

WINDWARD PLANNING COMMISSION  
COUNTY OF HAWAI'I

MINUTES  
OCTOBER 7, 2021

The Windward Planning Commission met in regular session at 9:05 a.m., with Chairman John Replogle presiding. Based on the Governor's Emergency Proclamation Related to the COVID-19 Response dated August 5, 2021, this meeting was held online, with live-streaming for the public to observe the meeting.

VIRTUAL ATTENDANCE (COMMISSIONERS): Dean Au, Gilbert Aguinaldo (excused at 11:29 a.m.), Joseph Clarkson, Dennis Lin, Michelle Galimba, Thomas Raffiipi (recused and excused at 11:29 a.m.), John Replogle.

VIRTUAL ATTENDANCE (STAFF): Zendo Kern (Planning Director), Jeffrey Darrow (Deputy Planning Director), Malia Hall (Deputy Corporation Counsel for the Windward Planning Commission), Jean Campbell (Deputy Corporation Counsel for the Planning Department), Christian Kay (Planner), Eric Cook (Planner), Jessica Andrews (Planner), Maija Jackson (Program Manager), and Melissa Dacayanan-Salvador (Windward Planning Commission Secretary).

***Secretary's Notes:*** *Throughout the meeting, there were some technical and/or internet difficulties which made the speaker inaudible. Please note that the notation "—" in these Minutes and the Exhibit Transcripts means that there were technical and/or internet difficulties which made the conversation inaudible.*

A quorum was present. Chairman Replogle called the meeting to order. He explained the procedure and protocol for this online meeting and live public testimony. He introduced the Commissioners and staff who were in virtual attendance.

**APPROVAL OF MINUTES**

At 9:08 a.m. it was moved by Commissioner Lin and seconded by Commissioner Au that the minutes of August 5, 2021, be approved. A voice vote was taken, and the motion carried with all in favor and no noes.

**STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS**

Chairman Replogle called upon the individuals registered to provide oral testimony. He swore them in to tell the truth in their testimony and explained the procedure.

At 9:09 a.m. twelve individuals provided testimony regarding Unfinished Business Item 4, the application of **CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) (SPP 12-000138)**. The testimony ended at 9:54 a.m. [SEE TESTIMONY TRANSCRIPT – EXHIBIT A]

It was moved by Commissioner Galimba and seconded by Commissioner Aguinaldo that public testimony be closed. There being no discussion on the motion, a voice vote was taken, and the motion carried by unanimous vote of those present.

## **NEW BUSINESS**

1. **APPLICANT: TAKATA DENTAL HEALTH CENTER INC.  
(AMEND REZ 11-000146)**

Application for time extensions to Condition B (time to complete construction) and Condition C (water commitment) of Change of Zone Ordinance No. 12 33 which rezoned one (1) acre of land from a Single-Family Residential – 10,000 square feet (RS-10) to a Residential-Commercial Mixed Use – 20,000 square feet (RCX-20) zoning district. The subject property is located at 1732 Kīlauea Avenue, approximately 750 feet south of its intersection with Kāwili Street intersection, Waiākea Homestead Houselots, South Hilo, Hawai‘i, TMK: 2-2-038:028.

The Commission took this item up at 9:55 a.m.

Action: It was moved by Commissioner Galimba and seconded by Commissioner Aguinaldo that a favorable recommendation be forwarded to the County Council on the application to amend Change of Zone Ordinance No. 12 33, based on the Planning Director’s recommendation, which shall be adopted. A roll call vote was taken, and the motion carried with seven (7) ayes (Galimba, Aguinaldo, Au, Clarkson, Lin, Raffipiy, Replogle) and no noes.

The hearing item ended at 10:09 a.m. *[SEE HEARING TRANSCRIPT – EXHIBIT B]*

2. **APPLICANT: LEILA SHIMIZU (REZ 21-000247)**

Application for a Change of Zone from a Single-Family Residential-10,000 square feet (RS-10) to an Industrial-Commercial Mixed - 20,000 square feet (MCX-20) zoning district for approximately 22,300-square feet of land. The subject properties are located at 755 Kekūanā‘a Street and 605 Kalanikoa Street, at the northeast corner of the Kekūanā‘a Street - Kalanikoa Street intersection, Waiākea Houselots, South Hilo, Hawai‘i, TMKs: 2-2-035:049 and 2-2-035:096.

The Commission took this item up at 10:09 a.m.

Action: It was moved by Commissioner Lin and seconded by Commissioner Aguinaldo that a favorable recommendation be forwarded to the County Council on the application for a Change of Zone Docket No. REZ-21-000247, based on the Planning Director’s recommendation, which shall be adopted. A roll call vote was taken, and the motion carried with seven (7) ayes (Replogle, Aguinaldo, Au, Clarkson, Galimba, Lin, and Raffipiy) and no noes.

The hearing item ended at 10:22 a.m. *[SEE HEARING TRANSCRIPT – EXHIBIT C]*

Chairman Replogle called a recess at 10:22 a.m., at that time Planning Director Zendo Kern recused himself from the meeting and stated Deputy Director Jeff Darrow will take over for the next two (2) items on the agenda. The Chair called the meeting back to order at 10:32 a.m.

