5-061:080
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

TMK(3)2-5-011:011
Nancy/Masaru Nagai Trust
Nancy Nagai
1035 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:012
Carroll and Donnie Faye Cling
37413 New River Canal Road
Geismar, LA 70734-3342

TMK(3)2-5-011:013
Joseph and Kahiolani Papalimu
1053 Kaumana Drive
Hilo, Hawaii 96720-1715

TMK(3)2-5-011:014
Norma and Arnold Fergerstrom
1065 Kaumana Drive
Hilo, Hawaii 96720-1715

TMK(3)2-5-011:015
Ronald and Loretta Crivello
1073 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:016
Mark and Melissa Sato
Post Office Box 529
Kaneohe, Hawaii 96744-0529

TMK(3)2-5-011:017
Arnold Fergerstrom Trust
20 Wawai Loop
Hilo, Hawaii 96720-1726

TMK(3)2-5-011:018
John Howard Rushlow
1147 Kaumana Drive
Hilo, Hawaii 96720-1717

TMK(3)2-5-011:038 and 039
John Carvalho
1131 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:010
Theodore Sasamura
Janet Sasamura
Sandra Leong
Craig Sasamura
1023 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:025
William Phillips, Drenna Sweet-Phillips
1036 Kaumana Drive
Hilo, Hawaii 96720-1716

TMK(3)2-5-011:050
Jo Ann Arruda Trust
993 C Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:002
Fujie Yamamoto Trust
c/o Yamamoto, Else CO-TTEE
1245 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:024
Katsuko Otani Trust
1215 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:027
Rodeney and Susan Segawa
1215 D. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:070
Rodney and Susan Segawa
1215 D. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:043
Catalina Perez
1209 A. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:019
Thomas Spencer Trust
New Tan Spencer Dec'd
1110 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:021
Correa Family Trust
1068 B. Kaumana Drive
Hilo, Hawaii 96720-6733

TMK(3)2-5-011:023
Clifford and Linda Zane
553 Hiilei Place
Wailuku, Hawaii 96793

TMK(3)2-5-011:044
Sharon and Owen Nakano
1005 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:021
Carvalho Family Trust
Post Office Box 2463
Kailua-Kona, Hawaii 96740

TMK(3)2-5-027:003
Randal Okutsu Trust
1876 Hale O Kea Street
Hilo, Hawaii 96720

TMK(3)2-5-027:025
Jean Otani and Jean Otani Trust
1215 B Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:068
Royce and Jane Ebesu
1215 G. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:005
Sandra Sato
1213 A. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:044
Henry and Norine Okuhara
Post Office Box 946
Hilo, Hawaii 96720

TMK(3)2-5-011:020
Aiko and Cyrus Wilson
1090 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:009
Christopher Grave Hardenbrook
Leslie Elizabeth Sears
1013 Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:024
Randall Henry Montandon
Tuyet Kunishige
6132 Braeside Court
Las Vegas, NV 89130-1384

TMK(3)2-5-011:048
Steve and Krystn Hinck
4646 Fort Davis Street
Simi Valley, CA 93063

TMK(3)2-5-027:001
Edith Mitsunaga Trust
3572 Nipo Street
Honolulu, Hawaii 96822

TMK(3)2-5-027:058, 059, 060, 061, 062,
063, 064, 065, 066, 067
Edith Mitsunaga Trust
3572 Nipo Street
Honolulu, Hawaii 96822

TMK(3)2-5-027:026
Dean and Else Ushijima
1215 Kaumana Drive Apt. C
Hilo, Hawaii 96720

TMK(3)2-5-027:069
Janey Ebesu Trust
1215 G. Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-027:046
Edward and Caroline Hasegawa
250 N. Judd Street
Honolulu, Hawaii 96817

TMK(3)2-5-027:045
Jason and Jennifer Turner
1209 C. Kaumana Drive
Hilo, Hawaii 96720-1719

TMK(3)2-5-011:043
AFLP, LLC
RR2 Box 3918
Pahoa, Hawaii 96778-9740

TMK(3)2-5-061:101
Alika and Loren Germano
Thomas Agliam
23 Alahelenui Street
Hilo, Hawaii 96720

TMK(3)2-5-061:015
HIHL Melemaru LLC
162 Kinoole Street Suite 201
Hilo, Hawaii 96720

TMK(3) 2-5-027:005
Sandra Sato
1213A Kaumana Drive
Hilo, Hawaii 96720

TMK(3)2-5-011:022
Charisse Correa
Sherai Correa-Pacheco
1064 Kaumana Drive
Hilo, Hawaii 96720-1716

TMK(3)2-5-027:007
Bryson T. and Lorna T. Kuwahara
1142 Kaumana Drive
Hilo, Hawaii 96720

SANDRA PECHTER SONG
ATTORNEY AT LAW

10 Kamehameha Avenue
Hilo, Hawaii 96720
Telephone: (808) 933-9212
Fax: (808) 935-4853

PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 APR -9 PM 3: 18

LETTER OF TRANSMITTAL

To: Daryn Arai
Jeffrey Darrow
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Date: April 7, 2014

From: Sandra Song

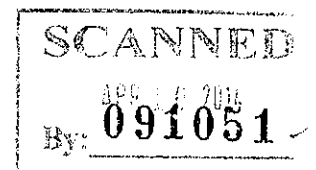
Re: In the Matter of Connections New Century Public Charter School and Community Based
Education Support Services
SPP No. 12-000138

We are sending you (X) attached () under separate cover the following items:

- Two copies of Hearing Officer's Report; Certificate of Service, dated April 7, 2014

<input checked="" type="checkbox"/> For your information/file	<input type="checkbox"/> For payment
<input type="checkbox"/> For review and comment	<input type="checkbox"/> For signature in black ink and return
<input type="checkbox"/> For your reference	<input type="checkbox"/> Per your request
<input type="checkbox"/> For signature in black ink and forwarding as noted below	<input type="checkbox"/> Per our conversation
<input type="checkbox"/> For filing or recording	<input type="checkbox"/> For your approval
<input type="checkbox"/> SEE REMARKS BELOW	<input type="checkbox"/> For necessary action

REMARKS:



SANDRA PECHTER SONG 1552
10 Kamehameha Avenue
Hilo, Hawaii 96720
Tel. No. (808) 933-9212
Fax No. (808) 935-3945

PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 APR -9 PM 3: 18

Hearing Officer

BEFORE THE PLANNING COMMISSION
COUNTY OF HAWAII

In the Matter of) SPP No. 12-000138
)
CONNECTIONS NEW CENTURY PUBLIC) HEARING OFFICER'S REPORT;
CHARTER SCHOOL and COMMUNITY) CERTIFICATE OF SERVICE
BASED EDUCATION SUPPORT)
SERVICES) Hearing Dates: October 21, 2013, October 22,
) 2013, November 12, 2013, January 8, 2014
Application for Special Permit Application) and January 21, 2014
No. 12-000138)
)
TMK: (3) 2-5-006-141; Kaumana, South)
Hilo, Hawaii)
_____)

HEARING OFFICER'S REPORT

This matter came on for contested case hearing before your Hearing Officer on October 21, and 22, 2013, November 12, 2013, January 8 and 21, 2014. At the hearing, Applicant, Connections New Century Public Charter School was represented by its counsel, Carter K. Siu, and Applicant Community Based Education Support Services was represented by its counsel Ted H.S. Hong. Applicants Connections New Century Public Charter School and Community Based Education Support Services will hereinafter be collectively referred to herein as "Connections". Also at the hearing, the County of Hawaii Planning Director (hereinafter "Director") was represented by his counsel, Amy G. Self; and Intervenor Jeffrey K. Gomes (hereinafter "Gomes"), represented himself *pro se*.

At the close of the hearing, the parties were provided with an opportunity to submit proposed findings of fact in this case. Connections and Gomes submitted proposed findings on February 12, 2014. The Director submitted a statement on February 12, 2014 indicating that he was not taking any position in this matter and would not be filing proposed findings of fact. The

091051

Director did, however, reserve the right to submit exceptions to findings submitted by other parties in this matter.

After considering all of the evidence presented at the hearing, the entire record in this proceeding, and the proposed findings of fact submitted by Connections and Gomes, your Hearing Officer makes the following findings of fact, conclusions of law, and recommended order in this case:

FINDINGS OF FACT

I. Procedural Background

1. This matter involves an application filed by Connections on July 25, 2012, for a special permit, pursuant to Section 205-6, Hawaii Revised Statutes (“HRS”) and Rule 6 of the County of Hawaii Planning Commission Rules of Practice and Procedure (hereinafter “Commission Rules”) to allow the development of a charter school campus with dorm facilities and related improvements for students in kindergarten through twelfth grade (hereinafter, the “Development”), on 70.15 acres of land situated within the State Land Use Agricultural District, at Ponahawai, Kukuau 2nd, South Hilo, Hawaii, commonly referred to as the Kaumana area of Hilo, designated by State of Hawaii Tax Map Key (“TMK”) (3) 2-5-006-141 (hereinafter, the “Property”).

2. Connections has leased the Property on which the Development is proposed from the State of Hawaii under General Lease No. S-6029.

3. Notices of the Windward Planning Commission of the County of Hawaii (hereinafter “Commission”) hearings on the proposed Development were provided to property owners surrounding the proposed Development.

4. The Commission held public hearings on the Connections application on November 12, 2012, December 6, 2012 and January 10, 2013. At the hearing held on January 10, 2013, the Commission voted to deny the Connections application and instructed the Commission staff to prepare proposed findings of fact, conclusions of law and order, which would be considered for adoption by the Commission at its meeting of March 7, 2013.

5. At the Commission meeting of March 7, 2013, the Commission suspended the preparation of the findings of fact, conclusions of law and order, and granted a request by

Connections for a contested case on the subject application. Gomes also submitted a petition to intervene in this matter on March 7, 2013, and the Commission admitted him as a party to the proceeding.

6. A petition to intervene in this proceeding was filed by Terrence Yoshioka on November 4, 2013, after the contested case hearing in this proceeding had already commenced. On November 8, 2013, your Hearing Officer denied this petition in accordance with Rule 4-6 of the Commission Rules, on the ground that the subject petition was untimely filed.

7. The Director is a party to this proceeding pursuant to Rule 4-7(a) of the Commission Rules. The Director initially recommended approval of the Connections application, subject specific conditions, but took no position on the application at the contested case hearing.

8. The subject application involves a parcel of land greater than fifteen acres in area. Therefore, any permit approved by the Commission is subject to final approval by the State Land Use Commission

II. Proposed Development

A. General Description

9. The Connections application proposes the development of a K to 12 charter school campus with dorm facilities, and an intergenerational program that would provide childcare and elder care at a single facility on the Development, together with related uses on the 70-acre parcel of land. As the site is bisected by Edita Street, the lower portion of the Development would consist of the major school or campus facilities, while the upper portion would be used for outdoor type of educational programs, including a forestry preservation program.

10. The lower campus would support a projected 167 elementary students, 107 intermediate students, 107 high school students (381 K through 12 students) and 25 intergenerational clients. Also included would be a dormitory capable of supporting 30 students, a gymnasium, kitchen/dining facility, library/resource center, caretaker's residence and other related facilities. Two parking lots capable of supporting 140 parking stalls would be provided.

11. The Development would relocate and expand the existing charter school which is presently operating from two separate campuses. The elementary and middle schools are located in the Kress Building on Kamehameha Avenue, in downtown Hilo, and the high school is located

in leased facilities at the Nani Mau Gardens, just outside of Hilo town.

12. Connections proposes having 50 full-time and 17 part-time employees at full build-out of the Development, which is the same number presently employed for this charter school.

13. Connections anticipates that 50% of the student population will come from the Hilo area and 50% from the Puna area miles away from the Development. The present student population for this charter school is composed primarily of students from these two geographic areas.

14. The Development does not propose to establish a charter school on the Property to serve the needs of immediate vicinity in the Kaumana area of Hilo, although some students from the area may attend this school.

15. The Development is intended to be constructed in 9 phases and completed within 16 to 25 years. The first phase would include the caretaker's residence, high school and administration building, with the projected opening to be within 2.5 to 3.5 years.

B. Public Utilities and Services

Access/Traffic

16. Access to the Development is proposed from Edita Street which connects with Kaumana Drive, a major Hilo artery. Both roads are owned and maintained by the County of Hawaii. Edita Street has a 60-foot right-of-way width, with a 48-foot wide pavement width fronting the Development. The paved area accommodates two 20-foot wide travel lanes, a 20-foot wide shoulder on the northeast side of the road, and an 8-foot wide shoulder on the southwest side. Edita Street is in good condition; however, the Hawaii County Police Department recommended that the unpaved shoulder along Edita Street extending from Kaumana Drive to the Development should be paved so that pedestrians could safely walk along the shoulder.

17. A Traffic Impact Analysis Report ("TIAR") dated June 28, 2010, was prepared in conjunction with the Connections application for the purpose of evaluating the Development's impact at the Development's entrance at Edita Street and at the Edita and Kaumana drive intersection. Based upon traffic counts taken on May 28, 2009, the TIAR found that the current level of service or LOS operates as LOS "A" or "B", meaning that the traffic service is

uncongested. The TIAR also concluded that upon full build-out of the Development, the LOS will continue to operate at levels "A" or "B". Although the TIAR concludes that traffic will not be adversely affected by reason of the Development, the County Department of Public Works recommended that a separate left turn lane onto the Development from Edita Street should be constructed to alleviate congestion, and that Connections should prepare a comprehensive traffic management plan for the Development.

18. Notwithstanding the findings of the TIAR and the recommendations of the Police Department and Department of Public Works, the area residents uniformly expressed concerns about the adverse traffic impact of the Development along Edita Street and Kaumana Drive. Also, residents objected that the TIAR was four years old and the traffic counts contained in the TIAR were taken when certain schools were not in session.

Water

19. A maximum of 4,200 gallons per day (hereinafter "gpd") of water or seven (7) water units from an existing 8-inch waterline on Kaumana Drive for the upper campus and from an existing 8-inch waterline on Edita Street for the lower campus, is available from the County of Hawaii municipal water system to service the entire Development. Based on a 60 gpd per student standard, 4,200 gallons of County water could only support 70 students. At full build-out the entire Development would require 26,100 gpd.

20. Notwithstanding the unavailability of potable water from the County system for the Development, the existing 8-inch waterline within Edita street is adequate to provide the required 2,000 gallons of water per minute for fire protection of the proposed Development.

21. The available water from the County of Hawaii municipal water system is insufficient to support the first phase of the Development.

22. Connections has proposed using water efficient fixtures and supplementing the available County water with either a catchment system for non-potable water or developing an additional water source. However, Connections has not produced any evidence to demonstrate that it has or can develop sufficient water for the Development.

Wastewater

23. Connections is proposing to provide its own wastewater system meeting the

requirements of the State of Hawaii Department of Health (hereinafter "DOH"). Connections prefers installing an ecological/biological wastewater system called the "Living Machine". However, should such a system prove to be unfeasible, Connections would install a traditional septic system with leach fields or any other system required by DOH.

Drainage

24. The Property is located within Zone "X" on the U.S. Department of Army Corps of Engineers Flood Insurance Rate Map, which means that the Property is outside the 500-year flood plain. Notwithstanding this flood designation, during severe storms water has been known to overtop the concrete channel and flow across Edita Street, resulting in flooding of adjacent properties. Connections proposes to prepare detailed engineering studies for the purpose of developing appropriate drainage plans to address the potential flood hazard posed by the present condition of Edita Street.

Utilities

25. Electrical and telephone services are available to the Property through overhead lines along Edita Street and Kaumana Drive.

Public Safety

26. The Hawaii County Police Department expressed concern that the Development would increase noise, crime and traffic. However, there was no evidence that the Police Department lacks the ability to provide police protection for the Development.

III. PHYSICAL CHARACTERISTICS OF THE PROPERTY AND SURROUNDING AREAS

27. The Property is presently vacant and undeveloped.

28. Surrounding lands to the south and west of the Property are zoned A-1a, with properties further south being zoned A-20a and-10A. Lands to the north of the Property are zoned RS-10 and RS-15, with some lands zoned A-3a further north across Kaumana Drive. One parcel is also zoned Open adjoining the northeast corner of the lower portion of the Property. Surrounding uses consist mainly of single-family residences with some vacant lands, and a small percentage of agricultural activity.

29. The soils on the Property are primarily composed of pahoehoe lava flow. The State

Department of Agriculture's map showing agricultural lands of importance to the State of Hawaii shows the Property as being unclassified. Also, the Land Study Bureau classifies the soil on the Property under its detailed land classification system, as "D" or "Poor" for agricultural activity.

30. No archaeological sites have been found on the Property, and it is surmised that any pre-existing sites would have been destroyed by the lava flow of 1880-1881. Although Connections submitted a request to the State Historic Preservation Division ("SHPD"), by letter dated August 17, 2010, requesting a "no-effect" determination from that agency, SHPD has not responded to the request.

31. A portion of the Kaumana Cave is accessible from the upper portion of the Property. Connections is proposing to refrain from constructing any major school facilities on the upper portion of the Property and to maintain a minimum 100-foot buffer on either side of the cave alignment to alleviate concerns about impact from the Development on the cave ecosystem.

32. A botanical survey of the Property identified 11 native plant species, but none of those species are considered protected species.

33. Invertebrate, mammalian and field surveys were conducted on the Property. No protected species were documented to be present on the Property.

34. No traditional or customary native Hawaiian rights have been identified as being exercised on the Property. Likewise, there is no known public access to the mountains or the shoreline that runs through the Property.

IV. STATE AND COUNTY PLANS

35. The Property is within the State Land Use Agricultural District. A school is not a permitted use within the Agricultural district; however, a school may be permitted in this district if a special permit is obtained for such use pursuant to Section 205-6, HRS and Rule 6 of the Commission Rules.

36. The County of Hawaii General Plan Land Use Pattern Allocation Guide ("LUPAG") Map designates the Property for low density urban uses. The LUPAG designation of Low Density urban use, allows for residential uses, with ancillary community and public uses, and neighborhood and convenience-type commercial uses. The Development is not proposed to be a community or public use for the Kaumana area of Hilo.

37. The County of Hawaii zoning for the Property is Agricultural with a minimum lot size of one-acre (A-1a). Under Section 25-5-72(d) of the Hawaii County Code, a school is permitted in an Agricultural zoned district provided that a special permit is issued for the use if the land is within the State Land Use Agricultural District.

38. The Development, which is proposed to be located on State land, is subject to the Hawaii State Environmental Impact Statement law, Chapter 343, HRS. Connections prepared an environment assessment in accordance with Chapter 343, and a declaration with a finding of no significant impact was issued for the Development by the State of Hawaii Department of Land and Natural Resources.

39. The Property is not situated within the Special Management Area ("SMA"), since it is located over three miles from the nearest shoreline. Thus, the coastal environmental considerations relating to the SMA are not applicable to the subject Property.

V. SPECIAL PERMIT REQUIREMENTS

40. HRS Section 205-6, which governs special permits, provides in pertinent as follows:

"(a) The county planning commission may permit certain unusual and reasonable uses within agricultural . . . districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural . . . district other than for an agricultural . . . use. . . may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired. .

...

"(c) The county planning commission may, under such protective restrictions as may be necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter...

...

"(d) Special permits for land the area of which is greater than fifteen acres. . . shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting the approval including the adherence to representations made by the applicant."

41. Planning Commission Rule 6-7, provides, in pertinent part, that

"[t]he Commission shall not approve a Special Permit unless it is

found that the proposed use

“(a) Is an unusual and reasonable use of land situated within the Agricultural. . .District. . .; and

“(b) Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

“The Commission shall also consider the criteria listed under Section 6.3(b)(5)(A) through (G).”

42. The seven criteria under Planning Commission Rule 6.3(b)(5)(A) through (G) are:

“(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;

“(B) The desired use shall not adversely affect surrounding properties;

“(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;

“(D) Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established;

“(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district;

“(F) The proposed use will not substantially alter or change the essential character of the land and the present use; and

“(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design plans.”

43. Although Gomes asserts that the criteria for a use permit should be considered in the subject application, that criteria is not relevant to a special permit determination.

VI. APPLICATION OF SPECIAL PERMIT CRITERIA TO THE DEVELOPMENT

A. Land Use Law Objectives

44. The purpose of the State Land Use Law is to preserve the lands of high agricultural

potential for agricultural use. The Property consists of land that is not considered highly valuable for agricultural uses. Thus, the use of the Property for a school is not contrary to the objectives sought to be accomplished by the State Land Use Law.

45. Likewise, the Development, which proposes the construction of a school for 381 students and related facilities is not akin to a major recreational theme park attracting 1.5 million people each year to the area. Therefore, such a development would not frustrate the objectives and effectiveness of the Hawaii's land use scheme and would not require a State land use boundary amendment in lieu of a special permit. *Neighborhood Board No. 24 vs. State Land Use Commission*, 64 Haw. 265, 272, 639, P.2d 1097, 1103 (1982).

B. Affect on Surrounding Properties

46. Based upon the testimony from surrounding and neighboring property owners, the Development will have an adverse effect on surrounding properties by creating noise, traffic, and impacting the quality of life of the adjoining residents.

47. Measures proposed by Connections, regarding the establishment of building setbacks and roadway improvements to Edita Street do not appear to be sufficient to mitigate the overwhelming concerns raised by surrounding property owners.

C. Burden on Public Agencies to Provide Services

48. There is insufficient water available from the County system to service the Development. Therefore, to allow the Development would unreasonably burden the Department of Water Supply to provide water for its facilities.

49. There is no evidence that Connections has the ability to develop a potable water source as a mitigating measure, previously proposed by the Director.

50. A mitigating measure previously proposed by the Director of limiting the number of students to the amount of potable water available to the project is not reasonable because Connections is proposing to construct a highschool for 107 students its first phase, when the potable water available would only allow for 70 students.

51. As such, the proposed use may unreasonably burden the County Department of Water Supply to provide water to the Development.

D. Unusual Conditions, Trends and Needs

52. Unusual conditions and needs have arisen since the establishment of this land use district in the 1970s, because the area in which the Property is located has essentially become residential in character. Also, the County General Plan LUPAG map recognizes this trend by designating the area for low density urban use. However, there was no evidence presented to demonstrate that location of a school that is not intended to specifically service the needs of the immediate community is such an unusual condition, trend or need that justifies location of the Development at this location.

E. Suitability of Land for Agricultural Uses

53. The Land Study Bureau soil classification rating for the Property is "D" or "Poor", which suggests that the land may be unsuited for agricultural uses.

54. Connections is proposing to maintain the upper portion or nearly one-half of the Property for forestry use. In addition, Connections is proposing to construct greenhouses on the Property and conduct an agricultural program in conjunction with its curriculum.

55. Based upon the representations of Connections, it cannot be found that the Property is unsuited for agricultural uses.

F. Alteration or Change of the Essential Character of the Land and Present Use

56. The Property is presently a forest and is vacant of any structures. The lower half of the Property will be converted into a school with classrooms, dormitories, a gymnasium cafeteria and parking lots.

57. The Development of a school will change the essential character of the forested land and its undeveloped use.

G. Consistency with the General Plan

58. The County General Plan LUPAG map designates the Property for low density urban use. "Low density uses" under the General Plan include residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses.

59. The Development, which proposes a charter school that is not specifically intended to service the immediate community surrounding the school, is not consistent with the uses permitted in areas of low density urban use.

60. The Economic, Public Facilities and Land Use elements of the County General Plan all require consideration of social and community concerns as follows:

Economic Element - Goal

“Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County’s cultural, natural and social environment.”

Public Facilities Element - Goal

“Encourage the Provision of public facilities that effectively service the community and visitor needs and seek ways of improving public service through better and more functional facilities in keeping with the environmental and aesthetic concerns of the community.”

Land Use Element - Policy

“Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environments.”

61. The evidence has established significant concerns from the community regarding the compatibility of the Development with the surrounding community.

62. Although the County General Plan Public Facilities-Education course of action for South Hilo encourages the establishment of additional schools as the need arises, the proposed Development, at the subject location, is contrary to the General Plan.

VII. UNUSUAL AND REASONABLE USE OF LAND

63. The construction of a school on the Property is an unusual use of the land because a school is not a permitted use in the State Land Use Agricultural District. However, the evidence presented does not demonstrate that the Development is a reasonable use of the Property. Specifically, Connections has not demonstrated how this school can be built without sufficient potable water resources. Nor, has Connections demonstrated how the development of a regional charter school on the Property that does not specifically service the needs of the immediate community and that is overwhelmingly objected to by the immediate community is a reasonable site for this facility. In addition, Connections has not demonstrated that the Development meets

most of the criteria to be considered by the Commission in the subject application.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the your Hearing Officer makes the following Conclusions of Law:

1. To the extent that any of the Findings of Fact constitute Conclusions of Law, or Conclusions of Law constitute Findings of Fact, they shall be considered and construed as such.
2. The Commission has jurisdiction over the subject special permit application, including the ability to deny or recommend its approval to the State Land Use Commission, pursuant to Section 205-6, HRS and Rule 6 of the Commission Rules.
3. Connections had the burden of proof on this matter before the Commission, including the burden of producing evidence as well as the burden of persuasion, by a preponderance of evidence, to demonstrate how its request is consistent with the guidelines for a special permit as outlined by Section 205-6, HRS and Rule 6 of the Commission Rules. Connections has failed to meet this burden.
4. The Development does not adequately meet the requirements or guidelines for a special permit as required by Section 205-6, HRS and Rule 6 of the Commission Rules.
5. The Development is not consistent with the County General Plan, particularly as to the impacts on the immediate community.

HEARING OFFICER'S RECOMMENDATION

Based upon the preceding Findings of Fact and Conclusions of Law, your Hearing Officer recommends to the Windward Planning Commission of the County of Hawaii that Special Permit Application SPP No. 12-000138 of Connections New Century Public Charter School and Community Based Education Support Services be denied.

DATED: Hilo, Hawaii, April 7, 2014



SANDRA FECHTER SONG
Hearing Officer

BEFORE THE PLANNING COMMISSION
COUNTY OF HAWAII

In the Matter of) SPP No. 12-000138
)
CONNECTIONS NEW CENTURY PUBLIC) CERTIFICATE OF SERVICE
CHARTER SCHOOL and COMMUNITY)
BASED EDUCATION SUPPORT)
SERVICES)
)
Application for Special Permit Application)
No. 12-000138)
)
TMK: (30 2-5-006-141; Kaumana, South)
Hilo, Hawaii)
_____)

CERTIFICATE OF SERVICE

I hereby certify that on this date, a copy of the foregoing was duly served upon the following parties by depositing the same in the U. S. mail, postage prepaid, and by e-mailing a copy, addressed to:

Ted H.,S. Hong, Esq. (ted@tedhonglaw.com)
P. O. Box 4217
Hilo, Hawaii 96720
Attorney for Applicant Community Based
Education Support Services

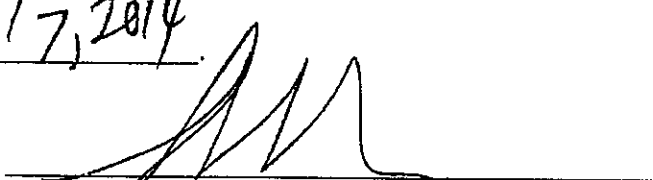
Carter K. Siu, Esq. (Carter.K.Siu@hawaii.gov)
Deputy Attorney General
State of Hawaii
235 South Beretania Street, Room 304
Attorney for Applicant Connections New
Century Charter School

Amy G. Self, Esq. (aself@co.hawaii.hi.us)
Deputy Corporation Counsel
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720
Attorney for County of Hawaii Planning Director

Jeffrey K. Gomes (kalanigomes@hawaiiantel.net)
281 Edita Street
Hilo, Hawaii 96720
Intervenor *pro se*

Daryn Arai (darai@co.hawaii.hi.us)
Jeffrey Darrow (jdarrow@co.hawaii.hi.us)
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Windward Planning Commission Staff

DATED: Hilo, Hawaii, April 17, 2014



SANDRA PECHTER SONG
Hearing Officer



PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 APR 14 PM 2: 56

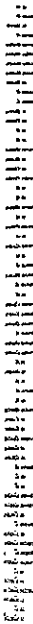
County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720-4224

*clerk to surrounding
owners - note indicated
on mailing list*

TMK(3)2-5-027:005
Sandra Sato
1213 A. Kaumana Drive
Hilo, Hawaii 96720

96720422403
9672081739 0036

BC: 96720422403 *0472-00570-08-43



RETURN TO SENDER
NO MAIL RECEIPT
UNABLE TO FORWARD

NIXIE 968 DE 1009 0004/11/14



UNITED STATES POSTAGE
02 1M
0064278258 APR 08 2014
\$ 00.48
MAILED FROM ZIP CODE 96720



County of Hawaii
 PLANNING DEPARTMENT
 101 Pauahi Street, Suite 3
 Hilo, Hawaii 96720-4224

PLANNING DEPARTMENT
 COUNTY OF HAWAII

2014 APR 14 PM 2:56

TMK(3) 2-5-027:005
 Sandra Sato
 1213A Kaumana Drive
 Hilo, Hawaii 96720

NIXIE 968 DE 1009 0004/11/14
 RETURN TO SENDER
 NO MAIL RECEIPT
 UNABLE TO FORWARD

967204224
 9672081719

BC: 96720422403 *0472-00286-08-43
 9672081719



PLANNING DEPARTMENT
COUNTY OF HAWAII

SANDRA PECHTER SONG

ATTORNEY AT LAW

2014 APR 21 PM 2:28

10 Kamehameha Avenue
Hilo, Hawaii 96720
Telephone: (808) 933-9212
Fax: (808) 935-4853

April 17, 2014

Mr. Daryn Arai
Planning Commission
County of Hawaii
101 Pauahi Street
Hilo, Hawaii 96720

Re: SPP No. 12-000138
Connections New Century Public Charter School and Community Based
Education Support Services
TMK: (3) 2-5-006-141, Kaumana, South Hilo, Hawaii

Dear Mr. Arai:

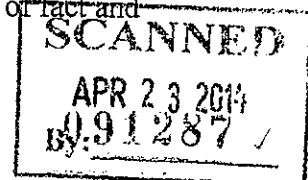
Enclosed you will find the entire record in the above entitled matter. The record includes the two volumes, containing pages 1 through 2205, you provided to me when I first accepted the position as hearing officer in this case. Also included are the following files:

- Pleadings
- Parties' Exhibit Lists and Exhibits
- E-mail communications
- Miscellaneous correspondence
- Public Testimony

I am also including the five volumes of the original transcript of the proceedings for October 21, 22, and November 12, 2013, and January 8 and 22, 2014. Also included are condensed versions of these transcripts together with indices. In addition, I am including computer discs containing copies of the transcripts which were provided by the court reporter. Please note that there is neither a condensed transcript nor a computer disc for the January 22, 2014 hearing because of the brevity of the hearing.

I am also providing you with a jump drive that contains all of the above listed documents, including the transcripts. The documents on this drive have been Bates-stamped for your convenience, beginning with Page No. 2206. The files on the drive are numbered consecutively.

On April 7, 2014, all of the parties and you were served, via e-mail and postal mail, with my hearing officer's report in this matter, which included proposed findings of fact and



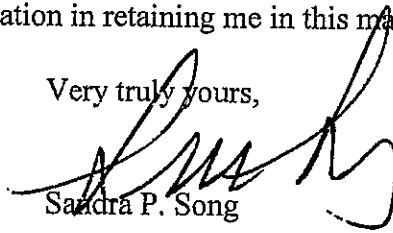
Mr. Daryn Arai
Planning Commission
County of Hawaii
April 17, 2014
Page 2

conclusions of law.

As we discussed, I intend to be present at the Planning Commission hearing of May 1, 2014, so that I may answer any questions the Commissioners may have.

It has been a pleasure working with you and the other members of the Commission staff, and I want to thank you for your consideration in retaining me in this matter.

Very truly yours,



Sandra P. Song

Enclosures

REQUEST TO ACCESS A GOVERNMENT RECORD

2014 APR 17 AM 11:06

DATE: April 17, 2014

TO: Planning Commissioner Stephen Ono, c/o County of Hawaii Planning Department

FROM: Ted H.S. Hong, Esq.

Contact Information: Post Office Box 4217, Hilo, Hawaii 96720; 933.1919; email: ted@tedhonglaw.com

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

Any and all personal documents and correspondence memoranda, letters, correspondence, personal emails within the past two (2) years to present (July 25, 2012 to present), that mentions CONNECTIONS and/or COMMUNITY BASED EDUCATION SUPPORT SERVICES and its plans related to the Special Permit Application (SPP No. 12-000138) to/from and/or between any individual from the attached list.

I WOULD LIKE: (please check one or more of the options below)

- To inspect the government record.
- A copy of the government record: (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

- Pick up at agency (date and time): _____
- Mail
- Fax (toll free and only if available)
- Other, if available (please specify): _____

- If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.

- Electronic Audio Other (please specify): _____

- Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

SCANNED
 APR 17 2014
 By 091209

OIP 1 (rev. 9/12/01)

TMK	Owner(s)	Owner's Mailing Address	Street Address of TMK
2-5-006:003	State of Hawaii	N/A	
2-5-006:052	Segawa, Wesley R Segawa, Phyllis E	19 Puuko Street Hilo, Hawaii 96720	N/A
2-5-006:061	Kidds Development c/o James Pappas, Treasurer	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-006:160	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Puainako Street Ext.
2-5-006:151	Pappas, Marilyn J. Trust	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-061:033	Riley, Randell A	282 Edita Street Hilo, Hawaii 96720	282 Edita Street
2-5-061:032	Batalla, Roxanne-Joy Cano	272 Edita Street Hilo, Hawaii 96720	272 Edita Street
2-5-061:031	Yamashiro, Lorna Y Yamashiro, Neil	50 Manulele Street Hilo, Hawaii 96720	264 Edita Street
2-5-061:029	Iwasaki, Alan Iwasaki, Patsy	232 Edita Street Hilo, Hawaii 96720	232 Edita Street
2-5-061:028	Mochida, Ivan S. Trust	77 Kukila Street Hilo, Hawaii 96720	224 Edita Street
2-5-061:001	Gomes, Jeffrey, Kalani Gomes, Wendy Keiko	281 Edita Street Hilo, Hawaii 96720	281 Edita Street
2-5-061:002	Tada, Glenn K Tada, Karyn N Y	259 Edita Street Hilo, Hawaii 96720	259 Edita Street
2-5-061:003	Sakamoto, Ernest A Trust	1416 Pu'u Ale Place Hilo, Hawaii 96720	N/A
2-5-061:012	Akamine, Chun Y Trust	1360-D Mele Manu Street Hilo, Hawaii 96720	1360 D Mele Manu Street
2-5-061:011	Araujo, Lorin T Araujo, Margareta	1358-D Mele Manu Street Hilo, Hawaii 96720	1358 D Mele Manu Street
2-5-061:010	Fuke, Aileen S Fuke, Sidney M	1358 Mele Manu Street, Apt. C Hilo, Hawaii 96720	1358 C Mele Manu Street
2-5-061:013	Shiro, Douglas T	1360 C Mele Manu Street Hilo, Hawaii 96720	1360 C Mele Manu Street
2-5-061:014	Bevington Family Trust	1360 Mele Manu Street #B Hilo, Hawaii 96720	1360 B Mele Manu Street
2-5-061:017	Camacho, Brenda M K Camacho, David W Jr.	1414-A Mele Manu Street Hilo, Hawaii 96720	1414 A Mele Manu Street
2-5-061:018	Nishimoto, Nelson N Omoto, Patty Kiyoko	1414 Mele Manu Street, Apt. B Hilo, Hawaii 96720	1414 B Mele Manu Street
2-5-061:019	Novak, Allen L Novak, Layne Y M	1414 C Mele Manu Street Hilo, Hawaii 96720	1414 C Mele Manu Street
2-5-061:020	Ludoff, Elaine L H Wilhelm, Steve K Wilhelm, Patricia J	1416 C Mele Manu Street Hilo, Hawaii 96720	1416 C Mele Manu Street
2-5-061:021	Takata, Brice Hiroshi Takata, Christine Leiko	c/o 777 Ainako Avenue Hilo, Hawaii 96720	1416 B Mele Manu Street
2-5-061:030	Chun, Mark Richard Takamiya, Marianne Yasuko	250 Edita Street Hilo, Hawaii 96720	250 Edita Street
2-5-061:022	Herzog, Markus 2010 Trust	P.O. Box 5915 Hilo, Hawaii 96720	1416 A Mele Manu Street
2-5-061:041	Mok, TR	1464 Mele Manu Street Hilo, Hawaii 96720	1464 Mele Manu Street
2-5-061:042	Arzaga, Noemi L Arzaga, Rudy D	1468 Mele Manu Street Hilo, Hawaii 96720	1468 Mele Manu Street

3-061:043	Hudak, Daniel Robert	1488 Mele Manu Street Hilo, Hawaii 96720	1488 Mele Manu Street
2-5-061:044	Veriato, Franklin D Veriato, Virginia L	1500 Mele Manu Street Hilo, Hawaii 96720	1500 Mele Manu Street
2-5-061:045	Murai, Gary Murai, Jacqueline K	299 A. Aiu Road Wailuku, Hawaii 96793	1510-Mele Manu Street
2-5-061:046	Kanahale, Kip Masao Kanahale, Valerie-Ann Leiko	1520 Mele Manu Street Hilo, Hawaii 96720	1520 Mele Manu Street
2-5-061:106	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:105	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:104	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:103	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:102	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:107	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:049	Truesdell, Joel W Truesdell, Elizabeth French	250 Kristiano Street Hilo, Hawaii 96720	250 Kristiano Street
2-5-061:048	Santos, Robert J Tr Santos, Celeste G Tr	1540 Mele Manu Street Hilo, Hawaii 96720	1540 Mele Manu Street
2-5-061:047	Wilson, Lee Michael Morita Wilson, Adriann Misae Morita	1536 Mele Manu Street Hilo, Hawaii 96720	1536 Mele Manu Street
2-5-061:068	Kimura, Larry L	243 Mikala Street Hilo, Hawaii 96720	243 Mikala Street
2-5-061:069	Ogawa, Glenn Kouchi-Ogawa, Gail H	1495 Mele Manu Street Hilo, Hawaii 96720	1495 Mele Manu Street
2-5-061:070	Bishop, Michael Kizak, Pamela V Trust Botelho, Lee Ullani	1485 Mele Manu Street Hilo, Hawaii 96720	1485 Mele Manu Street
2-5-061:071	Yamane, Raymond Iwao Trust	1473 Mele Manu Street Hilo, Hawaii 96720	1473 Mele Manu Street
2-5-061:072	Yamashita, Gary M Yamashita, Rochelle A	1457 Mele Manu Street Hilo, Hawaii 96720	1457 Mele Manu Street
2-5-061:073	Iida, Erwin Y Lam-Iida, Julie C Y	1449 Mele Manu Street Hilo, Hawaii 96720	1449 Mele Manu Street
2-5-061:026	Sakamoto, Lester S Trust	1439 Mele Manu Street Hilo, Hawaii 96720	1439 Mele Manu Street
2-5-061:025	Ignacio, Michael L Ignacio, Claudia D	1411 Mele Manu Street Hilo, Hawaii 96720	1411 Mele Manu Street
2-5-061:024	Tokuuke, Jon P Taira-Tokuuke, Patti H	1395 Mele Manu Street Hilo, Hawaii 96720	1395 Mele Manu Street
2-5-061:016	Shozuya, Eric M Shozuya, Barbara L	1380 Mele Manu Street Hilo, Hawaii 96720	1380 Mele Manu Street
2-5-061:015	HHL Melemanu LLC	c/o Dana Kenny Hawaiian Island Homes Ltd 162 Kinoole Street, Ste 201 Hilo, Hawaii 96720	1360 A Mele Manu Street
2-5-061:008	Yokota, Melvin H Yokota, Jan	1358-A Mele Manu Street Hilo, Hawaii 96720	1358 A Mele Manu Street
2-5-061:009	Kanemoto, Wayne K Trust Kanemoto, Amy Emiko Trust	1358B Mele Manu Street Hilo, Hawaii 96720	1358 B Mele Manu Street

2-5-061:007	Sugiyama, Bryan Hiroaki Family Trust	72 Palua Loop Hilo, Hawaii 96720	N/A
2-5-061:006	Kimura, John T TTEE Kimura, Gail K Trust	1300 Mele Manu Street Hilo, Hawaii 96720	1300 Mele Manu Street
2-5-061:005	Leong, Kelly / Alyson Y Kakugawa Trus	1290 Mele Manu Street Hilo, Hawaii 96720	1290 Mele Manu Street
2-5-061:004	Hirano, Wataru Sano, Phyllis Anne Hirano-Ornizo, Naomi Y Trust Hirano, Shinae	235 Edita Street Hilo, Hawaii 96720	235 Edita Street
2-5-061:038	various		Road
2-5-061:039	various		Road
2-5-061:080	County of Hawaii	25 Aupuni Street Hilo, Hawaii 96720	Road
2-5-011:011	Nagai, Masaru/Nancy Trust Nagai, Nancy	1035 Kaumana Drive Hilo, Hawaii 96720	1035 Kaumana Drive
2-5-011:012	Cling, Carroll D Cling, Donnie Faye	1045 Kaumana Drive Hilo, Hawaii 96720	1045 Kaumana Drive
2-5-011:013	Papalimu, Joseph Kaimi Papalimu, Kahiolani Juanita	1053 Kaumana Drive Hilo, Hawaii 96720	1053 Kaumana Drive
2-5-011:014	Fegerstrom, Norma R Fegerstrom, Arnold TR	1065 Kaumana Drive Hilo, Hawaii 96720	1065 Kaumana Drive
2-5-011:015	Crivello, Ronald Anthony Crivello, Loretta Alejandro	1073 Kaumana Drive Hilo, Hawaii 96720	1073 Kaumana Drive
2-5-011:016	Sato, Mark M Sato, Melissa A	P.O. Box 529 Kaneohe, Hawaii 96744	N/A
2-5-011:017	Fegerstrom, Arnold TR	20 Wawai Loop Hilo, Hawaii 96720	1139 Kaumana Drive
2-5-011:018	Rushlow, John Howard	1147 Kaumana Drive Hilo, Hawaii 96720	1147 Kaumana Drive
2-5-011:019	Spencer, Thomas S Trust Spencer, New Tan Dec'd	1110 Kaumana Drive Hilo, Hawaii 96720	1110 Kaumana Drive
2-5-011:020	Wilson, Aiko T Wilson, Cyrus H	1090-A Kaumana Drive Hilo, Hawaii 96720	1090 Kaumana Drive
2-5-011:038	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	N/A (flume R/W)
2-5-011:039	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	1131 Kaumana Drive
2-5-011:043	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1074 Kaumana Drive
2-5-011:009	Hardenbrook, Christopher Graves Sears, Leslie Elizabeth	1013 Kaumana Drive Hilo, Hawaii 96720	1013 Kaumana Drive
2-5-011:010	Sasamura, Theodore Hajime Sasamura, Janet Reiko Leong, Sandra H Sasamura, Craig T	1023 Kaumana Drive Hilo, Hawaii 96720	1023 Kaumana Drive
2-5-011:021	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1068 Kaumana Drive
2-5-011:022	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1064 Kaumana Drive
2-5-011:023	Zane, Clifford K S Zane, Linda K O	553 Hillel Place Waiuku, Hawaii 96793	1056 Kaumana Drive

3-011:024	Kusch, Matthias Walfrid	P.O. Box 166 Pepeekeo, Hawaii 96788	1040 Kaumana Drive
2-5-011:025	Phillips, William J Jr Sweet-Phillips, Drenna M	1036 Kaumana Drive Hilo, Hawaii 96720	1036 Kaumana Drive
2-5-011:044	Nakano, Sharon Matsuyo Nakano, Owen Tadashi	1005 Kaumana Drive Hilo, Hawaii 96720	1005 Kaumana Drive
2-5-011:048	Hinck, Steven James Hinck, Kristin Lee	4646 Fort Davis Street Simi Valley, California 93083	1058 Kaumana Drive
2-5-011:050	Amuda, Jo Ann R Trust	993 C Kaumana Drive Hilo, Hawaii 96720	993 C Kaumana Drive
2-5-027:021	Carvalho Family Trust	P.O. Box 2463 Kailua-Kona, Hawaii 96740	1253 Kaumana Drive
2-5-027:001	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 A Kaumana Drive
2-5-027:002	Yamamoto, Fujie F Trust	c/o Yamamoto, Elise CO-TTEE 1245 Kaumana Drive Hilo, Hawaii 96720	1245 Kaumana Drive
2-5-027:003	Okutsu, Randal S Trust	1876 Hale O Kea Street Hilo, Hawaii 96720	1223 Kaumana Drive
2-5-027:058	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 B Kaumana Drive
2-5-027:059	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 C Kaumana Drive
2-5-027:060	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 E Kaumana Drive
2-5-027:061	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 D Kaumana Drive
2-5-027:062	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 F Kaumana Drive
2-5-027:063	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 G Kaumana Drive
2-5-027:064	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 H Kaumana Drive
2-5-027:065	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 M Kaumana Drive
2-5-027:066	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 L Kaumana Drive
2-5-027:067	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 K Kaumana Drive
2-5-027:024	Otani, Katsuko Trust	1215 Kaumana Drive Hilo, Hawaii 96720	1215 Kaumana Drive
2-5-027:025	Otani, Jean S Otani, Jean S Trust	1215 B Kaumana Drive Hilo, Hawaii 96720	1215 B Kaumana Drive
2-5-027:026	Ushijima, Dean K Ushijima, Else H	1215 Kaumana Drive Apt. C Hilo, Hawaii 96720	1215 C Kaumana Drive
2-5-027:027	Segawa, Rodney Macy F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	1215 D Kaumana Drive
2-5-027:068	Ebesu, Royce T Jr Ebesu, Jane L A	1215 G Kaumana Drive Hilo, Hawaii 96720	1215 G Kaumana Drive
2-5-027:069	Ebesu, Janey L A Trust	1215 G Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
2-5-027:070	Segawa, Rodney M F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
2-5-027:005	Sato, Sandra	1213 A Kaumana Drive Hilo, Hawaii 96720	1213 A Kaumana Drive

✓ 2-5-027:046	Hasegawa, Edward K Hasegawa, Caroline G C	250 N Judd Street Honolulu, Hawaii 96817	1211 Kaumana Drive
2-5-027:043	Perez, Catalina A	1209 A Kaumana Drive Hilo, Hawaii 96720	1209 A Kaumana Drive
✓ 2-5-027:044	Okuhara, Henry S Okuhara, Norine N	P.O. Box 945 Hilo, Hawaii 96721	1209 B Kaumana Drive
✓ 2-5-027:045	Tumer, Jason Phillip Tumer, Jennifer Sims	1209C Kaumana Drive Hilo, Hawaii 96720	1209 C Kaumana Drive
✓ 2-5-027:053	Tsuchiya, Kari K	823 Kaumana Drive Hilo, Hawaii 96720	1175 Kaumana Drive
✓ 2-5-027:054	Paiva, Paul P Paiva, Shawn M	1169 Kaumana Drive Hilo, Hawaii 96720	1169 Kaumana Drive
✓ 2-5-027:055	Komatsu, Garret T	1155 Kaumana Drive Hilo, Hawaii 96720	1155 Kaumana Drive
2-5-027:056	Inouye, Tatsuo Trust Inouye, June Trust	2230 Apoepoe Street. Pearl City, Hawaii 96782	N/A
✓ 2-5-027:047	Goya, Melvin H Trust Goya, Kiyono Trust	1170 Kaumana Drive Hilo, Hawaii 96720	1170 Kaumana Drive
✓ 2-5-027:057	Kuwahara, Bryson T Kuwahara, Lorna T	1142 Kaumana Drive Hilo, Hawaii 96720	1142 Kaumana Drive
✓ 2-5-027:007	Kuwahara, Bryson T Kuwahara, Lorna T	1142 Kaumana Drive Hilo, Hawaii 96720	N/A
✓ 2-5-027:008	Oliveira, Mary Jane Oliveira, Manuel III Oliveira, Manuel Jr	1150 Kaumana Drive Hilo, Hawaii 96720	1150 Kaumana Drive
✓ 2-5-027:009	Yahata, Michiko	98-459 Hoono Street Pearl City, Hawaii 96782	1162 Kaumana Drive
2-5-027:042	Mattos, David J Mattos, Lauri M	P.O. Box 5599 Hilo, Hawaii 96721	1209 Kaumana Drive
2-5-027:052	Luiz, Ezekiel Harvey Trust Luiz, Noreen Mai Luiz Trust	P.O. Box 116 Pepeekeo, Hawaii 96783	1193 Kaumana Drive
✓ 2-5-027:034	Nakamura, Bryce H Nakamura, Sharyl S	P.O. Box 294 Captain Cook, Hawaii 96704	1240 Kaumana Drive
✓ 2-5-027:035	Robledo, Paulette A Trust	1260 Kaumana Drive Hilo, Hawaii 96720	1260 Kaumana Drive
✓ 2-5-027:036	Perreira Family 2008 Trust	1266 Kaumana Drive Hilo, Hawaii 96720	1266 Kaumana Drive
✓ 2-5-027:014	Hoshida, Miyoko M	1280 Kaumana Drive Hilo, Hawaii 96720	1280 Kaumana Drive
✓ 2-5-027:040	Shinjo, Hajime Shinjo, Aileen C	1272 Kaumana Drive Hilo, Hawaii 96720	1272 Kaumana Drive
✓ 2-5-027:037	Kaneko, Ryan T Kaneko, Aimee A	1294 Kaumana Drive Hilo, Hawaii 96720	1294 Kaumana Drive
✓ 2-5-027:038	Yokoyama, Jan K	1300 Kaumana Drive Hilo, Hawaii 96720	1300 Kaumana Drive
✓ 2-5-027:039	Fujisawa, Stanley K Fujisawa, Tammy L Fujisawa, Curtis S Fujisawa, Minerva S	1296 Kaumana Drive Hilo, Hawaii 96720	1296 Kaumana Drive
2-5-027:015	State of Hawaii		Kaumana Drive
2-5-027:023	Nakamoto, Tsuruyo Trust	1348 Kaumana Drive Hilo, Hawaii 96720	1348 Kaumana Drive
2-5-027:016	Otani, James M	1360 Kaumana Drive Hilo, Hawaii 96720	1360 Kaumana Drive

5-027:041	Matsu, Russell Matsu, Lorraine H	1352 Kaumana Drive Hilo, Hawaii 96720	1352 Kaumana Drive
2-5-027:020	Ota, Hiroshi/Shizoho Trust	6 Pokole Way Hilo, Hawaii 96720	N/A
2-5-027:013	Site Engineering, Inc.	c/o Masutani M.K. 545 Kaaahi Street Honolulu, Hawaii 96817	1230 Kaumana Drive
2-5-027:032	Quiocho, Leandro Jr Quiocho, Wanda A	1222 A Kaumana Drive Hilo, Hawaii 96720	1222 A Kaumana Drive
2-5-027:076	Chock, Kyle Trust	1100 Launa Street Hilo, Hawaii 96720	1242 Kaumana Drive
2-5-027:012	Chock, Laura Y. Trust	555 Naniakaa Street Hilo, Hawaii 96720	1258 Kaumana Drive
2-5-027:072	Chock, Laura Y. Trust	555 Naniakaa Street Hilo, Hawaii 96720	1256 Kaumana Drive
2-5-027:073	Chock, Theone Keam Yung	1051 Hoomaikai Street Honolulu, Hawaii 96817	1254 Kaumana Drive
2-5-027:079	Chock, Theone Keam Yung	1051 Hoomaikai Street Honolulu, Hawaii 96817	1252 Kaumana Drive
2-5-027:030	Takai, Wesley T Takai, Sandra Y	1222 E Kaumana Drive Hilo, Hawaii 96720	1184 Kaumana Drive
2-5-027:010	Long, Kerry Keith	P.O. Box 1481 Hilo, Hawaii 96720	1188 Kaumana Drive
2-5-027:011	Takai, Wesley T Takai, Sandra Y	1222 E Kaumana Drive Hilo, Hawaii 96720	1190 Kaumana Drive
2-5-027:028	Thatcher, John L II Thatcher, Pamela R	1188 Kaumana Drive Hilo, Hawaii 96720	1178 Kaumana Drive
2-5-027:022	Thatcher, John L II Thatcher, Pamela R	1188 Kaumana Drive Hilo, Hawaii 96720	N/A
2-5-027:071	Segawa, Herbert A Segawa, Kay K		N/A roadway
2-5-027:004	various		roadway
2-5-027:074	Chock, Lonn S K Trust Takemoto Chock, Naomi Trust	1978 Komohana Ext Hilo, Hawaii 96720	1250 Kaumana Drive
2-5-027:080	Chock, Lonn S K Trust Takemoto Chock, Naomi Trust	1978 Komohana Ext Hilo, Hawaii 96720	1248 Kaumana Drive
2-5-027:081	Chock, Kyle Trust	1100 Launa Street Hilo, Hawaii 96720	1246 Kaumana Drive
2-5-027:077	Chock, Laura Y Trust		N/A roadway
2-5-027:078	Chock, Laura Y Trust		N/A roadway
2-5-027:033	Abri, Carole Y Abri, Mark A	1222 B Kaumana Drive Hilo, Hawaii 96720	1222 B Kaumana Drive
2-5-027:019	Ahia, Lily Auld Ahia, William Kalaemakani		N/A roadway
2-5-040:011	Leao, Tara Kalelehuaokaleilani Lee, Doreen Kanani	1503 Kaumana Drive Hilo, Hawaii 96720	1503 Kaumana Drive
2-5-040:010	Tomota, Kelli Jennifer Leihua	98 Kulaloo Road Hilo, Hawaii 96720	1483 Kaumana Drive
2-5-040:009	Otani, Noriaki Otani, Fujie Otani, Brad Hiro Otani, Max Norio Paiva, Shawn Morie	1489 Kaumana Drive Hilo, Hawaii 96720	1489 Kaumana Drive

2-5-040:008	Hirayama, Ellen Etsuko Hirayama, Ellen Setsuko Kitamura, Kimiko Kitamura, Susan Setsuko Kitamura, Tadayuki Kitamura, Wayne Kazuyuki	1479 Kaumana Drive Hilo, Hawaii 96720	1479 Kaumana Drive
2-5-040:007	Oldfield, Frances Oldfield, Richard	1473 Kaumana Drive Hilo, Hawaii 96720	1473 Kaumana Drive
2-5-040:006	Almeida, Jewels Anuenue Almeida, Mark Kaipo	551 Alihi Place Kailua, Hawaii 96734	1461 Kaumana Drive
2-5-040:036	Hennessey, Brendan J Johnson, Melissa Ann	1447 Kaumana Drive Hilo, Hawaii 96720	1447 Kaumana Drive
2-5-040:005	Yoshimura, Chiseko Yoshimura, Gary K	1441 Kaumana Drive Hilo, Hawaii 96720	1441 Kaumana Drive
2-5-040:035	Hasegawa, David A C Trust	250 N Judd Street Honolulu, Hawaii 96817	1433 Kaumana Drive
2-5-040:004	Tiogangco, Anne A Tiogangco, Jordan L	1391 Kaumana Drive Hilo, Hawaii 96720	1391 Kaumana Drive
2-5-040:003	Enoki, Calvin H Trust Sayarna-Enoki, Sandra H Trust	1381 Kaumana Drive Hilo, Hawaii 96720	1381 Kaumana Drive
2-5-040:002	Kaitoku, George M Kaitoku, Joyce H	1375 Kaumana Drive Hilo, Hawaii 96720	1375 Kaumana Drive
2-5-040:040	Hinez, Matthew F	P. O. Box 4305 Hilo, Hawaii 96720	1369 Kaumana Drive
2-5-040:001	Oblero, Dain M Oblero, Sean W Rezentes, Henry J Rezentes, Raquel K	1367 Kaumana Drive Hilo, Hawaii 96720	1367 Kaumana Drive
2-5-040:039	Toma, Bryson	1374 Kaumana Drive Hilo, Hawaii 96720	1374 Kaumana Drive
2-5-040:041	Shaver, James R	1027 Kagawa Street Pacific Palisades, California	1394 Kaumana Drive
2-5-040:015	Lee-Ching, Richard Trust	1468 Kaumana Drive Hilo, Hawaii 96720	1468 Kaumana Drive
2-5-040:014	Fujimoto, Byron S Iwase, Shirley T	142 Puhili Street Hilo, Hawaii 96720	1486 Kaumana Drive
2-5-040:018	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	1486 A Kaumana Drive
2-5-040:042	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	50 Akala Road
2-5-040:013	Rubio, Karen Leiko Rubio, Lloyd J	226 Akala Road Hilo, Hawaii 96720	1496 Kaumana Drive
2-5-040:012	State of Hawaii	Kaumana Cave Park	1558 Kaumana Drive
2-5-040:019	Butz, Marc Giangregorio, Desree	55 Akala Road Hilo, Hawaii 96720	55 Akala Road
2-5-040:020	Flood, Jeanie L Flood, Shawn G	1600 Kaumana Drive Hilo, Hawaii 96720	1600 Kaumana Drive
2-5-014:001	Chong, Wallace F Trust	788 Haihai Street Hilo, Hawaii 96720	N/A
2-5-014:005	Kearns, Glenn E Trust Kearns, Virginia V Trust	33 W Naauao Street Hilo, Hawaii 96720	33 W Naauao Street
2-5-027:048	Chong, Albert W Chong, Sharon Ann	1476 Kikaha Street Hilo, Hawaii 96720	6 Chong Street

REQUEST TO ACCESS A GOVERNMENT RECORD

PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 APR 17 AM 10:46

DATE: April 17, 2014

TO: Planning Commissioner Raylene Moses, c/o County of Hawaii Planning Department

FROM: Ted H.S. Hong, Esq.

Contact Information: Post Office Box 4217, Hilo, Hawaii 96720; 933.1919; email: ted@tedhonglaw.com

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

Any and all personal documents and correspondence memoranda, letters, correspondence, personal emails within the past two (2) years to present (July 25, 2012 to present), that mentions CONNECTIONS and/or COMMUNITY BASED EDUCATION SUPPORT SERVICES and its plans related to the Special Permit Application (SPP No. 12-000138) to/from and/or between any individual from the attached list.

I WOULD LIKE: (please check one or more of the options below)

- To inspect the government record.
- A copy of the government record: (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

- Pick up at agency (date and time): _____
- Mail
- Fax (toll free and only if available)
- Other, if available (please specify): _____

- If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.

- Electronic Audio Other (please specify): _____

- Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

SCANNED
 APR 15 2014
 By 091209

TMK	Owner(s)	Owner's Mailing Address	Street Address of TMK
2-5-006:003	State of Hawaii	N/A	
2-5-006:052	Segawa, Wesley R Segawa, Phyllis E	19 Puuko Street Hilo, Hawaii 96720	N/A
2-5-006:061	Kidds Development c/o James Pappas, Treasurer	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-006:160	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Puainako Street Ext.
2-5-006:151	Pappas, Marilyn J. Trust	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-061:033	Riley, Randell A	282 Edita Street Hilo, Hawaii 96720	282 Edita Street
2-5-061:032	Batala, Roxanne-Joy Cano	272 Edita Street Hilo, Hawaii 96720	272 Edita Street
2-5-061:031	Yamashiro, Lorna Y Yamashiro, Neil	50 Manulele Street Hilo, Hawaii 96720	264 Edita Street
2-5-061:029	Iwasaki, Alan Iwasaki, Patsy	232 Edita Street Hilo, Hawaii 96720	232 Edita Street
2-5-061:028	Mochida, Ivan S. Trust	77 Kukila Street Hilo, Hawaii 96720	224 Edita Street
2-5-061:001	Gomes, Jeffrey, Kalani Gomes, Wendy Keiko	281 Edita Street Hilo, Hawaii 96720	281 Edita Street
2-5-061:002	Tada, Glerin K Tada, Karyn N Y	259 Edita Street Hilo, Hawaii 96720	259 Edita Street
2-5-061:003	Sakamoto, Ernest A Trust	1416 Pu'u Ale Place Hilo, Hawaii 96720	N/A
2-5-061:012	Akamine, Chun Y Trust	1360-D Mele Manu Street Hilo, Hawaii 96720	1360 D Mele Manu Street
2-5-061:011	Araujo, Lorrin T Araujo, Margareta	1358-D Mele Manu Street Hilo, Hawaii 96720	1358 D Mele Manu Street
2-5-061:010	Fuke, Aileen S Fuke, Sidney M	1358 Mele Manu Street, Apt. C Hilo, Hawaii 96720	1358 C Mele Manu Street
2-5-061:013	Shiro, Douglas T	1360 C Mele Manu Street Hilo, Hawaii 96720	1360 C Mele Manu Street
2-5-061:014	Bevington Family Trust	1360 Mele Manu Street #B Hilo, Hawaii 96720	1360 B Mele Manu Street
2-5-061:017	Camacho, Brenda M K Camacho, david W Jr.	1414-A Mele Manu Street Hilo, Hawaii 96720	1414 A Mele Manu Street
2-5-061:018	Nishimoto, Nelson N Omoto, Patty Kiyoko	1414 Mele Manu Street, Apt. B Hilo, Hawaii 96720	1414 B Mele Manu Street
2-5-061:019	Novak, Allen L Novak, Layne Y M	1414 C Mele Manu Street Hilo, Hawaii 96720	1414 C Mele Manu Street
2-5-061:020	Ludoff, Elaine L H Wilhelm, Steve K Wilhelm, Patricia J	1416 C Mele Manu Street Hilo, Hawaii 96720	1416 C Mele Manu Street
2-5-061:021	Takata, Brice Hiroshi Takata, Christine Leiko	c/o 777 Ainako Avenue Hilo, Hawaii 96720	1416 B Mele Manu Street
2-5-061:030	Chun, Mark Richard Takamiya, Marianne Yasuko	250 Edita Street Hilo, Hawaii 96720	250 Edita Street
5-061:022	Herzog, Markus 2010 Trust	P.O. Box 5915 Hilo, Hawaii 96720	1416 A Mele Manu Street
2-5-061:041	Mok, TR	1464 Mele Manu Street Hilo, Hawaii 96720	1464 Mele Manu Street
2-5-061:042	Arzaga, Noemi L Arzaga, Rudy D	1468 Mele Manu Street Hilo, Hawaii 96720	1468 Mele Manu Street

3-061:043	Hudak, Daniel Robert	1488 Mele Manu Street Hilo, Hawaii 96720	1488 Mele Manu Street
2-5-061:044	Veriato, Franklin D Veriato, Virginia L	1500 Mele Manu Street Hilo, Hawaii 96720	1500 Mele Manu Street
2-5-061:045	Murai, Gary Murai, Jacqueline K	299 A. Alu Road Wailuku, Hawaii 96793	1510 Mele Manu Street
2-5-061:046	Kanahele, Kip Masao Kanahele, Valerie-Ann Leiko	1520 Mele Manu Street Hilo, Hawaii 96720	1520 Mele Manu Street
2-5-061:106	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:105	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:104	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:103	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:102	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:107	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:049	Truesdell, Joel W Truesdell, Elizabeth French	250 Kristiano Street Hilo, Hawaii 96720	250 Kristiano Street
2-5-061:048	Santos, Robert J Tr Santos, Celeste G Tr	1540 Mele Manu Street Hilo, Hawaii 96720	1540 Mele Manu Street
2-5-061:047	Wilson, Lee Michael Morita Wilson, Adriann Misae Morita	1536 Mele Manu Street Hilo, Hawaii 96720	1536 Mele Manu Street
2-5-061:068	Kimura, Larry L Ogawa, Glenn	243 Mikala Street Hilo, Hawaii 96720	243 Mikala Street
2-5-061:069	Kouchi-Ogawa, Gail H	1495 Mele Manu Street Hilo, Hawaii 96720	1495 Mele Manu Street
2-5-061:070	Bishop, Michael Kzak, Pamela V Trust Botelho, Lee Uilani	1485 Mele Manu Street Hilo, Hawaii 96720	1485 Mele Manu Street
2-5-061:071	Yamane, Raymond Iwao Trust	1473 Mele Manu Street Hilo, Hawaii 96720	1473 Mele Manu Street
2-5-061:072	Yamashita, Gary M Yamashita, Rochelle A	1457 Mele Manu Street Hilo, Hawaii 96720	1457 Mele Manu Street
2-5-061:073	Iida, Erwin Y Lam-Iida, Julie C Y	1449 Mele Manu Street Hilo, Hawaii 96720	1449 Mele Manu Street
2-5-061:026	Sakamoto, Lester S Trust	1439 Mele Manu Street Hilo, Hawaii 96720	1439 Mele Manu Street
2-5-061:025	Ignacio, Michael L Ignacio, Claudia D	1411 Mele Manu Street Hilo, Hawaii 96720	1411 Mele Manu Street
2-5-061:024	Tokuuke, Jon P Taira-Tokuuke, Patti H	1395 Mele Manu Street Hilo, Hawaii 96720	1395 Mele Manu Street
2-5-061:016	Shozuya, Eric M Shozuya, Barbara L	1380 Mele Manu Street Hilo, Hawaii 96720	1380 Mele Manu Street
2-5-061:015	HHL Melemanu LLC	c/o Dana Kenny Hawaiian Island Homes Ltd 162 Kinole Street, Ste 201 Hilo, Hawaii 96720	1360 A Mele Manu Street
2-5-061:008	Yokota, Melvin H Yokota, Jan	1358-A Mele Manu Street Hilo, Hawaii 96720	1358 A Mele Manu Street
2-5-061:009	Kanemoto, Wayne K Trust Kanemoto, Amy Emiko Trust	1358B Mele Manu Street Hilo, Hawaii 96720	1358 B Mele Manu Street

2-5-061:007	Sugiyama, Bryan Hiroaki Family Trust	72 Paiua Loop Hilo, Hawaii 96720	N/A
2-5-061:006	Kimura, John T TTEE Kimura, Gail K Trust	1300 Mele Manu Street Hilo, Hawaii 96720	1300 Mele Manu Street
2-5-061:005	Leong, Kelly / Alyson Y Kakugawa Trust	1290 Mele Manu Street Hilo, Hawaii 96720	1290 Mele Manu Street
2-5-061:004	Hirano, Wataru Sano, Phyllis Anne Hirano-Omizo, Naomi Y Trust Hirano, Shinae	235 Edita Street Hilo, Hawaii 96720	235 Edita Street
2-5-061:038	various		Road
2-5-061:039	various		Road
2-5-061:080	County of Hawaii	25 Aupuni Street Hilo, Hawaii 96720	Road
2-5-011:011	Nagai, Masaru/Nancy Trust Nagai, Nancy	1035 Kaumana Drive Hilo, Hawaii 96720	1035 Kaumana Drive
2-5-011:012	Cling, Carroll D Cling, Donnie Faye	1045 Kaumana Drive Hilo, Hawaii 96720	1045 Kaumana Drive
2-5-011:013	Papalimu, Joseph Kaimi Papalimu, Kahlolani Juanita	1053 Kaumana Drive Hilo, Hawaii 96720	1053 Kaumana Drive
2-5-011:014	Fegerstrom, Norma R Fegerstrom, Arnold TR	1065 Kaumana Drive Hilo, Hawaii 96720	1065 Kaumana Drive
2-5-011:015	Crivello, Ronald Anthony Crivello, Loretta Alejandro	1073 Kaumana Drive Hilo, Hawaii 96720	1073 Kaumana Drive
2-5-011:016	Sato, Mark M Sato, Melissa A	P.O. Box 529 Kaneohe, Hawaii 96744	N/A
2-5-011:017	Fegerstrom, Arnold TR	20 Wawai Loop Hilo, Hawaii 96720	1139 Kaumana Drive
2-5-011:018	Rushlow, John Howard	1147 Kaumana Drive Hilo, Hawaii 96720	1147 Kaumana Drive
2-5-011:019	Spencer, Thomas S Trust Spencer, New Tan Dec'd	1110 Kaumana Drive Hilo, Hawaii 96720	1110 Kaumana Drive
2-5-011:020	Wilson, Aiko T Wilson, Cyrus H	1090-A Kaumana Drive Hilo, Hawaii 96720	1090 Kaumana Drive
2-5-011:038	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	N/A (flume R/W)
2-5-011:039	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	1131 Kaumana Drive
2-5-011:043	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1074 Kaumana Drive
2-5-011:009	Hardenbrook, Christopher Graves Sears, Leslie Elizabeth	1013 Kaumana Drive Hilo, Hawaii 96720	1013 Kaumana Drive
2-5-011:010	Sasamura, Theodore Hajime Sasamura, Janet Reiko Leong, Sandra H Sasamura, Craig T	1023 Kaumana Drive Hilo, Hawaii 96720	1023 Kaumana Drive
2-5-011:021	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1068 Kaumana Drive
2-5-011:022	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1064 Kaumana Drive
2-5-011:023	Zane, Clifford K S Zane, Linda K O	553 Hillel Place Waiuku, Hawaii 96793	1056 Kaumana Drive

3-011:024	Kusch, Matthias Walfrid	P.O. Box 166 Pepeekeo, Hawaii 96783	1040 Kaumana Drive
2-011:025	Phillips, William J Jr Sweet-Phillips, Drenna M	1036 Kaumana Drive Hilo, Hawaii 96720	1036 Kaumana Drive
2-5-011:044	Nakano, Sharon Matsuyo Nakano, Owen Tadashi	1005 Kaumana Drive Hilo, Hawaii 96720	1005 Kaumana Drive
2-5-011:048	Hinck, Steven James Hinck, Krysti Lee	4646 Fort Davis Street Simi Valley, California 93063	1058 Kaumana Drive
2-5-011:050	Arruda, Jo Anni R Trust	993 C Kaumana Drive Hilo, Hawaii 96720	993 C Kaumana Drive
2-5-027:021	Carvalho Family Trust	P.O. Box 2463 Kailua-Kona, Hawaii 96740	1253 Kaumana Drive
2-5-027:001	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 A Kaumana Drive
2-5-027:002	Yamamoto, Fujie F Trust	c/o Yamamoto, Elise CO-TTEE 1245 Kaumana Drive Hilo, Hawaii 96720	1245 Kaumana Drive
2-5-027:003	Okutsu, Randal S Trust	1876 Hale O Kea Street Hilo, Hawaii 96720	1223 Kaumana Drive
2-5-027:058	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 B Kaumana Drive
2-5-027:059	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 C Kaumana Drive
2-5-027:060	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 E Kaumana Drive
2-5-027:061	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 D Kaumana Drive
2-5-027:062	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 F Kaumana Drive
2-5-027:063	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 G Kaumana Drive
2-5-027:064	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 H Kaumana Drive
2-5-027:065	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 M Kaumana Drive
2-5-027:066	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 L Kaumana Drive
2-5-027:067	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 K Kaumana Drive
2-5-027:024	Otani, Katsuko Trust	1215 Kaumana Drive Hilo, Hawaii 96720	1215 Kaumana Drive
2-5-027:025	Otani, Jean S Otani, Jean S Trust	1215 B Kaumana Drive Hilo, Hawaii 96720	1215 B Kaumana Drive
2-5-027:026	Ushijima, Dean K Ushijima, Elise H	1215 Kaumana Drive Apt. C Hilo, Hawaii 96720	1215 C Kaumana Drive
2-5-027:027	Segawa, Rodney Macy F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	1215 D Kaumana Drive
2-6-027:068	Ebesu, Royce T Jr Ebesu, Jane L A	1215 G Kaumana Drive Hilo, Hawaii 96720	1215 G Kaumana Drive
5-027:069	Ebesu, Janey L A Trust	1215 G Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
5-027:070	Segawa, Rodney M F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
2-5-027:005	Sato, Sandra	1213 A Kaumana Drive Hilo, Hawaii 96720	1213 A Kaumana Drive

✓ 2-5-027:046	Hasegawa, Edward K Hasegawa, Caroline G C	250 N Judd Street Honolulu, Hawaii 96817	1211 Kaumana Drive
✓ 2-5-027:043	Perez, Catalina A	1209 A Kaumana Drive Hilo, Hawaii 96720	1209 A Kaumana Drive
✓ 2-5-027:044	Okuhara, Henry S Okuhara, Norine N	P.O. Box 945 Hilo, Hawaii 96721	1209 B Kaumana Drive
✓ 2-5-027:045	Turner, Jason Phillip Turner, Jennifer Sims	1209C Kaumana Drive Hilo, Hawaii 96720	1209 C Kaumana Drive
✓ 2-5-027:053	Tsuchiya, Karl K	823 Kaumana Drive Hilo, Hawaii 96720	1175 Kaumana Drive
✓ 2-5-027:054	Paiva, Paul P Paiva, Shawn M	1169 Kaumana Drive Hilo, Hawaii 96720	1169 Kaumana Drive
✓ 2-5-027:055	Komatsu, Garret T	1155 Kaumana Drive Hilo, Hawaii 96720	1155 Kaumana Drive
✓ 2-5-027:056	Inouye, Talsuo Trust Inouye, June Trust	2230 Apoepoe Street. Pearl City, Hawaii 96782	N/A
✓ 2-5-027:047	Goya, Melvin H Trust Goya, Kiyono Trust	1170 Kaumana Drive Hilo, Hawaii 96720	1170 Kaumana Drive
✓ 2-5-027:057	Kuwahara, Bryson T Kuwahara, Loma T	1142 Kaumana Drive Hilo, Hawaii 96720	1142 Kaumana Drive
✓ 2-5-027:007	Kuwahara, Bryson T Kuwahara, Loma T	1142 Kaumana Drive Hilo, Hawaii 96720	N/A
✓ 2-5-027:008	Oliveira, Mary Jane Oliveira, Manuel III Oliveira, Manuel Jr	1150 Kaumana Drive Hilo, Hawaii 96720	1150 Kaumana Drive
✓ 2-5-027:009	Yahata, Michiko	98-459 Hoono Street Pearl City, Hawaii 96782	1162 Kaumana Drive
✓ 2-5-027:042	Mattos, David J Mattos, Luan M	P.O. Box 5599 Hilo, Hawaii 96721	1209 Kaumana Drive
✓ 2-5-027:052	Luiz, Ezekiel Harvey Trust Luiz, Noreen Mar Luiz Trust	P.O. Box 116 Pepeekeo, Hawaii 96783	1193 Kaumana Drive
✓ 2-5-027:034	Nakamura, Bryce H Nakamura, Sharyl S	P.O. Box 294 Captain Cook, Hawaii 96704	1240 Kaumana Drive
✓ 2-5-027:035	Robledo, Paulette A Trust	1260 Kaumana Drive Hilo, Hawaii 96720	1260 Kaumana Drive
✓ 2-5-027:036	Perreira Family 2008 Trust	1266 Kaumana Drive Hilo, Hawaii 96720	1266 Kaumana Drive
✓ 2-5-027:014	Hoshida, Miyoko M	1280 Kaumana Drive Hilo, Hawaii 96720	1280 Kaumana Drive
✓ 2-5-027:040	Shinjo, Hajime Shinjo, Aileen C	1272 Kaumana Drive Hilo, Hawaii 96720	1272 Kaumana Drive
✓ 2-5-027:037	Kaneko, Ryan T Kaneko, Aimee A	1294 Kaumana Drive Hilo, Hawaii 96720	1294 Kaumana Drive
✓ 2-5-027:038	Yokoyama, Jan K	1300 Kaumana Drive Hilo, Hawaii 96720	1300 Kaumana Drive
✓ 2-5-027:039	Fujisawa, Stanley K Fujisawa, Tammy L Fujisawa, Curtis S Fujisawa, Minerva S	1296 Kaumana Drive Hilo, Hawaii 96720	1296 Kaumana Drive
✓ 2-5-027:015	State of Hawaii		Kaumana Drive
✓ 2-5-027:023	Nakamoto, Tsuruyo Trust	1348 Kaumana Drive Hilo, Hawaii 96720	1348 Kaumana Drive
✓ 2-5-027:016	Otani, James M	1360 Kaumana Drive Hilo, Hawaii 96720	1360 Kaumana Drive

5-027:041	Matsu, Russell Matsu, Lorraine H	1352 Kaumana Drive Hilo, Hawaii 96720	1352 Kaumana Drive
5-027:020	Ota, Hiroshi/Shizoho Trust	6 Pokole Way Hilo, Hawaii 96720	N/A
2-5-027:013	Site Engineering, Inc.	c/o Masutani M.K. 545 Kaaali Street Honolulu, Hawaii 96817	1230 Kaumana Drive
2-5-027:032	Quicocho, Leandro Jr. Quicocho, Wanda A	1222 A Kaumana Drive Hilo, Hawaii 96720	1222 A Kaumana Drive
2-5-027:076	Chock, Kyle Trust	1100 Laura Street Hilo, Hawaii 96720	1242 Kaumana Drive
2-5-027:012	Chock, Laura Y Trust	555 Naniakaa Street Hilo, Hawaii 96720	1258 Kaumana Drive
2-5-027:072	Chock, Laura Y Trust	555 Naniakaa Street Hilo, Hawaii 96720	1256 Kaumana Drive
2-5-027:073	Chock, Theone Kearn Yung	1051 Hoomaikai Street Honolulu, Hawaii 96817	1254 Kaumana Drive
2-5-027:079	Chock, Theone Kearn Yung	1051 Hoomaikai Street Honolulu, Hawaii 96817	1252 Kaumana Drive
2-5-027:030	Takai, Wesley T Takai, Sandra Y	1222 E Kaumana Drive Hilo, Hawaii 96720	1194 Kaumana Drive
2-5-027:010	Long, Kerry Keith	P.O. Box 1481 Hilo, Hawaii 96720	1188 Kaumana Drive
2-5-027:011	Takai, Wesley T Takai, Sandra Y	1222 E Kaumana Drive Hilo, Hawaii 96720	1190 Kaumana Drive
2-5-027:028	Thatcher, John L II Thatcher, Pamela R	1188 Kaumana Drive Hilo, Hawaii 96720	1178 Kaumana Drive
2-5-027:022	Thatcher, John L II Thatcher, Pamela R	1188 Kaumana Drive Hilo, Hawaii 96720	N/A
2-5-027:071	Segawa, Herbert A Segawa, Kay K		N/A roadway
2-5-027:004	various		roadway
2-5-027:074	Chock, Lornn S K Trust Takemoto Chock, Naomi Trust	1978 Kumohana Ext Hilo, Hawaii 96720	1250 Kaumana Drive
2-5-027:080	Chock, Lornn S K Trust Takemoto Chock, Naomi Trust	1978 Kumohana Ext Hilo, Hawaii 96720	1248 Kaumana Drive
2-5-027:081	Chock, Kyle Trust	1100 Laura Street Hilo, Hawaii 96720	1246 Kaumana Drive
2-5-027:077	Chock, Laura Y Trust		N/A roadway
2-5-027:078	Chock, Laura Y Trust		N/A roadway
2-5-027:033	Ahii, Carol Y Ahi, Maik A	1222 B Kaumana Drive Hilo, Hawaii 96720	1222 B Kaumana Drive
2-5-027:019	Ahia, Lily Auld Ahia, William Kalaemakani		N/A roadway
2-5-040:011	Leao, Tara Kalelehuaokaleilani Lee, Doreen Kanani	1503 Kaumana Drive Hilo, Hawaii 96720	1503 Kaumana Drive
2-5-040:010	Tomota, Kelli Jennifer Leihua	98 Kulafoa Road Hilo, Hawaii 96720	1493 Kaumana Drive
2-5-040:009	Otani, Noriaki Otani, Fujie Otani, Brad Hiro Otani, Max Norio Paiva, Shawn Morie	1489 Kaumana Drive Hilo, Hawaii 96720	1489 Kaumana Drive

2-5-040:008	Hirayama, Ellen Etsuko Hirayama, Ellen Setsuko Kitamura, Kimiko Kitamura, Susan Setsuko Kitamura, Tadayuki Kitamura, Wayne Kazuyuki	1479 Kaumana Drive Hilo, Hawaii 96720	1479 Kaumana Drive
2-5-040:007	Oldfield, Frances Oldfield, Richard	1473 Kaumana Drive Hilo, Hawaii 96720	1473 Kaumana Drive
2-5-040:006	Almeida, Jewels Anuenue Almeida, Mark Kaipo	561 Alihi Place Kailua, Hawaii 96734	1461 Kaumana Drive
2-5-040:036	Hennessey, Brendan J Johnson, Melissa Ann	1447 Kaumana Drive Hilo, Hawaii 96720	1447 Kaumana Drive
2-5-040:005	Yoshimura, Chiseko Yoshimura, Gary K	1441 Kaumana Drive Hilo, Hawaii 96720	1441 Kaumana Drive
2-5-040:035	Hasegawa, David A C Trust	250 N Judd Street Honolulu, Hawaii 96817	1433 Kaumana Drive
2-5-040:004	Tiogangco, Anne A Tiogangco, Jordan L	1391 Kaumana Drive Hilo, Hawaii 96720	1391 Kaumana Drive
2-5-040:003	Enoki, Calvin H Trust Sayama-Enoki, Sandra H Trust	1381 Kaumana Drive Hilo, Hawaii 96720	1381 Kaumana Drive
2-5-040:002	Kaitoku, George M Kaitoku, Joyce H	1375 Kaumana Drive Hilo, Hawaii 96720	1375 Kaumana Drive
2-5-040:040	Hinez, Matthew F	P. O. Box 4305 Hilo, Hawaii 96720	1369 Kaumana Drive
2-5-040:001	Oblero, Dain M Oblero, Sean W Rezentes, Henry J Rezentes, Raquel K	1367 Kaumana Drive Hilo, Hawaii 96720	1367 Kaumana Drive
2-5-040:039	Toma, Bryson	1374 Kaumana Drive Hilo, Hawaii 96720	1374 Kaumana Drive
2-5-040:041	Shaver, James R	1027 Kagawa Street Pacific Palisades, California	1394 Kaumana Drive
2-5-040:015	Lee-Ching, Richard Trust	1468 Kaumana Drive Hilo, Hawaii 96720	1468 Kaumana Drive
2-5-040:014	Fujimoto, Byron S Iwase, Shirley T	142 Puhili Street Hilo, Hawaii 96720	1486 Kaumana Drive
2-5-040:018	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	1486 A Kaumana Drive
2-5-040:042	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	50 Akala Road
2-5-040:013	Rubio, Karen Leiko Rubio, Lloyd J	226 Akala Road Hilo, Hawaii 96720	1496 Kaumana Drive
2-5-040:012	State of Hawaii	Kaumana Cave Park	1568 Kaumana Drive
2-5-040:019	Butz, Marc Giangregorio, Desiree	55 Akala Road Hilo, Hawaii 96720	55 Akala Road
2-5-040:020	Flood, Jeanie L Flood, Shawn G	1600 Kaumana Drive Hilo, Hawaii 96720	1600 Kaumana Drive
2-5-014:001	Chong, Wallace F Trust	788 Haihai Street Hilo, Hawaii 96720	N/A
2-5-014:005	Kearns, Glenn E Trust Kearns, Virginia V Trust	33 W Naauao Street Hilo, Hawaii 96720	33 W Naauao Street
2-027:048	Chong, Albert W Chong, Sharon Ann	1476 Kikaha Street Hilo, Hawaii 96720	6 Chong Street

REQUEST TO ACCESS A GOVERNMENT RECORD

2014 APR 17 AM 11:06

DATE: April 17, 2014

TO: Planning Commissioner (Past) Wally Ishibashi, c/o County of Hawaii Planning Department

FROM: Ted H.S. Hong, Esq.

Contact Information: Post Office Box 4217, Hilo, Hawaii 96720; 933.1919; email: ted@tedhonglaw.com

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

Any and all personal documents and correspondence memoranda, letters, correspondence, personal emails within the past two (2) years to present (July 25, 2012 to present), that mentions CONNECTIONS and/or COMMUNITY BASED EDUCATION SUPPORT SERVICES and its plans related to the Special Permit Application (SPP No. 12-000138) to/from and/or between any individual from the attached list.

I WOULD LIKE: (please check one or more of the options below)

- To inspect the government record.
- A copy of the government record: (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.
 - Pick up at agency (date and time): _____
 - Mail
 - Fax (toll free and only if available)
 - Other, if available (please specify): _____
- If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.
 - Electronic Audio Other (please specify): _____
- Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

SCANNED
 APR 17 2014
 By 091209

TMK	Owner(s)	Owner's Mailing Address	Street Address of TMK
2-5-006:003	State of Hawaii	N/A	
2-5-006:052	Segawa, Wesley R Segawa, Phyllis E	19 Puuko Street Hilo, Hawaii 96720	N/A
2-5-006:061	Kidd's Development c/o James Pappas, Treasurer	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-006:160	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Puainako Street Ext.
2-5-006:151	Pappas, Marilyn J. Trust	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-061:033	Riley, Randell A	282 Edita Street Hilo, Hawaii 96720	282 Edita Street
2-5-061:032	Batalia, Roxanne-Joy Cano	272 Edita Street Hilo, Hawaii 96720	272 Edita Street
2-5-061:031	Yamashiro, Lorna Y Yamashiro, Neil	50 Manulele Street Hilo, Hawaii 96720	264 Edita Street
2-5-061:029	Iwasaki, Alan Iwasaki, Patsy	232 Edita Street Hilo, Hawaii 96720	232 Edita Street
2-5-061:028	Mochida, Ivan S. Trust	77 Kukila Street Hilo, Hawaii 96720	224 Edita Street
2-5-061:001	Gomes, Jeffrey, Kalani Gomes, Wendy Keiko	281 Edita Street Hilo, Hawaii 96720	281 Edita Street
2-5-061:002	Tada, Glenn K Tada, Karyn N Y	259 Edita Street Hilo, Hawaii 96720	259 Edita Street
2-5-061:003	Sakamoto, Ernest A Trust	1416 Pu'u Ale Place Hilo, Hawaii 96720	N/A
2-5-061:012	Akamine, Chun Y Trust	1360-D Mele Manu Street Hilo, Hawaii 96720	1360 D Mele Manu Street
2-5-061:011	Araujo, Lorrin T Araujo, Margareta	1358-D Mele Manu Street Hilo, Hawaii 96720	1358 D Mele Manu Street
2-5-061:010	Fuke, Aileen S Fuke, Sidney M	1358 Mele Manu Street, Apt. C Hilo, Hawaii 96720	1358 C Mele Manu Street
2-5-061:013	Shiro, Douglas T	1360 C Mele Manu Street Hilo, Hawaii 96720	1360 C Mele Manu Street
2-5-061:014	Bevington Family Trust	1360 Mele Manu Street #B Hilo, Hawaii 96720	1360 B Mele Manu Street
2-5-061:017	Camacho, Brenda M K Camacho, David W Jr.	1414-A Mele Manu Street Hilo, Hawaii 96720	1414 A Mele Manu Street
2-5-061:018	Nishimoto, Nelson N Omoto, Patty Kiyoko	1414 Mele Manu Street, Apt. B Hilo, Hawaii 96720	1414 B Mele Manu Street
2-5-061:019	Novak, Allen L Novak, Layne Y M	1414 C Mele Manu Street Hilo, Hawaii 96720	1414 C Mele Manu Street
2-5-061:020	Ludoff, Elaine L H Wilhelm, Steve K Wilhelm, Patricia J	1416 C Mele Manu Street Hilo, Hawaii 96720	1416 C Mele Manu Street
2-5-061:021	Takata, Brice Hiroshi Takata, Christine Leiko	c/o 777 Ainako Avenue Hilo, Hawaii 96720	1416 B Mele Manu Street
2-5-061:030	Chun, Mark Richard Takamiya, Marianne Yasuko	250 Edita Street Hilo, Hawaii 96720	250 Edita Street
5-061:022	Herzog, Markus 2010 Trust	P.O. Box 5915 Hilo, Hawaii 96720	1416 A Mele Manu Street
2-5-061:041	Mok, TR	1464 Mele Manu Street Hilo, Hawaii 96720	1464 Mele Manu Street
2-5-061:042	Arzaga, Noemi L Arzaga, Rudy D	1468 Mele Manu Street Hilo, Hawaii 96720	1468 Mele Manu Street

3-061:043	Hudak, Daniel Robert	1488 Mele Manu Street Hilo, Hawaii 96720	1488 Mele Manu Street
2-061:044	Veriato, Franklin D Veriato, Virginia L	1500 Mele Manu Street Hilo, Hawaii 96720	1500 Mele Manu Street
2-5-061:045	Murai, Gary Murai, Jacqueline K	299 A. Alu Road Wailuku, Hawaii 96793	1510 Mele Manu Street
2-5-061:046	Kanahele, Kip Masao Kanahele, Valerie-Ann Leiko	1520 Mele Manu Street Hilo, Hawaii 96720	1520 Mele Manu Street
2-5-061:106	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:105	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:104	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:103	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:102	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:107	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:049	Truesdell, Joel W Truesdell, Elizabeth French	250 Kristiano Street Hilo, Hawaii 96720	250 Kristiano Street
2-5-061:048	Santos, Robert J Tr Santos, Celeste G Tr	1540 Mele Manu Street Hilo, Hawaii 96720	1540 Mele Manu Street
2-5-061:047	Wilson, Lee Michael Morita Wilson, Adriann Misae Morita	1536 Mele Manu Street Hilo, Hawaii 96720	1536 Mele Manu Street
2-061:068	Kimura, Larry L	243 Mikala Street Hilo, Hawaii 96720	243 Mikala Street
2-5-061:069	Ogawa, Glenn Kouchi-Ogawa, Gail H	1495 Mele Manu Street Hilo, Hawaii 96720	1495 Mele Manu Street
2-5-061:070	Bishop, Michael Kizak, Pamela V Trust Botelho, Lee Uilani	1485 Mele Manu Street Hilo, Hawaii 96720	1485 Mele Manu Street
2-5-061:071	Yamane, Raymond Iwao Trust	1473 Mele Manu Street Hilo, Hawaii 96720	1473 Mele Manu Street
2-5-061:072	Yamashita, Gary M Yamashita, Rochelle A	1457 Mele Manu Street Hilo, Hawaii 96720	1457 Mele Manu Street
2-5-061:073	Iida, Erwin Y Lam-Iida, Julie C Y	1449 Mele Manu Street Hilo, Hawaii 96720	1449 Mele Manu Street
2-5-061:026	Sakamoto, Lester S Trust	1439 Mele Manu Street Hilo, Hawaii 96720	1439 Mele Manu Street
2-5-061:025	Ignacio, Michael L Ignacio, Claudia D	1411 Mele Manu Street Hilo, Hawaii 96720	1411 Mele Manu Street
2-5-061:024	Tokuuke, Jon P Taira-Tokuuke, Patti H	1395 Mele Manu Street Hilo, Hawaii 96720	1395 Mele Manu Street
2-5-061:016	Shozuya, Eric M Shozuya, Barbara L	1380 Mele Manu Street Hilo, Hawaii 96720	1380 Mele Manu Street
2-5-061:015	HIHL Melemanu LLC	c/o Dana Kenny Hawaiian Island Homes Ltd 162 Kinole Street, Ste 201 Hilo, Hawaii 96720	1360 A Mele Manu Street
2-5-061:008	Yokota, Melvin H Yokota, Jan	1358-A Mele Manu Street Hilo, Hawaii 96720	1358 A Mele Manu Street
2-5-061:009	Kanemoto, Wayne K Trust Kanemoto, Amy Emiko Trust	1358B Mele Manu Street Hilo, Hawaii 96720	1358 B Mele Manu Street

2-5-061:007	Sugiyama, Bryan Hiroaki Family Trust	72 Palua Loop Hilo, Hawaii 96720	N/A
2-5-061:006	Kimura, John T TTEE Kimura, Gail K Trust	1300 Mele Manu Street Hilo, Hawaii 96720	1300 Mele Manu Street
2-5-061:005	Leong, Kelly / Alyson Y Kakugawa Trust	1290 Mele Manu Street Hilo, Hawaii 96720	1290 Mele Manu Street
2-5-061:004	Hirano, Wataru Sano, Phyllis Anne Hirano-Ornizo, Naomi Y Trust Hirano, Shinae	235 Edita Street Hilo, Hawaii 96720	235 Edita Street
2-5-061:038	various		Road
2-5-061:039	various		Road
2-5-061:080	County of Hawaii	26 Aupuni Street Hilo, Hawaii 96720	Road
2-5-011:011	Nagai, Masaru/Nancy Trust Nagai, Nancy	1035 Kaumana Drive Hilo, Hawaii 96720	1035 Kaumana Drive
2-5-011:012	Cling, Carroll D Cling, Donnie Faye	1045 Kaumana Drive Hilo, Hawaii 96720	1045 Kaumana Drive
2-5-011:013	Papalimu, Joseph Kaimi Papalimu, Kaholani Juanita	1053 Kaumana Drive Hilo, Hawaii 96720	1053 Kaumana Drive
2-5-011:014	Fegerstrom, Norma R Fegerstrom, Arnold TR	1065 Kaumana Drive Hilo, Hawaii 96720	1065 Kaumana Drive
2-5-011:015	Crivello, Ronald Anthony Crivello, Loretta Alejandro	1073 Kaumana Drive Hilo, Hawaii 96720	1073 Kaumana Drive
2-5-011:016	Sato, Mark M Sato, Melissa A	P.O. Box 528 Kaneohe, Hawaii 96744	N/A
2-5-011:017	Fegerstrom, Arnold TR	20 Wawai Loop Hilo, Hawaii 96720	1139 Kaumana Drive
2-5-011:018	Rushlow, John Howard	1147 Kaumana Drive Hilo, Hawaii 96720	1147 Kaumana Drive
2-5-011:019	Spencer, Thomas S Trust Spencer, New Tan Dec'd	1110 Kaumana Drive Hilo, Hawaii 96720	1110 Kaumana Drive
2-5-011:020	Wilson, Aiko T Wilson, Cyrus H	1090-A Kaumana Drive Hilo, Hawaii 96720	1090 Kaumana Drive
2-5-011:038	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	N/A (flume R/W)
2-5-011:039	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	1131 Kaumana Drive
2-5-011:043	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1074 Kaumana Drive
2-5-011:009	Hardenbrook, Christopher Graves Sears, Leslie Elizabeth	1013 Kaumana Drive Hilo, Hawaii 96720	1013 Kaumana Drive
2-5-011:010	Sasamura, Theodore Hajime Sasamura, Janet Reiko Leong, Sandra H Sasamura, Craig T	1023 Kaumana Drive Hilo, Hawaii 96720	1023 Kaumana Drive
2-5-011:021	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1068 Kaumana Drive
2-5-011:022	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1064 Kaumana Drive
2-5-011:023	Zane, Clifford KS Zane, Linda KO	553 Hillier Place Waiuku, Hawaii 96793	1056 Kaumana Drive

5-011:024	Kusch, Matthias Walfrid	P.O. Box 166 Pepeekeo, Hawaii 96783	1040 Kaumana Drive
2-5-011:025	Phillips, William J Jr Sweet-Phillips, Drenna M	1036 Kaumana Drive Hilo, Hawaii 96720	1036 Kaumana Drive
2-5-011:044	Nakano, Sharon Matsuyo Nakano, Owen Tadashi	1005 Kaumana Drive Hilo, Hawaii 96720	1005 Kaumana Drive
2-5-011:048	Hinck, Steven James Hinck, Kyrstin Lee	4646 Fort Davis Street Simi Valley, California 93063	1058 Kaumana Drive
2-5-011:050	Arnuda, Jo Ann R. Trust	993 C Kaumana Drive Hilo, Hawaii 96720	993 C Kaumana Drive
2-5-027:021	Carvalho Family Trust	P.O. Box 2463 Kailua-Kona, Hawaii 96740	1253 Kaumana Drive
2-5-027:001	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 A Kaumana Drive
2-5-027:002	Yamamoto, Fujie F Trust	c/o Yamamoto, Elise CO-TTEE 1245 Kaumana Drive Hilo, Hawaii 96720	1245 Kaumana Drive
2-5-027:003	Okutsu, Randal S Trust	1876 Hale O Kea Street Hilo, Hawaii 96720	1223 Kaumana Drive
2-5-027:058	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 B Kaumana Drive
2-5-027:059	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 C Kaumana Drive
2-5-027:060	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 E Kaumana Drive
2-5-027:061	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 D Kaumana Drive
2-5-027:062	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 F Kaumana Drive
2-5-027:063	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 G Kaumana Drive
2-5-027:064	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 H Kaumana Drive
2-5-027:065	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 M Kaumana Drive
2-5-027:066	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 L Kaumana Drive
2-5-027:067	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 K Kaumana Drive
2-5-027:024	Otani, Katsuko Trust	1215 Kaumana Drive Hilo, Hawaii 96720	1215 Kaumana Drive
2-5-027:025	Otani, Jean S Otani, Jean S Trust	1215 B Kaumana Drive Hilo, Hawaii 96720	1215 B Kaumana Drive
2-5-027:026	Ushijima, Dean K Ushijima, Else H	1215 Kaumana Drive Apt. C Hilo, Hawaii 96720	1215 C Kaumana Drive
2-5-027:027	Segawa, Rodney Macy F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	1215 D Kaumana Drive
2-5-027:068	Ebasu, Royce T Jr Ebasu, Jane L A	1215 G Kaumana Drive Hilo, Hawaii 96720	1215 G Kaumana Drive
2-5-027:069	Ebasu, Janey L A Trust	1215 G Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
2-5-027:070	Segawa, Rodney M F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
2-5-027:005	Sato, Sandra	1213 A Kaumana Drive Hilo, Hawaii 96720	1213 A Kaumana Drive

✓ 2-5-027:046	Hasegawa, Edward K Hasegawa, Caroline G C	250 N Judd Street Honolulu, Hawaii 96817	1211 Kaumana Drive
✓ 2-5-027:043	Perez, Catalina A	1209 A Kaumana Drive Hilo, Hawaii 96720	1209 A Kaumana Drive
✓ 2-5-027:044	Okuhara, Henry S Okuhara, Norine N	P.O. Box 945 Hilo, Hawaii 96721	1209 B Kaumana Drive
✓ 2-5-027:045	Turner, Jason Phillip Turner, Jennifer Sims	1209C Kaumana Drive Hilo, Hawaii 96720	1209 C Kaumana Drive
✓ 2-5-027:053	Tsuchiya, Karl K	823 Kaumana Drive Hilo, Hawaii 96720	1175 Kaumana Drive
✓ 2-5-027:054	Paiva, Paul P Paiva, Shawn M	1169 Kaumana Drive Hilo, Hawaii 96720	1169 Kaumana Drive
✓ 2-5-027:055	Komatsu, Garret T	1155 Kaumana Drive Hilo, Hawaii 96720	1155 Kaumana Drive
✓ 2-5-027:056	Inouye, Tatsuo Trust Inouye, June Trust	2230 Apoepoe Street. Pearl City, Hawaii 96782	N/A
✓ 2-5-027:047	Goya, Melvin H Trust Goya, Kiyono Trust	1170 Kaumana Drive Hilo, Hawaii 96720	1170 Kaumana Drive
✓ 2-5-027:057	Kuwahara, Bryson T Kuwahara, Lorna T	1142 Kaumana Drive Hilo, Hawaii 96720	1142 Kaumana Drive
✓ 2-5-027:007	Kuwahara, Bryson T Kuwahara, Lorna T	1142 Kaumana Drive Hilo, Hawaii 96720	N/A
✓ 2-5-027:008	Oliveira, Mary Jane Oliveira, Manuel III Oliveira, Manuel Jr	1150 Kaumana Drive Hilo, Hawaii 96720	1150 Kaumana Drive
✓ 2-5-027:009	Yahata, Michiko	98-459 Hono Street Pearl City, Hawaii 96782	1162 Kaumana Drive
✓ 2-5-027:042	Mattos, David J Mattos, Lauri M	P.O. Box 5589 Hilo, Hawaii 96721	1209 Kaumana Drive
✓ 2-5-027:052	Lutz, Ezekiel Harvey Trust Lutz, Noreen Mai Lutz Trust	P.O. Box 116 Pepeekeo, Hawaii 96783	1193 Kaumana Drive
✓ 2-5-027:034	Nakamura, Bryce H Nakamura, Sharyl S	P.O. Box 294 Captain Cook, Hawaii 96704	1240 Kaumana Drive
✓ 2-5-027:035	Robledo, Paulette A Trust	1266 Kaumana Drive Hilo, Hawaii 96720	1266 Kaumana Drive
✓ 2-5-027:036	Perreira Family 2008 Trust	1266 Kaumana Drive Hilo, Hawaii 96720	1266 Kaumana Drive
✓ 2-5-027:014	Hoshida, Miyoko M	1280 Kaumana Drive Hilo, Hawaii 96720	1280 Kaumana Drive
✓ 2-5-027:040	Shinjo, Hajime Shinjo, Aileen C	1272 Kaumana Drive Hilo, Hawaii 96720	1272 Kaumana Drive
✓ 2-5-027:037	Kaneko, Ryan T Kaneko, Aimee A	1294 Kaumana Drive Hilo, Hawaii 96720	1294 Kaumana Drive
✓ 2-5-027:038	Yokoyama, Jan K	1300 Kaumana Drive Hilo, Hawaii 96720	1300 Kaumana Drive
✓ 2-5-027:039	Fujisawa, Stanley K Fujisawa, Tammy L Fujisawa, Curtis S Fujisawa, Minerva S	1296 Kaumana Drive Hilo, Hawaii 96720	1296 Kaumana Drive
✓ 2-5-027:015	State of Hawaii		Kaumana Drive
✓ 2-5-027:023	Nakamoto, Tsuruyo Trust	1348 Kaumana Drive Hilo, Hawaii 96720	1348 Kaumana Drive
✓ 2-5-027:016	Otani, James M	1360 Kaumana Drive Hilo, Hawaii 96720	1360 Kaumana Drive

5-027:041	Matsu, Russell Matsu, Lorraine H	1352 Kaumana Drive Hilo, Hawaii 96720	1352 Kaumana Drive
5-027:020	Ota, Hiroshi/Shizoho Trust	6 Pokofo Way Hilo, Hawaii 96720	N/A
2-5-027:013	Site Engineering, Inc.	c/o Masutani, M.K. 545 Kaahili Street Honolulu, Hawaii 96817	1230 Kaumana Drive
2-5-027:032	Quiocho, Leandro, Jr. Quiocho, Wanda A.	1222 A Kaumana Drive Hilo, Hawaii 96720	1222 A Kaumana Drive
2-5-027:076	Chock, Kyle Trust	1100 Launa Street Hilo, Hawaii 96720	1242 Kaumana Drive
2-5-027:012	Chock, Laura Y Trust	555 Naniakea Street Hilo, Hawaii 96720	1258 Kaumana Drive
2-5-027:072	Chock, Laura Y Trust	555 Naniakea Street Hilo, Hawaii 96720	1256 Kaumana Drive
2-5-027:073	Chock, Theone Keam Yung	1051 Hoomakai Street Honolulu, Hawaii 96817	1254 Kaumana Drive
2-5-027:079	Chock, Theone Keam Yung	1051 Hoomakai Street Honolulu, Hawaii 96817	1252 Kaumana Drive
2-5-027:030	Takai, Wesley T. Takai, Sandra Y.	1222 E Kaumana Drive Hilo, Hawaii 96720	1184 Kaumana Drive
2-5-027:010	Long, Kerry Keith	P.O. Box 1481 Hilo, Hawaii 96720	1188 Kaumana Drive
2-5-027:011	Takai, Wesley T. Takai, Sandra Y.	1222 E Kaumana Drive Hilo, Hawaii 96720	1190 Kaumana Drive
2-5-027:028	Thatcher, John L. II Thatcher, Pamela F.	1188 Kaumana Drive Hilo, Hawaii 96720	1178 Kaumana Drive
2-5-027:022	Thatcher, John L. II Thatcher, Pamela F.	1188 Kaumana Drive Hilo, Hawaii 96720	N/A
2-5-027:071	Segawa, Herbert A Segawa, Kay K		N/A roadway
2-5-027:004	various		roadway
2-5-027:074	Chock, Lorrin S. K. Trust Takemoto, Chock, Naomi Trust	1878 Kaimohana Ext Hilo, Hawaii 96720	1250 Kaumana Drive
2-5-027:080	Chock, Lorrin S. K. Trust Takemoto, Chock, Naomi Trust	1878 Kaimohana Ext Hilo, Hawaii 96720	1248 Kaumana Drive
2-5-027:081	Chock, Kyle Trust	1100 Launa Street Hilo, Hawaii 96720	1246 Kaumana Drive
2-5-027:077	Chock, Laura Y Trust		N/A roadway
2-5-027:078	Chock, Laura Y Trust		N/A roadway
2-5-027:038	Abri, Carol Y Abri, Mark A.	1222 B Kaumana Drive Hilo, Hawaii 96720	1222 B Kaumana Drive
2-5-027:019	Ahia, Lily Auld Ahia, William Kalaemakani		N/A roadway
2-5-040:011	Leao, Tara Kalelehuaokaleilani Lee, Doreen Kanani	1503 Kaumana Drive Hilo, Hawaii 96720	1503 Kaumana Drive
2-5-040:010	Tomota, Kelli Jennifer Leihua	98 Kulaloa Road Hilo, Hawaii 96720	1493 Kaumana Drive
2-5-040:009	Otani, Noriaki Otani, Fujie Otani, Brad Hilo Otani, Max Norjo Paiva, Shawn Morie	1489 Kaumana Drive Hilo, Hawaii 96720	1489 Kaumana Drive

2-5-040:008	Hirayama, Ellen Etsuko Hirayama, Ellen Setsuko Kitamura, Kimiko Kitamura, Susan Setsuko Kitamura, Tadayuki Kitamura, Wayne Kazuyuki	1479 Kaumana Drive Hilo, Hawaii 96720	1479 Kaumana Drive
2-5-040:007	Oldfield, Frances Oldfield, Richard	1473 Kaumana Drive Hilo, Hawaii 96720	1473 Kaumana Drive
2-5-040:006	Almeida, Jewels Anuenue Almeida, Mark Kaiho	561 Alihi Place Kailua, Hawaii 96734	1461 Kaumana Drive
2-5-040:036	Hennessey, Brendan J Johnson, Melissa Ann	1447 Kaumana Drive Hilo, Hawaii 96720	1447 Kaumana Drive
2-5-040:005	Yoshimura, Chiseko Yoshimura, Gary K	1441 Kaumana Drive Hilo, Hawaii 96720	1441 Kaumana Drive
2-5-040:035	Hasegawa, David A C Trust	250 N Judd Street Honolulu, Hawaii 96817	1433 Kaumana Drive
2-5-040:004	Tiogangco, Anne A Tiogangco, Jordan L	1391 Kaumana Drive Hilo, Hawaii 96720	1391 Kaumana Drive
2-5-040:003	Enoki, Calvin H Trust Sayama-Enoki, Sandra H Trust	1381 Kaumana Drive Hilo, Hawaii 96720	1381 Kaumana Drive
2-5-040:002	Kaitoku, George M Kaitoku, Joyce H	1375 Kaumana Drive Hilo, Hawaii 96720	1375 Kaumana Drive
2-5-040:040	Hinez, Matthew F	P. O. Box 4305 Hilo, Hawaii 96720	1369 Kaumana Drive
2-5-040:001	Oblero, Dain M Oblero, Sean W Rezentes, Henry J Rezentes, Raquel K	1367 Kaumana Drive Hilo, Hawaii 96720	1367 Kaumana Drive
2-5-040:039	Toma, Bryson	1374 Kaumana Drive Hilo, Hawaii 96720	1374 Kaumana Drive
2-5-040:041	Shaver, James R	1027 Kagawa Street Pacific Palisades, California	1394 Kaumana Drive
2-5-040:015	Lee-Ching, Richard Trust	1468 Kaumana Drive Hilo, Hawaii 96720	1468 Kaumana Drive
2-5-040:014	Fujimoto, Byron S Iwase, Shirley T	142 Puhili Street Hilo, Hawaii 96720	1486 Kaumana Drive
2-5-040:018	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	1486 A Kaumana Drive
2-5-040:042	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	50 Akala Road
2-5-040:013	Rubio, Karen Leiko Rubio, Lloyd J	228 Akala Road Hilo, Hawaii 96720	1496 Kaumana Drive
2-5-040:012	State of Hawaii Butz, Marc	Kaumana Cave Park 55 Akala Road Hilo, Hawaii 96720	1568 Kaumana Drive
2-5-040:019	Giangregorio, Desiree	55 Akala Road Hilo, Hawaii 96720	55 Akala Road
2-5-040:020	Flood, Jeanie L Flood, Shawn G	1600 Kaumana Drive Hilo, Hawaii 96720	1600 Kaumana Drive
2-5-014:001	Chong, Wallace F Trust	788 Hahaione Street Hilo, Hawaii 96720	N/A
2-5-014:005	Kearns, Glenn E Trust Kearns, Virginia V Trust	33 W Naauao Street Hilo, Hawaii 96720	33 W Naauao Street
2-027:048	Chong, Albert W Chong, Sharon Ann	1476 Kikaha Street Hilo, Hawaii 96720	6 Chong Street

REQUEST TO ACCESS A GOVERNMENT RECORD

COUNTY OF HAWAII

DATE: April 17, 2014

2014 APR 17 AM 11:07

TO: Planning Commissioner Ronald Gonzales, c/o County of Hawaii Planning Department

FROM: Ted H.S. Hong, Esq.

Contact Information: Post Office Box 4217, Hilo, Hawaii 96720; 933.1919; email: ted@tedhonglaw.com

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

Any and all personal documents and correspondence memoranda, letters, correspondence, personal emails within the past two (2) years to present (July 25, 2012 to present), that mentions CONNECTIONS and/or COMMUNITY BASED EDUCATION SUPPORT SERVICES and its plans related to the Special Permit Application (SPP No. 12-000138) to/from and/or between any individual from the attached list.

I WOULD LIKE: (please check one or more of the options below)

- To inspect the government record.
- A copy of the government record: (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

- Pick up at agency (date and time): _____
- Mail
- Fax (toll free and only if available)
- Other, if available (please specify): _____

- If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.

- Electronic Audio Other (please specify): _____

- Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

SCANNED
 APR 17 2014
 By: 091209
 OIR-1 (rev. 9/12/01)

TMK	Owner(s)	Owner's Mailing Address	Street Address of TMK
2-5-006:003	State of Hawaii	N/A	
2-5-006:052	Segawa, Wesley R Segawa, Phyllis E	19 Puuko Street Hilo, Hawaii 96720	N/A
2-5-006:061	Kidd's Development c/o James Pappas, Treasurer	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-006:160	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Puainako Street Ext.
2-5-006:151	Pappas, Marilyn J. Trust	616 Moaniala Street Honolulu, Hawaii 96821	N/A
2-5-061:033	Riley, Randell A	282 Edita Street Hilo, Hawaii 96720	282 Edita Street
2-5-061:032	Batalla, Roxanne-Joy Cano	272 Edita Street Hilo, Hawaii 96720	272 Edita Street
2-5-061:031	Yamashiro, Lorna Y Yamashiro, Neil	50 Manulele Street Hilo, Hawaii 96720	264 Edita Street
2-5-061:029	Iwasaki, Alan Iwasaki, Patsy	232 Edita Street Hilo, Hawaii 96720	232 Edita Street
2-5-061:028	Mochida, Ivan S. Trust	77 Kukila Street Hilo, Hawaii 96720	224 Edita Street
2-5-061:001	Gomes, Jeffrey, Kalani Gomes, Wendy Keiko	281 Edita Street Hilo, Hawaii 96720	281 Edita Street
2-5-061:002	Tada, Glenn K Tada, Karyn N Y	259 Edita Street Hilo, Hawaii 96720	259 Edita Street
2-5-061:003	Sakamoto, Ernest A Trust	1416 Pu'u Ale Place Hilo, Hawaii 96720	N/A
2-5-061:012	Akamine, Chun Y Trust	1360-D Mele Manu Street Hilo, Hawaii 96720	1360 D Mele Manu Street
2-5-061:011	Araujo, Lorrin T Araujo, Margareta	1358-D Mele Manu Street Hilo, Hawaii 96720	1358 D Mele Manu Street
2-5-061:010	Fuke, Aileen S Fuke, Sidney M	1358 Mele Manu Street, Apt. C Hilo, Hawaii 96720	1358 C Mele Manu Street
2-5-061:013	Shiro, Douglas T.	1360 C Mele Manu Street Hilo, Hawaii 96720	1360 C Mele Manu Street
2-5-061:014	Bevington Family Trust	1360 Mele Manu Street #B Hilo, Hawaii 96720	1360 B Mele Manu Street
2-5-061:017	Camacho, Brenda M K Camacho, David W Jr.	1414-A Mele Manu Street Hilo, Hawaii 96720	1414 A Mele Manu Street
2-5-061:018	Nishimoto, Nelson N Omoto, Patty Kiyoko	1414 Mele Manu Street, Apt. B Hilo, Hawaii 96720	1414 B Mele Manu Street
2-5-061:019	Novak, Allen L Novak, Layne Y M	1414 C Mele Manu Street Hilo, Hawaii 96720	1414 C Mele Manu Street
2-5-061:020	Ludoff, Elaine L H Wilhelm, Steve K Wilhelm, Patricia J	1416 C Mele Manu Street Hilo, Hawaii 96720	1416 C Mele Manu Street
2-5-061:021	Takata, Brice Hiroshi Takata, Christine Leiko	c/o 777 Ainako Avenue Hilo, Hawaii 96720	1416 B Mele Manu Street
2-5-061:030	Chun, Mark Richard Takamiya, Marianne Yasuko	250 Edita Street Hilo, Hawaii 96720	250 Edita Street
2-5-061:022	Herzog, Markus 2010 Trust	P.O. Box 5915 Hilo, Hawaii 96720	1416 A Mele Manu Street
2-5-061:041	Mok, TR	1464 Mele Manu Street Hilo, Hawaii 96720	1464 Mele Manu Street
2-5-061:042	Arzaga, Noemi L Arzaga, Rudy D	1468 Mele Manu Street Hilo, Hawaii 96720	1468 Mele Manu Street

5-061:043	Hudak, Daniel Robert	1488 Mele Manu Street Hilo, Hawaii 96720	1488 Mele Manu Street
2-5-061:044	Veriato, Franklin D Veriato, Virginia L	1500 Mele Manu Street Hilo, Hawaii 96720	1500 Mele Manu Street
2-5-061:045	Murai, Gary Murai, Jacqueline K	299 A. Aiu Road Wailuku, Hawaii 96793	1510 Mele Manu Street
2-5-061:046	Kanahele, Kip Masao Kanahele, Valerie-Ann Leiko	1520 Mele Manu Street Hilo, Hawaii 96720	1520 Mele Manu Street
2-5-061:106	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:105	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:104	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:103	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:102	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:107	Brilhante-Hawaii, Inc.	1342 Kilauea Avenue Hilo, Hawaii 96720	Kristiano Street
2-5-061:049	Truesdell, Joel W Truesdell, Elizabeth French	250 Kristiano Street Hilo, Hawaii 96720	250 Kristiano Street
2-5-061:048	Santos, Robert J Tr Santos, Celeste G Tr	1540 Mele Manu Street Hilo, Hawaii 96720	1540 Mele Manu Street
2-5-061:047	Wilson, Lee Michael Morita Wilson, Adriann Misae Morita	1536 Mele Manu Street Hilo, Hawaii 96720	1536 Mele Manu Street
2-5-061:068	Kimura, Larry L	243 Mikala Street Hilo, Hawaii 96720	243 Mikala Street
2-5-061:069	Ogawa, Glenn Kouchi-Ogawa, Gail H	1495 Mele Manu Street Hilo, Hawaii 96720	1495 Mele Manu Street
2-5-061:070	Bishop, Michael Kzak, Pamela V Trust Botelho, Lee Ulani	1485 Mele Manu Street Hilo, Hawaii 96720	1485 Mele Manu Street
2-5-061:071	Yamane, Raymond Iwao Trust	1473 Mele Manu Street Hilo, Hawaii 96720	1473 Mele Manu Street
2-5-061:072	Yamashita, Gary M Yamashita, Rochelle A	1457 Mele Manu Street Hilo, Hawaii 96720	1457 Mele Manu Street
2-5-061:073	Iida, Erwin Y Lam-Iida, Julie C Y	1449 Mele Manu Street Hilo, Hawaii 96720	1449 Mele Manu Street
2-5-061:026	Sakamoto, Lester S Trust	1439 Mele Manu Street Hilo, Hawaii 96720	1439 Mele Manu Street
2-5-061:025	Ignacio, Michael L Ignacio, Claudia D	1411 Mele Manu Street Hilo, Hawaii 96720	1411 Mele Manu Street
2-5-061:024	Tokuuke, Jon P Taira-Tokuuke, Patti H	1395 Mele Manu Street Hilo, Hawaii 96720	1395 Mele Manu Street
2-5-061:016	Shozuya, Eric M Shozuya, Barbara L	1380 Mele Manu Street Hilo, Hawaii 96720	1380 Mele Manu Street
2-5-061:015	HIFL Melemanu LLC	c/o Dana Kenny Hawaiian Island Homes Ltd 162 Kinole Street, Ste 201 Hilo, Hawaii 96720	1360 A Mele Manu Street
2-5-061:008	Yokota, Melvin H Yokota, Jan	1358-A Mele Manu Street Hilo, Hawaii 96720	1358 A Mele Manu Street
2-5-061:009	Kanemoto, Wayne K Trust Kanemoto, Amy Emiko Trust	1358B Mele Manu Street Hilo, Hawaii 96720	1358 B Mele Manu Street

2-5-061:007	Sugiyama, Bryan Hiroaki Family Trust	72 Palua Loop Hilo, Hawaii 96720	N/A
2-5-061:006	Kimura, John T TTEE Kimura, Gail K Trust	1300 Mele Manu Street Hilo, Hawaii 96720	1300 Mele Manu Street
2-5-061:005	Leong, Kelly / Alyson Y Kakugawa Trust	1290 Mele Manu Street Hilo, Hawaii 96720	1290 Mele Manu Street
2-5-061:004	Hirano, Wataru Sano, Phyllis Anne Hirano-Omizo, Naomi Y Trust Hirano, Shinae	235 Edita Street Hilo, Hawaii 96720	235 Edita Street
2-5-061:038	various		Road
2-5-061:039	various		Road
2-5-061:080	County of Hawaii	25 Aupuni Street Hilo, Hawaii 96720	Road
2-5-011:011	Nagai, Masaru/Nancy Trust Nagai, Nancy	1035 Kaumana Drive Hilo, Hawaii 96720	1035 Kaumana Drive
2-5-011:012	Cling, Carroll D Cling, Donnie Faye	1045 Kaumana Drive Hilo, Hawaii 96720	1045 Kaumana Drive
2-5-011:013	Papalimu, Joseph Kaimi Papalimu, Kahlolani Juanita	1053 Kaumana Drive Hilo, Hawaii 96720	1053 Kaumana Drive
2-5-011:014	Fegerstrom, Norma R Fegerstrom, Arnold TR	1065 Kaumana Drive Hilo, Hawaii 96720	1065 Kaumana Drive
2-5-011:015	Crivello, Ronald Anthony Crivello, Loretta Alejandro	1073 Kaumana Drive Hilo, Hawaii 96720	1073 Kaumana Drive
2-5-011:016	Sato, Mark M Sato, Melissa A	P.O. Box 529 Kaneohe, Hawaii 96744	N/A
2-5-011:017	Fegerstrom, Arnold TR	20 Wawai Loop Hilo, Hawaii 96720	1139 Kaumana Drive
2-5-011:018	Rushlow, John Howard	1147 Kaumana Drive Hilo, Hawaii 96720	1147 Kaumana Drive
2-5-011:019	Spencer, Thomas S Trust Spencer, New Tan Dec'd	1110 Kaumana Drive Hilo, Hawaii 96720	1110 Kaumana Drive
2-5-011:020	Wilson, Aiko T Wilson, Cyrus H	1090-A Kaumana Drive Hilo, Hawaii 96720	1090 Kaumana Drive
2-5-011:038	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	N/A (flume R/W)
2-5-011:039	Carvalho, John G	1131 Kaumana Drive Hilo, Hawaii 96720	1131 Kaumana Drive
2-5-011:043	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1074 Kaumana Drive
2-5-011:009	Hardenbrook, Christopher Graves Sears, Leslie Elizabeth	1013 Kaumana Drive Hilo, Hawaii 96720	1013 Kaumana Drive
2-5-011:010	Sasamura, Theodore Hajime Sasamura, Janet Reiko Leong, Sandra H Sasamura, Craig T	1023 Kaumana Drive Hilo, Hawaii 96720	1023 Kaumana Drive
2-5-011:021	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1068 Kaumana Drive
2-5-011:022	Correa Family Trust	c/o Barbara Brickwood-Correa 1068 B Kaumana Drive Hilo, Hawaii 96720	1064 Kaumana Drive
2-5-011:023	Zane, Clifford K S Zane, Linda K O	553 Hillel Place Wailuku, Hawaii 96793	1056 Kaumana Drive

5-011:024	Kusch, Matthias Walfrid	P.O. Box 166 Pepeekeo, Hawaii 96783	1040 Kaumana Drive
5-011:025	Phillips, William J Jr Sweet-Phillips, Dorena M	1036 Kaumana Drive Hilo, Hawaii 96720	1036 Kaumana Drive
2-5-011:044	Nakano, Sharon Matsuyo Nakano, Owen Tadashi	1005 Kaumana Drive Hilo, Hawaii 96720	1005 Kaumana Drive
2-5-011:048	Hinck, Steven James Hinck, Krysti Lee	4546 Fort Davis Street Simi Valley, California 93063	1058 Kaumana Drive
2-5-011:050	Amuda, Jo Ann R Trust	993 C Kaumana Drive Hilo, Hawaii 96720	993 C Kaumana Drive
2-5-027:021	Carvalho Family Trust	P.O. Box 2463 Kailua-Kona, Hawaii 96740	1253 Kaumana Drive
2-5-027:001	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 A Kaumana Drive
2-5-027:002	Yamamoto, Fujie F Trust	c/o Yamamoto, Elise CO-TTEE 1245 Kaumana Drive Hilo, Hawaii 96720	1245 Kaumana Drive
2-5-027:003	Okutsu, Randal S Trust	1876 Hale O Kea Street Hilo, Hawaii 96720	1223 Kaumana Drive
2-5-027:058	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 B Kaumana Drive
2-5-027:059	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 C Kaumana Drive
2-5-027:060	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 E Kaumana Drive
2-5-027:061	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 D Kaumana Drive
2-5-027:062	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 F Kaumana Drive
2-5-027:063	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 G Kaumana Drive
2-5-027:064	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 H Kaumana Drive
2-5-027:065	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 M Kaumana Drive
2-5-027:066	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 L Kaumana Drive
2-5-027:067	Mitsunaga, Edith S Trust	3572 Nipo Street Honolulu, Hawaii 96822	1265 K Kaumana Drive
2-5-027:024	Otani, Katsuko Trust	1215 Kaumana Drive Hilo, Hawaii 96720	1215 Kaumana Drive
2-5-027:025	Otani, Jean S Otani, Jean S Trust	1215 B Kaumana Drive Hilo, Hawaii 96720	1215 B Kaumana Drive
2-5-027:026	Ushijima, Dean K Ushijima, Elise H	1215 Kaumana Drive Apt. C Hilo, Hawaii 96720	1215 C Kaumana Drive
2-5-027:027	Segawa, Rodney Macy F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	1215 D Kaumana Drive
2-5-027:088	Ebesu, Royce T Jr Ebesu, Jane L A	1215 G Kaumana Drive Hilo, Hawaii 96720	1215 G Kaumana Drive
5-027:069	Ebesu, Janey L A Trust	1215 G Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
5-027:070	Segawa, Rodney M F Segawa, Susan Marie	1215 D Kaumana Drive Hilo, Hawaii 96720	N/A (road??)
2-5-027:005	Sato, Sandra	1213 A Kaumana Drive Hilo, Hawaii 96720	1213 A Kaumana Drive

✓ 2-5-027:046	Hasegawa, Edward K Hasegawa, Caroline G C	250 N Judd Street Honolulu, Hawaii 96817	1211 Kaumana Drive
✓ 2-5-027:043	Perez, Catalina A	1209 A Kaumana Drive Hilo, Hawaii 96720	1209 A Kaumana Drive
✓ 2-5-027:044	Okuhara, Henry S Okuhara, Norine N	P.O. Box 945 Hilo, Hawaii 96721	1209 B Kaumana Drive
✓ 2-5-027:045	Turner, Jason Phillip Turner, Jennifer Sims	1209C Kaumana Drive Hilo, Hawaii 96720	1209 C Kaumana Drive
✓ 2-5-027:053	Tsuchiya, Karl K	823 Kaumana Drive Hilo, Hawaii 96720	1175 Kaumana Drive
✓ 2-5-027:054	Paiva, Paul P Paiva, Shawn M	1169 Kaumana Drive Hilo, Hawaii 96720	1169 Kaumana Drive
✓ 2-5-027:055	Komatsu, Garret T	1155 Kaumana Drive Hilo, Hawaii 96720	1155 Kaumana Drive
✓ 2-5-027:056	Inouye, Tatsuo Trust Inouye, June Trust	2230 Apoeopoe Street. Pearl City, Hawaii 96782	N/A
✓ 2-5-027:047	Goya, Melvin H Trust Goya, Kiyono Trust	1170 Kaumana Drive Hilo, Hawaii 96720	1170 Kaumana Drive
✓ 2-5-027:057	Kuwahara, Bryson T Kuwahara, Lorna T	1142 Kaumana Drive Hilo, Hawaii 96720	1142 Kaumana Drive
✓ 2-5-027:007	Kuwahara, Bryson T Kuwahara, Lorna T	1142 Kaumana Drive Hilo, Hawaii 96720	N/A
✓ 2-5-027:008	Oliveira, Mary Jane Oliveira, Manuel III Oliveira, Manuel Jr	1150 Kaumana Drive Hilo, Hawaii 96720	1150 Kaumana Drive
✓ 2-5-027:009	Yahata, Michiko	98-459 Hono Street Pearl City, Hawaii 96782	1162 Kaumana Drive
✓ 2-5-027:042	Mattos, David J Mattos, Luan M	P.O. Box 5589 Hilo, Hawaii 96721	1209 Kaumana Drive
✓ 2-5-027:052	Lutz, Ezekiel Harvey Trust Lutz, Noeana Mai Lutz Trust	P.O. Box 116 Pepeekeo, Hawaii 96763	1193 Kaumana Drive
✓ 2-5-027:034	Nakamura, Bryce H Nakamura, Sharyl S	P.O. Box 294 Captain Cook, Hawaii 96704	1240 Kaumana Drive
✓ 2-5-027:035	Robledo, Paulette A Trust	1260 Kaumana Drive Hilo, Hawaii 96720	1260 Kaumana Drive
✓ 2-5-027:036	Pereira Family 2008 Trust	1266 Kaumana Drive Hilo, Hawaii 96720	1266 Kaumana Drive
✓ 2-5-027:014	Hoshida, Miyoko M	1280 Kaumana Drive Hilo, Hawaii 96720	1280 Kaumana Drive
✓ 2-5-027:040	Shinjo, Hajime Shinjo, Aileen C	1272 Kaumana Drive Hilo, Hawaii 96720	1272 Kaumana Drive
✓ 2-5-027:037	Kaneko, Ryan T Kaneko, Aimee A	1294 Kaumana Drive Hilo, Hawaii 96720	1294 Kaumana Drive
✓ 2-5-027:038	Yokoyama, Jan K	1300 Kaumana Drive Hilo, Hawaii 96720	1300 Kaumana Drive
✓ 2-5-027:039	Fujisawa, Stanley K Fujisawa, Tammy L Fujisawa, Curtis S Fujisawa, Minerva S	1296 Kaumana Drive Hilo, Hawaii 96720	1296 Kaumana Drive
✓ 2-5-027:015	State of Hawaii		Kaumana Drive
✓ 2-5-027:023	Nakamoto, Tsuruyo Trust	1348 Kaumana Drive Hilo, Hawaii 96720	1348 Kaumana Drive
✓ 2-5-027:016	Otani, James M	1360 Kaumana Drive Hilo, Hawaii 96720	1360 Kaumana Drive

5-027:041	Matsu, Russell Matsu, Lorraine H	1352 Kaumana Drive Hilo, Hawaii 96720	1352 Kaumana Drive
5-027:020	Ota, Hiroshi/Shizoho Trust	6 Pokofo Way Hilo, Hawaii 96720	N/A
2-5-027:013	Site Engineering, Inc.	c/o Masutani M.K. 545 Kaahali Street Honolulu, Hawaii 96817	1230 Kaumana Drive
2-5-027:032	Quirocho, Leandro Jr Quirocho, Wanda A	1222 A Kaumana Drive Hilo, Hawaii 96720	1222 A Kaumana Drive
2-5-027:076	Chock, Kyle Trust	1100 Launa Street Hilo, Hawaii 96720	1242 Kaumana Drive
2-5-027:012	Chock, Laura Y Trust	555 Nanikea Street Hilo, Hawaii 96720	1258 Kaumana Drive
2-5-027:072	Chock, Laura Y Trust	555 Nanikea Street Hilo, Hawaii 96720	1256 Kaumana Drive
2-5-027:073	Chock, Theone Keam Yung	1051 Hoomaikai Street Honolulu, Hawaii 96817	1254 Kaumana Drive
2-5-027:079	Chock, Theone Keam Yung	1051 Hoomaikai Street Honolulu, Hawaii 96817	1252 Kaumana Drive
2-5-027:030	Takai, Wesley T Takai, Sandra Y	1222 E Kaumana Drive Hilo, Hawaii 96720	1194 Kaumana Drive
2-5-027:010	Long, Kerry Keith	P.O. Box 1481 Hilo, Hawaii 96720	1188 Kaumana Drive
2-5-027:011	Takai, Wesley T Takai, Sandra Y	1222 E Kaumana Drive Hilo, Hawaii 96720	1190 Kaumana Drive
2-5-027:028	Thatcher, John L II Thatcher, Pamela R	1188 Kaumana Drive Hilo, Hawaii 96720	1178 Kaumana Drive
2-5-027:022	Thatcher, John L II Thatcher, Pamela R	1188 Kaumana Drive Hilo, Hawaii 96720	N/A
2-5-027:071	Segawa, Herbert A Segawa, Kay K		N/A roadway
2-5-027:004	various		roadway
2-5-027:074	Chock, Lonn S K Trust Takemoto Chock, Naomi Trust	1978 Kamohana Ext Hilo, Hawaii 96720	1250 Kaumana Drive
2-5-027:080	Chock, Lonn S K Trust Takemoto Chock, Naomi Trust	1978 Kamohana Ext Hilo, Hawaii 96720	1248 Kaumana Drive
2-5-027:081	Chock, Kyle Trust	1100 Launa Street Hilo, Hawaii 96720	1246 Kaumana Drive
2-5-027:077	Chock, Laura Y Trust		N/A roadway
2-5-027:078	Chock, Laura Y Trust		N/A roadway
2-5-027:033	Abri, Carole Y Abri, Mark A	1222 B Kaumana Drive Hilo, Hawaii 96720	1222 B Kaumana Drive
2-5-027:019	Ahia, Lily Auld Ahia, William Kalaemakani		N/A roadway
2-5-040:011	Leeo, Tara Kalelehuakaleilani Lee, Doreen Kanani	1503 Kaumana Drive Hilo, Hawaii 96720	1503 Kaumana Drive
2-5-040:010	Tomota, Kelli Jennifer Leihua	98 Kufaloa Road Hilo, Hawaii 96720	1493 Kaumana Drive
2-5-040:009	Otani, Noriaki Otani, Fujie Otani, Brad Hiro Otani, Max Norio Patva, Shawn Morie	1489 Kaumana Drive Hilo, Hawaii 96720	1489 Kaumana Drive

2-5-040:008	Hirayama, Ellen Etsuko Hirayama, Ellen Setsuko Kitamura, Kimiko Kitamura, Susan Setsuko Kitamura, Tadayuki Kitamura, Wayne Kazuyuki	1479 Kaumana Drive Hilo, Hawaii 96720	1479 Kaumana Drive
2-5-040:007	Oldfield, Frances Oldfield, Richard	1473 Kaumana Drive Hilo, Hawaii 96720	1473 Kaumana Drive
2-5-040:006	Almeida, Jewels Anuenue Almeida, Mark Kaipo	561 Alihi Place Kailua, Hawaii 96734	1461 Kaumana Drive
2-5-040:036	Hennessey, Brendan J Johnson, Melissa Ann	1447 Kaumana Drive Hilo, Hawaii 96720	1447 Kaumana Drive
2-5-040:005	Yoshimura, Chiseko Yoshimura, Gary K	1441 Kaumana Drive Hilo, Hawaii 96720	1441 Kaumana Drive
2-5-040:035	Hasegawa, David A C Trust	250 N Judd Street Honolulu, Hawaii 96817	1433 Kaumana Drive
2-5-040:004	Tiogangco, Anne A Tiogangco, Jordan L	1391 Kaumana Drive Hilo, Hawaii 96720	1391 Kaumana Drive
2-5-040:003	Enoki, Calvin H Trust Sayama-Enoki, Sandra H Trust	1381 Kaumana Drive Hilo, Hawaii 96720	1381 Kaumana Drive
2-5-040:002	Kaitoku, George M Kaitoku, Joyce H	1375 Kaumana Drive Hilo, Hawaii 96720	1375 Kaumana Drive
2-5-040:040	Hinez, Matthew F	P. O. Box 4305 Hilo, Hawaii 96720	1369 Kaumana Drive
2-5-040:001	Oblero, Dain M Oblero, Sean W Rezentes, Henry J Rezentes, Raquel K	1367 Kaumana Drive Hilo, Hawaii 96720	1367 Kaumana Drive
2-5-040:039	Toma, Bryson	1374 Kaumana Drive Hilo, Hawaii 96720	1374 Kaumana Drive
2-5-040:041	Shaver, James R	1027 Kagawa Street Pacific Palisades, California	1394 Kaumana Drive
2-5-040:015	Lee-Ching, Richard Trust	1468 Kaumana Drive Hilo, Hawaii 96720	1468 Kaumana Drive
2-5-040:014	Fujimoto, Byron S Iwase, Shirley T	142 Puhili Street Hilo, Hawaii 96720	1486 Kaumana Drive
2-5-040:018	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	1486 A Kaumana Drive
2-5-040:042	Rodillas, Francis Herbert Rodillas, Martha Ann	50 Akala Road Hilo, Hawaii 96720	50 Akala Road
2-5-040:013	Rubio, Karen Leiko Rubio, Lloyd J	226 Akala Road Hilo, Hawaii 96720	1496 Kaumana Drive
2-5-040:012	State of Hawaii	Kaumana Cave Park	1568 Kaumana Drive
2-5-040:019	Butz, Marc Giangregorio, Desiree	55 Akala Road Hilo, Hawaii 96720	55 Akala Road
2-5-040:020	Flood, Jeanie L Flood, Shawn G	1600 Kaumana Drive Hilo, Hawaii 96720	1600 Kaumana Drive
2-5-014:001	Chong, Wallace F Trust	788 Hahaione Street Hilo, Hawaii 96720	N/A
2-5-014:006	Kearns, Glenn E Trust Kearns, Virginia V Trust	33 W Naauao Street Hilo, Hawaii 96720	33 W Naauao Street
2-5-027:048	Chong, Albert W Chong, Sharon Ann	1476 Kikaha Street Hilo, Hawaii 96720	6 Chong Street

ORIGINAL

DAVID M. LOUIE 2612
Attorney General of Hawaii

PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 APR 22 AM 6:59

CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii
235 South Beretania Street, Room304
Honolulu, Hawaii 96813
Telephone No. 808.586.1255
Carter.K.Siu@hawaii.gov

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

TED H. S. HONG 3569
Attorney at Law
P. O. Box 4217
Hilo, HI 96720
Telephone No. 808.933.1919
ted@tedhonglaw.com

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WINDWARD PLANNING COMMISSION

COUNTY OF HAWAII

In the Matter of

) SPP No. 12-000138

)

)

CONNECTION NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT
SERVICES

) APPLICANTS CONNECTION NEW
) CENTURY PUBLIC CHARTER SCHOOL
) and COMMUNITY BASED EDUCATION
) SUPPORT SERVICES (CBESS) JOINT
) EXCEPTIONS OF HEARING OFFICERS
) REPORT, FINDING OF FACT,

Application for Special Permit Application
No. 12-000138

) CONCLUSIONS OF LAW, AND
) RECOMMENDATION DATED APRIL 7,
) 2014; CERTIFICATE OF SERVICE

)

) HEARINGS OFFICER - SANDRA SONG

)

)

TMK: (3)2-5-006:141; Kaumana, South Hilo,
Island of Hawaii

) HEARING DATE:
) OCTOBER 21 AND 22, 2103

SCANNED
091254 ✓
By: _____

APPLICANT'S CONNECTION NEW CENTURY PUBLIC CHARTER SCHOOL and
COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) JOINT EXCEPTIONS
TO HEARING OFFICERS REPORT FINDING OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATION DATED APRIL 7, 2014

Applicants CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL and COMMUNITY BASED EDUCATION SUPPORT SERVICES, by and through its undersigned counsel through its undersigned counsel, CARTER K. SIU and TED H.S. HONG, submits their Joint Exceptions.

The contested case hearing was held on October 21 and 22, 2013, November 12, 2013, January 8 and 22¹, 2014. Throughout the Contested Case Hearing, Applicant Connections New Century Public Charter School was represented by its counsel, Carter K. Siu, and Applicant Community Based Education Support Services was represented by its counsel Ted H.S. Hong. The hearing also included the County of Hawaii Planning Director, represented by counsel, Amy G. Self; and Intervenor Jeffery K. Gomes, represented himself *pro se*.

I. INTRODUCTION

Pursuant to Rule 4-29 of the Rules of Practice and Procedure of the Planning Commission, County of Hawaii ("Commission Rules"), Community Based Education Support Services ("CBESS") hereby submits its Exceptions to Hearing Officer's Report, Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation. CBESS asserts in Exceptions provided herein, that the Hearings Officer's Report:

- 1) Deliberately ignored the expert/technical witness, evidence, information and testimony within the Record and/or presented during the Contested Case proceedings.
- 2) Failed to cite to any expert/technical evidence that supported the Hearing Officer's assertion that mitigative measures or the conditions of approval proposed would not adequately address any effect to the surrounding properties.
- 3) Failed to cite any expert/technical evidence that supported the assertion that the mitigative measures or the conditions of approval proposed would not adequately address any effect to public agencies.
- 4) Overreached by asserting that mitigative measures would not be sufficient.

¹ The Applicant submits Exception to the Hearing Officer's Report which notes the date as January 21, 2014 and should correctly reflect January 22, 2014.

- 5) Overreached and circumvented the authority of the Planning Director by misinterpreting the County General Plan.
- 6) Overreached and circumvented the authority of the State Office of Planning by interpreting Hawaii Administrative Rules (HAR) §§15-15-95 and 96 and Hawaii Revised Statutes (HRS) §205-6.
- 7) Intentionally failed to use prudent judgment over this matter as the Hearing's Officer was preoccupied at addressing pressing personal health and family issues.

II. AUTHORITY

Pursuant to the County Charter, County of Hawaii, authority is given to the Planning Director by Chapter 7 Section 6-7.2(b). The Director shall be the chief planning officer of the County.

Hawaii County Code Chapter 25-2-1 Duties of county officers:

(b) The director shall enforce all other provisions of this chapter pertaining to land use.

"The Planning Director recommends that the Planning Commission send a favorable recommendation to the State Land Use Commission." Id. Record at 881.

Pursuant to the County Charter, County of Hawaii Planning Director is charged to prepare a general plan, implementation plans and any amendments thereto in accordance with Section 3-15. As the long-range land use policy, the Planning Director is given authority to conclude a project's alignment with the General Plan.

"Based on the above, the proposal request is not contrary with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map." Id. Record at 891

State Office of Planning is charged with the review of projects proposed within the State Agricultural District. Pursuant to Hawaii Administrative Rules (HAR) §§15-15-95 and 96 and Hawaii Revised Statutes (HRS) §205-6.

"The Office believes the proposal meets the guidelines of HAR 15-15-95 for determining an "unusual and reasonable use" for the granting of a special permit pursuant to HRS §205-6." Id. Record at 758 to 761.

"The proposed use would not be contrary to HRS Chapter 205 and 205A. . ." Id. Record at 759

"The proposed use would not adversely affect the surrounding low density residential properties. . ." Id. Record at 759.

*"Q. In terms of compliance with the factors in Chapter 205 of Hawaii Revised Statutes, would what appears to be a letter dated October 3, 2012 from the Office of Planning, Department of Business, Economic Development and Tourism, would that be one of the considerations the Planning Department takes into consideration?" A. **Correct. We do give it fairly strong weight in the recommendation.**"* Emphasis added, Testimony of Duane Kanuha, Transcript of Proceedings Vol I, Page 216 line 7 – 15.

Section 205-6 HRS governs special permits in the State Land Use Agricultural classification. Under this section, the County Planning Commission has the authority to grant special permits which allow ". . . certain unusual and reasonable uses with agricultural and rural districts other than those for which the district is classified." HRS, Section 205-6(a). The Planning Commission may provide protective restrictions and permit the desired use, if the use would promote the effectiveness and objectives of Chapter 205. A decision in favor of the applicant requires a majority vote of the Planning Commission. Because the Property in this instant case involves more than fifteen acres of land, the Planning Commission should forward a favorable decision/recommendation to the State Land Use Commission, who will meet separately from the county planning commission to consider the Special Permit application.

The Hawaii County Planning Commission's Rule 6 governs the special permit process. An application is required to provide a statement of the reasons for the granting of the special permit citing how the proposed use would promote the effectiveness and objectives of HRS, Chapter 205 and why the proposal is an unusual and reasonable use of the land is also required. Planning Commission Rule 6-3(b)(5) provides that the following criteria are also to be addressed:

- (A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- (B) The desired uses shall not adversely affect surrounding properties;
- (C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;
- (D) Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- (E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district;

- (F) The propose use will not substantially alter or change the essential character of the land and the present use; and
- (G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.

Pursuant to Rule 6-6, the Planning Commission should not approve a Special Permit unless it is found that the proposed use: (a) is an unusual and reasonable use; and (b) would promote the effectiveness and objectives of Chapter 205, HRS. The Planning Commission also considers the criteria listed under Rule 6-3(b)(5)(A) through (G).

III. GROUNDS FOR SPEICAL PERMIT and CONSISTENCY WITH GOVERNMENTAL PLANS, POLICIES AND CONTROLS

The Commission should not approve a Special Permit unless it is found that the proposed use:

- (a) Is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and
- (b) Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

"The Office believes the proposal meets the guidelines of HAR 15-15-95 for determining an "unusual and reasonable use" for the granting of a special permit pursuant to HRS §205-6." Id. Record at 758 to 761.

"The proposed use would not be contrary to HRS Chapter 205 and 205A. . ." Id. Record at 759.

The Commission should also consider the criteria listed under Section 6.3(b)(5)(A) through (G).

In this case, the Record indicates that the Applicants fulfilled all requirements of Rule 6-7, Rules of the Planning Commission. The proposed development also complies with the criteria listed under Section 6-3(b)(5)(A) through (G), Rules of the Planning Commission:

Rule 6-3(b)(5)(A). Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The special permit process for usual and reasonable uses within the Agricultural district is available. This is the case herein. Id. Record at 758 to 761

Rule 6-3(b)(5)(B). The desired use would not adversely affect surrounding properties. This is the case herein. Id. Record at 758 to 761

Rule 6-3(b)(5)(C). Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Based upon the comments received from various public agencies, the following

will be done to ensure that the proposed use shall NOT burden public agencies. Id. Record at 758 to 761 and 773 to 784

Rule 6-3(b)(5)(D). Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. This is the case herein. Id. Record at 758 to 761 and 773 to 784

Rule 6-3(b)(5)(E). The land upon which the proposed use is sought is unsuited for the uses permitted within the district. This is the case herein. Id. Record at 758 to 761 and 773 to 784

Rule 6-3(b)(5)(F). The use will not substantially alter or change the essential character of the land and the present use. The Applicants have designed the campus to match the surrounding rural characteristics instead of an institutional character typical of a public school campus. This is the case herein. Id. Record at 758 to 761 and 773 to 784

Rule 6-3(b)(5)(G). The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The proposed request is not contrary to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which is Low Density Urban and allows ancillary community and public uses. The General Plan encourages the use of public land for education and a course of action for South Hilo encourages the establishment of additional schools. Id. Record at 758 to 761 and 773 to 784

“Base on the above, the proposal request is not contrary with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map.” Id. Record at 891

“The proposed use would not adversely affect the surrounding low density residential properties. . .” Id. Record at 759.

Finally, the proposed use is not contrary to the objectives sought to be accomplished by HRS Chapter 205A, relating to the Coastal Zone Management Program. The Property is located over three miles from the closest shoreline and is not located within the Special Management Area.

IV. THE APPLICANT CBESS' EXCEPTIONS TO THE HEARING OFFICERS REPORT

CBESS submits the following exceptions to the Hearing Officer's Report which selectively favors facts taken out of context or not fully addressed. CBESS will address each portion of the Report utilizing the section as set forth in the Report. CBESS is following the structure of the Report for convenience and not because it agrees with the facts, opinions, or arguments contained therein.

Section II. Proposed Development

A. General Description

14. The Development does not propose to establish a charter school on the Property to serve the needs of immediate vicinity in the Kaumana area of Hilo, although some students from the area may attend this school.

Exceptions: Student population evolves. *“However, ultimately, when were reviewed it, we looked at the fact that student body changes. When Connections originally started, and this I'm familiar with because my good friend lived in Glenwood and taught at Mountain View Elementary School where Connections started. When Connection started, I would say that virtually 100 percent of its students resided in Puna. As Connection moved to it location at the Kress Building and subsequently opened up additional facilities at Nani Mau, over the years the percentage of students who ware from let's say South Hilo and North Hilo has changed so that now you have a mix. And, ultimately, if Connections moves to Kaumana over time you're going to probably see a change in the mix too and you will see over time more and more of those students will reside from South Hilo because that has been the trend if you look at the trend.”*

Testimony of past Planning Director B.J. Leithead-Todd, Transcript of Proceedings, Vol. IV page 527-528.

“There will be an opportunity for students living in the immediate area to attend this facility as the school and the curriculum evolves and matures to be an integral part of the community.” Id. Record at 776.

“Q. How would you describe the growth trend in this area, more agricultural or more urban? A. Although the property and surrounding areas are designated for agricultural uses by both state and county land use law, that the issuance of a special permit, various nonagricultural services may be allowed, including schools” Testimony of Duane Kanuha, upon Examination of J. Gomes, Transcript of Proceedings, Vol. 1 page 215 line 14-22

B. Affect on Surrounding Properties

46. Based upon the testimony from surrounding and neighboring property owners, the Development will have an adverse effect on surrounding properties by creating noise, traffic, and impacting the quality of life of the adjoining residents.

Exceptions: Adverse affect is defined as an unwanted and unanticipated result of taking a particular action. *“Although there are anticipated adverse impacts that would be created by this new use, these impact can be mitigated to minimize their effects of surrounding property owners. Conditions of approval will be added to address traffic and noise that will mitigate and minimize these impacts.”* Id. Record at 778.

The Applicant has provided ample opportunity for the community to engage in mitigative measures to address quality of life. *“the record to reflect that this would be community meeting number five related to this application that the applicant has participated in or*

hosted, in addition to all of the notification process related to this application, whether it was approval through the State Department of Land and Natural Resources, the Office of Environmental Quality Control, public notice process, and this body. We are probably at 12 different areas that the community had the opportunity to engage the applicant.” *Id.* Record at 1890-91 and 2005-06. However, surrounding and neighboring property owners intentionally chose to avoid engaging with the Applicants to simply discuss their options and provide mitigative measures. It was the Applicant’s representative that proposed additional measures to assist with these concerns.

The project will be phased. *Id.* Record at 33. The timeline for full build out of the school campus is roughly projected to take from 16 to 25 years. Despite the testimony from surrounding and neighboring property owners, impacts regarding noise and traffic will naturally occur over the development timeline from other development trends.

The Hearing Officer also ignored expert testimony of Traffic Engineer Phillip Rowel and County of Hawaii Traffic Engineer Chief Ron Thiel that the project would have minimal impacts to traffic.

“Q. I’m understanding that; but what you are saying is if this recommendation is followed, then you shouldn’t have the traffic jam that you have at Hilo High. Is that what you are saying? A. Yes that is correct.” Testimony of Ron Thiel upon Examination of the Hearing Officer. Transcript of Proceedings Vol. 1, Page 166-173.

Impact to the quality of life will occur with or without any type of development as evidenced by the Hearing Officer’s recent health and personal matters.

47. Measure proposed by Connections, regarding the establishment of building setbacks and roadway improvements to Edita Street do not appear to be sufficient to mitigate the overwhelming concerns raised by surrounding property owners.

Exceptions: The Applicant has provided ample opportunity for the community to engage in mitigative measures. *“the record to reflect that this would be community meeting number five related to this application that the applicant has participated in or hosted, in addition to all of the notification process related to this application, whether it was approval through the State Department of Land and Natural Resources, the Office of Environmental Quality Control, public notice process, and this body. We are probably at 12 different areas that the community had the opportunity to engage the applicant.”* *Id.* Record at 1890-91 and 2005-06. However, surrounding and neighboring property owners intentionally chose to avoid engaging with the Applicants to simply discuss their options and provide mitigative measures. It was the Applicant’s representative that proposed additional measures to assist with these concerns

The Hearing Officers report overreached to assert that the mitigative measures are not sufficient. The measures proposed by Connections are in addition to those provided by the various agencies and the Planning Director. The conditions either refine the mitigative measures or provide additional safeguard to a mitigative measure. The authority to given to the respective agencies based on their expertise or technical knowledge of the issues. *"I think the record will show that for each of these impacts and the level of adversity that these impacts will bring, that they have then or either instituted on behalf of our office or governmental agencies or on behalf of the applicant various measures to mitigate those impacts and I think the efforts to do that is quite clear that there has been efforts to do that. I would point to the revised conditions in the Planning Department's recommendation as efforts that have more precisely tried to mitigate what they anticipate those adverse impacts would be."* Testimony of Planning Director Duane Kanuha, Transcripts of Proceedings Vol. I page 213 line 11-22, also governmental agency comments, Id. Record at 570 to 640 and 732-761.

"Pursuant to the code, it's officially my recommendation, but it's not made in a vacuum." Testimony of past Planning Director B.J. Leithead-Todd, Transcripts of Proceedings Vol. IV, page 525 lines 13-14.

C. Burden on Public Agencies to Provide Services

48. There is insufficient water available from the County system to service the Development. Therefore, to allow the Development would unreasonable burden the Department of Water Supply to provide water for its facilities.

Exceptions: This is grossly erroneous. The Applicant provided overwhelming expert witness testimony, technical expert testimony, and evidence that exceeds the burden of persuasion that the Development would not unreasonably burden the Department of Water Supply to provide water. *"The Department has no objection to the proposed application."* Id. Record at 387-388; 734-735; 1678 to 1684. See Testimony of Kevin Louma, Transcript of Proceedings, Vol. 1, pages 139-152. The Department of Water Supply also reviewed preliminary water calculations. See Testimony of Kurt Inaba, Transcript of Proceedings, Vol. 1, page 182-185. The Department of Water Supply supports the Planning Department's Conditions of Approval related to water, whereby the Development and affirms that the Development would not unreasonable burden the Department of Water Supply. See Testimony of Kurt Inaba, Transcript of Proceedings, Vol. 1, page 187, line 8-16.

A snapshot of expert statements and testimony related to water issue contained in the Record and Contested Case include the following:

"The Department has no objection to the proposed application." Department of Water Supply, August 29, 2012. Id. Record at 387-388; 734-734.

"Q. . . did you see any deviations or errors in terms of anticipated water use estimates? A. No." Testimony of Kurt Inaba Transcript of Proceedings, Vol I page 183 line 10-13.

"Q. So these kind of fixtures, in your opinion do work? A. Yeah. Industry standards. Correct." Testimony of Kevin Lumon upon Examination of the Hearing Officer, Transcript of Proceedings, Vol. I line 14-16.

Conditions related to water: Q. "would you look at Condition 3 and 4. Do you agree with those particular conditions: A. "Yep. Yep. Q. So for both 3 and 4, you agree with those? A. Yeah. Testimony of Kurt Inaba Transcript of Proceedings, Vol. 1 page 187 line 12-15.

At no time was any evidence offered by any participant that would support the Hearing Officer's assertion.

49. There is no evidence that Connections has the ability to develop a potable water source as a mitigating measure, previously proposed by the Director.

Exceptions: The Applicant has provided overwhelming expert witness testimony, technical expert testimony and evidence that other alternatives are available and industry standards that allows the Applicant to utilize the development of additional potable water through new technological tools.

The Hearing Officer fails recognize that the conditions currently propose by the Director states. "Prior to the issuance of a water commitment by the Department of Water Supply, the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepare by a professional engineer licensed in the state of Hawaii and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this permit. The calculations must include the estimated peak follow in gallons per day. Should the applicant utilize more that the maximum average daily usage of potable water (4,200 gpd) form the existing County 8-inch water line, the applicant will be required to secure or construction and additional source of potable water or limit the amount of students to the amount of potable water available. Emphasis added.

The Hearing Officer overreached to assert that the Planning Director did not have the authority to refine a condition. As such the Revised Conditions is based on the duty to address adverse impacts.

I would point to the revised conditions in the Planning Department's recommendation as efforts that have more precisely tried to mitigate what they anticipate those adverse impacts would be.” Testimony of Planning Director Duane Kanuha, Vol I page 213 line 18-21.

“Pursuant to the code, it's officially my recommendation, but it's not made in a vacuum.” Testimony of past Planning Director B.J. Leithead-Todd, Transcripts Vol. IV, page 525 lines 13-14.

At no time was any evidence offered by any participant that would support the Hearing Officer's assertion.

The Applicant is in position to secure \$8 million dollars to start implementing the project's initial phases once the permitting process is complete. Id. Record at 882.

Nothing in Planning Commission Rule 6 requires an Applicant to provide financial information related to financial resources and the ability to develop a project. For the Hearing Officer to assert the state of Applicants financial soundness is pure conjecture.

“Q. And at the special permit application phase of any project, is a developer or entity developing the land required to produce final or actual construction plans, including final water use figures? A. Usually not. Those usually come through conditions of approval.” Testimony of Duane Kanuha, Transcript of Proceedings Vol. I page 191, line 15-20.

Nothing is Planning Commission Rule 6 requires any Applicant to meet the full build out water commitment at the initial phased implementation stage. The Hearing Officer's Report sets a new and restrictive precedent for any future development in the County of Hawaii. If the Commission adopts this Report it is obligated to be consistent and apply to Mr. Fuke's clients, Ms. Song's clients and all other Applicants. Otherwise the Commission violates the law, its precedent and undermines the People's faith in governance by law, objective standards and not by who knows whom.

50. A mitigating measure previously proposed by the Director of limiting the number of students to the amount of potable water available to the project is not reasonable because Connection is proposing to construct a high school for 107 students it first phase, when the potable water available would only allow for 70 students.

Exceptions: The Hearing Officer's supposition and inference that the Applicant would not adhere to the mitigative measures proposed or conditions of approval is disgraceful. It is a partisan attack on the integrity of Applicants, their representatives the governmental agencies tasked with enforcing the conditions, and has no support in the Record.

The overwhelming expert testimony was that various design scenarios could be utilized to allow construction of high school phase, Id. Record at 1679-1684. The Record clearly reflected that one design option available to the Applicant would be to develop a High School without a cafeteria. The methodology assumes low-flow fixtures and potable water usage and its water usage is at 531 gpd. Based on the water calculations provided it can be reasonable expected that 4,200-gpd-allocation would be reached at Phase 7. Id. Record at 1679-1685.

The Hearings Officer lacked the technical expertise and no evidence was offered to support her conclusion that potable water would only allow for the 70 students.

51. As such, the proposed use may unreasonably burden the County Department of Water Supply to provide water to the Development.

Exceptions: The Hearing Officer's supposition and inference that the Applicant would not adhere to the mitigative measures proposed or conditions of approval lacks support in the Record. It is an attack the integrity of both Applicants and the governmental agencies tasked with adhering to the conditions. The Hearing Officer has clearly made this statement up, contrary expert and technical evidence provided in the Record; see Exceptions at item 48.

No evidence was presented to support this statement.

52. Unusual conditions and needs have arisen since the establishment of this land use district in the 1970s, because the area in which the Property is located has essentially become residential in character. Also, the County General Plan LUPAG map recognizes this trend by designating the area for low density urban use. However, there was no evidence presented to demonstrate that the location of a school that is not intended to specifically service the needs of the immediate community is such an unusual condition, trend or need that justifies location of the Development at this location.

Exceptions: To the contrary, evidence was presented related to educational trends. See Exception 14, Testimony of past Planning Director B.J. Leithead-Todd, Transcript of Proceedings, Vol. IV page 527 line 1-25, page 528 line 1-11. The Hearing Officer failed to recognize a growing trend of education related to native forestry, forestry resource management and other agricultural models that provide sustainable practices. This Property is ideal for the education and practical application and hands on training for such and provides an "outdoor classroom" for students.

Despite the Hearings Officer claims related to designating of the area for low density urban use, the zoning would allow 1-acre lots (approximately 65 lots assuming roadways). 65 additional lots would create approximately 260 to 285 additional individuals and similarly 130 to 145 additional vehicles without any additional improvements required or operational times. The Applicants proposal of a High School is well below this projection.

The implementation of this project also provides a larger goal set out by the County of Hawaii related to road connectivity. The Planning Director Condition 12 provides for this opportunity and meets the long-range plans for the area. *“And the reason is that the long-rang plans had always envisioned that Edita Street would eventually connect to Puainako. . . prospectively in the future it had the potential of providing alternative access.”* Testimony of past Planning Director B.J. Leithead-Todd, Transcripts of Proceedings, Vol. IV page 514 line -515.

55. Based upon the representations of Connections, it cannot be found that the Property is unsuited for agricultural uses.

Exceptions: The Planning Director has made the determination of the *“agricultural potential of the property and the propose use of a school is considered an unusual and reasonable use of agricultural land, which will not adversely affect the preservation and agricultural use of the County’s prime agricultural lands, and is not contrary to the objective sought to be accomplished by the State Land Use Law and Regulations.”* Id. Record at 777. *The land on which the proposed use is located is unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. Additionally, the soil is classified as “D” or “Poor” by the LSB’s Detailed Land Classification System and is identified mainly as pahoehoe lava flow (rLW) by the US Soil Survey.* Id. Record at 777. Connections has not asserted that the property was unsuited for agricultural, it simply described its classification and rating. Connections recognizes and values the Property’s potential to **educate students** about various agricultural, forestry and conservation practices and sustainability options. The marginal use of agricultural potential will be supplemented with the educational factor proposed with this project. Again, this Property is ideal for the education, practical application and hands on training for such and provides an “outdoor classroom” for students. The agricultural program facilities would be conducted on the lower parcel only and include green houses, cultivated gardens and horse barn. The forestry/conservation program, which focuses on forest resource management, conservation, and forest ecosystem restoration, would use limited parts at the upper parcel as an outdoor learning site.

57. The Development of a school will change the essential character of the forested land and its undeveloped use.

Exceptions: The Applicant's proposal uniquely adopts both characteristics of the surrounding areas. The school will blend and compliment the overall characteristics of all the adjacent uses. *"The current character and present use of the subject property is undeveloped, vacant of structures and uses. The current character of the surrounding area is residential to the north and residential/agricultural to the south. The present use the surrounding area is mainly residential with some agricultural activity and vacant land. The Applicant has proposed to construct the buildings as single story structures, similar to the surrounding residential community."* Id. Record at 782.

To maintain the essential character of the forested land and its undeveloped use, *"the Applicant proposes that there will be no major school facilities constructed on the upper parcel."* Id. Record at 774.

58. The County General Plan LUPAG map designates the Property for low density urban use. "Low density uses" under the General Plan include residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses.

Exceptions: A School is defined as a public use. Haw. Code R. § 15-23-32²

"The proposed use would not adversely affect the surrounding low density residential properties. . ." Id. Record at 759.

"Based on the above, the proposal request is not contrary with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map." Id. Record at 891.

Q. And what is low-density urban? A. Low-density urban primarily represents anticipated future low-density residential uses, essentially; so those are area that, over time, the department and the county as a whole—because the General Plan is a policy

² (F) Public uses, including: public safety facilities; post offices; hospitals; miscellaneous health and medical facilities; educational institutions; cultural centers/ libraries; religious institutions; **public school/park complexes**; outdoor public land recreation; indoor public recreation; personal development centers; and utility substations, provided that utility substations other than individual transformers shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge six feet in height; provided also that transformer vaults for underground utilities and like uses shall require only a landscape screening hedge, solid except for access opening; and

Haw. Code R. § 15-23-32 (Weil) (emphasis added).

document—envisioned that that area will eventually become more residential than agricultural.

Q. And the zoning is agricultural, but its surrounded by agricultural properties, is that correct, and residential properties, single-family residential? A. I would say more residential. More residential.

Q. Are schools allowed in single-family residential districts? A. Yes

Testimony of Duane Kanuha, upon Examination of the Hearing Officer, Transcript of Proceedings, Vol. I, page 217, line 10-25.

59. The Development, which proposes a charter school that is not specifically intended to service the immediate community surrounding the school, is not consistent with the uses permitted in areas of low density urban uses.

Exceptions: The Applicant has presented evidence to contradict this assertion. See Exception at item 14. No evidence has been presented to support this statement.

60. The Economic, Public Facilities and Land Use elements of the County General Plan all require consideration of social and community concerns as follows:

Economic Element - Goal

- Provide an economic environment that allows new, expanded or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

Public Facilities Elements – Goal

- Encourage the Provision of public facilities that effectively service the community and visitor needs and seeks ways of improving public service through better and more functional facilities in keeping with the environmental and aesthetic concerns of the community

Land Use Element – Policy

- Encourage the development and maintenance of communities meeting the needs of it residence in balance with the physical and social environments.”

Exceptions: There are other goals identified by the County General Plan that the Hearing Officer intentionally chose to ignore. *“Additionally, the approval the subject request would support the following goals and policies of the Economic, Public and Land Use elements of the General Plan.*

Economic Element - Goal

- *Provide an economic environment that allows new, expanded or improved economic opportunities that are compatible with the County's cultural, natural and social environment.*

- *Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.*

Public Facilities Elements – Goal

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

Land Use Element – Public Lands

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

Based on the above, the proposal request is not contrary with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. Additionally the General Plan encourages the use of public lands for education and a course of action for South Hilo. Id. Record at 891

61. The evidence has established significant concerns from the community regarding the compatibility of the Development with the surrounding community.

Exceptions: Community has exaggerated its concerns. The expert and technical evidence contained within the Record and Contested Case overwhelmingly contradicts this assertion. See, Exceptions at 14 and 52.

62. Although the County General Plan Public Facilities-Education course of action for South Hilo encourages the establishment of additional schools as the need arises, the proposed Development, at the subject location, is contrary to the General Plan.

Exceptions: The evidence contained within the Record and Contested Case overwhelmingly contradicts this assertion. See Exceptions at 14 and 52.

63. The construction of the school on the Property is an unusual use of the land because a school is not a permitted use in the State Land Use Agricultural District. However, the evidence presented does not demonstrate that the Development is a reasonable use of the Property. Specifically, Connections has not demonstrated how this school can be built without sufficient potable water resources. Nor, has Connections demonstrated how the development of a regional charter school on the Property that does not specifically service the needs of the immediate community and that is overwhelmingly objected to by the immediate community is a reasonable site for the facility. In addition Connections has not demonstrated that the Development meets most of the criteria to be considered by the Commission in the subject application.

Exceptions: See all Exceptions discussed previously.

V. CONCLUSIONS

The Windward Planning Commission should reject the Hearing Officer's Report. The Report is legally and materially flawed. The Report relies on speculation and jumps to conclusions that had no support in the evidence. The Hearing Officer relied on unsworn public testimony over the sworn testimony of residents and expert witnesses. A prime example was that several of the nearby residents presented public testimony against the project, but when they were sworn under oath, they stated that their objections that they had been making to the Planning Commission and the Hearing Officer was based on the completion of the entire project, not the phased parts of the project. This is just one of several examples of the Hearing Officer's inability to be objective and fair.

The Hearing Officer did not take an oath or promise to be fair, objective and impartial. She simply responded to an annual procurement solicitation by the Planning Department for Hearing Officers. None of the qualifications included being fair, objective and impartial. She was simply hired to do a job. Unfortunately, the job she did was poor, flawed and obviously biased. She failed to consider that by law, Charter Schools are required to open their doors to any student, regardless of geographical area. Yet, she used that legal requirement against the Applicant.

Unlike the Hearing Officer, each Planning Commissioner took an oath to enforce the laws of the County of Hawaii in a fair, objective and impartial manner. That simply means that oftentimes as Planning Commissioners, you are required to follow the law, even though personally, you may disagree with the project. You may not use your personal feelings to override what the law requires. If you allow your feelings, bias, prejudice, anger or ignorance, to guide your decisions, that would not only violate your oath, but it would violate the law and the fundamental rule of governance, that is, consistency.

Government only works, when the law is applied and enforced on a consistent basis. Meaning that people, including developers, contractors and members of the public, can read a law and regulation, and determine whether or not they comply with the law. Public departments and agencies look to the law, including regulations, to see if the applicable request complies with the legal standards. And if the request complies with all legal requirements, then government agencies are required to approve the request. Even if the people within that government agency don't personally like the entity or person requesting the action, because of their color, gender, disability, political affiliation or economic status.

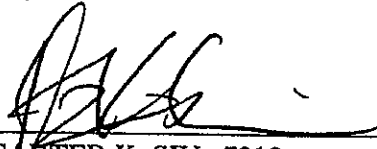
Government doesn't work when the rule of law is ignored and laws are enforced and requests are denied based on the personal connections between the parties, the difference in their economic status, political affiliations and contributions. Once that happens, then government becomes corrupt and it becomes reserved for the privileged and well connected. It is one thing to be a paid contractor, it is entirely another to take an oath to support and defend the laws of this County.

In this case, several Commissioners have been very clear about their personal feelings against locating the School in the Kaumana area. The overwhelming evidence produced at the contested case hearing, every governmental agency, including the Department of Water Supply, have testified, under oath, that the project is acceptable and should be approved. Even staunch opponents have agreed under oath that they only oppose the fully completed, built out project.

When viewed, fairly and objectively, the Hearing Officer's Report falls apart. Her accusations and conclusions make no sense. Her suppositions and overreach become transparent and expose her true intentions. The Windward Planning Commission should not support or rely on such a poorly written and biased report.

The Commissioners should instead, follow its oath, put aside its personal feelings about Charter Schools and reject the Hearing Officer's Report and approve the Application with appropriate conditions.

DATED: Honolulu, Hawaii, April 21, 2014.



CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

DATED: Hilo, Hawaii _____, 2014.

TED H.S. HONG
Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

In this case, several Commissioners have been very clear about their personal feelings against locating the School in the Kaumana area. The overwhelming evidence produced at the contested case hearing, every governmental agency, including the Department of Water Supply, have testified, under oath, that the project is acceptable and should be approved. Even staunch opponents have agreed under oath that they only oppose the fully completed, built out project.

When viewed, fairly and objectively, the Hearing Officer's Report falls apart. Her accusations and conclusions make no sense. Her suppositions and overreach become transparent and expose her true intentions. The Windward Planning Commission should not support or rely on such a poorly written and biased report.

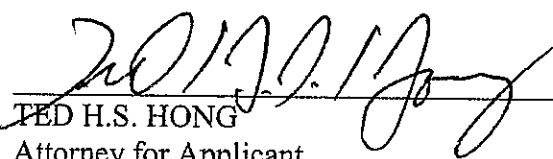
The Commissioners should instead, follow its oath, put aside it's personal feelings about Charter Schools and reject the Hearing Officer's Report and approve the Application with appropriate conditions.

DATED: Honolulu, Hawaii, _____, 2014.

CARTER K. SIU 7313
Deputy Attorney General
Department of the Attorney
General, State of Hawaii

Attorney for Applicant
CONNECTIONS NEW CENTURY
PUBLIC CHARTER SCHOOL

DATED: Hilo, Hawaii April 21, 2014.



TED H.S. HONG
Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

TED H. S. HONG 3569
Attorney at Law
P. O. Box 4217
Hilo, HI 96720
Telephone No. 808.933.1919
ted@tedhonglaw.com

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

BEFORE THE WINDWARD PLANNING COMMISSION

COUNTY OF HAWAII

In the Matter of) SPP No. 12-000138
)
)
CONNECTION NEW CENTURY PUBLIC)
CHARTER SCHOOL AND COMMUNITY)
BASED EDUCATION SUPPORT) APPLICANT COMMUNITY BASED
SERVICES) EDUCATION SUPPORT SERVICES
) (CBESS); CERTIFICATE OF SERVICE
)
Application for Special Permit Application)
No. 12-000138)
)
TMK: (3)2-5-006:141; Kaumana, South Hilo,)
Island of Hawaii)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 21, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons by electronic and postal mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, Hawaii 96720

CARTER K. SIU, ESQ. (Carter.K.Siu@hawaii.gov)
Deputy Attorney General
Attorney for Applicant Connections New Century Public Charter School
235 S. Beretania Street, Room 304
Honolulu, Hawaii 96813

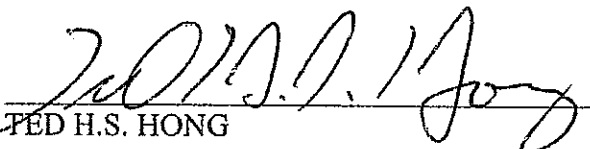
Amy Self, Esq. (aself@co.hawaii.hi.us)
Deputy Corporation Counsel
Attorney for the County of Hawaii Planning Director

333 Kilauea Avenue
Hilo, Hawaii 96720

Jeff Gomes (kalanigomes@hawaiiantel.net)
Intervenor
281 Edita Street
Hilo, Hawaii 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeff Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission Staff
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

DATED: Hilo, Hawaii April 21, 2014.



TED H.S. HONG

Attorney for Applicant
COMMUNITY BASED EDUCATION
SUPPORT SERVICES (CBESS)

Arai, Daryn

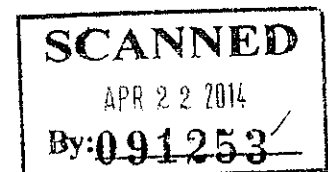
From: Kualii, Jennifer
Sent: Monday, April 21, 2014 4:16 PM
To: sandrasong@hawaiiantel.net
Cc: Self, Amy; Carter.K.Siu@hawaii.gov; ted@tedhonglaw.com; sue@tedhonglaw.com; kalanigomes@hawaiiantel.net; Arai, Daryn; Darrow, Jeff
Subject: Connections New Century Public Charter School; SPP-12-000138
Attachments: Planning Director's Exceptions to Hearings Officer's Report dated aprilpdf

Good Afternoon Ms. Song,

Please find attached, DUANE KANUHA, COUNTY OF HAWAII PLANNING DIRECTOR'S EXCEPTIONS TO HEARINGS OFFICER'S REPORT DATED APRIL 7, 2014.

Thank you,
Jennifer

Jennifer M. Kualii, Legal Technician to
Michael J. Udovic, Amy G. Self
and Noralynne K. Pinao
Deputies Corporation Counsel and
Secretary to the Cost of Government
Commission
Office of the Corporation Counsel
101 Aupuni Street, Suite 325
Hilo, HI 96720
Tel. No. (808) 961-8251
Fax No. (808) 961-8622



2014 APR 22 AM 9:46

LINCOLN S. T. ASHIDA 4478
Corporation Counsel

AMY G. SELF 7628
Deputy Corporation Counsel
Office of the Corporation Counsel
101 Aupuni Street, Suite 325
Hilo, Hawai'i 96720
Tel. No. (808) 961-8251
Fax No. (808) 961-8622
Email: aself@co.hawaii.hi.us

Attorneys for Duane Kanuha, County of Hawai'i Planning Director

BEFORE THE COUNTY OF HAWAII
WINDWARD PLANNING COMMISSION

In the Matter of

SPP-12-000138

CONNECTIONS NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT SERVICES

DUANE KANUHA, COUNTY OF HAWAII
PLANNING DIRECTOR'S EXCEPTIONS
TO HEARINGS OFFICER'S REPORT
DATED APRIL 7, 2014; CERTIFICATE OF
SERVICE

Application for Special Permit Application No.
12-000138

TMK: (3) 2-5-006:141; Kaūmana, South Hilo,
Hawai'i

**DUANE KANUHA, COUNTY OF HAWAII PLANNING DIRECTOR'S EXCEPTIONS
TO HEARINGS OFFICER'S REPORT DATED APRIL 7, 2014**

DUANE KANUHA, COUNTY OF HAWAII PLANNING DIRECTOR ("Planning
Director"), by and through his undersigned counsel, hereby submits his Exceptions to the
Hearing Officer's Report dated April 7, 2014, as follows:

The Planning Director takes exception to the following Findings of Fact ("FOF")
provided in the Hearing Officer's report, dated April 7, 2014:

SCANNED
APR 22 2014
By: **091253**

I. FOF No. 7:

The Planning Director takes exception to the second sentence of FOF No. 7, which reads as follows: “The Director initially recommended approval of the Connections application, subject specific conditions, but took no position on the application at the contested case hearing.”

While the Planning Director submitted a statement of taking no position in this matter in lieu of submitting findings of fact, conclusions of law and decision and order after the close of the hearing, the Planning Director has supported and continues to support the County of Hawai'i Planning Department Revised Recommendation (Record at pp. 881 – 896) and the Connections New Century Public Charter School/CBESS Special Permit Application No. 12-000138 (SPP 12-000138) Revised Conditions (Record at pp. 1227 – 1231). *See* Contested Case Hearing Transcript Volume I on October 21, 2013 (“Tr. Vol. I 10/21/13”) at pp. 190 -192 (Planning Director Duane Kanuha testifying that the Planning Department’s position has not changed in terms of the revised recommendations). *See also* Contested Case Hearing Transcript Volume IV on January 8, 2014 (“Tr. Vol. IV 1/8/14”) at pp. 510 -- 511 (former Planning Director, BJ Leithead Todd, testifying that up to the point when she left as Planning Director, the Planning Department’s favorable recommendation had not changed).

II. FOF Nos. 52 and 59:

The Planning Director takes exception to the Hearing Officer’s FOF No. 52, which states in part that:

[T]here was no evidence presented to demonstrate that location of a school that is not intended to specifically service the needs of the immediate community is such an unusual condition, trend or need that justifies location of the Development at this location.

The Hearing Officer omitted evidence provided in the Planning Department’s Revised Recommendation. *See* Record at pp. 883 - 884 (explaining the flexibility afforded public charter school regarding the location of where students live who attend the school); 890 - 891. There is

no mention of the former Planning Director's explanation of how the Planning Department determined that the location of the school was justified. *See Record* at pp. 2039 and 2048 - 2049. Finally, there is no mention of Planning Director Kanuha's testimony during the contested case hearing during which he confirmed that the school was consistent with the low density urban designation. *See Tr. Vol. I 10/21/13* at pp. 190 - 191. In addition, Planning Director Kanuha testified that the Planning Department does not have the right to tell a developer where to locate a particular project, which does not appear to have been taken into consideration by the Hearing Officer. *See id.* at p. 191.

The Planning Director also takes exception to the Hearing Officer's FOF No. 59, which states in part:

The Development, which proposes a charter school that is not specifically intended to service the immediate community surrounding the school, is not consistent with the uses permitted in areas of low density urban use.

The Planning Director takes exception to FOF No. 59 for the same reasons stated above for FOF No. 52.

III. FOF Nos. 20 – 22, 48 – 51, and 63.

The Planning Director takes exception to FOF Nos. 20 – 22, 48 – 51, and 63, which determined Connections has not produced any evidence to demonstrate that it has or can develop sufficient water for the Development, because these findings are not supported by the Record. There is an overwhelming amount of information regarding how the project will meet its water requirement, but this evidence was omitted. *See Record* at pp. 445, 455, 460, 526, 528 – 529, 723 (regarding water availability and issues in Connections' application); 578, 597, 734 – 735, 767 (regarding comments by the Department of Water Supply ("DWS")); 888 (Planning Department's Revised Recommendation); 1630 – 1632 (testimony of Finn McCall from DWS); 1227 (Revised Conditions (No. 3) to limit number of students based on available water); 1678 –

1684 (preliminary water calculations submitted to DWS pursuant to request during November 9, 2011 Planning Commission meeting); 2010 – 2016 (testimony of Celia Shen, applicant's planner, during the January 10, 2013 Planning Commission meeting regarding how Connections School will deal with the water issue). In addition, the Hearing Officer heard testimony from the following witnesses regarding this issue:

Dennis Isawa Hirota: Tr. Vol. I 10/21/13 at pp. 126 - 134

Kevin Louma: Tr. Vol. I 10/21/13 at pp. 135 - 151

Kurt Inouye Inaba: Tr. Vol. I 10/21/13 at pp. 180 - 187

Duane Kanuha: Tr. Vol. I 10/21/13 at pp. 191

Celia Shen: Tr. Vol. I 10/21/13 at pp. 250 - 251

Although it appears that the foregoing information was omitted in the Hearing Officer's report, it is important information that should be reviewed by the Windward Planning Commission before making its decision on the Special Permit Application submitted by the applicant.

Dated: Hilo, Hawai'i, April 21, 2014.

DUANE KANUHA, COUNTY OF HAWAI'I
PLANNING DIRECTOR

By


AMY G. SELF
Deputy Corporation Counsel
His Attorney

BEFORE THE COUNTY OF HAWAI'I
WINDWARD PLANNING COMMISSION

In the Matter of

SPP-12-000138

CONNECTIONS NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT SERVICES

CERTIFICATE OF SERVICE

Application for Special Permit Application No.
12-000138

TMK: (3) 2-5-006:141; Kaūmana, South Hilo,
Hawai'i

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 21, 2014, a copy of the foregoing document was
served upon the following in the manner indicated below:

	<u>Hand Delivery</u>	<u>Mail</u>	<u>Email</u>
SANDRA P. SONG, ESQ. 10 Kamehameha Avenue Hilo, Hawai'i 96720 Email: sandrasong@hawaiiantel.net Hearings Officer			(X)
CARTER SIU, ESQ. Deputy Attorney General State of Hawai'i 235 S. Beretania Street, Room 304 Honolulu, Hawai'i 96813 Email: Carter.K.Siu@hawaii.gov Attorney for CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL			(X)
TED H.S. HONG, ESQ. P. O. Box 4217 Hilo, Hawai'i 96720 Email: ted@tedhonglaw.com Attorney for COMMUNITY BASED EDUCATION SUPPORT SERVICES			(X)

Hand Delivery

Mail

Email


JEFF GOMES
281 Edita Street
Hilo, Hawai'i 96720
Email: kalanigomes@hawaiiantel.net
Intervenor

(X)

DARYN ARAI
JEFF DARROW
County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Email: darai@co.hawaii.hi.us
jdarrow@co.hawaii.hi.us
Windward Planning Commission

(X)

Dated: Hilo, Hawai'i, April 21, 2014.



AMY G. SELF
Deputy Corporation Counsel
County of Hawai'i

Ted H.S. Hong
Attorney at Law

Employment, Workplace Law & Litigation

Sue Lee Loy
Planner and Legal Assistant

April 21, 2014

FILED
APR 22 2014
HAWAII COUNTY CLERK
HONOLOULU, HAWAII

The Honorable Duane Kanuha, Director
County of Hawaii Planning Department
The Honorable Ronald Gonzales, Chairman and Members
County of Hawaii Windward Planning Commission
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

RE: REQUEST FOR ORAL ARGUMENT BEFORE THE COMMISSION
Special Permit Application (SPP12-000138)
Connections New Century Public Charter School ("Connections") and Community Based
Education Support Services ("CBESS")
TMK(3)2-5-006:141

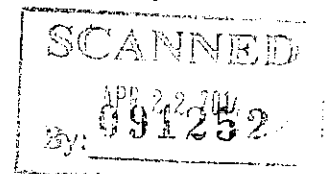
Dear Mr. Kanuha, Mr. Gozales and Members:

On behalf of Connections New Century Public Charter School ("Connections") and Community Based Education Support Services ("CBESS"), hereinafter Applicant, allow this letter to request Oral Argument before the Commission in for the above-entitled matter.

Pursuant to Rule 4-31 *"Party's Request. If a party desires to argue orally before the Commission, a written request with reasons therefore shall accompany the exceptions or the support brief or statement filed, and the Commission may grant such request."*

The Applicant request to argue orally before the Commission based on the follow information ignored by the Hearing Officer's Report that are as follows:

- 1) Deliberately ignored the expert/technical witness, evidence, information and testimony within the Record and/or presented during the Contested Case proceedings.
- 2) Failed to cite to any expert/technical evidence that supported the Hearing Officer's assertion that mitigative measures or the conditions of approval proposed would not adequately address any effect to the surrounding properties.
- 3) Failed to cite any expert/technical evidence that supported the assertion that the mitigative measures or the conditions of approval proposed would not adequately address any effect to public agencies.



The Honorable Duane Kanahele, Director
County of Hawaii Planning Department

The Honorable Ronald Gonzales, Chairman and Members

RE: REQUEST FOR ORAL ARGUMENT BEFORE THE COMMISSION
Special Permit Application (SPP12-000138)
TMK(3)2-5-006:141

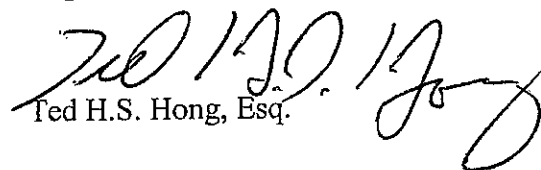
April 21, 2014

Page 2

- 4) Overreached by asserting that mitigative measures would not be sufficient.
- 5) Overreached and circumvented the authority of the Planning Director by misinterpreting the County General Plan.
- 6) Overreached and circumvented the authority of the State Office of Planning by interpreting Hawaii Administrative Rules (HAR) §§15-15-95 and 96 and Hawaii Revised Statutes (HRS) §205-6.
- 7) Intentionally failed to use prudent judgment over this matter as the Hearing's Officer was preoccupied at addressing pressing personal health and family issues.

We look forward to presenting information related to the above issues and should you have any other comments questions or concerns, please feel free to call Sue Lee Loy or myself at 933.1919.

Regards,


Ted H.S. Hong, Esq.

Arai, Daryn

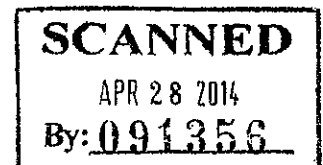
From: jeff gomes [kalanigomes@hawaiiintel.net]
Sent: Monday, April 28, 2014 6:28 AM
To: sandrasong@hawaiiintel.net; Carter.K.Siu@hawaii.gov; aself@co.hawaii.hi.us;
DARAI@co.hawaii.hi.us; jdarrow@co.hawaii.hi.us; sue@tedhonglaw.com
Cc: ted@tedhonglaw.com
Subject: ORAL ARGUMENTS REQUEST AND CERTIFICATE OF SERVICE
Attachments: Gomes - Certificate of Service-3.docx; Gomes - Oral Arguments Request.docx

2014 APR 28 AM 8:01

Attached are my Request for Oral Arguments and Certificate of service.

Aloha,

Jeff Gomes
Owner
Hawaii Bookmark
16-175 Melekahiwa Street #1
Kea'au, HI 96749
(808) 987-6488
www.hawaiibookmarks.com



BEFORE THE WINDWARD PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition of	) APPLICATION SPP NO. 12-000138
)
CONNECTIONS NEW CENTURY PUBLIC	) INTERVENOR, JEFFREY K. GOMES',
CHARTER SCHOOL AND	) REQUEST TO PROVIDE ORAL
COMMUNITY BASED EDUCATION	) ARGUMENTS; CERTIFICATE OF
SUPPORT SERVICES	) OF SERVICE
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141.)

INTERVENOR, JEFFREY K. GOMES', REQUEST TO PROVIDE ORAL ARGUMENTS
IN SUPPORT OF HEARINGS OFFICER'S REPORT, DATED APRIL 7, 2014,
RELATING TO SPP NO. 12-000138

Pursuant to Rule 4-31 of the Rules of Practice and Procedures of the County of Hawai'i Planning Commission Rule 4-30, Jeffrey K. Gomes ("Intervenor") hereby requests to provide oral arguments before the Windward Planning Commission in support of the Hearings Officer's Report.

The reason for this request is to provide the Intervenor or its designee with an opportunity to verbally summarize the reasons for its position on this application with an opportunity to respond to questions by the Commission, the Applicant, or the Planning Director. The record on this application is quite extensive with three (3) Proposed Findings of Fact and Conclusions of Law, two (2) Exceptions to the Hearings Officer's Report, and one (1) Support Statement. Accordingly, having the opportunity to provide oral arguments should help distill the issues and position of the Intervenor.

DATED: Hilo, Hawai'i April 28, 2014

JEFFREY K. GOMES
Intervenor, *Pro Se*
281 Edita Street

BEFORE THE WINDWARD PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition of) APPLICATION SPP NO. 12-000138
)
CONNECTION NEW CENTURY PUBLIC)
CHARTER SCHOOL AND COMMUNITY)
BASED EDUCATION SUPPORT)
SERVICES)
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 28, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons via Electronic Mail and U.S. Postal Mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, HI 96720

TED H. S. HONG, ESQ. (ted@tedhonglaw.com)
Attorney for Applicant – Community Based Education Support Services (CBESS)
P.O. Box 4217
Hilo, HI 96720

CARTER K. SIU, ESQ (Carter.K.Siu@hawaii.gov)
Attorney for Applicant – Connections New Century Public Charter School
Department of the Attorney General
State of Hawaii
233 South Beretania Street, Rom 304
Honolulu, HI 9813

AMY SELF, ESQ. (aself@co.hawaii.hi.us)
Attorney for the County of Hawaii Planning Director
Office of the Corporation Counsel
County of Hawai'i
333 Kilauea Avenue
Hilo, HI 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeffrey Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission staff
Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, HI 96720

DATED: Hilo, Hawai'i April 28, 2014

JEFFREY K. GOMES
Intervenor, Pro Se
281 Edita Street
Hilo, HI 96720

Arai, Daryn

PLANNING DEPARTMENT
COUNTY OF HAWAII

From: jeff gomes [kalanigomes@hawaiiantel.net]
Sent: Monday, April 28, 2014 6:39 AM
To: sandrasong@hawaiiantel.net; aself@co.hawaii.hi.us; DARAI@co.hawaii.hi.us; 01
jdarrow@co.hawaii.hi.us; Carter.K.Siu@hawaii.gov; sue@tedhonglaw.com
Cc: ted@tedhonglaw.com
Subject: SUPPORT STATEMENT FOR JEFF GOMES AND CERTIFICATE OF SERVICE
Attachments: Gomes - Certificate of Service-3.docx; Gomes - Support Statement-1.docx

Attached are my Support Statement and Certificate of Service.

Aloha,

Jeff Gomes
Owner
Hawaii Bookmark
16-175 Melekahiwa Street #1
Kea'au, HI 96749
(808) 987-6488
www.hawaiibookmarks.com



BEFORE THE WINDWARD PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition of	) APPLICATION SPP NO. 12-000138
)
CONNECTIONS NEW CENTURY PUBLIC	) INTERVENOR, JEFFREY K. GOMES',
CHARTER SCHOOL AND	) SUPPORT BRIEF OR STATEMENT
COMMUNITY BASED EDUCATION	) OF HEARINGS OFFICER'S REPORT,
SUPPORT SERVICES	) DATED APRIL 7, 2014; CERTIFICATE
	) OF SERVICE
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141.)

INTERVENOR, JEFFREY K. GOMES', SUPPORT BRIEF OF HEARINGS OFFICER'S REPORT, DATED APRIL 7, 2014, RELATING TO SPP NO. 12-000138

Pursuant to Rule 4-30 of the Rules of Practice and Procedures of the County of Hawai'i Planning Commission Rule 4-30, the Intervenor – Jeffrey K. Gomes (“Intervenor”) - hereby submits its Support Brief, taking into account the Exceptions filed by Connections New Century Public Charter School and Community Based Education Support Services (“Applicant”) and the County Planning Director (“Director”).

DIRECTOR'S EXCEPTIONS

Relative to the three sets of Exceptions, the Intervenor notes the following:

i. Findings of Fact (“FOF”) No. 7

In sum, the Director took Exception to the Hearings Officer's (“HO”) FOF that he took no position on the application at the contested case hearing. The Intervenor **concurs** with this Exception, as it understood the Director's direct

testimony as being supportive of the former Director's position, while not providing any other written recommendation to the contrary.

II. FOF Nos. 52 and 59

The Intervenor **does not totally concur** with the Director's Exception to FOF 52. The HO found that the Applicant did not provide evidence "*to demonstrate that location of a school that is not intended to specifically service the needs of the immediate community is such an unusual condition, trend, or need that justifies location of the Development at this location.*" (Emphasis added)

In response, the Exception noted that the HO omitted evidence provided by the Planning Department's Revised Recommendation, to wit, the "*flexibility afforded public charter school regarding the location of where students live who attend the school.*"

Notwithstanding the Department's statement in its Revised Recommendation, the Intervenor concurs with the HO's conclusion that it is not the Department but "*Connections (who) had the burden of proof on this matter before the Commission, including the burden of producing evidence as well as the burden of persuasion, by a preponderance of evidence, to demonstrate how its request is consistent with the guidelines for a special permit as outlined by Section 205-6, HRS and Rule 6 of the Commission Rules. Connections has failed to meet this burden.*" (Emphasis added)

While the Department made that statement, neither the Department nor the Applicant provided concrete evidence to that effect. Instead, the Applicant continued to maintain that at least 50% of the projected student population will come from the Puna District. (See *11/09/12 Public Hearing Transcript, page 17 and ROA, page 1563*)

The Exception also noted the failure of the HO in FOF 59 to take into account the Director's statement that the school was consistent with the low density designation. In this instance, the Intervenor assumes that the reference to "low density designation" was the designation on the General Plan Land Use Allocation Guide ("**LUPAG**") map.

In that regard, the Intervenor notes that the General Plan is essentially a policy document with the LUPAG map component as one showing broad

brush land use directions. The Intervenor concurs with this designation. However, the Intervenor maintains that it is the policy component that the Development could not be justified and that the LUPAG map does not trump the General Plan policies. Both must be taken in tandem. Further, the Applicant has not demonstrated by a preponderance of evidence how its development would be consistent with the General Plan policies. (See ROA, pages 421, 891, 1997, 1998)

At the same time, the Intervenor acknowledges that there is evidence that show residential uses as being consistent with the low density designation. However, while a school may be permitted in those areas (unlike in Industrial zones), it is not an outright permitted use in the County single family residential or agricultural zones. A Use Permit is still required from the Planning Commission ("**Commissio**n"). This is to assure that community impacts and infrastructural concerns or issues, somewhat similar to the Special Permit, are taken into account. (See *Contested Case Transcripts*, pages 568, 569, 575, 576 and *Exhibit A-26*)

The Intervenor **concur**s that the Director does not have right to tell a developer where to locate a particular project.

III. FOF Nos. 20-22, 48-51, and 63

The Director took Exception to the HO's determination that the Applicant has not produced evidence to demonstrate that it has or can develop sufficient water for its Development. The Intervenor **does not fully concur** with this Exception.

The Intervenor acknowledges that while there was testimony provided by the Applicant on this matter, the record indisputably reflects that – at the end of the day - there is still insufficient potable water that can be provided by the County Department of Water Supply ("**DWS**") to support the Development's first phase. The DWS system can provide only 4,200 gallons per day. According to the Applicant's application, this would be sufficient to support 70 students. The first phase was intended to accommodate a high school of 107 students and related facilities. (See ROA, page 32)

In terms of the balance of the project, the Applicant did note that it would explore alternative means to reduce potable water consumption. However, while it discussed water reduction technology, it did not provide concrete

evidence with the corresponding commitment to see how and when that would be accomplished and when the required potable water will be provided. Instead, the Applicant chose to defer the question of how the required potable water would be provided to an uncertain time in the future and to an unidentified entity, but not to the responsible land use decision-maker – the Commission. Hence, the Intervenor concurs with the HO's conclusion on this matter.

APPLICANT'S EXCEPTIONS

The Applicant's Exceptions were outlined in five (5) major headings. This Support Brief will respond to each heading, some in a more general way.

I. **INTRODUCTION**

In one of its conclusions, the Applicant, in arguing for the dismissal of the HO's Report, describes the Report as being reliant upon *"speculation and jumps to conclusions that had no support in the evidence."* (See Applicant's Exceptions, page 17) At the same time, the Applicant asserts, among other matters, that the Report *"D(d)eliberately ignored the expert/technical witness...during the Contested Case proceedings" and "Intentionally failed to use prudent judgment over this matter as the Hearing's (sic) Officer was preoccupied at addressing personal health and family issues."* (See Applicant's Exceptions, pages 2 and 3)

The Intervenor takes exception to the characterization of the HO and its Report, as there is nothing on the record to that show that the HO *"deliberately ignored" the record or "intentionally failed" to use prudent judgment in arriving at her Report.* Such inflammatory assertions, to use the Applicant's words, are reliant upon *"speculation and jumps to conclusions that had no support in the evidence."*

It should be noted that at the January 10, 2013 meeting of the Windward Planning Commission, there was a motion and a second to deny the application. The vote was delayed, pending receipt of the proposed FOF and Conclusions of Law ("**COL**") by the Commission's staff. (See ROA, pages 47-54) With the vote pending, at the Commission's March 7, 2013 meeting, the Applicant requested and was granted a contested case hearing. (See ROA, 2130-2156).

When the HO was appointed, the parties – including the Applicant – had an opportunity to object to the appointment but did not. Likewise, during the pre-hearing conference and at the outset of and any time during the Contested Case hearing, the Applicant did not raise any objections to neither the competency nor the ability of the HO to be fair.

It appears to the Intervenor that a lamentable pattern has emerged where the Applicant takes umbrage to and then employs corresponding tactics whenever a position or possible position that is different from the Applicant's expectation is taken. This pattern has come in the form of asking for a contested case not at the outset but after three public hearings and with a pending denial motion before the Commission, as well as – upon receipt of the HO's negative recommendation Report - the unsubstantiated accusations and innuendos of the HO being biased and incompetent.

II. AUTHORITY

The Applicant suggests that that since the Director, according to the County Charter, is

- tasked to enforce the Zoning Code (Chapter 25);
- *charged with the responsibility to prepare, among other planning activities, the General Plan; and*
- *given the "authority to conclude a project's alignment with the General Plan"*

the application should automatically ("rubber-stamped") be approved. The Intervenor **does not concur** with this analysis.

The Applicant neglected to include other pertinent provisions of the County Charter, specifically Chapter 7, Section 6-7.2(b)(1). That provision calls for the Director "*to advise the mayor, windward planning commission, leeward planning commission, and the council on all planning and land use matters.*" (Emphasis added)

As such, because the Director, in this instance, is advising the Commission, it is ultimately the Commission and not the Director who has the authority to conclude whether a development is or is not consistent with not only the LUPAG map component of the General Plan but the basic policies themselves. If the Director had the final say on General Plan conformity, the Commission or County Council would be violating the Charter whenever their decision was contrary to the Director's. With such unbridled power or

IV. APPLICANT'S EXCEPTIONS

The Applicant took Exception to a number of FOF. These FOF and the Intervenor's responses, where appropriate, follow.

- A. FOF No. 14: *"The Development does not propose to establish a charter school on the Property to serve the needs of immediate vicinity in the Kaumana area of Hilo, although some students from the area may attend this school."*

To support its Exception, the Applicant recited the testimony of the former Planning Director, Ms. B.J. Leithead Todd. Ms. Todd testified that, in addition to being familiar with Connections, *"if Connections moves to Kaumana over time you're going to probably see a change in the mix too and you will see over time more and more of those students will reside from South Hilo because that has been the trend if you look at the trend."* (Emphasis added)

The Applicant also recited the following statement of the Department's recommendation: *"There will be an opportunity for students living in the immediate vicinity to attend this facility as the school and the curriculum evolves and matures to be an integral part of the community."*

As noted in the conclusion of the HO's Report, the burden of proof falls upon the Applicant to demonstrate its case, not the Director. In this instance, neither the Applicant nor the Department provide any evidence or statistics to demonstrate that there was a population demand for a charter or a conventional public school in this area. For example, there was no survey presented, nor was there any corroborating statement from a credible agency like the State Department of Education to substantiate this demand in this area.

Aside from the former Director's testimony, who expressed an opinion not supported by any concrete evidence, the only thing on record regarding demand and source of population was the Applicant's testimony that at least 50% of the projected student will come from the Puna District. (See 11/09/12 PH Transcript, page 17; ROA, page 1563)

Notwithstanding the absence of any tangible evidence supportive of the former Director's opinion, she noted that the students "*will reside in South Hilo.*" (Emphasis added) The HO's Report cited that the Development would not be serving the "*needs of the immediate vicinity in the Kaumana area of Hilo.*" (Emphasis added). There is a significant difference of population and geographical mass between South Hilo (which is a District) and Kaumana (which is a small part of the South Hilo District). Further, given the absence of evidence to the contrary and the immediate community's opposition to the Development, the HO's finding is logical and reasonable.

The Exception also included a reference to the testimony of the Director wherein he noted that through the issuance of a Special Permit, a school "*may be allowed*". While not relevant to this FOF, the Intervenor **concurs** with that statement.

- B. FOF No. 46: "*Based upon the testimony from surrounding and neighboring property owners, the Development will have an adverse effect on surrounding properties by creating noise, traffic, and impacting the quality life of the adjoining residents.*"

The Applicant's basis for this Exception and the Intervenor's **non concurrence** response follow.

1. The Applicant cited the Department's recommendation wherein it stated that the "*anticipated adverse impacts...can be mitigated*" through conditions of approval.

If this logic were extended a bit further, the conclusion would be that NO development would or could ever be denied, as long as there are proposed mitigation conditions, even if at the end of the day, there will still be adverse impacts. The Intervenor, however, maintains that there are situations where there can be no acceptable mitigation to a project's impacts. And this is one of those instances. The non-mitigatable adverse impacts are discussed in detail on pages 17 to 20 of the Intervenor's Proposed FOF and COL.

2. The Applicant contended that it had provided ample opportunity for the community to engage in mitigative measures to address quality

of life and that the community *"intentionally chose to avoid engaging with the Applicants to simply discuss their options and provide mitigative measures."*

As noted above, there are some developments for which there can be no acceptable mitigation. Further, it was not incumbent upon the community but the Applicant to reach out far and wide to engage the community, as this was a Development proposed by the Applicant and not the community.

3. The Applicant also maintained that the project would be phased and as such, *"impacts regarding noise and traffic will natural (sic) occur over the development timeline from other development trends."*

The Intervenor maintains that regardless of the phased nature of the Development, the impacts in their totality should and must be considered. A segmented review of project is not an acceptable planning and land use standard, as expressed in the State EIS law. Even when projects are granted incremental approval by the State Land Use Commission, the request and its corresponding impacts in their totality are evaluated. To intimate that the impacts of only the first phase are relevant and thus the Commission should limit its review accordingly is not an appropriate land use review approach.

Additionally, having a 9-phased project extending over 16 to 25 years would subject many within the community to a lifetime of adverse impacts, particularly relating to construction related activities. The Intervenor thus maintains that this is one of those Developments that there can be no acceptable level of mitigation.

4. The Applicant stated that the HO *"ignored expert testimony of Traffic Engineer Phillip Rowel (sic) and County Traffic Engineer Chief Ron Thiel"*.

The Intervenor **does not concur** with this statement. In the regard, the Intervenor restates pertinent sections of its FOF on this matter.

"28. Mr. Phillip Rowell testified that a) while he was aware that the University of Hawai'i at Hilo, Hawai'i Community College, and

Kamehameha Schools had ended prior to the counts being taken, that should not have affected his analysis or conclusions; b) he was not aware of a number of residential developments in the Kaumana area and subdivisions that would utilize Edita Street and that some of that information could have surfaced after the traffic counts were done in 2009." CC Transcripts, pages 469-470; 475-477"

*"27. Mr. Rowell testified that he had made no contacts with or secured input from the community prior to doing his TIAR. He added that, based on his experience, **if the application were to be considered by the State Land Use Commission, an updated TIAR would be required for two reasons: 1) the traffic counts were done 4 years ago; and 2) the list of related projects and background forecasts would need to be updated.**" CC Transcripts, pages 459, 463" (Emphasis added)*

*"29. Mr. Rowell added that **a) no sidewalks along Edita Street were recommended because 'we wanted all pedestrians to enter the project' and 'didn't want pedestrians walking along the roadway. Sidewalks would only encourage that'; b) that other intersections proximate to Edita Street were not investigated** based on input from the State and County as well as relying on the ITE guidelines which does not typically look at intersections outside of half mile; and c) reconfirmed that the best place for an updated TIAR would be at the State Land Use Commission level. CC Transcripts, pages 479; 486-487; 488" (Emphasis added)*

"30. Mr. Rowell concurred that LOS deals with safety and inconvenience and that he understood that it took into account quality of life factors. His primary focus, however, is not necessarily number of movements but whether there is a change in the LOS. CC Transcripts, pages 488-489"

*"31. Mr. Ron Thiel, Traffic Division Chief of the Department of Public Works testified that having traffic counts after the University of Hawai'i at Hilo, Hawai'i Community College, and Kamehameha Schools Hawaii campus ended could make a difference in the TIAR. He added that **"It actually could make it (TIAR) even worse.**" CC Transcripts, page 174-175" (Emphasis added)*

The Intervenor submits that the HO took those comments into account in concluding that the Development would indeed generate adverse impacts to the community.

5. Finally, the Applicant states that *"Impact to the quality of life will occur with or without any type of development as evidence (sic) by the Hearing Officer's recent health and personal matters."*

The Intervenor **does not concur** with this reasoning. First of all, what is the relevance? Then, too, it suggests or implies that we live in a world where our destinies are fated and thus should assume an attitude of resignation and passivity. If so, such an attitude defies the very purpose and nature of planning!

- C. FOF No. 47: *"Measures proposed by Connections, regarding the establishment of setbacks and roadway improvements to Edita Street do not appear to be sufficient to mitigate the overwhelming concerns raise (sic) by surrounding property owners."*

In this Exception, the Applicant restated the reason used to refute FOF No. 46. Specifically, it noted that there was ample opportunity for the community to engage with the Applicant.

The Applicant also argued that the HO *"overreached to assert that the mitigative measures are not sufficient."* To support this argument, the Applicant cited the Director's testimony that efforts were made between the Department and the Applicant to come forth with mitigative measures.

The Intervenor, as it did in its response to Applicant's Exception to FOF No. 46, continues to maintain that there are some developments like this where impacts cannot be sufficiently mitigated. It is faulty and illogical to assume or suggest that because there is a proposed mitigation program, approval of a development can be justified. There are instances where adverse impacts just cannot be sufficiently mitigated and where a proposed land use at a particular location, as in this case, is just not appropriate. To suggest otherwise would, for example, be misguided justification for uncontrolled developments along our entire shoreline and environmentally sensitive and areas just not appropriate for development.

D. FOF No. 48: *"There is insufficient water available from the County system to service the Development. Therefore, to allow the Development would unreasonable (sic) burden the Department of Water Supply."*

The Exception noted that this finding was "grossly erroneous." The Intervenor **does not concur**. In its Proposed FOF and COL, the Intervenor offered the following FOF which do support the HO's finding:

"18. The application acknowledged that according to the County Department of Water Supply ("DWS") potable water was limited to 4,200 gallons per day ("gpd"). Further, based on a 60 gpd standard, the amount of potable water could only support 70 of the estimated 381 K to 12 students, 25 intergenerational clients, and the approximate 50 full-time and 17 part-time employees. ROA, page 32

"19. Due to the limited amount of potable water, agriculture and landscaping irrigation would rely on rainfall, recycled wastewater effluent, and rainwater catchment system. Additionally, there was a possibility that non-potable water would be used for toilet and custodial uses. ROA, page 32

"20. Based on the 60 gpd standard noted in the EA, the project would require at least 26,100 gpd. ROA, page 124

"21. In that regard, the application further added that it understood "that the availability of water does constrain the scope of development on the property and intends to investigate other sources of water to support the project." ROA, page 32

"22. The Applicants' witness, Mr. Kevin Louma, during the CC portion of the hearing, testified that based on his analysis, the minimum and maximum water usage for the project with a cafeteria would be 6,848 gpd to 10,828 gpd. CC Transcript, pages 139-142 and ROA, pages 1678-1684

"23. Mr. Kurt Inaba of the DWS testified that 4,200 gpd was the limit for the entire project and that if the project used only its allocated amount, it should not affect water pressure and availability to the community.

He added that at this stage, the DWS is unable to determine exactly what the projected water use would be, as that will depend on studies provided by the Applicant. CC Transcript, pages 182-185

"24. During the course of the public and CC hearing, a surrounding property owner resident and land use planning consultant, Mr. Sidney Fuke, testified whether it was appropriate to approve a project knowing that a) based on the application, the amount of available potable water represented only 16% of the project's requirement; b) the question of how the balance of the water was going to be provided had not been addressed; and c) whether deferring this issue to an unknown time in the future was fair and appropriate to decision-makers. ROA, pages 1352, 1353 and CC Transcript, pages 571 and 572"

It is thus abundantly clear that – in spite of the Applicant's representation that there are ways to address this insufficiency through fixtures and other means - there is still "insufficient water from the County system to service the Development." That is the bottom line. Further, there was no discussion as to how it would address the need for water source development.

- E. FOF No. 49: *"There is no evidence that Connections has the ability to develop a potable water source as a mitigating measure, previously proposed by the Director."*

The Applicant contends it had provided "overwhelming expert witness testimony, technical (sic) expert testimony and evidence that other alternatives are available and industry standards that allows the Applicant to utilize the development of additional potable water through new technological tools."

In so doing, the Applicant cites the Director's proposed condition of limiting the number of students to the amount of potable water available and his testimony that final construction plans are not usually required at the Special Permit processing level. The Applicant further notes that the Commission's Rule does not require the Applicant to provide its financial resources to develop a project nor require the Applicant to "meet the full build out water commitment at the initial phased implementation stage."

The Intervenor **does not fully concur** with the reasoning. It does agree with the Director that construction plans are usually not required

at the Special Permit processing level. Further, it also agrees that “*full build out water commitment*” is not required at the initial phased implementation stages.

However, the Intervenor maintains that the Applicant has an obligation to demonstrate how it intends to address and fulfill the full build out potable water requirements for the project. To say that it needs to address only the first phase is not sufficient. It would be equal to having a traffic report, an archaeological survey, or other technical studies that cover only the first phase. The totality of the Development’s impact – be it archaeological, social, traffic, water, and other infrastructure - must be considered so as to enable the Commission to rationally determine whether the project should or should not be approved.

In that regard, the Applicant has not adequately demonstrated how it intends to fulfill the full build out potable water requirements. Merely representing that it would use new water reduction technology is not enough. The “**kicking the can down the road**” approach **does not provide the desired level of decision-making transparency** sought by members of the public, let alone the Commission.

- F. FOF No. 50: *“A mitigating measure previously proposed by the Director of limiting the number of students to the amount of potable water available to the project is not reasonable because Connections is proposing to construct a high school for 107 students in the first phase, when the potable water available would only allow for 70 students.”*

The Applicant took Exception to that FOF, as it assumed the Applicant would not adhere to the proposed mitigative measures and that there was testimony to show that there were different design scenarios to address the potable water requirement that would allow the development of a high school in the first phase.

The Intervenor **does not fully concur** with this Exception. There is basis for the HO to make such a finding. The Applicant’s application and Environmental Assessment clearly states that “*Based on a 60 gpd per student standard, the 4,200-gallon allocation could support 70 students.*” Hence, this finding was not made absent information on the record, let alone information provided by the Applicant. (See ROA, page 32)

While there was testimony that there are different design scenarios that could be utilized, there was no statement and commitment as to which scenario would be employed and if so, what would be covered in the first phase. Absent that information and commitment, the Commission would not be in a position to definitively state – and the community would also not know - what exactly will be built in the first phase.

- G. FOF No. 51: *“As such, the proposed use may unreasonably burden the County Department of Water Supply to provide water to the Development.”*

The Applicant justified this Exception in the same way it did to FOF No. 51. Likewise, the Intervenor maintains its position of **non concurrence** as reflected in its response to FOF No. 51.

- H. FOF No. 52: *“Unusual conditions and needs have arisen since the establishment of this land use district in the 1970s, because this area in which the Property is located has essentially become residential in character. Also, the County General Plan LUPAG map recognizes this trend by designating the area for low density urban use. However, there was no evidence presented to demonstrate that the location of a school that is not intended to specifically service the needs of the immediate community is such an unusual condition, trend or need that justifies location of the Development it (sic) this location.”*

The Applicant took exception to this FOF by pointing out to the former Director’s testimony regarding trend; property’s suitability for hands on education relating to native forestry, forestry resource management and the like; the traffic impact of a 65-lot residential being lower than a high school; and the project helping address the County’s goal of road connectivity.

While it can agree that the site may be suitable for hands on education relating to native forestry, the Intervenor **does not concur** with the other reasons for this Exception.

Relative to the Development serving the needs of the community – and notwithstanding the former Director’s statement regarding trend – please refer to the Intervenor’s support of the HO’s FOF No. 14. There was no evidence supporting the former Director’s opinion of an educational demand in this area of Kaumana.

A proposed 65-lot subdivision on the subject site is purely conjecture. There is a question of whether a lease – let alone sale – of this State land for residential use could be favorably considered. Further, the subdivision would still be saddled with the same potable water restriction, a restriction that would limit the number of lots to only 7 and not 65. The Applicant's contention that the 65 lots "*would create approximately 260 to 285 individuals and similarly 130 to 1456 additional vehicles,*" resulting in less traffic impact than a high school is unsubstantiated.

On the matter of connectivity, the Applicant contends that implementing the Director's proposed Condition 12 would help achieve a "*larger goal of the County of Hawaii related to road connectivity.*" That is not the case.

The condition reads in part that "*Should adjoining lands be developed in a manner that would provide reasonable opportunity to provide an alternate means of access to the proposed school site from the Puainako Street extension, the applicant shall provide necessary improvements within its own property to facilitate access to the Puainako Street extension across adjoining lands....*" (ROA, page 1229) (Emphasis added)

For one, any possible connectivity would not be the result of the proposed Development but instead by the development of properties between the school and the Puainako Street Extension. The development of those adjoining properties would only enable the school to have another access and thus potentially reduce the traffic burden on Edita Street, which is the only access to the site.

Then, too, the condition merely requires the Development to make improvements within its own property and not provide a new access to the Puainako Street Extension. Further, even if the Development fulfills this condition, there will still not be a new public road through the school site. The Development does not reflect a new public road through its property. Thus, the Development will NOT facilitate connectivity and to claim it does is erroneous.

- I. FOF No. 55: "*Based upon the representations of Connections, it cannot be found that the Property is unsuited for agricultural use.*"

In expressing its Exceptions to this FOF, the Applicant points to the Director's description of the site's soil characteristics as "D" or "Poor",

the "unclassified" designation ALISH map, and the Development's educational agricultural component.

The Intervenor concurs with the HO's FOF. FOF No. 70 of the Intervenor's Proposed FOF and COL states:

"While the site's Land Study Bureau soil classification rating of "D" or "Poor" suggests the land may be unsuited for agricultural uses, it could still be utilized for different type of non-intensive agricultural uses, including hydroponically grown vegetables. Also, in this general area, it is not uncommon to find citrus, avocado and other fruit-bearing trees.

Additionally, forestry and conservation uses are permitted in the Agricultural District. The subject site has a considerable stand of Ohia trees and veins of the Kaumana Caves extend throughout the site. The Hawaiian Hawk and Hawaiian hoary bats are known to roost in this area.

Finally, the Applicants themselves have maintained that they can successfully conduct an agricultural program on the property, thus conceding that the land has agricultural potential.

As such, it is difficult to readily and unequivocally conclude that the site is "unsuited" for these permitted uses as well as having the potential of non-intensive agricultural uses."

- J. FOF No. 57: *"The Development of a school will change the essential character of the forested land and its undeveloped use."*

The Applicant maintains that the Development "adopts the characteristics of the surrounding areas" and will "blend and compliment (sic) the overall characteristics of all the adjacent uses." This would be done through the construction of single-story structures similar to the surrounding residential community and not construct any "major school facilities" on the upper area.

The Intervenor **does not concur** with this Exception. In its Proposed FOF and COL, the Intervenor offered the following FOF 71, a finding supportive of the HO's finding:

"The character of the land is primarily an ohia forest. It is vacant of any structures. To accommodate the proposed development, structures such as a dormitory, 10,500 square foot gymnasium, cafeteria, classrooms, etc. will all have to be constructed; parking lots to accommodate more than 140 vehicles will have to be provided; and paved or improved access to and around the campus must be created. These structures and improvements are planned for at least 20 acres of the lower 37-acre campus.

As such, from a relatively pristine ohia-forested area, a considerable amount of the lower portion of the site will now have urbanized structures and improvements consisting of concrete, asphalt, glass, steel, and wood. Thus the development will definitely and substantially alter and permanently change the essential character of the land and its present forestry/open space use. This is a position and finding that has also been echoed by the Planning Department."

- K. FOF No. 58: *"The County General Plan LUPAG map designates the Property for low density urban use. 'Low density uses' under the General Plan include residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses."*

The Applicant took Exception to this FOF by stating that a school is a public use; and citing the Director's testimony that the use is not contrary to the General Plan LUPAG map and that schools are allowed in the single-family residential district.

The Intervenor **does not fully concur** with the reasons for this Exception. While there is concurrence relative to the LUPAG map's Low Density designation of the site, the suggestion that a school is inherently a permitted use in the single-family residential zone is not accurate. To assume as such would mean that "convenience-type commercial uses" would also automatically be permitted. That is not the case, as the Zoning Code – which is designed to implement the General Plan – identifies a process where those types of uses could be legitimized.

For example, if a site were within the State Land Use Urban District and zoned single-family residential, before a commercial use could be established, the site must be rezoned into the commercial district, such

as Neighborhood Commercial or Mixed Residential-Commercial. Similarly, for that same property, before a school could be established in either the Agriculture or Residential zone, a Use Permit from the Commission would be required.

This process is outlined in Intervenor's FOF and COL. Specifically, FOF 59 stated:

"Chapter 25 of the Hawai'i County Zoning Code outlines uses that are allowed in the various zoning districts. Within the County Agricultural zone, schools are not allowed. However, if a site falls within the State Land Use Urban District, the Planning Commission can issue a Use Permit – which is a form of zoning variance - for a school only if it meets the test for a Use Permit. Exhibit A-26; CC Transcript, pages 575, 576"

FOF 60 continued:

"The County Zoning Code is designed to implement the General Plan. As such, when evaluating a proposed development's relation to the General Plan, applicable provisions of the Zoning Code need to be considered. In this case, the Zoning Code allows schools in the commercial zones, for there is recognition of their commercial-level type of impacts. However, within the Single Family Residential or Agriculture districts (as in the case with lots surrounding and/or proximate to this site), a Use Permit is required because of its potential adverse impacts. The Use Permit process and criteria are generally similar to the Special Permit.

The criteria for a Use Permit read that a proposed use:

Shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character, to surrounding properties; and Shall not unreasonably burden public agencies to provide roads, and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure. (Emphasis added)"

- L. FOF No. 59: *"The Development, which proposes a charter school that is not specifically intended to service the immediate community*

surrounding the school, is not consistent with the uses permitted in areas of low density urban uses.”

The Applicant maintained the same argument to its Exception to FOF No. 14. While the Intervenor’s position on this matter is likewise found in that same section, there are additional considerations that support the HO’s conclusion.

As noted in the Intervenor’s response to Exception to FOF No. 58, a school is not an outright permitted use in the residential or agriculture zone. Thus while a school is one of those uses that could be considered in the Low Density area of the General Plan LUPAG, it still must go through the Use Permit process. Likewise, a neighborhood convenience store must go through the rezoning process.

Those processes require a public hearing to allow the community an opportunity to weigh in on the project and thus enable the Commission and/or County Council to independently vet a request and then determine whether the proposed development will *“not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community’s character, to surrounding properties.”*

M. FOF No. 60: *The Economic, Public Facilities and Land Use elements of the County General Plan all require consideration of social and community concerns as follows....”*

The Applicant maintains that the HO *“intentionally chose to ignore”* other pertinent goals of the General Plan as described in the Department’s recommendation. These include Economic Element – Goal; Public Facilities Element – Goal; and Land Use Element – Public Lands.

The Intervenor **does not concur** with the assertion that the HO *“intentionally”* ignored those goals. The specific Finding was directed to the fact that the General Plan requires or mandates consideration of social and community concerns.

It is logical to conclude that the HO’s exclusion of the

- Public Facilities Element – Goals (*Encourage the establishment of additional schools as the need arises*) and

- Land Use Element – Public Lands (*Encourage uses of public lands that will satisfy specific public needs, such as housing, recreation, open space and education*)

was related to the absence of any concrete evidence (and not only the opinion of the former Director) to demonstrate a need for a school – be it public or charter – in this area of Kaumana.

- N. FOF No. 61: *“The evidence has established significant concerns from the community regarding the compatibility of the Development with the surrounding community.”*

The Applicant maintains that the *“C(c)ommunity exaggerated its concerns”* and the *“expert and technical evidence within the Record and Contested Case overwhelmingly contradicts this assertion.”*

The Intervenor **does not concur** with the reasons for this Exception. The community had raised a number of issues, ranging from traffic to quality of life. As noted in Intervenor’s response to Applicant’s Exception to FOF No. 46, while the Applicant had a report and testimony from its traffic consultant, the consultant did concede that an updated TIAR may be appropriate. Further, while there were other technical studies done – such as archaeological and botanical – there was no social impact analysis. For a project of this magnitude, a social impact analysis is very important to help assess a project’s quality of life impact to a community and neighboring properties.

The community’s social impact concerns are reflected in Intervenor’s Proposed FOF and COL. Specifically:

“41. The concerns raised to the Applicants at these public meetings occurred prior to the first Planning Commission hearing on this matter. Subsequent to the filing of the application on July 25, 2012 and at the various public hearings before the Planning Commission, opposition from a considerable number of residents and/or property owners within the community were expressed. These came in the form of emails, letters, and public testimonies. ROA pages 405-411; 788-793; 819-822; 829-836; 841-842; 875-876; 879-880;1203; 1253; 1263-1271; 1274-1276; 1290; 1315-1432;1446-1544; 1892-1900; 1902-1919; 1921-1931;1960-1999

- "42. A petition was presented to the Planning Commission noting that 92% of the residents/landowners within the Pacific Plantation Subdivision opposed the project at this location. Of those within 500 feet of the project, 68% signed a petition opposing the project. Most of the others were vacant lots and could not be personally contacted. ROA, pages 1368-1413; 1964"*
- "45. In the EA, while there is a section relating to "Socio-Economic Considerations", there was little discussion relative to the development's impact to the surrounding areas. The discussion focused more on the short term construction-related jobs and the overall improvement of educational services for "Hilo's" children. Without being specific, it noted that the development would have "noticeable, but negligible, cumulative effects on the existing residential areas, largely due to the operation of a new school campus on a presently undeveloped site, and the associated increase in vehicular traffic volume." ROA, pages 136-137"*
- "46. The application, unlike in the areas of flora, fauna, archaeological, or even TIAR, did not include any commissioned and comprehensive social impact analysis for the project. Exhibit A-1"*
- "47. The County Police Department commented that this development "is being placed in a residential area that will likely effect (sic) the quality of life for residents that border this proposed site. There will be an increase in noise, crime, and traffic. ROA, page 363"*
- "48. Through the various testimonies, members of the community have expressed concerns regarding the adverse impact a development of this scope and size would have on their quality of life. Based on the TIAR, the percentage increase of the added traffic resulting by this development on Kaumana Drive is 58% over the current levels and over 330% increase at the Kaumana Drive/ Edita Street intersection. Further, quality of life impacts are not necessarily measured by LOS but are more perceptual and personal. ROA, pages 1984"*

- O. FOF No. 62: *“Although the County General Plan Public Facilities-Education course of action for South Hilo encourages the establishment of additional schools as the need arises, the proposed Development, at the subject location, is contrary to the General Plan.”*

The Applicant noted that this is not supported by the Record. The Intervenor **does not concur** with this Exception. As clearly noted above, there has been no concrete evidence of a need for the school in this particular area of Kaumana.

- P. FOF No. 63: *“The construction of the school on the Property is an unusual use of the land because a school is not a permitted use in the State Land Use Agricultural District. However, the evidence presented does not demonstrate that the Development is a reasonable use of the Property. Specifically, Connections has not demonstrated how this school can be built without sufficient potable water resources. Nor has Connections demonstrated how the development of a regional charter school on the Property that does not specifically service the needs of the immediate community is a reasonable site for the facility. In addition Connections has not demonstrated that the Development meets most of the criteria to be considered by the Commission in the subject application.”*

The Applicant took Exception to this Finding based on its Exceptions to the other Findings as noted above. The Intervenor’s assumes the same position to the Applicant’s Exceptions.

V. CONCLUSIONS

In support of its request to have the Commission reject the HO’s Report, the Applicant claims that the Report:

- Is legally and materially flawed
- Relies on speculation and jumps to conclusions without any corresponding evidence
- Reflects the bias of the HO

The Intervenor **does not concur** with these conclusions. The responses to the Applicant’s Exceptions, as noted herein, clearly show that there were appropriate and sufficient evidence to justify the HO’s Findings and Conclusions. Specifically, some of them dealt with 1) the necessity to

evaluate the Development in its totality and not in segments and 2) the lack of concrete evidence to demonstrate a statistical need for a school in this area or community.

There was no indication that the HO reflected a bias against the Development prior to and during the hearing process. If the Applicant suspected a bias at any time during the pre-hearing and/or hearing process, it could petition to have, but elected not to, the HO disqualified. The bias allegation came up only after the HO came out with her denial recommendation.

INTERVENOR SUPPORT CONCLUSION

While the FOF in the HO's Report did not contain any specific reference to the record, the Intervenor submits that the record does indeed corroborate the FOF, much of which have been documented in the Intervenor's Proposed FOF and COL. As such, if needed and appropriate, pertinent portions of the Intervenor's FOF and COL could be merged with the HO's Report.

The Intervenor supports the HO's conclusion of a denial recommendation and so *requests the Commission to deny SPP No. 12-000138.*

DATED: Hilo, Hawai'i, April 28, 2014

JEFFREY K. GOMES
Intervenor, *Pro Se*
281 Edita Street
Hilo, Hawai'i 96720

BEFORE THE WINDWARD PLANNING COMMISSION
OF THE COUNTY OF HAWAII

In the Matter of the Petition of) APPLICATION SPP NO. 12-000138
)
CONNECTION NEW CENTURY PUBLIC)
CHARTER SCHOOL AND COMMUNITY)
BASED EDUCATION SUPPORT)
SERVICES)
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 28, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons via Electronic Mail and U.S. Postal Mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiintel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, HI 96720

TED H. S. HONG, ESQ. (ted@tedhonglaw.com)
Attorney for Applicant – Community Based Education Support Services (CBESS)
P.O. Box 4217
Hilo, HI 96720

CARTER K. SIU, ESQ (Carter.K.Siu@hawaii.gov)
Attorney for Applicant – Connections New Century Public Charter School
Department of the Attorney General
State of Hawaii
233 South Beretania Street, Rom 304
Honolulu, HI 9813

AMY SELF, ESQ. (aself@co.hawaii.hi.us)
Attorney for the County of Hawaii Planning Director
Office of the Corporation Counsel
County of Hawai'i
333 Kilauea Avenue
Hilo, HI 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeffrey Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission staff
Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, HI 96720

DATED: Hilo, Hawai'i April 28, 2014

JEFFREY K. GOMES
Intervenor, Pro Se
281 Edita Street
Hilo, HI 96720

BEFORE THE WINDWARD PLANNING COMMISSION

2014 APR 28 AM 8: 01

OF THE COUNTY OF HAWAII

In the Matter of the Petition of	) APPLICATION SPP NO. 12-000138
)
CONNECTIONS NEW CENTURY PUBLIC	) INTERVENOR, JEFFREY K. GOMES',
CHARTER SCHOOL AND	) REQUEST TO PROVIDE ORAL
COMMUNITY BASED EDUCATION	) ARGUMENTS; CERTIFICATE OF
SUPPORT SERVICES	) OF SERVICE
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141.)

**INTERVENOR, JEFFREY K. GOMES', REQUEST TO PROVIDE ORAL ARGUMENTS
IN SUPPORT OF HEARINGS OFFICER'S REPORT, DATED APRIL 7, 2014,
RELATING TO SPP NO. 12-000138**

Pursuant to Rule 4-31 of the Rules of Practice and Procedures of the County of Hawai'i Planning Commission Rule 4-30, Jeffrey K. Gomes ("Intervenor") hereby requests to provide oral arguments before the Windward Planning Commission in support of the Hearings Officer's Report.

The reason for this request is to provide the Intervenor or its designee with an opportunity to verbally summarize the reasons for its position on this application with an opportunity to respond to questions by the Commission, the Applicant, or the Planning Director. The record on this application is quite extensive with three (3) Proposed Findings of Fact and Conclusions of Law, two (2) Exceptions to the Hearings Officer's Report, and one (1) Support Statement. Accordingly, having the opportunity to provide oral arguments should help distill the issues and position of the Intervenor.

091356

DATED: Hilo, Hawai'i April 28, 2014



JEFFREY K. GOMES
Intervenor, *Pro Se*
281 Edita Street

PLANNING DEPARTMENT
COUNTY OF HAWAII
BEFORE THE WINDWARD PLANNING COMMISSION

OF THE COUNTY OF HAWAII

2014 APR 28 AM 8:01

In the Matter of the Petition of) APPLICATION SPP NO. 12-000138
)
CONNECTION NEW CENTURY PUBLIC)
CHARTER SCHOOL AND COMMUNITY)
BASED EDUCATION SUPPORT)
SERVICES)
)
For a Special Permit to Establish a K-12)
Charter School Campus, Dorm and Related)
Facilities and Improvements on Approximately)
70 Acres of Land Situated in the State Land)
Use Agricultural in Kaumana, South Hilo,)
Island of Hawaii, State of Hawaii, Tax)
Map Key No: (3) 2-5-006: 141)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 28, 2014, I caused a true and correct copy of the foregoing document to be served on the following persons via Electronic Mail and U.S. Postal Mail:

SANDRA P. SONG, ESQ. (sandrasong@hawaiiantel.net)
Hearings Officer
10 Kamehameha Avenue
Hilo, HI 96720

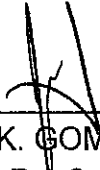
TED H. S. HONG, ESQ. (ted@tedhonglaw.com)
Attorney for Applicant – Community Based Education Support Services (CBESS)
P.O. Box 4217
Hilo, HI 96720

CARTER K. SIU, ESQ (Carter.K.Siu@hawaii.gov)
Attorney for Applicant – Connections New Century Public Charter School
Department of the Attorney General
State of Hawai'i
233 South Beretania Street, Rom 304
Honolulu, HI 9813

AMY SELF, ESQ. (aself@co.hawaii.hi.us)
Attorney for the County of Hawaii Planning Director
Office of the Corporation Counsel
County of Hawai'i
333 Kilauea Avenue
Hilo, HI 96720

Daryn Arai (darai@co.hawaii.hi.us)
Jeffrey Darrow (jdarrow@co.hawaii.hi.us)
Planning Commission staff
Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, HI 96720

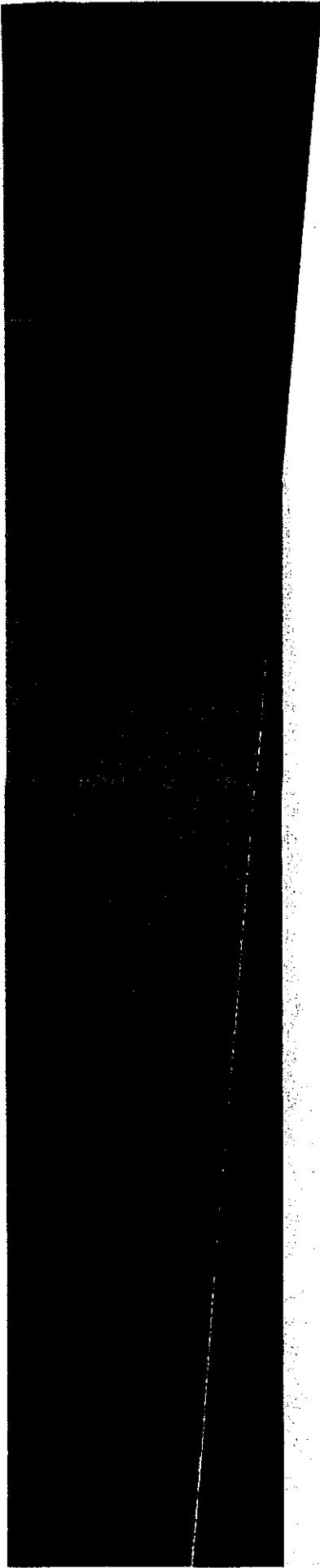
DATED: Hilo, Hawai'i April 28, 2014



JEFFREY K. GOMES
Intervenor, *Pro Se*
281 Edita Street
Hilo, HI 96720

Special Permit Application
No. 12-000138

Oral Argument



Submitted by Ted Hong

SCANNED
MAY - 7 2014
By: _____
4215

Authority

- ▶ **County Charter Chapter 7 Section 6-7.2(b)**
- ▶ **Hawaii County Code Chapter 25-2-1;**
- ▶ **Hawaii Administrative Rules (HAR)§15-15-95 and 96;**
- ▶ **Hawaii Revised Statutes (HRS)§205 and 205A**
- ▶ **Rule 6. Special Permits - County of Hawaii Planning Commission Rules of Practice and Procedures**

Grounds for Special Permit

- ▶ (a) An unusual and reasonable use of land situated with the Agricultural or Rural District
- ▶ (b) Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes
- ▶ *“The Office believes the proposal meets the guidelines of HAR§15-15-95 for determining an “unusual and reasonable use” for the granting of a special permit pursuant to HRS§205-6.”*
- ▶ *“The proposed use would not be contrary to HRS Chapter 205 and 205A.”*

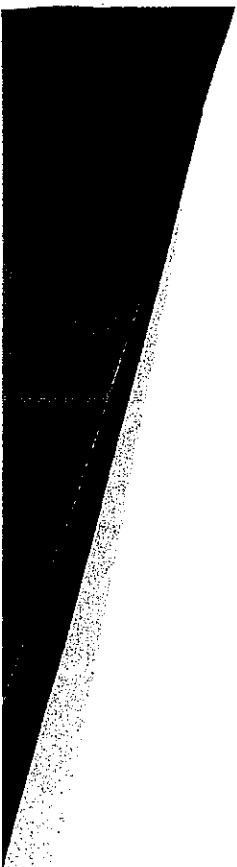
Office of Planning, letter dated October 3, 2012 Id. Record at 758 to 761.



Consistency with Governmental Plans, Policies and Controls

- ▶ The Applicants fulfilled all requirements of Rule 6-7, Rules of Planning Commission. The proposed development also complies with the criteria listed under Section 6-3(b)(5)(A) through (G), Rules of Practice and Procedures of the Planning Commission

Id. Record at 758 to 761 and 773 to 784



Water

- ▶ ***“The Department has no objection to the proposed application.”***

Department of Water Supply, August 29, 2012. Id. Record at 387-388

- ▶ ***Q. “did you see any deviations or errors in terms of anticipated water use estimates?” A. “No.”***
Testimony of Kurt Inaba, Transcript of Proceedings, Vol. 1 page 183 line 10-13.

- ▶ ***Q. “Would you look at Condition 3 and 4. Do you agree with those particular conditions?”***

A. “Yep. Yep.”

Q. “So for both 3 and 4, you agree with those?”

A. “Yeah.”

Testimony of Kurt Inaba Transcript of Proceedings, Vol. 1 page 187 line 12-15.

Traffic

- ▶ **Q. "In terms of the TIAR that Mr. Rowell submitted to you, did you see any deficiencies or shortcomings?"**
- ▶ **A. "No, I didn't, I actually saw a little overconservative in one aspect of it."**

Testimony of Ron Thiel, Transcript of Proceedings, Vol. 1 page 161 line 11-15.

- ▶ **Q. "So in your opinion, based on your experience did Mr. Rowell's TIAR meet any of your professional standards and expectations as the traffic administrator for the County?"**
- ▶ **A. "Yes, it did."**

Testimony of Ron Thiel, Transcript of Proceedings, Vol. 1 page 162 line 20-24.

- ▶ **Q. "And currently, the school only has one point for entrance and exit. In your professional opinion, should they have a second point for exit, say a single entrance point and a different exit point?"**
- ▶ **A. "I don't think they need to have a second one. . . Well, I don't see sufficient volumes that would cause the creation of a second driveway."**

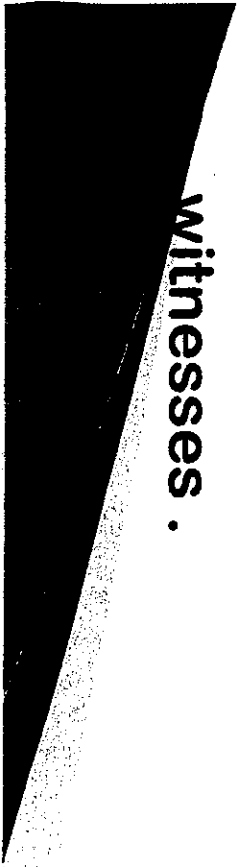
Testimony of Ron Thiel, Transcript of Proceedings, Vol. 1 page 178, line 25, page 179

Questionable Practices

- ▶ Melvin Yokota
 - ▶ Not qualified as Traffic Engineer
- ▶ Terrance Yoshioka
 - ▶ Ghost-writing
- ▶ Sidney Fuke
 - ▶ Contradictory Misleading and Inaccurate Statements

Reasons for Action

- ▶ Omission of any legal authorities or citations;
- ▶ Omission of key evidence;
- ▶ Lack of consideration given to expert testimony by the Hearing Officer;
- ▶ Overwhelming amount of information and evidence that was omitted by the Hearing Officer;
- ▶ Planning Director is asking that the Windward Planning Commission review important information before making its decision on Special Permit Application submitted by the Applicant;
- ▶ Intervenor failed to submit any sworn expert witnesses .



Provisions in the Planning

Commission Rules of Procedure

- ▶ Pursuant Rule 4-32 – Commission Action
- ▶ (b) Exceptions and Support Statements Filed. Upon the filing of the exceptions and briefs or statements, the Commission may render its decision forthwith upon the record; or if oral argument has been allowed, after oral argument; or may reopen the docket and take further evidence or may make such other disposition of the case that is necessary under the circumstances, provided that where additional evidence is taken and has not been heard and examined by all of the Commission members who are to render a final decision, the Commission shall comply with the procedure in Section 4-23 of this rule.

To: Windward Planning Committee:

My name is Norine Okuhara and have lived on 1209B Kaumana Drive for over 40 years. My home is right below where Connections want to build their school.

We, the community has voiced many concerns, i.e., water, traffic, etc. They, John Thatcher, Ted Hong, and "their" people always said that they have addressed our concerns. They have NOT followed, explained or implemented what they say they were going to do. They have only "talked" about it, but we have yet so see any concrete plans of implementation. I, therefore, do NOT trust them because unless things do NOT go their way, "Oh, the community is against the students, etc. I have attended many meetings whereby the students themselves told the committee members that the community was against them. We have always told the students in our testimony that we were NOT against the students per say, but against the way they, the adults had conducted their so-called open forum meetings, inviting the community members. (as a retired teacher, this has really upset me)

I had also attended the meeting conducted by Judge Sandra Song. I feel that her judgment was accurate and just. According to John Thatcher, quoted in the Hawaii Tribune Herald, he claims that Judge Song's conclusion was inaccurate. It was NOT inaccurate!!! She brought out all of the points that were pointed out during her hearings. I am NOT being biased because she favored the community. She could see that the community members were speaking sincerely and from their hearts.

Although I could not be there for this meeting, thank you for allowing me to present my testimony.

<p>SCANNED</p> <p>MAY - 7 2014</p> <p>By: _____</p>	<p>Rc'd at <u>5/11/14</u> mtg by <u>WUC</u></p>
	<p>Print'd <input checked="" type="checkbox"/> Read <input type="checkbox"/></p>
	<p>FILE COPY</p>

45

Throughout this sorted action, there are two topics that have clearly come to define the foundation of this special use permit sought by Connections School's and there associates ..

... OBJECTION and SPECULATION ...

The applicant has speculated that this special use permit is , the correct platform for the size and scope of change its plans will impact upon the leased agricultural lot .. The applicant also speculates its limited county water allotment should not restrict its phase one build-out of barns , stables , dormitory's and a caretakers residence followed by phase two (money's providing) classrooms .. The applicant blindly speculates safety for children , workers and visitors would be sufficiently addressed on a campus bound by hog wire , tightly surrounded by natural forest , narrowly restricting the only entry/exit half a mile away , up hill ..

Objections by the applicant can be summed in a simple phrase , "how long has this process been going on" ...

As a community member of Kaumana I have speculated on whether this particular lot was the most suitable plot out of all of the state lands the applicant had access to and chose to review ... I object to the thought that a county


47

SCANNED	RE'd at <u>5/11/14</u> mtg by <u>WU</u>
MAY - 7 2014	Dist'd <input checked="" type="checkbox"/> Read <input type="checkbox"/>
By: _____	FILE COPY

would be drawn into state court over the exercise of county
due process ...

As the Windward Planning Board , object to speculation .
Provide sound guidance and set proper precedence for the
islands ...

MAHALO:

A handwritten signature in black ink, appearing to be "Alan [unclear]", written in a cursive style.

#7

Written Testimony
Submitted by Donald Ikeda
Former Council Member, District 2
and Resident on Kaumana Drive

SCANNED MAY - 7 2014 By: _____	Re'd at <u>4/11/14</u> mtg by <u>MD</u>
	Dist'd <u>3</u> Read _____
	FILE COPY

Testimony Regarding Connections Charter School

Thank you for allowing me to provide a few comments on the applicant's request for a special use permit.

- 1) No one can deny that education is a fundamental need
- 2) No one can deny that a school that serves the needs of non-traditional and/or special needs students is a good thing
- 3) But also, no one can argue that any entity entering into an established community should tread carefully and make a whole-hearted and **HONEST** effort to be a good neighbor. This means a school, a business, or even another resident. When you come into a community, you must remember that you are the new guy and show respect for those who are there before you. No chest-thumping, no bullying or browbeating. Connections Charter School and its representatives have failed this miserably. If this was a test, the school officials and representatives would have **D's and F's**. Commissioners might also want to review their files and refer to all minutes of DLNR meetings regarding the transgressions of the school administrators and the results of the DLNR investigations that were necessary due to these transgressions.
- 4) I would ask that this commission listen very closely to the concerns of the surrounding community and to listen to their statements regarding the ongoing actions, misrepresentations, and other un-neighborly acts by the school, its officials, and its representatives.
- 5) I would further ask that this commission take time to read the applicant's petition, all versions completed to date, very carefully and if you have not already done so, take the time to research and confirm each of the carefully worded assertions made by the school officials and representatives. This carefully crafted document is full of half-truths and unfulfilled promises, such as water usage, traffic mitigation, temporary housing, staffing, parcel size actually necessary for "planned" activities, etc..
- 6) I would like to suggest that the school and its representatives be held accountable on a regular and frequent basis if they are allowed to proceed. I would further suggest that unless proof can be made of fulfillment of the

Rc'd at	___	mtg by	___
Dist'd	___	Read	___
FILE COPY			

promises and assertions set forth by the school and its representatives, no progress be allowed until the promises and assertions are fulfilled.

- 7) I would just like to highlight a few concerns that would cause me to rethink allowing the school to go forward without imposing strict conditions upon the school and its officials and representatives.

My concerns are:

- A) Water credits. The school is only allowed enough water credits for a minimal amount of users. The petition alleges that they will use enough “super-catchment systems” to provide ample potable water for all students, staff, employees and visitors, once such a system is developed. However, there were no guarantees that catchment water will be used and if used, that there will be a sufficient supply for the 50 employees, 17 part-time employees, 360 students, visiting students, faculty and other guests and those staying in the dormitories. Water usage by the school will severely restrict the flow to all of the upper areas that are serviced by the same wells.
- B) Traffic mitigation – a left turn lane at Edita will not mitigate the traffic on Kaumana and the streets that feed into Kaumana. The traffic study was done in 2010, and was conducted in late May, when the bulk of student traffic had already graduated. At the very least, a new study must be conducted and at peak times during the regular school year when the local schools, high schools, colleges and the university is in session. Also, John Thatcher has repeatedly assured community members that the traffic will only consist of school buses and staff vehicles, with very few vehicles being driven by students and/or their families, however once pressed for actual facts, he admitted that bussing will be limited to less than one-third of the students. The rest, plus the staff, faculty, employees, vendors and other visitors will be driving their vehicles to the site, utilizing Kaumana Drive and the Edita entrance. **Furthermore**, John Thatcher promised the community that he would purchase an easement from the adjoining landowner so that traffic would use Puainako Extension as the ingress and egress point, and Edita would be used only for emergency exit purposes. To the best of my knowledge, this was just an empty promise,

since the school has not abandoned its plan to use Edita, nor has any evidence of other means of mitigation been produced.

- C) The dormitory was first explained to the community to be used only occasionally, so the occasional visiting foreign student or student groups would have a place to stay for a few days. This expanded into occasional use also by visiting faculty and other guests of the school. The dormitory usage is now further expanding into longer stays, by multiple groups. It is easy to understand that the school intends to use the dormitory on a regular if not full-time basis.
- D) The school and its representatives have stated that it will not use a septic system to dispose of its wastewater (human and animal waste), but instead will create a 12,000 square foot holding area to collect all the wastewater products and treat them environmentally. In the meantime, the residents in the surrounding areas will be exposed to vermin, bugs, contamination, disease, and odor. These unacceptable conditions will be increased when the planned livestock raising takes place.
- E) Please keep in mind that the school admits that only 30 percent of its students will be bussed in. That means that the remaining 200-plus students will be arriving at the school in cars, vans, trucks, and other vehicles. In addition to the 200-plus students that will arrive in various vehicles, there will be the 50-plus employees and other staff and guests, plus vendors and other traffic. That is way too much traffic on Kaumana during peak traffic times.
- F) There are new residential projects that are being planned for the area, but the school and its representatives have refused to address the impact the school will have on the growing residential population if the school's planned expansion is allowed to occur.

By and large, the community is opposed to the project, and with good reason. I won't take up too much more of your time, as I am aware that there are many more people here to provide testimony on this matter.

In closing I would ask that this commission listen to the community, do your research, and ask the hard questions. There are other State parcels that could be more suitable for the operations of the school.

Thank you.

Donald Ikeda
Former Council Member, District 2
and Resident on Kaumana Drive

To: Windward Planning Commission
From: Elizabeth Truesdell; Resident of Pacific Plantations Subdivision
Re: Special Permit Application (SPP 12-000138) to Develop a K to 12 Charter School Campus with Dorm Facilities, and Related Uses
Date: May 1, 2014

As a secondary school classroom teacher for 31 years, I have accrued much experience with schools and students and families. All of those years have been spent working in independent schools that have both day and boarding programs, though I myself am the product of a completely public education from kindergarten through graduate school.

Student safety is a huge concern to everyone involved in an educational institution. I remember walking to our neighborhood elementary, middle and high schools; however, that was in the 1960's and 1970's. Now, many local students ride the school bus—even to local public schools. Situating a campus at the singular entrance and exit to an entire subdivision creates numerous potential safety and traffic hazards for students and staff of the school, as well as residents of the subdivision, even more so due to the fact that the majority of students will be transported to the campus via car or bus. Additionally, the windy and narrow Kaumana Drive is already a challenging commute what with the projected mauka residential development and additional use of Saddle Road due to its newly completed improvements—this before the elder care facility being constructed on lower Kaumana Drive comes online adding more use and stress to Kaumana Drive. The additional load of cars and/or school buses servicing the proposed Connections Public Charter School campus off Edita Street is a significant concern to drivers in the area.

As a teacher I know that students with long commutes to school face increased academic challenge due to the extended length of their day: bus or car ride to school, full day of classes and activities, bus or car ride home, then homework. At least half of current Connections New Century Public Charter School students reside in Puna, not Kaumana. Though the proposed school site is just up the hill from the current site, why not look for a location closer to where more of the students reside, thereby making their school life easier rather than maintaining or extending the already long day for them?

Much has been made of the shortage of available water for the school's projected needs, and much should be made of this problem. Without a doubt, Hilo is a rainy locale, but it is shortsighted to operate under a "Field of Dreams" point of view, believing that—to paraphrase—"If you build it, [the water] will come."

I think we all can agree that Connections Public Charter School needs a new home. Assessing the needs of the full build out for a new Connections campus and the community the school serves, then finding a situation to meet those needs is critical to the long-term success of the project. I firmly believe that the Kaumana site is not a suitable location to meet the physical and resource needs of the proposed Connections campus, not from a "not in my backyard" point of view, but from the perspective of a professional educator looking to find a pono fit for both the school and the existing neighborhood.

Mahalo for allowing me to share my thoughts on the Connections Special Permit Application.

SCANNED MAY - 7 2014 By: _____	Rec'd at 5/1/14 by <u>AD</u>
	Dist'd <input checked="" type="checkbox"/> Read <input type="checkbox"/>
FILE COPY	

+2

#7

April 30, 2014

Dear Members of the Windward Planning Commission,

As members of the Windward Planning Commission, you will ultimately determine the recommendation or denial of a special use permit request for the development of Connections Public Charter School on State DLNR property on Edita Street. The school has already been granted the lease for the property. However, they are currently awaiting the green light to proceed with development. After hearing arguments to both sides, the hearing officer assigned this case has recommended the **denial** of a special use permit for this specific request.

In opposition of this development is a Kaūmana community unaware of the proposed project to build a school to accommodate more than 400 students and faculty and staff, until long after the release of the environmental assessment.

A full environmental impact study was never completed. A traffic study (car count) was completed in 2010 but traffic conditions have changed drastically since the completion of the Daniel K. Inouye Highway aka Saddle Road. As Kaūmana residents, we recently have been inconvenienced and placed in imminent danger with the development of a nursing home care facility off of Kaūmana Drive. Sadly, it is now too late.

This is a prelude to the imminent danger for Edita Street if the development is granted a special use permit. Fortunately, Mr. Gomes was paying attention to the proposed *Connections development and we as a community were able to intervene and participate in the political process before the actual development was granted a special use permit and development commenced.*

Mahalo i ke Akua!

As responsible land stewards, we need to remain mindful of our natural resources. We also need to be vigilant with the health and safety of our community. At the same time it is our obligation to support education and the many options to learning such an institution can provide its learners. It is all a delicate balance. Again, we are not against the development of a charter school, we are against any development in the proposed area as it evidences health and safety concerns at its current proposed site. I urge you to deny a special use permit as I am convinced a more suitable site can be found for the development of this charter school.

Thank you for thinking long and hard about the decision that rests on your shoulders. This is a huge kuleana, one that can permanently change the landscape of a neighborhood. There are just too many cautions that outweigh the benefit of granting a special use permit at this specific site.

Sincerely,

Pauline Ke'ala Lee Loy
1579 Mele Manu St.
Hilo, Hi. 96720

SCANNED	Rec'd at 5/11/14	Filed by MD
	MAY - 7 2014	Dist'd SK Read
By: _____	FILE COPY	

45
4-7

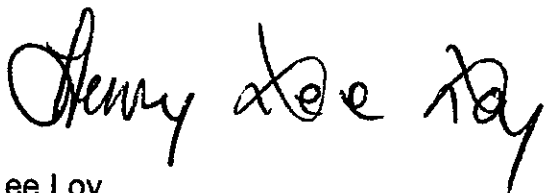
Members of the Windward Planning Commission, my name is Dr. Henry Lee Loy. I am a resident of 1579 Mele Manu Street in Hilo. I am not against the education of students from the Connections Public Charter School. I think all of us here today agree we want to promote the best interest of students whether they attend charter, public, private or home schools. Never should the lives or safety of any student be jeopardized.

I oppose the proposed location of the school because it will have only one way in and one way out presenting a clear and dangerous situation for students, faculty and the neighborhood residents. Traffic on Kaumana Drive is increasing the threat of more accidents.

A few months ago I called the County Department of Traffic and commended them for the astute use of the "Shark Teeth Striping" along Kaumana Drive painted on the road to warn drivers to slow down because of dangerous road conditions. I further recommended additional "Shark Teeth Striping" be used around the dangerous curve fronting the Kaumana caves located about 100 yards from the proposed project. They must have agreed with my concern about the dangerous conditions because the County Traffic Department recently added additional "Shark Teeth Striping" as I show here in this recent photo taken.

During the Contested Case Hearing the public was allowed to give testimony at the start of each day. Not once during these opportunities did I hear any public testimony in support or in favor of the application for special permit application number 12- 000138.

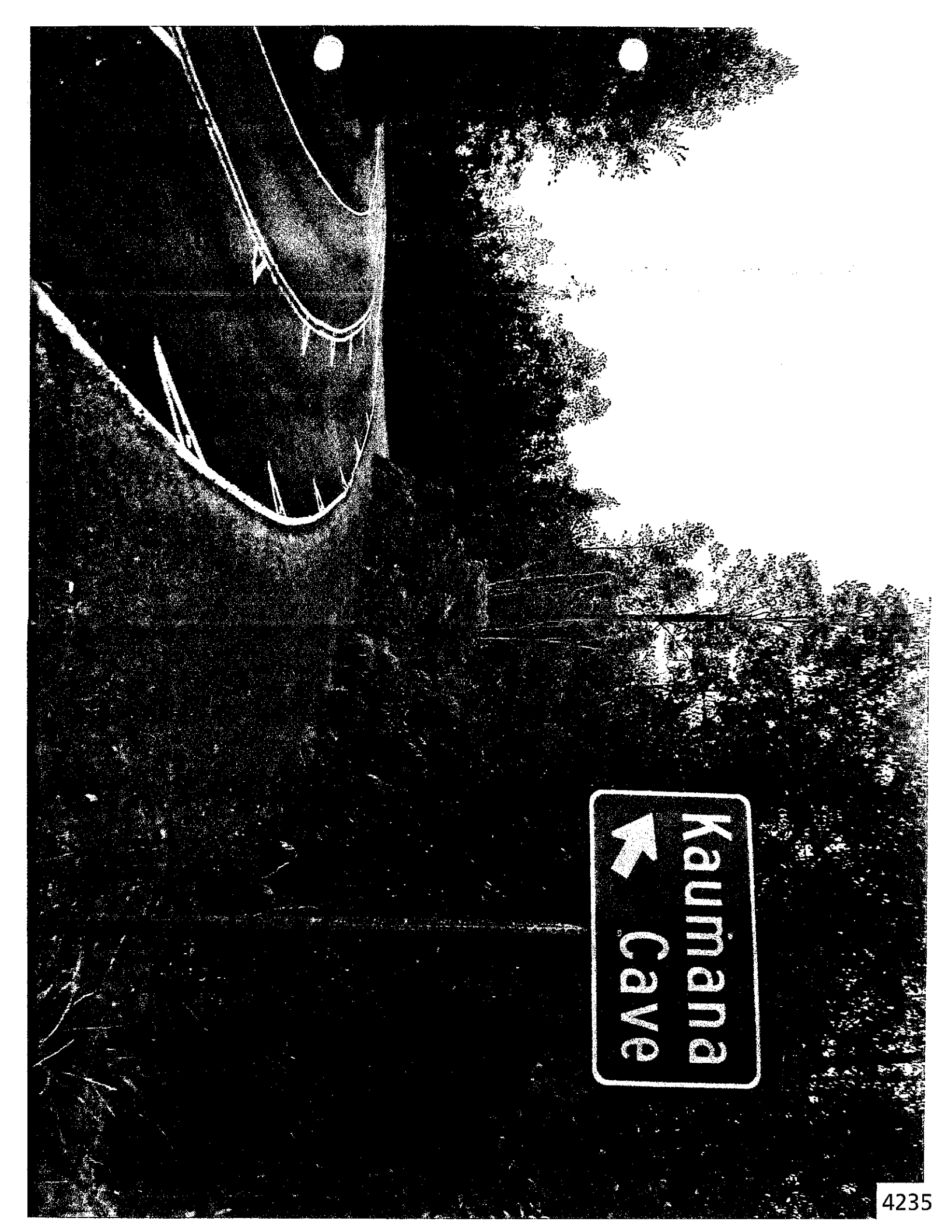
Any development of this magnitude is inappropriate for the proposed location. You have been given the authority to deny or approve this application for a special use permit. In the best interest for the safety and well-being of students and the community it is my hope that such a request is denied. Thank you very much for your time.



Henry Lee Loy
1579 Mele Manu Street
Hilo, Hawaii 96720

SCANNED	Re'd at	File	Tag by	KCD
	Dist'd	<input checked="" type="checkbox"/>	Read	
MAY - 7 2014				FILE COPY

4234



Kaunana
← **Cave**

May 1, 2014

FROM: Wayne Kanemoto

SUBJECT: Special Permit for Connections New Century Public Charter School and Community Based Education Support Services

I oppose the building of the Connections Charter School in Kaumana. The applicant has not convinced the Kaumana community, the hearing officer, and some members of this commission that they should be awarded a special permit.

From my perspective as an educator and administrator, there are tasks and information that Connections representatives have not done:

- 1. The Educational Specifications and Standards for Facilities provides basic guidelines for public schools states:

- A. *Section 103- Description of Educational Specifications: "to meet the needs of the community,This participatory process provides the means of involving educators and the community...and instilling a sense of pride and ownership in their school."*

Connections has **not met** the needs of our community nor instilled a sense of pride and ownership. This is evidenced by the actions taken by the community in response to the school's requests to have the commission allow the special permit.

- B. *Section 201.2 Enrollment Guidelines for Planning New Schools and Section 201.3 Site Selection Criteria. "Elementary with a minimum of 500 enrollment on 12 acres; Middle/Intermediate enrollment of 600 on 18 acres; high school with a minimum of 1,000 enrollment on 50 acres."*

Connections has **not provided a reason for the need of 70 acres** for their campus, nor have they provided adequate data pointing to the probability that their school will grow beyond the minimum indicated.

- 2. As a former principal of a K-12 public school and the Hilo Community School for Adults, I have experienced challenges that Connections will inevitably face.

- A. Unless there is sound financial commitment, the probability of survival and prosperity of Connections is slim to none. In this case, the school's problematic situation, difficulty enough with concerns for continuous improvement of curriculum and instruction, is further exacerbated by their focus on construction and school operations

SCANNED MAY - 7 2014 ✓ By: _____	file'd at <u>5/1/14</u> intg by <u>MD</u> Dist'd <input checked="" type="checkbox"/> Read _____
	FILE COPY 4236

costs. Priority for spending for any educational institution should logically be for the achievement of quality instruction, rather than the acquisition of land and facilities.

B. Management and operation in a phased campus construction create additional stresses on staff resources. These include opportunities for curriculum articulation and alignment; staff education and training; supervision of faculty and staff; efficient and effective student transition through grade levels; other "best practices" that should be part of normal on-going systems.

C. Water is a health and safety issue that has not been addressed. The gallons available for school use currently restrict the student population to 70 students. Details concerning how the school will ensure adequate water supply, which critically affects the school's health and safety status, are yet to be forthcoming.

As a community member I was shocked and disturbed by the statement "Intentionally failed to use prudent judgment over this matter as the Hearing's (sic) Officer was preoccupied at addressing personal health and family issues." used by Connections and the Community Based Education and Support Services to describe the hearings officer . I do not see the relevance to this case nor influence on the recommendations made. The commission should accept the hearings officer recommendations and not approve the special permit.

These are examples of how Connections and the state have not made a convincing case that the special permit should be granted by the commission. With the evident shortcomings of the Connections' presentations, the community has not been able to extend their trust for development of the school in the proposed location.

2014 MAY -1 AM 8:41

Aloha Windward Planning Commission,

May of 2012, Under Ted Hong's direction, John Thatcher hired Ted's personal friends to illegally bulldoze the perimeter of the makai property, illegally put up fencing and allowed them to illegally remove ohia trees from state property. Most of these long time friends of Ted Hong had felony criminal records. Ted Hong pretended to file a complaint with the DCCA against the fencing company but as proven in the contested case hearing that form was never filed against his buddy's company. The report from the DLNR Enforcement agent clearly stated that John Thatcher knew of the illegal clearing, fencing and tree removal but that has been swept under the rug. Please read this report.

On October 9, 2012 Eric Boyd of Connections Public Charter School walked through our neighborhood alongside a white pick up truck taking pictures of our homes to warn us that they know where we live. He then made a video and posted those pictures on You Tube. This started a continuous series of vandalism and theft throughout our community. Many signs have been stolen from my yard and neighbors, my newspapers were stolen, trash thrown in my yard, beer bottles broken in my yard.

On October 10, 2012 Ted Hong verbally and physically assaulted me outside my home on Edita Street in front of my neighbors and Jeff Darrow of the Planning Department. Since then, my family has lived in fear of when Ted Hong, John Thatcher or Eric Boyd will send their goons all the way up to our home. We have had to install a gate for security along with security cameras but these are just deterrents and won't stop these people from eventually attacking our family.

John Thatcher lied about the need for fencing. This is his testimony at the contested case hearing concerning community meetings, "In response to some of the concerns of the neighbors, they asked that "Why couldn't a fence be put up around the perimeter of the property?" So we said, "Okay. We have funds that we could put up a fence." So we hired someone to put up a fence." Page 64 of transcripts. He expects you to believe that he would waste \$100,000.00 dollars on neighbors he hates. Everyone of his neighbors that border the school oppose the location of the school. He and Ted Hong had the fencing crew bulldoze everyone's personal property that was stored on state land. Ted and John then called it illegal dumping. Anything bulldozed looks like garbage. No one was given an opportunity to remove anything from the state land.

The most disgraceful and disgusting lie developed by Ted Hong and John Thatcher is this one, John Thatcher testified under oath at the contested case hearing concerning community meetings, "The most -- I guess the hardest concerns for us to understand were the concerns that our students, because they were poor, would be breaking into people's houses. And that was hard for a lot of our community to take, that, you know, just because our students are poor does

SCANNED
MAY - 7 2014 ✓
By: _____

Re'd at <u>5/11/14</u> mtg by <u>WLD</u>
Dist'd <input checked="" type="checkbox"/> Read <input type="checkbox"/>
FILE COPY

not mean that they are thieves. " Pg 69 of transcripts. They forgot to doctor the minutes. I attended two of the community meetings and I did not hear anyone say anything negative about the school, staff or children. Nowhere in the minutes does anyone say anything like this or ask for a fence to be built. What kind of human lies to children and parents to garner support and foster unwarranted hate towards our community? This kind of hurt will last a lifetime for some of these children.

Defendant: *John Thatcher/Connections Charter School et al.*, Suit type: Assault: Suit for special, general and punitive damages to be shown for alleged physical injuries resulting from alleged assault and battery ... Pacific Business News January 31, 2014

Eric Boyd Ethics Violations. **DECISION AND ORDER** Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission hereby determines as follows:

1. Respondent committed nine (9) violations of HRS § 84-14(a) (Counts 1 through 9) and eleven (11) violations of HRS § 84-14(d) (Counts 10 through 20).
2. An administrative fine of FIVE HUNDRED DOLLARS (\$500.00) for each of the violations committed by Respondent is appropriate and shall be imposed. HRS § 84-39. THEREFORE, IT IS HEREBY ORDERED that an administrative fine in the total amount of TEN THOUSAND DOLLARS (\$10,000.00) is hereby imposed against Respondent William Eric Boyd;

Our very first community meeting with Connections personnel was held at Kaumana Elementary School. At this first contact with Connections, Eric Boyd signs in with an Ewa Beach address. Why? I don't know. Is that ethical? No. Throughout this hearing process we've read letters from children who attend Connections complaining that the people of Kaumana are saying, "Because the children from Puna are poor, when they come up here they are going to rob our homes." I attended two of the three secret community meetings put on by Connections after the Environmental Assessment had been snuck by the community denying us any input. At those meetings I never heard anyone say anything negative about their school, it's staff or the students. I urge you to read the minutes. In the minutes taken by a Connections rep, you will see that no one says anything of the sort throughout the meetings. John Thatcher advised by Ted Hong concocted this blatant awful lie that will affect those children, their parents and we the residents of Kaumana for the rest of our lives. This form of hurting children with lies to get them to make you feel their pain is just as bad as a terrorist strapping a bomb on the back of a child and sending them into a crowd to blow them up. What kind of people do this to children to try and garner your support?

John Thatcher lied when he said that they are going to hand clear to lessen the environmental impact (Hawaii Tribune Herald) "From an overall design concept,

the proposed campus is intended to be a school within a forest," according to the EA. Hand-clearing of trees and other vegetation will be done to lessen the environmental impact, Thatcher said.

[http://www.hawaiitribune-](http://www.hawaiitribune-herald.com/articles/2010/11/09/local_news/local02.prt)

[herald.com/articles/2010/11/09/local_news/local02.prt](http://www.hawaiitribune-herald.com/articles/2010/11/09/local_news/local02.prt)[11/12/2010 10:20:07 AM]Print Version > Charter school project advances

"We're not going to just come in and bulldoze everything," he said. So far all they did was illegally bulldoze.

The Connections Administration denied our community their right to voice concerns during the EA period by not notifying anyone affected by the project as required in HAR Title 11 Chapter 200, For applicant actions, except those actions exempt from the preparation of an environmental assessment pursuant to section 343-5, HRS, or those actions which the approving agency declares exempt pursuant to section 11-200-8, the approving agency shall: Require the applicant, at the earliest practicable time, to seek the advice and input of the lead county agency responsible for implementing the county's general plan for each county in which the proposed action is to occur, and consult with other agencies having jurisdiction or expertise as well as those citizen groups and individuals which the approving agency reasonably believes to be affected;. When questioning Celia Shen during the contested case hearing as to why she did not allow the community access to the EA, her response was, "We are not required to by law." She is absolutely right. There is no EA police.

For years now Ted Hong has tried to make you believe that someone from Kaumana plastered bumper stickers on the window outside the school right in front of a 16 feet high sign that states security cameras are in use. Somehow these cameras, (bought through Eric Boyd's AMWAY business) did not record the perpetrator.

How do we possibly embrace these people and make them part of our community? Please deny this project.

Very Respectfully,

Jeff Gomes
Edita Street
Kaumana

PLANNING DEPARTMENT
COUNTY OF HAWAII

Dear Windward Planning Commission,

2014 MAY -1 AM 8:41

My name is Joy Mcleod and I am a resident of Kaumana. I have read the Planning Directors Exceptions to Hearings Officer's Report and I would like to correct his statement of claiming there is overwhelming evidence of how the water issue will be met. Building a school for 70 students to try and meet the water requirements only creates three campuses to maintain. 70 students still require teachers. How many teachers will be there? Will the teachers come with the children from Nani Mau Garden campus or is the school hiring more teachers? At what cost?

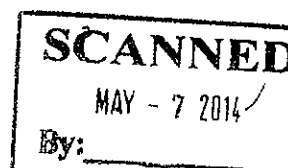
Even the best catchment system with reverse osmosis treatment cannot make it rain everyday. There is no evidence of how the school will make it rain everyday or how much it will cost to haul water everyday it does not rain. This is speculation not evidence.

The idea of drilling well has no evidence that water exists beneath the property. No survey was done to prove there is evidence of water beneath the property. There is also no evidence of how much drilling a well will cost and how much it will cost to maintain it. This again is speculation.

Please deny the application for special permit.

Thank you very much,

Joy Mcleod
Hokulani Street, Kaumana



Re'd at 5/1/14	mtg by hcd
Dist'd ✓	Read _____
FILE COPY	

Good Morning Windward Planning Commission,

2014 MAY -1 AM 8: 41

My name is Kahio Papalimu and I am a lifetime resident of Kaumana. I am concerned that the bulldozing on the Connections property will alter the terrain and cause cave ins which will disrupt the water flow beneath that property and possibly ruin mine. Everyone who lives along the stream as I do have seen the water coming out of the caves in the walls of the stream.

During the Contested Case Hearing, I had the opportunity to attend the site visit. While there I did observe the area near Edita Street that is already caved in. Why is nothing being done about that?

One of the concerns the school has been emphasizing is the need to combine the two campuses and make one. If they are allowed to use this property for phase one with only 70 high school students then they will have to maintain three campuses. Will they be commuting from Kaumana to Nani Mau throughout the day? What evidence has been shown to prove they can maintain three campuses? Two of which will be high school?

Please deny this request for special permit and let's help them find a suitable site for their school before any of those innocent children get hurt.

Mahalo,

Kahio Papalimu
Kaumana Drive, Kaumana

SCANNED MAY - 7 2014 By: _____	Rec'd at <u>Planning</u> by <u>WD</u>
	Dist'd <input checked="" type="checkbox"/> Read <input type="checkbox"/>
FILE COPY	

ORAL ARGUMENTS

Intervenor - Jeff Gomes

SCANNED
MAY - 7 2014
By: _____ ✓

FILE COPY

PROCESS

3 PUBLIC HEARINGS

- Nov. 9, 2012; Jan. 10, 2013; March 7, 2013

COMMISSION MOTION AND SECOND TO DENY

- Jan. 10, 2013

APPLICANTS REQUEST AND GRANTED CONTESTED CASE

- March 7, 2013

CONTESTED CASE HEARINGS

- October 21 and 22, 2013; November 12, 2013; January 8 and 21, 2014

HEARINGS OFFICER'S DENIAL RECOMMENDATION REPORT

- April 7, 2014

THINGS TO BE MINDFUL OF

- Argument will be brief and cover only more significant ones
- Not questioning nature of the school but appropriateness of the location
- Applicants and not community or intervenor have the burden of proof to show how request is consistent with the guidelines of the special permit by providing a preponderance of evidence

GENERAL PLAN - LUPAG MAP

- **Low Density: Residential (up to 6 units/acre), ancillary commercial and public uses, and neighborhood and convenience-type commercial uses**
- **Rezoning or Use Permit may still be required to establish use - not automatically permitted**
- **For example, rezoning to establish commercial use or Use Permit for a school**
- **Requests evaluated against the General Plan and Zoning Code standards/criteria**

GENERAL PLAN - PERTINENT POLICIES

- Public Facilities
 - ❖ Encourage provision of public facilities that effectively service the COMMUNITY...IN KEEPING WITH THE ENVIRONMENTAL AND AESTHETIC CONCERNS OF THE COMMUNITY
- Land Use
 - ❖ Encourage the development and MAINTENANCE OF COMMUNITIES MEETING THE NEEDS OF ITS RESIDENTS...

PERTINENT SPECIAL PERMIT CRITERIA

- Would not *adversely* affect surrounding properties
- Would not unreasonably burden public agencies
- Would not substantially alter or change the essential character of the land and the present use
- Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established

PERTINENT USE PERMIT CRITERIA

- Shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the COMMUNITY'S character, to surrounding properties; and,
- Shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

REASONS FOR DENIAL INFRASTRUCTURE - WATER

- Requirement according to application
- ❖ What is available? 4,200 gpd
- ❖ How much required per student? 60 gpd
- ❖ How many can that serve? 70 students
- ❖ What is total requirement? 26,100 gpd
- ❖ 107 students in First Phase - 6,420 gpd

INFRASTRUCTURE - WATER

- Consultant testified that there are alternative design scenarios to reduce water use
- Yet, still no answer as to how potable water for entire DEVELOPMENT to be provided
- While no construction plans needed, no definitive program to address total water demand except (as noted in application) plans “to investigate other sources of water to support the project.”

INFRASTRUCTURE - WATER

- "Kick the can down the road approach" to address needs
- Segmentation analysis not appropriate
 - ❖ Archaeology by phases?
 - ❖ Traffic by phases?
 - ❖ Not acceptable EIS standard
- No one knows what will be included in first phase

INFRASTRUCTURE - POLICE

- **Comments:** This development “is being placed in a residential area that will likely effect (sic) the quality of life for residents that border this proposed site. There will be an increase in noise, crime, and traffic.”
- While there was discussion on traffic, no evidence to address quality of life, crime, and noise.
- Unlike areas like traffic and archaeology, there were no technical studies on noise and social impacts

INFRASTRUCTURE - TRAFFIC

- Traffic - TIAR states LOS to operate at acceptable levels with left turn lanes at Edita Street
- 70% of community disagrees
- ❖ Date of Study - data compiled May 2009 (4 years old)
- ❖ University, KSBE and HS ended
- ❖ No Examination of other streets (Chong/Terrace)

INFRASTRUCTURE - TRAFFIC

Philip Rowell - Traffic Consultant

- Was aware that the UHH, Community College, and Kamehameha Schools had ended prior to the counts being taken, but that should not have affected his analysis or conclusions;
- Was not aware of a number of residential developments in the Kaumana area and subdivisions that would utilize Edita Street (CC Transcripts, pages 469-470; 475-477)

INFRASTRUCTURE - TRAFFIC

Philip Rowell

- Based on his experience, if the application were to be considered by the State Land Use Commission, updated TIAR would be required for two reasons:
 - ❖ traffic counts done 4 years ago; and,
 - ❖ list of related projects and background forecasts need to be updated. (CC Transcripts, pages 463, 487, 488)
- Why only for LUC but not Planning Commission?

INFRASTRUCTURE - TRAFFIC

Ron Thiel, County Traffic Division Chief

- Having traffic counts after the University, Community College, and Kamehameha Schools ended could have made a difference in the TIAR
- Added: "It actually could make it (TIAR) even worse. (CC Transcripts, pages 174-175)

THE COMMUNITY

- General Plan policies, Use Permit, and SP Criteria - ALL focus on community
- Former Planning Director's testimony
 - ❖ More and more students "will reside in South Hilo because that has been the trend"
- Who is the community? Kaumana or South Hilo
- No evidence - such as statement by Department of Education or survey - to show demand for a new school in Kaumana

COMMUNITY SAYING ADVERSE IMPACTS

- 85% Of Residents In The Pacific Plantation Subdivision
- Nearly 70% Within 500 Feet Of Proposed Development

SUMMARY

Location not appropriate because of:

- ❖ adverse impacts to community
- ❖ change character of area
- ❖ inadequate infrastructure
- ❖ not consistent with general plan

For those reasons and more, as found in INTERVENOR and HO's proposed FOF and COL, request DOES NOT MEET TEST for a special permit and therefore SHOULD BE DENIED.

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
MAY 1, 2014

A regularly advertised hearing on the application of **Connections New Century Public Charter School/CBESS (SPP 12-138)** was called to order at 10:42 a.m. in the County of Hawai'i, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i with Chairman Ronald Gonzales presiding.

COMMISSIONERS PRESENT: Ronald Gonzales, Charles Heaukulani, Gregory Henkel, Wallace A. Ishibashi, Jr., Raylene Moses, and Stephen Ono.

ABSENT AND EXCUSED: Myles Miyasato.

ALSO PRESENT: Duane Kanuha (Planning Director), Margaret Masunaga (Deputy Corporation Counsel for the Windward Planning Commission), Amy Self (Deputy Corporation Counsel for the Planning Director), Jeff Darrow (Staff Planner), Maija Cottle (Staff Planner), Sarah Hata-Finley (Secretary), and Melissa Dacayanan (Planning Commission Support Technician).

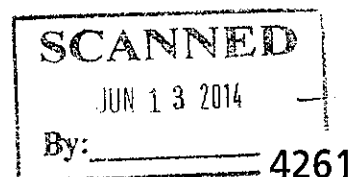
And approximately 36 people from the public in attendance.

**APPLICANTS: CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/
CBESS (SPP 12-138)**

Discussion and action on the Hearings Officer's report and recommendation on an application for a Special Permit to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land situated in the State Land Use Agricultural District. The property is located on both the southwest and northeast sides of Edita Street near its intersection with Kaūmana Drive and adjoining the Pacific Plantation Subdivision in Kaūmana, South Hilo, Hawai'i, TMK: 2-5-006:141.

GONZALES: Next up is Item No. 7, unfinished business, applicant Connections New Century Public Charter School/CBESS, Special Permit 12-138. Before we get started with your presentation, Commissioner Henkel wants to make a statement.

HENKEL: Hi, my name is Greg Henkel. Bear with me a few minutes here. I've got a statement I want to read. The DOE has led Hawai'i students to the rear when it comes to practical education in 21st century job skills. Charter schools have become an important vehicle that raise the standards here in Hawai'i, and they're achieving this goal despite gross funding inequities. They do this by putting their resources directly into the classroom rather than into top-heavy administrative positions on Oahu, and they do this by developing new curriculum in classes that reflect modern needs. This is also one of the reasons that charter schools have become targets of the State's educational establishment and by others resistance to change, resistant to change no matter how beneficial the change might be. I've worked with charter schools on this island since



their inception. First at HAAS at Kuokoa and finally Connections. My three children benefitted from charter school education, and I'm a passionate supporter of public education and the charter school movement. So, I would like to disclose that I am currently employed by Connections Public Charter School. I'm a program specialist/artist with the school's makery program. This program teaches students from elementary through high school how to use 3-D autocad software and use computer numerically controlled or CNC machines such as laser printers, 3-D printers, and CNC mills. I have reviewed the criteria provided by the Hawai'i County Board of Ethics and see no conflict of interest in serving on the Planning Commission in considering this matter. That's HHC [sic], Section 2-84a. I have no substantial financial interest in Connections Charter School or specifically in building a new campus. I'm not a contractor or builder, and in no way profit from the Connections building project. I don't presently and will not in the future work at the new campus. I have no stake whatsoever in the new campus. I'll be 65 years old in a couple months and am planning on retiring in two years. Even if the ground were broken tomorrow on this project, I'll be retired before the initial occupancy can be achieved. My familiarity with the school, its students, philosophy, goals, and principles would bring an understanding to the Commission that's been absent thus far. That being said, there's still some concern that I may show bias in this matter. I supported Commissioner Ishibashi last August when he discussed/disclosed his employment with UH Hilo in a matter that came before the Commission. He stated that there would be no conflict with his involvement--that he didn't work in the geographic area of the project. I don't think anyone here would question Mr. Ishibashi's support of UH or his ability to remain impartial despite of community concerns that were disclosed at that meeting. I would appreciate the same consideration. But, in spite of this, I've been counseled by Corp Counsel that I should recuse myself.

Before I do that, I'd like to talk about bias a little bit. Where I don't feel like I'm biased, I feel, I don't feel it's biased to acknowledge facts. And the facts of this case are, some of them, that the traffic impact reports have given the project the green light. The Department of Water Supply has given the project a green light. The Planning Director has given this project the green light. Biological surveys have given the project a green light. Connections has met all the land use requirements and has always attempted to mitigate community concerns. These aren't biases. These are facts. What a bias is, is to ignore these facts, and present findings that are inaccurate, unsubstantiated by qualified organizations, and sometimes downright inflammatory. One, Connections mandates specify that it's an open enrollment school. They take anyone if there's room no matter where they're from. There are students in Connections from Honoka'a. The use of the phrase—the continued use of the phrase—not intended to service the needs of the immediate community is inaccurate and demonstrates an ignorance of charter school models and is biased. Students attend charters because among other reasons, their curriculum is unique and meets the needs of these students.

Another repeated phrase that we hear is that 50 percent of the Connections students come from Puna. That's irrelevant and inaccurate. In the student body right now, there is a high number of students from Puna, but that's not a bad thing. I'm from Puna. My kids are from Puna. Most of our elementary kids, the younger kids, are from Hilo, though. And I think that the further a school moves away from Puna, that, and these younger kids are the future of Connections, then there will be a higher number of people just because of travel difficulties.

Another item that approached was the--about biological surveys. It was stated that Connections was going to build on the lower campus—the 30 something odd acres—it was quoted there are pristine 'Ōhi'a forests. And it's not. The biological survey determined, which I have right here, that it is full of invasive species. These invasive species were generated by the establishment of the neighborhood. So, Connections wants to come in and be a, you know, to help ease this invasive problem that was caused by the neighborhood and yet they're being accused of leveling a pristine 'Ōhi'a forest. That's up north on the part that Connections is not going to develop. So, with that, in order to expedite the process, and not cause any delays, you know concerning the Ethics Commission and so forth, even though I don't really feel that I should have to recuse myself, I'm going to recuse myself from this agenda item and hope that you folks can do the right thing. So, thank you.

GONZALES: Thank you, Commissioner Henkel. Margaret.

MASUNAGA: Thank you, Commissioner Henkel, and I just, for the record, I did want to state the Code section we were looking at, does apply to Commissioners, and it is Section 2-84, Conflicts of Interest, and it says in part under subsection "a," no officer, of which a Commissioner is deemed in the definition, shall take any official action affecting a business or other undertaking in which that officer or employee has a substantial financial interest. And I did consult with my colleagues at the Office of the Corporation Counsel, including Renee Schoen and Molly Stebbins, and they did concur with me. I know it's, you know, it's a very divisive application but you know that was the advice that we felt needed to happen today. And I want to thank you.

HENKEL: Thank you for that but you know I still wonder why I feel the circumstances of my employment and participation are the same as Mr. Ishibashi's, and I'm wondering why the same standards didn't apply back then. And this is in no way a criticism of Wallace by the way.

GONZALES: Thank you, Commissioner Henkel, and I realize that you're doing this in order to get this moved along.

HENKEL: I want to see it move along.

Commissioner Henkel recused himself at 10:51 a.m. and observed the meeting from the audience.

GONZALES: Thank you. Before we go any further, if anybody hasn't signed up to testify, please see the ladies over here on my right. We have 4,000 pages of documents from this since we've started. We've read it all. We've looked at it all. Please if you're going to testify you know, make it good. I mean, we don't need redundancy. We had enough. All right, with that, Jeff, bring us up to speed.

DARROW: Thank you, Mr. Chairman. This is a continued hearing. We've had a number of hearings on this matter. What I would like to do is just do a brief overview of the area the application and our timeline that's occurred up to this point. Thank you.

Again, the applicant in this case is Connections New Century Public Charter School, CBESS as well, Special Permit Application 12-138. The area of the subject application is in the Hilo District, South Hilo District, more specifically, we're looking in the upper Kaūmana area. You can see the properties. It's actually one property but divided by Edita Street. It's outlined in a black outline. This is a closer view. For reference, we have Kaūmana Drive that is running through the upper middle portion of the map and running parallel with that is the Puainako Extension. Again, you'll notice that you have the dark outline, outlining the subject property. We have Edita Street running through the middle of the property, and Mele Manu Street which is adjacent to this area. This consists of the Paradise [sic] Plantation Subdivision. For reference, you'll see the different colors maps—I'm sorry, different colors on the map. The light green, dark green, blue represents Agricultural zoning, so this particular property is zoned Agriculture – 1 acre. The mustard color lighter yellows represent residential. And on your right side of your map, you have Residential – Agriculture zoning.

This is the State Land Use Boundary Map of the area. The green represents Agriculture, and the pink represents Urban zoning. And you can observe that the subject property is within the State Land Use Agricultural District.

The General Plan for this area identifies the subject property as Low Density Urban. You do have some Rural designations as well as some Important Agricultural land.

This is an aerial photo. Again, we have Puainako Extension on the lower right portion of the map. We have Kaūmana Drive that provides access to this area, Edita Street, Mele Manu, as well as the subject property which is currently vacant, outlined in a black outline.

The applicant is requesting a Special Permit to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land situated within the State Land Use Agricultural District. Because this particular application is over 15 acres, the actual, if the Planning Commission recommends a favorable recommendation, it will go up to the Land Use Commission. If the application is denied at the Planning Commission, the application is denied.

This is an overview of the facility on both sides of the property. The main campus will be on the lower portion, which they call the lower parcel. The upper campus or the upper parcel has, is only identifying an elevated walkway. You can—they also have the Kaūmana Cave system that runs underneath portions of the property. This is identified with a gray color and is shown underneath.

This is a site plan of the lower parcel. It again identifies all the different buildings that will be associated with the Special Permit application.

These are just site photos of the area. This is on Kaūmana Drive looking mauka. Edita Street is on your left. This is on Kaūmana Drive looking towards makai. Edita will be on your right side. This is on Edita Street looking towards Hāmākua. You'll notice that there is a dedicated left turn lane as well as a right turn lane. Currently, the shoulders are grass shoulders except where there are some driveway accesses. This is a little further up again looking towards Kaūmana Drive on Edita Street. You have the grass shoulders. The subject property would be on your right and

your left. And, again, this is a little further up showing that fronting the subject parcel on your right side, you have quite a wide, shoulder, paved shoulder. And again, this is Edita looking towards Kaūmana on the left side which is also a portion of the subject property. You can see that there is a guardrail.

This is looking at the lower parcel that there is a gate and fence around the lower parcel. This is on Edita Street looking directly makai. And this again is on Edita Street. We're looking towards Mele Manu Street. The subject property is on your left and right, and on your right side, you can see that there is a guardrail as well as a drainage way.

The timeline. The Planning Commission hearings. We've had a number of them. This began in November of 2012, was our first hearing, then it was continued to December 12, 2012. January 10, 2013—at this hearing, a motion was made to deny the application. It was not voted upon. It was just the motion was made. It was continued to allow Findings of Fact, proposed Findings of Fact, Conclusions of Law, Decision and Order to be prepared. When we came to the March 7th hearing, 2013, a contested case was requested by the applicant as well as an intervenor was approved for standing, and that is intervenor, Jeff Gomes. We began contested case hearings. This was October 21st and 22nd of 2013. We had another hearing on November 12th of 2013, which included a site inspection of the campus or the property. And lastly, we had two more hearings in January—January 8th and January 22nd of 2014. During the contested case hearing or up to this point, just briefly touch upon some of the submittals that have come to the Planning Commission.

Oh, I don't know what happened there. Sorry about that. We've had the Planning Director's Background Report, Revised Recommendation and Revised Conditions. We had the applicant's Findings of Fact, Conclusions of Law, Decision & Order that was submitted, the Intervenor's Findings of Fact, Conclusions of Law, Decision & Order. After the contested case hearing, we had the Hearings Officer's Report. We had the Applicants' Exceptions to the Hearings Officer's Report. We had the Planning Department's Exceptions to the Hearings Officer's Report. And, we had the Intervenor's Support Statement of the Hearings Officer's Report. Lastly, we have the Applicant and Intervenor's requests for oral argument which would be taken up today. That concludes our presentation. Thank you.

GONZALES: Thank you. Any questions for staff limited to clarifying anything he just said? Commissioners? Thank you, Jeff. For the record, too, I need to, I just need to confirm with my fellow Commissioners that we've all—some of us haven't been here for all the hearings—we've all got ourselves up to speed on everything. We've all reviewed everything. Very good. I think we'd like to proceed with public testimony at this time. So, if I could bring you up four at a time. I'm going to ask for Elizabeth Truesdell, Pauline Ke'ala Lee Loy, Henry Lee Loy, and Ivan Mochida. Could I have you all raise your right hands, please? Do you swear to tell the truth before the Windward Planning Commission today?

TESTIFIERS: Yes.

GONZALES: All right. You have three minutes. Please use the microphones. State your name, where you live, and go ahead.

TRUESDELL: I'm Elizabeth Truesdell. I live at 250 Kristiano Street which is off Mele Manu. As a secondary school classroom teacher for 31 years, I have accrued much experience with schools and students and families. All of those years have been spent working in independent schools that have both day and boarding programs, though I myself am the product of a completely public education from kindergarten through graduate school.

Student safety is a huge concern for anyone and everyone involved in an educational institution. I remember walking to our neighborhood elementary, middle, and high schools; however, that was the 60's and 70's. Now, many local students ride the school bus, even to local public and charter schools. Situating a campus at the singular entrance and exit to an entire subdivision creates numerous potential safety and traffic hazards for students and staff of the school, as well as residents of the subdivision, even more so due to the fact that the majority of the students will be transported to the campus via car or bus. Additionally, the windy and narrow Kaūmana Drive is already a challenging commute with the projected mauka residential development and additional use of Saddle Road due to its newly completed improvements—this before the elder care facility being constructed on lower Kaūmana Drive comes online adding more use and stress to Kaūmana Drive. The additional load of cars and/or school buses servicing the proposed Connections Public Charter School campus off Edita Street is a significant concern to drivers in the area.

As a teacher, I know that students with long commutes to school face increased academic challenge due to the extended length of their day—bus or car drive to school, full day of classes and activities, bus or car ride home, then homework. Though the proposed school site is just up the hill from the current site, why not look for a location closer to where more of the students reside, thereby making their school life easier, rather than maintaining or extending the already long day for them.

I think we can all agree that Connections Public Charter School needs a new home. Assessing the needs of the full build out for the new Connections campus and the community the school serves then finding a situation to meet those needs is critical to the long-term success of the project. I firmly believe that the Kaūmana site is not a suitable location to meet the physical and resource needs of the proposed campus, not from a “not in my backyard” point of view, but from the perspective of a professional educator looking to find a pono fit for both the school and the existing neighborhood. Thank you.

GONZALES: Thank you. Any questions for Ms. Truesdell? Mrs. Lee Loy?

LEE LOY, P: Aloha, my name is Pauline Ke'ala Lee Loy, and I am a resident of Mele Manu Street in Kaūmana. As members of the Windward Planning Commission, you will ultimately determine the recommendation or denial of a special use permit request for the development of Connections Public Charter School on State DLNR property on Edita Street. The school has already been granted the lease for the property. However, they are currently awaiting the green light to proceed with the development. After hearing arguments to both sides, the hearing officer assigned this case has recommended the denial of a special use permit for this specific request.

In opposition of this development is a Kaūmana community unaware of the proposed project to build a school to accommodate more than 400 students and faculty and staff, until long after the release of the environmental assessment. A full environmental impact study was never completed. A traffic study, more like a car count, was completed in 2010 but traffic conditions have changed drastically since the completion of the Daniel K. Inouye Highway also known as Saddle Road. This is a prelude to the imminent danger that Edita Street will encounter if the development is granted a special use permit. Fortunately, Mr. Gomes was paying attention to the proposed Connections development, and we as a community were able to intervene and participate in the political process before the actual development was granted a special use permit. Mahalo e ke Akua!

Often times, the community loses interest when things are you know set aside for a duration of time. We remain steadfast because it is that important. As responsible land stewards, we need to remain mindful of our natural resources. We need to be vigilant with the health and safety of our community. At the same time, it's our obligation to support education and the many options to learning such an institution can provide its learners. It's all a delicate balance. Again, we're not against the development of a charter school. We are against any development of that magnitude in the proposed area as it evidences health and safety concerns at its current proposed site. I urge you to deny a special use permit. I am convinced a more suitable site is available.

Thank you for thinking long and hard about the decision that rests on your shoulders. This is a huge kuleana—one that can permanently change the landscape of a neighborhood and an island community. There are just too many cautions that outweigh the benefit of granting a special use permit of this specific site. Thank you.

GONZALES: Thank you. Any questions for Mrs. Lee Loy? Charlie.

HEAUKULANI: Did you have a specific alternative site you were referencing?

LEE LOY, P: I do not. I do not believe that is my kuleana, but I believe one exists.

GONZALES: Thank you. Dr. Lee Loy.

LEE LOY, H: Members of the Windward Planning Commission, my name is Dr. Henry Lee Loy. I am a resident of 1579 Mele Manu Street in Hilo. I am not against the education of students from the Connections Public Charter School. I think all of us here today agree—we want to promote the best interest of students whether they attend charter, public, private, or home schools. Never should the lives or safety of any student be jeopardized. I oppose the proposed location of the school because it will have only one way in and one way out, presenting a clear and dangerous situation for students, faculty, and the neighborhood residents. Traffic on Kaūmana Drive is increasing the threat of more accidents.

A few months ago, I called the County Department of Traffic and commended them for the astute use of “shark teeth striping” painted on the road to warn drivers to slow down because of the dangerous road conditions. I recommended additional “shark teeth striping” be used around the dangerous curve fronting the Kaūmana Caves located about a 100 yards from the proposed

project. They must have agreed with my concern about the dangerous conditions because the County Traffic Department recently added additional "shark teeth striping" as I show here in this recent photo.

During the contested case hearing, the public was allowed to give testimony at the start of each day. Not once during these opportunities did I hear any public testimony in support or in favor of the application for Special Permit Application No. 12-138.

Any development of this magnitude is inappropriate for the proposed location. You have been given the authority to deny or approve this application for a special use permit. In the interest of the safety and well being of students and the community, it is my hope that such a request is denied. Thank you very much for your time.

GONZALES: Any questions for Dr. Lee Loy? Thank you. Mr. Mochida.

MOCHIDA: Good morning. My name is Ivan Mochida, and I'm building my home on Edita Street near the proposed school. I'm a small contractor and have been involved in building on properties that also require approvals by the Commission and Council. Thus, I'm familiar with the importance of working with the neighboring community. If I had known that the school was going to be built there, I would not build my home. I was hoping to live and retire in a peaceful residential community. With the school, however, all of this would be lost. The noise impact would be great. The traffic impact would be huge. The quality of life that I thought would be gone forever. In turn, this diminished quality would be flat in the reduced value of our properties. *It is certainly not fair to ram a land use with such a huge impact into a small residential community.* Don't get me wrong—I'm not against anything happening on the property. I believe that there are many uses that require Planning Commission approvals that I would be supportive of. Some of these uses would include a nursing home, small medical facility, and even a child facility. The impact of those kinds of use would be benign. Like my neighbors, we believe that schools are needed. We just believe that because of its huge impact, the site would be in the wrong location. It would be no different than having a COSTCO or KTA Super Market at this site. Good use, wrong location. Please help us by asking the applicant to find another location and be denying this request. Thank you very much.

GONZALES: Any questions for Mr. Mochida.

ONO: Question.

GONZALES: Yes sir.

ONO: Out of curiosity, do you know the number of vacant lots in that community?

MOCHIDA: I do not know, but on my street, I'm the only vacant lot right now which, my house is being built now.

ONO: Thank you.

GONZALES: Any other questions? Okay, thank you. We'd like to ask Michael Bishop, Wayne Kanemoto, Layne Novak, and Randy Riley to come up. Could I have you all raise your right hands, please? Do you swear to tell the truth before the Windward Planning Commission today?

TESTIFIERS: Yes.

GONZALES: Thank you. Use your microphones. State your name, where you live, and you will have three minutes. Thank you.

BISHOP: Good morning. My name is Michael Bishop. I'm a Kaūmana resident. Throughout this sorted action, there are two topics that have clearly come to define the foundation for this special use permit sought by Connections Schools and their associates—objection and speculation.

The applicant has speculated that the special use permit is the correct platform for the size and scope of change its plans will impact on the leased agricultural lot. The applicant also speculates its limited County water allotment should not restrict its Phase One build-out of barns, stables, dormitories, caretaker's residence, followed by Phase Two, money providing, of classrooms. The applicant blindly speculates safety for the children, workers, and visitors would be sufficiently addressed on a campus bound by hog wire, tightly surrounded by natural forest, narrowly restricting the only entry/exit half a mile away up a hill.

Objections by the applicant can be summed in a simple phrase, "how long has this process been going on." *As a community member of Kaūmana, I have speculated on whether this particular lot was the most suitable plot out of all of the sites the State and the applicant had access to and chose to review. I object to the thought that the County would be drawn into a State court over the exercise of County due process. And the Windward Planning Board, as the Windward Planning Board, object to speculation, provide sound guidance, and set proper precedence for our Islands.*

GONZALES: Thank you. Any questions for Mr. Bishop? Thank you. Sir.

KANEMOTO: Good morning. My name is Wayne Kanemoto, and I oppose the building of the Connections Charter School in Kaūmana. The applicant has not convinced the Kaūmana community, the hearing officer, and some members of this Commission that they should be awarded a special permit. From my perspective as an educator and administrator, there are tasks and information that Connections representatives have not done. The first one is the educational specifications of standards for facilities provides what I consider to be an overarching or critical factor. That is, to meet the needs of the community, this participatory process provides the means of involving educators and the community and instilling a sense of pride and ownership in their school. I believe that, that's what Connections missed--to get in the community, as evidenced by our testimony and our presence.

The other part is they had talked about needing 70 acres, but the selection, the site selection criteria specifies, oh, well is a guideline and for a high school with a thousand enrollment, they

would only need 50 acres. So, this, it doesn't make sense. They haven't justified why they need 70 acres for their property, for their school.

As a principal, I've faced similar situations. I understand what they are going through. Financially, as you've heard, charter schools have had problems financially being able to sustain and conduct their operations. And, I think what's missing here is that the priority is really for instruction, and not for schools for facilities. And when you have a phase development, what happens is that you have multiple campuses, and it impacts on your staff training, what we call articulation between grade levels because of separate campuses. So, it really doesn't make sense. There is—I think it's foolish, in my mind, it's foolish expenditure of their funds, their limited funds.

That's pretty much about it. Thank you.

GONZALES: Any questions for Mr. Kanemoto? Thank you. Ms. Novak, you're also speaking on behalf of Norine Okuhara and Donald Ikeda?

NOVAK: Yeah.

GONZALES: Okay, and she did promise to be mindful of our time constraints.

NOVAK: Okay, so who do you want first? Or do I do both?

GONZALES: *You can just do your thing.*

NOVAK: Okay. "Good morning Commissioners, my name is Norine Okuhara, and I lived on 1209B Kaūmana Drive for over 40 years. My home is right below where Commissions (sic) want to build their school. We, the community have voiced many concerns, i.e. water, traffic, etc. They, John Thatcher, Ted Hong and "their" people, always said that they have addressed our concerns. They have not followed, explained, or implemented what they said they were going to do. They have only talked about it, but we have yet so see any concrete plans of implementation. I, therefore, do not trust them because unless things do not, do not go their way, "oh, the community is against the students, etc." I have attended many meetings where by the students themselves told the committee members that the community was against them. We have always told the students in our testimony that we were not against the students per say but against the way they, the adults, have conducted their so-called open forum meetings, inviting the community members. As a retired teacher, this has really upset me.

I had also attended the meeting conducted by Judge Sandra Song. I feel that her judgment was accurate and just. According to John Thatcher, quoted in the Hawai'i Tribune Herald, he claims that Judge Song's conclusion was inaccurate. It was not inaccurate. She brought out all of the points that were pointed out during her hearings. I am not being biased because she favored the community. She could see that the community members were speaking sincerely and from their hearts.

Although I cannot be there for this meeting, thank you for allowing me to present my testimony.”

Next one is, the next one is from Donald Ikeda.

“Thank you for allowing me to provide a few comments on the applicant’s request for a special use permit. No one can deny that education is a fundamental need. No one can deny that a school that serves the needs of non-traditional and/or special needs students is a good thing. But also, no one can argue that any entity entering into an established community should tread carefully and make a whole-hearted and honest effort to be a good neighbor. This means a school, a business, or even another resident. When you come into a community, you must remember that you are the new guy and show respect for those who are there before you. No chest thumping, no bullying, or browbeating. Connections Charter School and its representatives have failed this miserably. If this were a test, the school officials and representatives would have D’s and F’s. Commissioners might also want to review their files and refer to all minutes of DLNR meetings regarding the transgressions of the school administrators and the results of the DLNR investigations that were necessary due to these transgressions.

I would like to ask that this Commission listen very closely to the concerns of the surrounding community and to listen to their statements regarding the ongoing actions, misrepresentations, and other un-neighborly acts by the school, its officials, and its representatives.

I would further ask that this Commission take time to read the applicant’s petition, all versions completed to date, very carefully, and if you have not already done so, take the time to research and confirm each of the carefully worded ascertations made by the school officials and representatives. This carefully crafted document is full of half-truths and unfulfilled promises, such as water, traffic mitigation, temporary housing, staffing, parcel size actually necessary for planned activities, etc.

I would like to suggest that the school and its representatives be held accountable on a regular and frequent basis if they are allowed to proceed. I would further suggest that unless proof can be made of the fulfil-, excuse me, fulfillment of promises and ascertations set forth by the school and its representatives, no progress be allowed until the promises and ascertations are fulfilled.”

Gotta read real fast. “I would like to highlight a few concerns that would cause me to think allowing the school to go forward without imposing strict conditions upon the school and its officials and representatives. My concerns are water credits, traffic mitigation. The dormitory was first explained to the community to be used only occasionally, so the occasional visiting foreign student or student groups would have a place to stay for a few days. This expanded into occasional use also by visiting faculty and other guests of the school. The dormitory usage is now further expanded into longer stays by multiple groups. It is easy to understand that the school intends to use the dormitory on a regular, if not, full-time basis.

The school and its representatives have stated that it will not use a septic system to dispose of its wastewater, human and animal waste, but instead will create a 12,000 square foot holding area to collect all the wastewater products and treat them environmentally. In the meantime, the residents in the surrounding areas will have, will be exposed to vermin, bugs, contamination,

disease, and odor. These unacceptable conditions will be increased when the planned livestock raising takes place.

Please keep in mind that the school admits”—oh, “admits that only 30 percent of its students will be”—oh.

GONZALES: Thank you. We all have Mr. Ikeda’s letter, too, so we can read it. Did you have something to say on your behalf or is that—

NOVAK: No—

GONZALES: Okay. Any questions for Ms. Novak? All right. Sir.

RILEY: Hi. My name is Randy Riley, and I live at 282 Edita Street. And I’m not against charter schools or any kind of education. I think it’s all good. I’m just against the location of this school. You’ve heard all the reasons. You’ve heard all the testimony. I know firsthand that, that intersection of Kaūmana Drive and Edita Street is very dangerous, and I believe the “shark teeth” were put there because of very bad accidents. My wife was in there. The traffic is—it will never, with the school going in there, it’s inadequate. I just hope that this Commission listens to this community and listens to the hearing officer’s ruling. That’s all I ask of you guys. Thank you very much.

GONZALES: Thank you. Any questions for Mr. Riley? Thank you all. I have one more on here. *Ming Peng? And if anyone else would like to testify, now’s the time to come sign up with the ladies over here. Raise your right hand, please? Do you swear to tell the truth today before the Windward Planning Commission?*

PENG: Yes.

GONZALES: Okay. State your name, where you live, and you’ll have three minutes.

PENG: My name is Ming Peng. I live in the Kaūmana area. I have testified and provided comments against the applicant previously. As a consequence, I was rewarded a subpoena by the applicant for the contested case hearing. I’m just a community member providing opinion. I’m no match against the skilled and highly trained attorneys representing the applicant.

I was asked on one of my previous statements if I were, if it referred to the full and completed build-out of the school, to which I answered yes, but I just want to add that I’m not only just against the full and completed build of the school, but I’m also against Phase One, Phase Two, Phase Three, for all the reasons that, you know, was discussed previously.

GONZALES: Any questions for Mr. Peng? Okay, thank you, sir.

ONO: Mr. Chair, before we proceed, can I ask for a two-minute break?

GONZALES: Sure, actually, if I could get a motion just to close the public testimony part, and we'll take a—take a break.

MOSES: I make a motion to close the public testimony part.

ISHIBASHI: Second.

GONZALES: All in favor?

COMMISSIONERS: Aye.

GONZALES: Are there any objections? Okay, bathroom break. Five minutes.

Chairman Gonzales called a recess at 11:26 a.m., and the meeting was reconvened at 11:34 a.m.

GONZALES: Okay, at this time, we're going to allow oral arguments. Do any of my fellow Commissioners, would anybody object to that? Is that okay? Are we going to let them come up and have their time?

ISHIBASHI: So moved.

GONZALES: Okay, I talked to both parties. They both said ten minutes should be more than enough, so we're gonna have Mr. Hong come on up, followed by I believe Mr. Fuke's going to represent Mr. Gomes. Then, probably Mr. Hong one more time.

HONG: Good morning, Mr. Chairman, and Members of the Windward Planning Commission. My name is Ted Hong, representing CBESS, and I'll be giving a brief oral argument this morning.

First, two procedural matters. One is the notice of the hearing today sent out by the Planning Department. I submit that the notice is insufficient pursuant to rules. Second, yesterday morning, in Civil No. 14-1-0082, Nishi vs. Board of Education, Judge Edwin Nacino in the First Circuit Court ruled that under Chapter 91, even though that there is a hearings officer who submits findings and recommendations to a full board, the full board still has to fall under Chapter 91 for contested case procedures, specifically Chapter—Section 91-9 regarding notice. Additionally, Judge Nacino ruled that the full board has to take evidence, witnesses, cross examination, the whole nine yards, with respect to a contested case hearing. Naturally, I disagreed with him but that's basically the ruling that's going to apply. We had cautioned the judge about ruling that way because that would now apply to all State boards and County commissions, and it would be duplicative in terms of not only do you have a hearings officer conducting a hearing, now the full board is actually having to conduct a hearing, and we thought that was an overreach, but that's the way the law is going to come down, and I submit for the record, when this goes up, that we've received insufficient notice under 91-9 of the Hawai'i Revised Statutes. And my understanding is you're only taking oral argument, and you're not going to allow us to call witnesses, present evidence, cross examine. Is that correct, Mr. Chairman?

GONZALES: Correct.

HONG: Okay. Thank you. So I can proceed with my oral argument this morning after the administrative issues.

The authority, why we're here today, is governed by the County Code, the General Plan, Hawai'i Administrative Rules, and the Hawai'i Revised Statutes. There are organizations, agencies, individuals, trained professionals, and planning land use management development that have gone through this project and vetted it and approved it. Grounds for the Special Permit, we've discussed this previously, under Chapter 205, the Hawai'i Revised Statutes, and the Office of State Planning has agreed after looking at this project, that our project meets the goals and requirements under the law. It articulated in the record what it believes that this is an unusual and reasonable use. These are trained professionals in the area of land use, have looked at a lot of projects. That's their job. In terms of the Planning Department, again, trained professionals, charged with responsibility of not only interpreting but enforcing the Zoning Code, the General Plan, and you have two separate Planning Directors agreeing with this project--that we fulfilled all the requirements of the Planning Commission Rules and General Plan.

Which brings us to basically the primary objections that this project has faced. The first one is water, and you've heard about it a lot at these hearings. And some representations were made about the lack of water with respect to this project by the hearings officer. So, you would expect in terms of the hearings officer's decision that the Water Department would have some objection. *And this is what the record says—that the Water Department has no objection to the proposed application.*

And in terms of the proposed or amended conditions 3 and 4, do you agree with those particular conditions, and the Water Department did agree with them. That's from Kurt Inaba in terms of his testimony under oath for the first time with respect to some of these proceedings. So, in terms of the water or the lack of water, the question is given this record, how does anybody reach the conclusion that there wasn't, there was insufficient water.

Let's talk about the next issue that always seems to plague this project which is traffic. And you see the testimony of not our expert witness because you could, anybody could say that our expert witness is biased because we were paying for the expert witness, which is Mr. Rowell, but this is Ron Thiel, from the County of Hawai'i, who looked at this project. This is what his testimony was under oath. Were there any deficiencies or shortcomings? No, he didn't see any. In your opinion, based on your experience in terms of Mr. Rowell's TIAR, did it meet all the professional standards and guidelines? Yes, it did.

And, I'd like to address the third point. And currently, the school only has one point for entrance and exit. In your professional opinion, should they have a second point for exit, say a single entrance point and a different exit point, Mr. Thiel's answer is pretty clear. You have again an engineer, traffic engineer, very experienced, you look at the record. He talks about the projects he's worked on and his qualifications, and that's his conclusion. Unchallenged. There were no

witnesses brought by the intervenor. There were no witnesses to challenge at all any of the findings by Mr. Thiel or Mr. Rowell, which brings us, brings me to the next point.

There were a lot of questionable practices that finally came up or were exposed in the hearing. And that's because the witnesses were not only placed under oath, as they all are here sitting at the table, but now they're subject to cross examination. And so, basically, in terms of all the overwhelming testimony you've received concerning traffic from Mr. Melvin Yokota, what turns out, happens is under oath, he's actually an electrical engineer. He's actually never done a traffic report or submitted a traffic report. His firm that he works with does big electrical systems. The closest he's ever gotten to any traffic report was designing the electrical system for an intersection with lights. Yet, when you look at the testimony that you've gotten from Mr. Yokota, that certainly doesn't comport with that impression. He gives you a different impression, but when he's finally examined under oath, he had to reveal he's an electrical engineer. Followed no industry standards with respect to traffic.

Mr. Yoshioka, former judge Mr. Yoshioka. The suggestion that he was acting in an impartial manner for these proceedings is false. He actually tried to become an intervenor half way through, which was rejected by the hearings officer appropriately. What also came out in his cross examination was that he's been having a law firm in Hilo ghostwrite some of the things that he's been submitting to you as a Planning Commission which, as Mr. Heaukulani knows, may be a violation of the rules of professional conduct for lawyers. There's a downtown firm that's not only been writing questions for Mr. Yoshioka but also the material that he submitted to the Planning Commission. And what Mr. Fujioka—Yoshioka—also said was that Mr. Fuke gave *him information that he included in his submissions to the Planning Commission and to the hearings officer*, which brings us to Mr. Fuke.

During that particular hearing, Mr. Fuke gave contradictory, misleading, and inaccurate statements. He denied giving any information to Judge Yoshioka. And also, he represented that no school in the State of Hawai'i or certainly on this island was put on Agricultural land. When we pointed out under cross examination that Kamehameha Schools in Kea'au has been on Agricultural land and the predominant part of Kamehameha Schools in Kea'au is on Agricultural land, he just said, I stand corrected. Now, that would be fine if you have let's say a lawyer commenting about a traffic issue. You know, it's a lay opinion. But, you have somebody who used to be the Planning Director here for the County of Hawai'i. You have somebody who is a trained professional in planning. You have somebody who makes a living, a very good living, off of land use management. So when he says there, and stands at the podium to the Planning Commission and tells you that no school has been put on Agricultural land, under cross examination, he had to admit that his prior statements were false.

And those are some of the questionable practices that these individuals have been bringing up throughout the course of this proceeding. Unfortunately, we couldn't subpoena everybody under oath or get them under oath. They're people here, and some person, one individual in particular, who was actually actively ducking our process server. But she knows who she is.

In terms of the reasons for action, we're requesting that you as a Planning Commission reject the hearings officer's decision. It lacks any legal authorities or legal citation and omits key

evidence. There's a lack of consideration to any of the expert testimony. On the part of the hearings officer--the overwhelming amount of information and evidence was also omitted by the hearings officer. The Planning Director has highlighted or is asking the Planning Commission to review the important information before making this decision on the Special Permit and if you deny the application, to be very specific in terms of why you're denying it.

The other thing in terms of the hearing, the intervenor, Mr. Gomes, failed to submit any sworn expert witnesses, so when the hearings officer comes to the conclusion that somehow this permit application should be denied because it overburdens governmental agencies, that's pretty, that's a pretty important statement. I think everybody needs to take a look at that very carefully. So, if it's going to overburden any government agency, it must be overburdening the Water Department, and there must be some kind of testimony—

As part of the County of Hawai'i's emergency practice procedures, at 11:45 a.m., the Civil Defense sirens went off, and the meeting was briefly interrupted by a safety message over the room speakers by Brandon Gonzales, Deputy Director of the Department of Public Works.

Okay, so I'll get back to my point. One of the main considerations, main points the hearings officer makes is that our application is going to overburden governmental agencies. And the question is, where's that going to come from? Is the Water Department being overburdened by any of the amended proposed conditions? No, there's no evidence in the record of that. How about the Traffic Department of the Department of Public Works? Are they going to be overburdened by any of the amended terms or conditions concerning our proposed application? No, there's actually nothing in the record about that either. So, what about the Planning Department? Maybe the Planning Department was concerned about being overburdened by some of the amended terms and conditions that we've been proposing, and—no, you don't have that either. How about the Planning Director? No. How about DLNR? No. Board of, what about BLNR? No. There is no evidence. There is no testimony. There is no submission indicating that with respect to the proposed amended terms and conditions of proposals, in terms of our application, that it would negatively impact any County or State governmental agency. Yet, that's one of the reasons why the hearings officer chose to give us an unfavorable recommendation. When, as lawyers, we make that kind of a broad statement, you would expect it to be supported in the record and it isn't, which makes my job easier later on. Provisions in the Planning Commission's rules and procedures, so what do you do after this? After today? What kinds of things or alternatives does the Planning Commission have? Obviously, you can accept or reject the proposed Findings of Fact, Conclusions of Law. You can reopen the docket and take further evidence, or may make such other disposition of the case that is necessary in the circumstances given the lack of support in terms of evidence and testimony at the hearing. I think the only reasonable—the only intelligent choice that you can make—is actually to reject the hearings officer's report, and actually approve the application. Despite the fact that you may not like it; despite the fact that there are friends sitting out there in the audience who have time and time again opposed this project simply because they don't want it in their neighborhood; despite the fact that they've testified that perhaps they don't like kids running through their neighborhood. It may seem uncomfortable, but all of you took an oath to support the laws, and the Constitution of the State of Hawai'i, and the County of Hawai'i. You sometimes have to follow the law even though personally you may not like what you're doing. That's what all of us

have to do. So, I submit that that the Planning Commission should reject the hearings officer's decision and approve the application. Thank you.

GONZALES: Do any of the Commissioners have questions for Mr. Hong at this time? Okay.

FUKE: Good afternoon Mr. Chairman—

GONZALES: Good morning.

FUKE: --and Members of this Commission. My name is Sidney Fuke. I'm over here as an advisor to the intervenor, Mr. Ted (sic) Gomes. So, he had asked me to, if I would assist him in providing the summary, you know, this portion here. So, with your indulgence, I'd like to go through, using this podium, because you know I, I have a hard time looking at both sides. Anyway, so, I think on the process like the staff had explained it so I'm just going to skip through that. One thing that Mr. Gomes and I guess, you know, he was really representing the community for the most part. It's just that noting that as was evident by today's testimony, that for the most part, people were not questioning the nature of the school itself but they had some concerns about the appropriateness of the location. And as pointed out by the hearings officer's report, is it's the applicant's and not necessarily the community or the intervenor's burden, responsibility to have the burden of proof to show how the request is consistent with the guidelines of the Special Permit and that has to be done by preponderance of evidence. So, the statement that you know the intervenor did not provide corroborating witnesses and all that stuff, bear in mind that, that burden really rests on with the applicant themselves. The critical thing is *like you know they make reference to the General Plan, sure—let's look at the Land Use Pattern Allocation Guide Map*. There's no question that the property is in the Low Density area, but having a property within the Low Density area does not in and of itself suggest that it should automatically be approved. You could have properties that, within the Low Density area and sometimes it says commercial uses are okay, but you may need to go through the rezoning process. Or you may need to go through a Use Permit process. So, just because the map shows that this is an area for Low Density and schools are, you know, should be automatically permitted, it's not true.

The very fact that earlier, the, you know on your earlier application this morning, you had a request for a, I guess a body fender shop up in the Puna District. If you check the General Plan map, it's not going to show you Industrial, so then the map is basically to serve as a guide. So, then the question becomes if the General Plan as a guide then what, you know the map portion, then what is, what are the more critical components. The more critical components become, become the policies portion. And, here, I just selected certain portions, and let's just look at what this says. In public facilities, it says, encourage the provision of public facilities that effectively service the community in keeping with environmental and aesthetic concerns of the community. I gotta emphasize, the real emphasis is in community.

And in the land use portion again, it talks about encouraging the development and maintenance of communities meeting the needs of its residents. The Use Permit, I put the use permit criteria because even if, even if the property were in the State Land Use Urban District, it was zoned Ag or zoned Residential, you still needed to have a Use Permit before a school could be established.

So, this is what the County Zoning Code says about a Use Permit. It shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character, to surrounding properties, and shall not unreasonably burden public agencies, etc., etc. If you look at the Special Permit criteria, it still talks about, does not adversely affect surrounding properties. Talks about public, burden to public agencies, substantially alter or change the character of the land and unusual conditions. The common theme you know between the General Plan, the Use Permit, and the Special Permit in terms of the kinds of considerations that go into the decision-making process, really relies, you know really relates to the community. Now, what are Jeff and the rest of the community are saying about why it should be denied is here on the question of the water. Look at the application itself. And that's critical. The application says that what's available, they got 4,200 gallons per day. How much is required per student? Sixty gallons per day. How many can that serve? Seventy students. What is the total requirement for the school? And bearing in mind, the school they're talking about is like about 400 students, 70 full and part time employees, a gym, a cafeteria, etc., etc. So, if you got only 4,200 gallons of water, and your total requirement is 26,100 based on the application now, that represents the amount of water you have today is only 16 percent. So, then the question becomes true, the consultant did testify that their alternative design scenarios you can reduce the water use, but still there was no answer as to how the potable water needs for the entire development was going to be provided. True, no construction plans are needed, but there is a need to represent how you're going to provide water for the balance of the project. Whether you're going to development wells, or you're going to work something together with the Water Department, but all it said in the report was to investigate other sources of water to support the project. This is in their application.

So essentially what you have is like you know in terms of addressing the water, it's a kicking—kick the can down the road—kind of approach. It's like oh, we don't need to think about it but you know at some point in time when the need comes about, we'll talk about it. We'll discuss it. But that's the type of analysis that's called like segmentation. If you have like a traffic study, are you going to evaluate the traffic study only by phases? If you have an archaeological requirement, you're going to do an archaeological inventory survey only of the lower portion and not the entire area? There is an obligation to look at the entire property—that's what you call like the segmentation. So the EIS, based upon two Supreme Court decisions, they basically shunned the whole—they developed the notion of segmentation. They said you got a project? You've got to look at its totality. You cannot take it in segments.

So, the question then, basically now, if you look at their Exceptions, and if you ask yourself today then, they said they're going to build it in phases. But do you know now—can anybody clearly state what will go in the first phase, knowing that you only have 4,200 gallons of water. They represent that they may have like a high school, they might not have a gym, they might not have a cafeteria. But even at the high school, it will not be sufficient to accommodate all of the water that they have. So, I think it's important to know that if you, if a decision is going to be made, you need to know exactly what you're approving, and I submit to you at this point in time, you don't know really what's going to be coming in on the first phase. You might have an idea as to the total project, but you don't have an idea as far as how the infrastructure requirements for the total project is going to be addressed.

The other thing, too, is like you know the police, the police comment, it's kinda clear, you all have it on the record. This is what the Police Department said. The development is being placed in a residential area that will likely affect the quality of life for residents that border this proposed site. There will be an increase in noise, crime, and traffic.

The applicant's provided discussion on traffic, but there was no evidence to address specifically the quality of life, no evidence to discuss the crime, no specific evidence to talk about noise. So unlike the areas like traffic and archaeology, they did have specific studies to that. But ask yourself, if you look on the application, or even through the contested case process, there were no technical studies that dealt specifically with noise and social impact. And the noise component is critical because noise—you're relating to like traffic, you're relating to the activity itself, and the impacts to the community. True, on the traffic, the TIAR does state that the level of service operates on an acceptable level. As Mr. Hong had indicated, I'm somewhat familiar with that kind of standards given my profession—yes, I can agree with that. But you know what? Seventy percent of the community still disagrees with that because they say, they question first of all, the date of the study. The data was compiled in May of 2009, almost four years ago, and even the traffic consultant conceded that the University, the KSBE schools and the high school had ended and there was no examination of other streets kind of approximate to there, particularly Chong Street.

Phillip Rowell, the traffic consultant, he did concede that he was aware that the schools were closed, but he concluded rightfully so that may—not rightfully so—but he concluded that, that should not affect his analysis or conclusions. He also said that he was not aware, however, of a number of residential developments in the Kaūmana area and subdivisions that would utilize Edita Street. But, he then continued that based on his experience, if the application were to be considered by the State Land Use Commission, an updated TIAR would probably be required for two reasons. The traffic counts were done four years ago, and the list of related projects and background forecasts needed to be updated. So the question, then, I would have of this Planning Commission—you have the authority to deny. You also have the authority to recommend its approval. Why wouldn't updated traffic be appropriate for the State Land Use Commission and not this Commission?

Ron Thiel, the County Traffic Division. Admittedly, he concurred with the TIAR but if you go through the transcript, one of the things he said was that having traffic counts after the University, community college, and Kamehameha Schools ended could have made a difference in the TIAR. And he actually even added, it actually could make it even worse.

So what's—from the community standpoint, and if you look at the General Plan policies, the Use Permit, Special Permit criteria, as I mentioned earlier, they all focus on the notion of community. Now, the former Planning Director's testimony regarding like how this project could be very supportive you know of the community, her comment was that more and more students will come if you build like more and more, you know like, the field of dreams type, you know, more and more students will come and then they will reside in South Hilo because that has been the trend. So, the question that Jeff and the community is raising is that well, who is the community then in this particular instance. Do you define the community as Kaūmana? Or do you define the community as being the regional South Hilo? So, at the same time there was no evidence

provided by the applicant to show you know such as, to show the demand, you know whether it was studies from the survey's that they may have taken, you know, within the particular community area, or whether there was a statement from the Department of Education to show that yes, there is a need for additional educational facilities over and beyond the DeSilva School, Kaūmana Elementary School, Hilo High School, and Hilo Intermediate School.

So, in summary, the community is saying that there are adverse impacts. At least 85 percent of the residents within the Pacific Plantation Subdivision and nearly 70 percent within 500 feet of the proposed development, they're all saying that the impacts are going to be adverse. So, in summary, the conclusion was that the location is not appropriate because of adverse impacts to the community, it will definitely change the character of that area, inadequate infrastructure, and based upon the policies-- *[12:03 p.m. phone ringer went off.]* My time's up. --Is not consistent with the General Plan so essentially then in summary for these reasons and more, as found in the intervenor and the hearing officer's proposed Findings of Fact and Conclusions of Law, we believe that the request does not meet the test for a Special Permit and, thus, should be denied.

GONZALES: Commissioners, any questions for Mr. Fuke?

ONO: I have several comments, questions that he could clarify for me—

GONZALES: Use your microphone, please.

ONO: I have some questions. What was that report by Mr. Kanemoto about the ratio of students to campus acreage of the high—he was referring to the high school?

FUKE: I really don't know. That's Mr. Kanemoto's question.

ONO: Okay, I think I wanted that clarified, but okay. Would it be appropriate for Mr. Kanemoto to clarify?

GONZALES: You want to come up for a second, Mr. Kanemoto? Any questions for Mr. Fuke?

ONO: When the developer developed this community, I guess the specific whatever the title is, I'm not familiar with construction or development of any, any subdivision, but would the developer plan on the infrastructure? The water, the road, is that part of the planning so that he would anticipate the amount of traffic for the development of the subdivision and the use of water for the subdivision? I guess what I'm looking at is when the community is fully utilized, all of the residents' lots are developed, would the size of the water pipe, I guess--was it 8 inch? Would that be a flexible amount in terms of say, we can accommodate more than the fully developed community and the road. Would that—would the road be—what would be the estimated surplus of water I guess it would be.

FUKE: Okay, I don't speak for the Water Department but to the best of my knowledge, the way that I understand how their policy works, like in the subdivision that, that a, Pacific Plantation Subdivision, for example, the Water Department would be looking at whether there was adequate-- the source was adequate to service like, you know if they have like 100 lots, whether

the source is adequate to service the 100 lots in that area. And if the source is adequate, then, they would say fine, you know, you can develop the subdivision but you would have to provide maybe this size pipeline, you know that going up on Edita Street and Mele Manu Street or whatever, and the cross streets or whatever, and then, that's how the water is provided.

If you're going to go through the rezoning process, say if that property, you know that Mele—you know, that Pacific Plantation Subdivision was maybe zoned for 20 acres, and they wished to have like one acre lots, then you have to go through the rezoning process through this body here. And, at that time, the Water Department is going to evaluate to see whether there is sufficient water or not.

It's like in this situation here with the proposed school. Because they don't—they need to get the right to develop it, the Water Department said you can develop, but you know you're going to be constrained to only 4,200 gallons of water. In other words, seven units of water, and that's all you have. So, if anybody within that area today, putting the school aside, if a person has like ten acres of land, and is currently zoned for one acre, the Water Department would say, the most we can give you is only seven units of water. In other words, you can have seven lots. That's based upon the source. So, the question that we were raising, I guess the community was raising, is that because they have only 4,200 gallons of water, and they need to have you know considerably more than that, the question is how is the additional water going to be addressed.

ONO: Thank you.

GONZALES: *Okay, if you had a question for Mr. Kanemoto, you know, we need to close the public part of the hearing, so make it direct, and get your answer and so we can move on—did you have a question?*

HEAUKULANI: And I've got a couple of questions for Mr. Fuke too so—

GONZALES: --Okay—

HEAUKULANI: --but I'm okay with—

GONZALES: I'd like--if you have a question for him, let's ask him—

ONO: Oh no, I'm sorry, yes—you state in your testimony, in your testimony yeah, kind of a ratio of number of acres per high school campus?

KANEMOTO: Right, it's from the educational specifications, standards for facilities, and it's section 203.3, site selection criteria, elementary school with a minimum of 500 enrollment. The suggested guideline is twelve acres. For a middle school, intermediate school, with a minimum enrollment of 600, eighteen acres. And for a high school with a minimum of a thousand student enrollment is fifty acres. Does that answer your question?

ONO: Yes, could you go over the figures again, please?

KANEMOTO: Okay, it's in my testimony but for an elementary school, minimum enrollment of 500 on twelve acres; middle school and intermediate, minimum enrollment of 600 on eighteen acres; and for a high school a minimum of a thousand enrollment, fifty acres.

ONO: Okay.

KANEMOTO: Okay?

ONO: Thank you.

GONZALES: Thank you. Charlie.

HEAUKULANI: Yeah, I actually had a question for both of you gentlemen. Since you both have used the same phrases, I'd like to get an idea, and in fact, the question's already asked, how do you define community. Our rules don't talk about community, and I'm not sure that I'm comfortable with even limiting it to South Hilo, but am I correct that both of you gentlemen define community as the immediate, adjacent area?

KANEMOTO: I do, yes.

FUKE: I do also because it's like--it's kind of tied in with some of the criteria, you know, the guidelines because it defines community in relation to adjoining property owners as well you know, in terms of the impact.

HEAUKULANI: Agree that our criteria does talk about the effect on surrounding properties—

FUKE: Correct, yeah.

HEAUKULANI: But, what we're really looking at is whether this is an unusual or reasonable use of land situated in the Agricultural District, not in any one community regardless of how you define it. And, sir, I had a question for you. In referencing the burden of proof, you did not mean to suggest that the community, however that's defined or the intervenor, had no burden of proof of persuasion in the contested case hearing?

FUKE: No, I did not.

HEAUKULANI: Okay, so you'll agree that, while the applicant carried the initial burden of proof, that there—once that minimum criteria is reached wherever that is—that opposing views are required to provide at least some burden of proof or burden of persuasion?

FUKE: I don't know. I'm not an attorney, so I'm just kind of, I won't be able to answer that question.

HEAUKULANI: I understand, but you or your client did make the argument. I'm just trying to figure out where they're coming from. I just don't want you to leave open the idea that only the

applicant has a burden of proof or a burden of persuasion in these proceedings. Would you agree with that?

FUKE: I agree.

HEAUKULANI: Good, fair enough. Thank you.

GONZALES: Thank you, Mr. Fuke. Mr. Hong?

HONG: Good afternoon. I'll be very brief. I think one of our country's greatest presidents, Harry S. Truman, once said if you can't convince them, confuse them. And I submit that Mr. Fuke and his client are trying to confuse you. He's trying to confuse you by telling you that in terms of the burden of proof, as Mr. Heaukulani pointed out, only and solely rests on us when that's not what happens. What the burden of proof basically says is, you look at the scale, and if it tips a little in your favor, then, you've met the burden of proof. There are different burdens of proof in law, clear and convincing evidence beyond a reasonable doubt, criminal court, but all it says is that the scale tips a little bit in your favor, then, you've met your burden of proof. What that also means is that if you provide testimony on a particular issue, you've met that burden of proof unless they can show a countervailing testimony. Testimony that comes in opposition to that. Then, you've kind of gotta weight it. Look at their credentials, who's more credible, who's not more credible. In this case, with respect to water, unchallenged. No witnesses to support that we lack water. There are no witnesses to support in terms of the Water Department's recommendation that it was inappropriate. We've met our burden of proof on the water issue.

In terms of traffic, they're trying to confuse you. They feature certain highly selected excerpts of Mr. Rowell's testimony. What Mr. Thiel actually testified was with respect to UH and DOE being out of school at the time, was that when he looked at Mr. Rowell's numbers, and the calculations he went through, that he estimated that Mr. Rowell was—erred to cautiously on the conservative side, meaning he was factoring in a higher load than he needed to, to show. That curiously was left out of the presentation.

In terms of the—Mr. Kanemoto's testimony, and he testified this at the hearing too, these are DOE standards. This applies to, you know, brick and mortar schools. It doesn't apply to charter schools. You know, it's comparing again apples to orangutans. They don't match. They don't, one—the DOE, and I know this is hard to understand, that the DOE regulations regarding schools and sizes and the height of a toilet from the ground depending upon the school, do not apply to a charter school, and that was very clear in terms of the testimony. So, saying to you, that those DOE standards apply—please—put that on the record if you're going to deny our application. I would love that to be on the record.

In terms of the definition of community, I think Mr. Heaukulani is absolutely correct. The General Plan does not limit the definition of community to a couple of streets within rock throwing distance. It's much broader than that. I live in Kaūmana. I'm part of the Kaūmana community. I live up on Puhili in the old Wilder Subdivision. That's part of the community. So the question is, under the General Plan, what are you going to look at with respect to community.

It is not those two streets. It's too limited. He's trying to confuse you—that they're the only experts or appropriate testimony in this area.

The major concern that I want to point out before I close today is we're only asking that you hold us to the same standard that any other person or organization comes through with respect to their particular program—Mr. Fuke's other clients, anybody else's other clients that come through to present testimony, hold us to that same standard. Are you requiring any other developer to come in and say we—this is the exact plan down to the stone. This is the exact water usage down to the last quart before you approve this, before you approve an application. Because if you're not holding us to the same standard, that's on you. That's not on us. So, in conclusion, we're asking that you reject the hearings officer's decision. There's a lack of evidence to support her speculative conclusions; she misinterprets the preponderance of evidence; misapplies some of the standards that are applicable. We're asking you to approve our application. Thank you, Mr. Chairman and Members of the Commission.

GONZALES: Thank you, Mr. Hong. Okay, for our Commissioners, we have a couple other people that we haven't had a chance to talk to, if any of you are interested. Would anybody like to talk to Ms. Self regarding her written exceptions to the hearings officer's findings. Okay, and we actually have Ms. Song here today. None of us were included in the contested case hearing. Would anybody like to speak to Ms. Song?

ONO: Mr. Chair, is it proper for me to ask Ms. Song if she has any comments about Mr. Hong's comments?

GONZALES: Good question. Would you like to ask her?

ONO: I would appreciate it.

HONG: Mr. Chair, may I? I'm going to—just for the record, I'm going to object, you permitted oral argument. There's no provision in the rule allowed for the hearings officer to either supplement her Findings of Fact, Conclusions of Law or amend them. I think this is going beyond the rules so just for the record, my client objects.

GONZALES: Noted. Okay, no questions for Ms. Song. Commissioners, if we're going into executive session, I think now would be the time. Oh wait, I'm sorry, hold that thought.

MASUNAGA: I just wanted to make a comment regarding the notice HRS 91-9 that Mr. Hong had mentioned. We—the Planning Department did give notice to the applicant, and it was by letter dated April 7, 2014. He was notified that regarding this tmk, regarding the request to develop a K through 12 charter school campus with dorm facilities and related uses, and this was the applicant, Connections New Century Public Charter School and Community Based Education Support Services. And, the letter, in part, did inform him that it was scheduled for a public hearing by the Windward Planning Commission beginning 10 a.m. on Thursday, May 1st, 2014, at the County of Hawai'i Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, and that there would be comment of the application at the hearing, and any written comments prior to the hearing. So, and, it was signed by the Planning Director, Duane Kanuha.

And then they had also, if you had any questions regarding this notice that they were supposed to contact Jeff Darrow at the Planning Department, 961-8158. So, we do have a copy of that in our file, and I just wanted to let the public and the Commissioners know about that. Thank you.

GONZALES: Okay. If we're going into executive session, now would be the time for the motion.

ONO: So moved.

GONZALES: A second on that?

ISHIBASHI: Second.

GONZALES: Commission to go into executive session. Motion by Commissioner Ono seconded by Commissioner Ishibashi. All in favor?

COMMISSIONERS: Aye.

GONZALES: Anybody opposed? Reason for executive session, to consult with our Corporation Counsel on, pursuant to Hawai'i Revised Section 92-5(a)(4) to consult with Deputy Corporation Counsel of issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. All in favor.

COMMISSIONERS: Aye.

GONZALES: Any objections? Okay, thank you. Now we're going to have to clear the room and take out any recording devices with you. Thank you.

At 12:20 p.m., it was moved by Commissioner Ono and seconded by Commissioner Ishibashi that the Commission go into executive session to consult with its attorney regarding questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities, pursuant to Hawai'i Revised Statutes Section 92-5. A voice vote was taken of all Commissioners present, and motion carried with five aye votes.

At 12:23 p.m. the Commission went into executive session. At 1:13 p.m., it was moved by Commissioner Ishibashi and seconded by Commissioner Moses that the Commission go out of executive session. A voice vote was taken of all Commissioners present, and motion carried with five aye votes.

The meeting was reconvened for regular session at 1:16 p.m.

GONZALES: Okay, the Windward Planning Commission is out of executive session, and we're going to continue with our meeting. Right now, I'm going to ask my fellow Commissioners. I need a motion to take care of a little housekeeping issue.

HEAUKULANI: Mr. Chair, you're talking about the—taking care of the record?

GONZALES: Yes, please.

HEAUKULANI: Yeah, I think we do need to do some housekeeping. There's been quite a bit of testimony, evidence, and the record of the proceedings below. That's all gotta be part of the record so my motion would be to make part of this proceeding, the evidence, both documents and testimonial, a part of the record of this proceeding.

ISHIBASHI: Second.

GONZALES: Any discussion Commissioners about that? Let's take a roll call on that one, Jeff.

DARROW: With that, we'll take the roll call. Commissioner Heaukulani?

HEAUKULANI: Aye.

DARROW: Commissioner Ishibashi?

ISHIBASHI: Aye.

DARROW: Commissioner Moses?

MOSES: Aye.

DARROW: Commissioner Ono?

ONO: Aye.

DARROW: And Mr. Chairman.

GONZALES: Aye.

DARROW: The motion passes five to zero.

GONZALES: Okay, now I'm going to ask for my fellow Commissioners if somebody can give me a motion whether to approve or deny, and from there, we're going to take it into discussion amongst ourselves, I believe. And, this may take a minute or two for everybody to get in order so bear with us.

ISHIBASHI: Brother Chair.

GONZALES: Yes sir, Mr. Ishibashi.

ISHIBASHI: I would like to make a motion in regards to this—to uphold our hearings officer's recommendation and submit a denial to the Land Board. I make that motion.

GONZALES: Motion to deny. Do I have a second?

ONO: Second.

GONZALES: A motion to deny by Commissioner Ishibashi, second by Commissioner Ono. Okay, Commissioners, discussion. Here's our—here's, if you have something to say, to address anyone, to address each other, this is our chance.

ISHIBASHI: Brother Chair.

GONZALES: Mr. Ishibashi.

ISHIBASHI: Thank you. Very contentious issue so I just make a couple, couple comments.

The glory of God is the intelligence of man. Educating our students was never an issue on this. We all agree on that so that's the common ground on, on this permit here. I hope as we move on after this that we can mend the fences. There's a lot of accusations going on between both sides, and I still don't think it's gonna end any time soon, but I think that the corrections has to be made, so I agree with our hearing officer's findings. We decided to go out and hire a hearings officer to make the decision and investigation for us as a commission. And, I will stand by her, her decision, based on what is written. I'm concerned with the wastewater. The septic system, and going into the Caves, and all of that is unclear. And we had insufficient supply of water for the students and faculty. That's very important. That issue I had was on the traffic, too, so—and again, if it's---the report is good enough for us, but not good for the Land Board, then we gotta update that traffic studies also. So, I agree with the hearings officer's findings on this.

GONZALES: Thank you, Chairman Ishibashi. Any other discussion? I'd like to say a couple things. I—this is hard for all of us. Educating our children is a big job, and we appreciate it. My son actually graduated from a charter school, and if it wasn't for that charter school, he probably wouldn't have turned out like he did. He turned out pretty good. So, it's hard either way. I mean, we have a community here that feels impacted, we have children that need to be taught. I just hope however this turns out, in the end, we can all work together and come up with you know, a solution where our community is happy, our children get taught. You're all good people. All of you.

HEAUKULANI: I start getting uncomfortable when we start getting away from the four corners of our governing documents. The question for me in this proceeding was whether the proposed use is an unusual and reasonable use of the land situated within the Agricultural District. The idea that it's unusual isn't disputed. I guess so, when I get down to it, my real issue was whether this is a reasonable use. And not reasonable use of Kaūmana land or not reasonable use of South Hilo land, but reasonable use of land in the Agricultural District. I start getting concerned when we start adding to that phrase, and when we start making that definition mean that proposed use has to or has to not specifically service the needs of the immediate community. I am very troubled by that though reasonable minds can differ on this so I just think we need to be aware of the slippery slope when we start adding to our governing rules and statutory parameters.

GONZALES: Any other discussion, Commissioners? Okay, Mr. Darrow.

DARROW: Thank you, Mr. Chairman. Just to clarify the motion. The motion is to accept the hearing officer's report and to deny the Special Permit request. Correct?

ISHIBASHI: Correct.

DARROW: With that, we'll take the roll call. Commissioner Ishibashi?

ISHIBASHI: Aye.

DARROW: Commissioner Ono?

ONO: Aye.

DARROW: Commissioner Heaukulani?

HEAUKULANI: No.

DARROW: Commissioner Moses?

MOSES: Aye.

DARROW: And Mr. Chairman.

GONZALES: Aye.

DARROW: The motion passes four to one.

GONZALES: Thank you.

The discussion ended at 1:24 p.m.

Respectfully submitted,



Sarah Y. Hata-Finley, Secretary
Windward Planning Commission

RECORD OF VOTING

**WINDWARD PLANNING COMMISSION
COUNTY OF HAWAII**

DATE: 5/1/14

APPLICANT: Connecticut / CBESS

ACTION: *Voice Vote*
All in Favor
Vote MOVED Moser SECOND Ishibashi

- APPROVE AS RECOMMENDED BY PLANNING DIRECTOR
- APPROVE WITH AMENDMENTS
- DENY
- CONTINUE/DEFER
- OTHER/REMARKS Motion to Close
Public Testimony

COMMISSIONERS: AYE NO EXCUSED ABSTAIN ABSENT

HEAUKULANI, Charles M.					
HENKEL, Gregory					
ISHIBASHI, Wallace					
MIYASATO, Myles					
MOSES, Raylene					
ONO, Stephen					
GONZALES, Ronald					

SCANNED
MAY - 7 2014
By: _____ 4289

RECORD OF VOTING

**WINDWARD PLANNING COMMISSION
COUNTY OF HAWAII**

DATE: 5/1/14

APPLICANT: Connectors / CBES

ACTION: MOVED _____ SECOND _____

*Voice
Vote
All in
FAVOR*

- APPROVE AS RECOMMENDED BY PLANNING DIRECTOR
- APPROVE WITH AMENDMENTS
- DENY
- CONTINUE/DEFER _____
- OTHER/REMARKS Executive Session

COMMISSIONERS: AYE NO EXCUSED ABSTAIN ABSENT

HEAUKULANI, Charles M.					
HENKEL, Gregory					
ISHIBASHI, Wallace					
MIYASATO, Myles					
MOSES, Raylene					
ONO, Stephen					
GONZALES, Ronald					

SCANNED
MAY - 7 2014
By: _____ 4290

RECORD OF VOTING

**WINDWARD PLANNING COMMISSION
COUNTY OF HAWAII**

DATE: 5/1/14

APPLICANT: Connections / CBESU

ACTION: **MOVED** Heaukulani **SECOND** Ishibashi

*Motion
Passed
S-D*

- APPROVE AS RECOMMENDED BY PLANNING DIRECTOR
- APPROVE WITH AMENDMENTS
- DENY
- CONTINUE/DEFER _____

OTHER/REMARKS PUT ALL RECORDS, INFORMATION, TESTIMONY up to THIS point into record/evidence

COMMISSIONERS: **AYE** **NO** **EXCUSED** **ABSTAIN** **ABSENT**

HEAUKULANI, Charles M.	✓				
HENKEL, Gregory			<i>excused</i>		
ISHIBASHI, Wallace	✓				
MIYASATO, Myles					
MOSES, Raylene	✓				
ONO, Stephen	✓				
GONZALES, Ronald	✓				

SCANNED
MAY - 7 2014
By: _____

RECORD OF VOTING

**WINDWARD PLANNING COMMISSION
COUNTY OF HAWAII**

DATE: 5/1/14

APPLICANT: Connections New Century Public Charter School / CBESS

ACTION: MOVED Ishibashi SECOND Ono

*MOTION
PASSES
4-1*

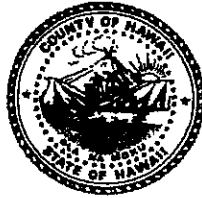
- APPROVE AS RECOMMENDED BY PLANNING DIRECTOR
- APPROVE WITH AMENDMENTS
- DENY
- CONTINUE/DEFER _____

OTHER/REMARKS ACCEPT THE HENNING'S OFFICER REPORT
AND DENY THE SPECIAL PERMIT REQUEST.

COMMISSIONERS: AYE NO EXCUSED ABSTAIN ABSENT

HEAUKULANI, Charles M.			✓			
HENKEL, Gregory	-			Reused		
ISHIBASHI, Wallace	(1)	✓				
MIYASATO, Myles	-			✓		
MOSES, Raylene		✓				
ONO, Stephen	(2)	✓				
GONZALES, Ronald	CHAIR	✓				

SCANNED
MAY 17 2014
By: _____ ✓



County of Hawai'i

CERTIFIED MAIL

WINDWARD PLANNING COMMISSION
7011 1570 0001 5772 8501 Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

May 1, 2014

Ted H. S. Hong, Esq.
P.O. Box 4217
Hilo, HI 96720

Dear Mr. Hong:

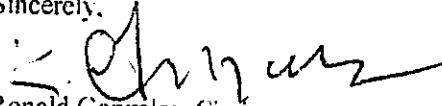
Special Permit Application (SPP 12-000138)
Applicant: Connections New Century Public Charter School and Community
Based Education Support Services
Request: To Develop a K to 12 Charter School Campus with Dorm Facilities,
Intergenerational Programs, a Sustainable Agriculture Program and a
Forestry/Conservation Program
Tax Map Key: 2-5-006:141

The Windward Planning Commission at its duly held public hearing on May 1, 2014, voted to uphold the Hearings Officer's report and recommendations on the above-referenced Special Permit application to develop a K to 12 charter school campus with dorm facilities and related uses on approximately 70 acres of land situated in the State Land Use Agricultural District. The property is located on both the southwest and northeast sides of Edita Street near its intersection with Kaūmana Drive and adjoining the Pacific Plantation Subdivision in Kaūmana, South Hilo, Hawai'i.

Therefore, Special Permit No. 12-000138 is hereby denied.

Should you have any questions regarding this matter, please contact Daryn Arai of the Planning Department at (808) 961-8288.

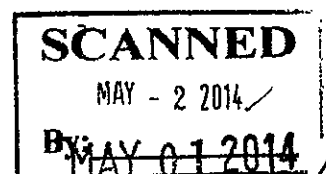
Sincerely,


Ronald Gonzales, Chairman
Windward Planning Commission

l:connectionspp12-138.spc

cc: Amy Self, Esq.
Carter Siu, Esq.
Mr. Jeff Gomes
Department of Public Works
Department of Water Supply
DLNR-Land Division/Hilo
State Land Use Commission (with Report)

Hawai'i County is an Equal Opportunity Provider and Employer



4293

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

OFFICIAL USE

7011 1570 0001 5772 8501

Postage	\$ 6.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 12.48

MAY 01 2014
 Postmark

Sent 1

Street or PO: **TED H S HONG ESQ**

City, State: **PO BOX 4217**

City, State, ZIP: **HILO HI 96720**

PS Form 3811, February 2004

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:

TED H S HONG ESQ
PO BOX 4217
HILO HI 96720

2. Article Number

(Transfer from service label)

7011 1570 0001 5772 8501

COMPLETE THIS SECTION ON DELIVERY

A. Signature: *[Handwritten Signature]*

Agent
 Addressee

B. Received by (Printed Name): *Sue HONG*

C. Date of Delivery: *5/12/14*

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

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

OFFICIAL USE

7011 1570 0001 5772 8518

Postage	\$.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48

Postmark Here
MAY 01 2014

Sent 1
 Street or PO
 City, S
 PS Fo ons

CARTER SIU ESQ
OFFICE OF THE ATTY GEN
235 S BERETANI ST RM 304
HONOLULU HI 96813

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:

CARTER SIU ESQ
OFFICE OF THE ATTY GEN
235 S BERETANI ST RM 304
HONOLULU HI 96813

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 [Signature] Addressee

B. Received by (Printed Name) *Gene L...*
 C. Date of Delivery *5/2/14*

D. Is delivery address different from item 1?
 If YES, enter delivery address below: Yes
 No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

MAY 01 8 AM
 OFFICE OF THE ATTORNEY GENERAL
 HONOLULU, HI

2. Article Number
 (Transfer from service label)

7011 1570 0001 5772 8518

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

5696 0TE5 E000 0T50 2002

75703 653

Postage	\$ 1.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48

Postmark
(here)
MAY 01 2014

Sent	
Street or PO	MR JEFF GOMES
City	281 EDITA ST
	HILO HI 96720
PS Form	ctions



PLANNING DEPARTMENT
COUNTY OF HAWAII

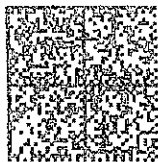
2014 MAY 13 AM 9:11

County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3
Maui, Hawaii 96720-4224



TMK(3)2-5-040:011
Doreen and Tara Leao
1503 Kaumana Drive
Hilo

UNABLE TO FORWARD FOR REVIEW
968 FF 1099N C0004/11/14
C018



UNITED STATES POSTAGE
02 1M
0004276258
\$00.480
APR 05 2014
MAILED FROM ZIP CODE 96720

MTF

96720691479
9672061479 CC

BC: 96720147903 DU *0472-00446-08-45
96720147903 DU *0472-00446-08-45

Hata-Finley, Sarah

From: Arai, Daryn
Sent: Monday, May 19, 2014 3:34 PM
To: Ted Hong; Carter.K.Siu@hawaii.gov; Self, Amy; jeff gomes
Cc: Masunaga, Margaret; Ferreira, Cathy; Kanuha, Duane; Hata-Finley, Sarah; Darrow, Jeff
Subject: RE: Windward Planning Commission's Findings of Fact, Conclusion of Law, Decision and Order re: Connections New Century Public Charter School/CBESS SPP 12-000138

My apologies, forgot to mention that a hardcopy is in the mail to all the parties.

Daryn

Daryn S. Arai
County of Hawaii Planning Department
Aupuni Center
101 Pauahi Street, Suite No. 3
Hilo, Hawaii 96720
Phone: (808) 961-8142
Fax: (808) 961-8742
email: darai@co.hawaii.hi.us
"Hawai'i County is an equal opportunity provider and employer"

From: Arai, Daryn
Sent: Monday, May 19, 2014 3:25 PM
To: 'Ted Hong'; 'Carter.K.Siu@hawaii.gov'; Self, Amy; 'jeff gomes'
Cc: Masunaga, Margaret; Ferreira, Cathy; Kanuha, Duane; Hata-Finley, Sarah; Darrow, Jeff
Subject: Windward Planning Commission's Findings of Fact, Conclusion of Law, Decision and Order re: Connections New Century Public Charter School/CBESS SPP 12-000138

Good afternoon, everyone.

Please find attached the Windward Planning Commission's FOF, COL & D&O regarding the above-described matter.

Please let me know if you have any questions.

Daryn

Daryn S. Arai
County of Hawaii Planning Department
Aupuni Center
101 Pauahi Street, Suite No. 3
Hilo, Hawaii 96720
Phone: (808) 961-8142
Fax: (808) 961-8742
email: darai@co.hawaii.hi.us
"Hawai'i County is an equal opportunity provider and employer"



County of Hawaii
 PLANNING COMMISSION
 101 Pauahi Street, Suite 3
 Hilo, Hawaii 96720-3043

2014 MAY 23 10:24



UNCLAIMED

MRS JEFF GOMES
 281 EDITA ST
 HILO HI 96720

7002 0510 0003 5310 9695



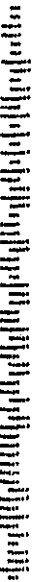
CERTIFIED MAIL



UNITED STATES POSTAGE
 FIRST CLASS
 02 1M
 0004276258
 MAY 01 2014
 MAILED FROM ZIP CODE 96720
 \$06.480

5/2
 5/9
 5/17/14

9572081707 0015



County of Hawai'i Planning Commission
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720-4224
Telephone: (808) 961-8288
Facsimile: (808) 961-8742

BEFORE THE COUNTY OF HAWAI'I
PLANNING COMMISSION

In the Matter of

CONNECTIONS NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT
SERVICES

Application for Special Permit Application
No. 12-000138

TMK: (3) 2-5-006-141; Kaūmana, South
Hilo, Hawai'i

SPP No. 12-000138

COUNTY OF HAWAI'I WINDWARD
PLANNING COMMISSION'S
FINDINGS OF FACT, CONCLUSIONS OF
LAW AND DECISION AND ORDER;
CERTIFICATE OF SERVICE

Argument and Decision:

Date: 5/1/14

Location: Aupuni Center, Hilo, Hawai'i

COUNTY OF HAWAI'I WINDWARD PLANNING COMMISSION'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

The County of Hawai'i, Planning Commission submits its Findings of Fact, Conclusions of Law and Decision and Order pursuant to the request of the Windward Planning Commission of the County of Hawai'i at its May 1, 2014, meeting in Hilo, Hawai'i. Present before the Commission were Ted H. S. Hong, counsel for Applicant Community Based Education Support Services; Carter K. Siu, Deputy Attorney General, for Applicant Connections New Century Public Charter School (hereinafter collectively referred to herein as "Connections"); Amy G. Self, Deputy Corporation Counsel, for County of Hawai'i Planning Director (herein as "Director"); Jeffery K. Gomes (herein as "Gomes"), Intervenor, Pro Se; and Sandra Pechter Song, the Hearing Officer (herein as "Hearing Officer"). The contested case hearings by the

Hearing Officer were held on October 21, and 22, 2013, November 12, 2013, January 8 and 22, 2014.

FINDINGS OF FACT

I. Procedural Background

1. This matter involves an application filed by Connections on July 25, 2012, for a special permit, pursuant to Section 205-6, Hawai‘i Revised Statutes (“HRS”) and Rule 6 of the County of Hawai‘i Planning Commission Rules of Practice and Procedure (hereinafter “Commission Rules”) to allow the development of a charter school campus with dorm facilities and related improvements for students in kindergarten through twelfth grade (hereinafter, the “Development”), on 70.15 acres of land situated within the State Land Use Agricultural District, at Ponahawai, Kūkūau 2nd, South Hilo, Hawai‘i, commonly referred to as the Kaūmana area of Hilo, designated by State of Hawai‘i Tax Map Key (“TMK”) (3) 2-5-006:141 (hereinafter, the “Property”).

2. Connections has leased the Property on which the Development is proposed from the State of Hawai‘i under General Lease No. S-6029.

3. Notices of the Windward Planning Commission of the County of Hawai‘i (hereinafter “Commission”) hearings on the proposed Development were provided to property owners surrounding the proposed Development.

4. The Commission held public hearings on the Connections application on November 9, 2012 [sic], December 6, 2012 and January 10, 2013. At the hearing held on January 10, 2013, the Commission moved [sic] to deny the Connections application and instructed the Commission staff to prepare proposed findings of fact, conclusions of law and order, which would be considered for adoption by the Commission at its meeting of March 7, 2013.

5. At the Commission meeting of March 7, 2013, the Commission suspended the preparation of the findings of fact, conclusions of law and order, and granted a request by Connections for a contested case on the subject application. Gomes submitted a petition to intervene in this matter on March 7, 2013, and the Commission admitted him as a party to the proceeding.

6. A petition to intervene in this proceeding was filed by Terrence Yoshioka on November 4, 2013, after the contested case hearing in this proceeding had already commenced. On November 8, 2013, the Hearing Officer denied this petition in accordance with Rule 4-6 of the Commission Rules, on the ground that the subject petition was untimely filed.

7. The Director is a party to this proceeding pursuant to Rule 4-7(a) of the Commission Rules. The Director initially recommended approval of the Connections application, subject to specific conditions, but took no position on the application at the contested case hearing.

8. The subject application involves a parcel of land greater than fifteen acres in area. Therefore, any permit approved by the Commission is subject to final approval by the State Land Use Commission.

II. Proposed Development

A. General Description

9. The Connections application proposes the development of a K to 12 charter school campus with dorm facilities, and an intergenerational program that would provide childcare and elder care at a single facility on the Development, together with related uses on the 70-acre parcel of land. As the site is bisected by Edita Street, the lower portion of the Development would consist of the major school or campus facilities, while the upper portion would be used for outdoor type of educational programs, including a forestry preservation program.

10. The lower campus would support a projected 167 elementary students, 107 intermediate students, 107 high school students (381 K through 12 students) and 25 intergenerational clients. Also included would be a dormitory capable of supporting 30 students, a gymnasium, kitchen/dining facility, library/resource center, caretaker's residence and other related facilities. Two parking lots capable of supporting 140 parking stalls would be provided.

11. The Development would relocate and expand the existing charter school which is presently operating from two separate campuses. The elementary and middle schools are located in the Kress Building on Kamehameha Avenue, in downtown Hilo, and the high school is located in leased facilities at the Nani Mau Gardens, just outside of Hilo town.

12. Connections proposes having 50 full-time and 17 part-time employees at full build-out of the Development, which is the same number presently employed for this charter school.

13. Connections anticipates that 50% of the student population will come from the Hilo area and 50% from the Puna area miles away from the Development. The present student population for this charter school is composed primarily of students from these two geographic areas.

14. The Development does not propose to establish a charter school on the Property to serve the needs of the immediate vicinity in the Kaūmana area of Hilo, although some students from the area may attend this school.

15. The Development is intended to be constructed in 9 phases and completed within 16 to 25 years. The first phase would include the caretaker's residence, high school and administration building, with the projected opening to be within 2.5 to 3.5 years.

B. Public Utilities and Services

Access/Traffic

16. Access to the Development is proposed from Edita Street which connects with Kaūmana Drive, a major Hilo artery. Both roads are owned and maintained by the County of Hawai'i. Edita Street has a 60-foot right-of-way width, with a 48-foot wide pavement width fronting the Development. The paved area accommodates two 20-foot wide travel lanes, a 20-foot wide shoulder on the northeast side of the road, and an 8-foot wide shoulder on the southwest side. Edita Street is in good condition; however, the Hawai'i County Police Department recommended that the unpaved shoulder along Edita Street extending from Kaūmana Drive to the Development should be paved so that pedestrians could safely walk along the shoulder.

17. A Traffic Impact Analysis Report ("TIAR") dated June 28, 2010, was prepared in conjunction with the Connections application for the purpose of evaluating the Development's impact at the Development's entrance at Edita Street and at the Edita and Kaūmana Drive intersection. Based upon traffic counts taken on May 28, 2009, the TIAR found that the current level of service or LOS operates as LOS "A" or "B", meaning that the traffic service is uncongested. The TIAR also concluded that upon full build-out of the Development, the LOS will continue to operate at levels "A" or "B". Although the TIAR concludes that traffic will not be adversely affected by reason of the Development, the County Department of Public Works

recommended that a separate left turn lane onto the Development from Edita Street should be constructed to alleviate congestion, and that Connections should prepare a comprehensive traffic management plan for the Development.

18. Notwithstanding the findings of the TIAR and the recommendations of the Police Department and Department of Public Works, the area residents uniformly expressed concerns about the adverse traffic impact of the Development along Edita Street and Kaūmana Drive. Also, residents objected that the TIAR was four years old and the traffic counts contained in the TIAR were taken when certain schools were not in session.

Water

19. A maximum of 4,200 gallons per day (hereinafter "gpd") of water or seven (7) water units from an existing 8-inch waterline on Kaūmana Drive for the upper campus and from an existing 8-inch waterline on Edita Street for the lower campus, is available from the County of Hawai'i municipal water system to service the entire Development. Based on a 60 gpd per student standard, 4,200 gallons of County water could only support 70 students. At full build-out the entire Development would require 26,100 gpd.

20. Notwithstanding the unavailability of potable water from the County system for the Development, the existing 8-inch waterline within Edita Street is adequate to provide the required 2,000 gallons of water per minute for fire protection of the proposed Development.

21. The available water from the County of Hawai'i municipal water system is insufficient to support the first phase of the Development.

22. Connections has proposed using water efficient fixtures and supplementing the available County water with either a catchment system for non-potable water or developing an additional water source. However, Connections has not produced any evidence to demonstrate that it has or can develop sufficient water for the Development.

Wastewater

23. Connections is proposing to provide its own wastewater system meeting the requirements of the State of Hawai'i Department of Health (hereinafter "DOH"). Connections prefers installing an ecological/biological wastewater system called the "Living Machine."

However, should such a system prove to be unfeasible, Connections would install a traditional septic system with leach fields or any other system required by DOH.

Drainage

24. The Property is located within Zone "X" on the U.S. Department of Army Corps of Engineers Flood Insurance Rate Map, which means that the Property is outside the 500-year flood plain. Notwithstanding this flood designation, during severe storms water has been known to overtop the concrete channel and flow across Edita Street, resulting in flooding of adjacent properties. Connections proposes to prepare detailed engineering studies for the purpose of developing appropriate drainage plans to address the potential flood hazard posed by the present condition of Edita Street.

Utilities

25. Electrical and telephone services are available to the Property through overhead lines along Edita Street and Kaūmana Drive.

Public Safety

26. *The Hawai'i County Police Department expressed concern that the Development would increase noise, crime and traffic. However, there was no evidence that the Police Department lacks the ability to provide police protection for the Development.*

III. PHYSICAL CHARACTERISTICS OF THE PROPERTY AND SURROUNDING AREAS

27. The Property is presently vacant and undeveloped.

28. Surrounding lands to the south and west of the Property are zoned A-1a, with properties further south being zoned A-20a and A-10a [sic]. Lands to the north of the Property are zoned RS-10 and RS-15, with some lands zoned A-3a further north across Kaūmana Drive. One parcel is also zoned Open adjoining the northeast corner of the lower portion of the Property. Surrounding uses consist mainly of single-family residences with some vacant lands, and a small percentage of agricultural activity.

29. The soils on the Property are primarily composed of pāhoehoe lava flow. The State Department of Agriculture's map showing agricultural lands of importance to the State of Hawai'i shows the Property as being unclassified. Also, the Land Study Bureau classifies the

soil on the Property under its detailed land classification system, as “D” or “Poor” for agricultural activity.

30. No archaeological sites have been found on the Property, and it is surmised that any pre-existing sites would have been destroyed by the lava flow of 1880-1881. Although Connections submitted a request to the State Historic Preservation Division (“SHPD”), by letter dated August 17, 2010, requesting a “no-effect” determination from that agency, SHPD has not responded to the request.

31. A portion of the Kaūmana Cave is accessible from the upper portion of the Property. Connections is proposing to refrain from constructing any major school facilities on the upper portion of the Property and to maintain a minimum 100-foot buffer on either side of the cave alignment to alleviate concerns about impact from the Development on the cave ecosystem.

32. A botanical survey of the Property identified 11 native plant species, but none of those species are considered protected species.

33. Invertebrate, mammalian and field surveys were conducted on the Property. *No protected species were documented to be present on the Property.*

34. No traditional or customary native Hawaiian rights have been identified as being exercised on the Property. Likewise, there is no known public access to the mountains or the shoreline that runs through the Property.

IV. STATE AND COUNTY PLANS

35. The Property is within the State Land Use Agricultural District. A school is not a permitted use within the Agricultural district; however, a school may be permitted in this district if a special permit is obtained for such use pursuant to Section 205-6, HRS and Rule 6 of the Commission Rules.

36. The County of Hawai‘i General Plan Land Use Pattern Allocation Guide (“LUPAG”) Map designates the Property for low density urban uses. The LUPAG designation of Low Density urban use, allows for residential uses, with ancillary community and public uses, and neighborhood and convenience-type commercial uses. The Development is not proposed to be a community or public use for the Kaūmana area of Hilo.

37. The County of Hawai'i zoning for the Property is Agricultural with a minimum lot size of one acre (A-1a). Under Section 25-5-72(d) of the Hawai'i County Code, a school is permitted in an Agricultural zoned district provided that a special permit is issued for the use if the land is within the State Land Use Agricultural District.

38. The Development, which is proposed to be located on State land, is subject to the Hawai'i State Environmental Impact Statement law, Chapter 343, HRS. Connections prepared an environment assessment in accordance with Chapter 343, and declaration with a finding of no significant impact was issued for the Development by the State of Hawai'i Department of Land and Natural Resources.

39. The Property is not situated within the Special Management Area ("SMA"), since it is located over three miles from the nearest shoreline. Thus, the coastal environmental considerations relating to the SMA are not applicable to the subject Property.

V. SPECIAL PERMIT REQUIREMENTS

40. HRS Section 205-6, which governs special permits, provides in pertinent as follows:

“(a) The county planning commission may permit certain unusual and reasonable uses within agricultural . . . districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural . . . district other than for an agricultural . . . use. . . may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired.

...

“(c) The county planning commission may, under such protective restrictions as may be necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter...

...

“(d) Special permits for land the area of which is greater than fifteen acres. . . shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting the approval including the adherence to representations made by the applicant.”

41. Planning Commission Rule 6-7, provides, in pertinent part, that:

“[t]he Commission shall not approve a Special Permit unless it is found that the proposed use

“(a) Is an unusual and reasonable use of land situated within the Agricultural. . .District. . .; and

“(b) Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

“The Commission shall also consider the criteria listed under Section 6.3(b)(5)(A) through (G).”

42. The seven criteria under Planning Commission Rule 6.3(b)(5)(A) through (G) are:

“(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;

“(B) The desired use shall not adversely affect surrounding properties;

“(C) *Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;*

“(D) Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established;

“(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district;

“(F) The proposed use will not substantially alter or change the essential character of the land and the present use; and

“(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design plans.”

43. Although Gomes asserts that the criteria for a use permit should be considered in the subject application, that criteria is not relevant to a special permit determination.

VI. APPLICATION OF SPECIAL PERMIT CRITERIA TO THE DEVELOPMENT

A. Land Use Law Objectives

44. The purpose of the State Land Use Law is to preserve the lands of high agricultural potential for agricultural use. The Property consists of land that is not considered highly valuable for agricultural uses. Thus, the use of the Property for a school is not contrary to the objectives sought to be accomplished by the State Land Use Law.

45. Likewise, the Development, which proposes the construction of a school for 381 students and related facilities is not akin to a major recreational theme park attracting 1.5 million people each year to the area. Therefore, such a development would not frustrate the objectives and effectiveness of the Hawai'i's land use scheme and would not require a State land use boundary amendment in lieu of a special permit. *Neighborhood Board No. 24 vs. State Land Use Commission*, 64 Haw. 265, 272, 639, P.2d 1097, 1103 (1982).

B. Affect on Surrounding Properties

46. Based upon the testimony from surrounding and neighboring property owners, the *Development will have an adverse effect on surrounding properties by creating noise, traffic, and impacting the quality of life of the adjoining residents.*

47. Measures proposed by Connections, regarding the establishment of building setbacks and roadway improvements to Edita Street do not appear to be sufficient to mitigate the overwhelming concerns raised by surrounding property owners.

C. Burden on Public Agencies to Provide Services

48. There is insufficient water available from the County system to service the Development. Therefore, to allow the Development would unreasonably burden the Department of Water Supply to provide water for its facilities.

49. There is no evidence that Connections has the ability to develop a potable water source as a mitigating measure, previously proposed by the Director.

50. A mitigating measure previously proposed by the Director of limiting the number of students to the amount of potable water available to the project is not reasonable because Connections is proposing to construct a high school for 107 students its first phase, when the potable water available would only allow for 70 students.

51. As such, the proposed use may unreasonably burden the County Department of Water Supply to provide water to the Development.

D. Unusual Conditions, Trends and Needs

52. Unusual conditions and needs have arisen since the establishment of this land use district in the 1970s, because the area in which the Property is located has essentially become residential in character. Also, the County General Plan LUPAG map recognizes this trend by designating the area for low density urban use. However, there was no evidence presented to demonstrate that location of a school that is not intended to specifically service the needs of the immediate community is such an unusual condition, trend or need that justifies location of the Development at this location.

E. Suitability of Land for Agricultural Uses

53. The Land Study Bureau soil classification rating for the Property is "D" or "Poor," which suggests that the land may be unsuited for agricultural uses.

54. Connections is proposing to maintain the upper portion or nearly one-half of the Property for forestry use. In addition, Connections is proposing to construct greenhouses on the Property and conduct an agricultural program in conjunction with its curriculum.

55. Based upon the representations of Connections, it cannot be found that the Property is unsuited for agricultural uses.

F. Alteration or Change of the Essential Character of the Land and Present Use

56. The Property is presently a forest and is vacant of any structures. The lower half of the Property will be converted into a school with classrooms, dormitories, a gymnasium cafeteria and parking lots.

57. The Development of a school will change the essential character of the forested land and its undeveloped use.

G. Consistency with the General Plan

58. The County General Plan LUPAG map designates the Property for low density urban use. "Low density uses" under the General Plan include residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses.

59. The Development, which proposes a charter school that is not specifically intended to service the immediate community surrounding the school, is not consistent with the uses permitted in areas of low density urban use.

60. The Economic, Public Facilities and Land Use elements of the County General Plan all require consideration of social and community concerns as follows:

Economic Element - Goal

“Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County’s cultural, natural and social environment.”

Public Facilities Element - Goal

“Encourage the Provision of public facilities that effectively service the community and visitor needs and seek ways of improving public service through better and more functional facilities in keeping with the environmental and aesthetic concerns of the community.”

Land Use Element - Policy

“Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environments.”

61. The evidence has established significant concerns from the community regarding the compatibility of the Development with the surrounding community.

62. Although the County General Plan Public Facilities-Education course of action for South Hilo encourages the establishment of additional schools as the need arises, the proposed Development, at the subject location, is contrary to the General Plan.

VII. UNUSUAL AND REASONABLE USE OF LAND

63. The construction of a school on the Property is an unusual use of the land because a school is not a permitted use in the State Land Use Agricultural District. However, the evidence presented does not demonstrate that the Development is a reasonable use of the Property. Specifically, Connections has not demonstrated how this school can be built without sufficient potable water resources. Nor, has Connections demonstrated how the development of a regional

charter school on the Property that does not specifically service the needs of the immediate community and that is overwhelmingly objected to by the immediate community is a reasonable site for this facility. In addition, Connections has not demonstrated that the Development meets most of the criteria to be considered by the Commission in the subject application.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission makes the following Conclusions of Law:

1. To the extent that any of the Findings of Fact constitute Conclusions of Law, or Conclusions of Law constitute Findings of Fact, they shall be considered and construed as such.
2. The Commission has jurisdiction over the subject special permit application, including the ability to deny or recommend its approval to the State Land Use Commission, pursuant to Section 205-6, HRS and Rule 6 of the Commission Rules.
3. *Connections had the burden of proof on this matter before the Commission, including the burden of producing evidence as well as the burden of persuasion, by a preponderance of evidence, to demonstrate how its request is consistent with the guidelines for a special permit as outlined by Section 205-6, HRS and Rule 6 of the Commission Rules. Connections has failed to meet this burden.*
4. The Development does not adequately meet the requirements or guidelines for a special permit as required by Section 205-6, HRS and Rule 6 of the Commission Rules.
5. The Development is not consistent with the County General Plan, particularly as to the impacts on the immediate community.

ORDER

Based upon the preceding Findings of Fact and Conclusions of Law, Special Permit Application SPP No. 12-000138 of Connections New Century Public Charter School and Community Based Education Support Services to develop a K to 12 charter school campus with

dorm facilities and related uses on 70.15 acres situated within the State Land Use Agricultural District is hereby denied.

Dated: Hilo, Hawai'i, MAY 1 8 2014

By 
RONALD GONZALES, Chairman
Windward Planning Commission

BEFORE THE COUNTY OF HAWAI'I
PLANNING COMMISSION

In the Matter of

CONNECTIONS NEW CENTURY PUBLIC
CHARTER SCHOOL AND COMMUNITY
BASED EDUCATION SUPPORT
SERVICES

Application for Special Permit Application
No. 12-000138

TMK: (3) 2-5-006-141; Kaūmana, South
Hilo, Hawai'i

SPP No. 12-000138

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on this date, a copy of the foregoing was duly served upon the following parties by depositing the same in the U. S. mail, postage prepaid, and by e-mailing a copy, addressed to:

Ted H. S. Hong, Esq. (ted@tedhonglaw.com)
P. O. Box 4217
Hilo, Hawai'i 96720
Attorney for Applicant Community Based
Education Support Services

Carter K. Siu, Esq. (Carter.K.Siu@hawaii.gov)
Deputy Attorney General
State of Hawai'i
235 South Beretania Street, Room 304
Honolulu, Hawai'i 96813
Attorney for Applicant Connections New
Century Charter School

Amy G. Self, Esq. (aself@co.hawaii.hi.us)
Deputy Corporation Counsel
101 Aupuni Street, Suite 325
Hilo, Hawai'i 96720
Attorney for County of Hawai'i Planning Director