3. **APPLICANT: ARTS AND SCIENCES CENTER (SPP 21-000228)**

Application for a Special Permit to allow the construction and operation of an elementary school campus for approximately 300 students on approximately 2.31 acres of land within the State Land Use Agricultural district. The subject property is located at 16-1678 34<sup>th</sup> Avenue, on the northwest corner of the Orchidland Drive – 34<sup>th</sup> Avenue intersection, Orchid Land Estates, Puna, Hawai‘i, TMK: 1-6-010:083.

The Commission took this item up at 10:32 a.m.

Action: It was moved by Commissioner Au and seconded by Commissioner Aguinaldo that the application for Special Permit Docket No. 21-000228, be approved based on the Deputy Planning Director’s recommendation, including revised Condition No. 7 and the additional condition regarding traffic management, which shall be adopted. A roll call vote was taken, and the motion carried with seven (7) ayes (Au, Aguinaldo, Clarkson, Galimba, Lin, Raffipiy Replogle) and no noes.

The hearing item ended at 11:29 a.m. [*SEE HEARING TRANSCRIPT – EXHIBIT D*]

**UNFINISHED BUSINESS**

4. **APPLICANT: CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/ COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) (SPP 12-000138)**

Hearing on Special Permit application SPP No. 12-000138 record as presented on appeal. SPP No. 12-000138 was remanded back to the Windward Planning Commission by Intermediate Court of Appeals for further proceedings consistent with its January 31, 2020 Memorandum Opinion vacating the County of Hawai‘i Windward Planning Commission’s May 12, 2014 Decision and Order, which denied Special Permit SPP No. 12-000138. 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 took this item up at 11:29 a.m.

Commissioner Raffipiy recused himself in participating with the agenda item and Commissioner Aguinaldo was excused for the remainder of the hearing.

*At 11:32 a.m., it was moved by Commissioner Au and seconded by Commissioner Lin that the Commission enter 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 HRS 92-5. A voice vote was taken of all Commissioners present, and the motion carried with five aye votes.*

*The live-stream meeting was placed on hold and at 11:32 a.m. the Commission went into executive session. [NO TRANSCRIPT AVAILABLE] At 11:58 a.m. the live-stream meeting reconvened.*

Action: It was moved by Commissioner Clarkson and seconded by Commissioner Galimba that the application for Special Permit No. 12-000138, be continued for new evidence related to public trust issues and other factual issues relating to the permit application. A roll call vote was taken, and the motion failed with two (2) ayes (Clarkson, Galimba) and three (3) noes (Au, Lin, Replogle).

It was moved by Commissioner Lin and seconded by Commissioner Au that the application for Special Permit Docket No. SPP-12-000138 be approved and a favorable recommendation be forwarded to State Land Use Commission based on the Planning Director's recommendation, which shall be adopted. A roll call vote was taken, and the motion carried with four (4) ayes (Lin, Au, Galimba, Replogle) and one (1) no (Clarkson).

It was moved by Commissioner Au and seconded by Commissioner Galimba that the adoption of the written Findings of Facts, Conclusions of Law, and Decision and Order be continued to the next scheduled meeting in November for the approval of Special Permit Docket No. 12-000138. A roll call vote was taken, and motion carried with five (5) ayes (Au, Galimba, Clarkson, Lin, Replogle).

The hearing item ended at 2:03 p.m. *[SEE HEARING TRANSCRIPT – EXHIBIT E]*

### **AGENDA ITEMS FOR NEXT MEETING**

At 2:03 p.m. Chairman Replogle asked staff how many agenda items are on the next meeting agenda. Planner Christian Kay said with the consideration of the Findings of Fact there will be three (3) items on the agenda. He stated there is a Planning Director initiated repeal of a rezoning ordinance, and a State Land Use Boundary Amendment for an affordable housing project and the consideration of the Findings of Fact, Conclusions of Law and Decision and Order for Connections.

### **ANNOUNCEMENTS**

At 2:03 p.m. Chairman Replogle said the next Windward Planning Commission's monthly meeting will be scheduled for Thursday, November 4, 2021, by interactive video conference via Zoom.

Commissioner Au asked staff about the timing of adopting a conflict-of-interest and recusal rule for the Planning Commission. Ms. Jackson stated the issue is the Department is trying to schedule the rule amendment he mentioned at the same time as the rule amendments for Special Management Area (SMA) related to Act 16. She said logistically it is difficult to have a Joint Commission meeting and currently the Department has the Act 16 rule changes scheduled for early next year. Commissioner Au stated in the economic environment we are in now a rule should be set and he was surprised in the prior years he served on the Commission there was no

rule. When he served on the Board of Appeals board, he realized the importance of having rules set in place.

### **ADJOURNMENT**

There being no further business, it was moved by Commissioner Lin and seconded by Commissioner Galimba that the meeting be adjourned. A voice vote was taken, and the motion carried by unanimous vote of those present. Chairman Replogle adjourned the meeting at 2:08 p.m.

Respectfully submitted,

Melissa Dacayanan-Salvador  
Melissa Dacayanan-Salvador (Nov 9, 2021 09:01 HST)

Melissa Dacayanan-Salvador,  
Secretary

A T T E S T:

John R. Replogle  
John R Replogle (Nov 9, 2021 10:16 HST)

John R. Replogle, Chairman  
Windward Planning Commission

WINDWARD PLANNING COMMISSION  
COUNTY OF HAWAI‘I

TESTIMONY TRANSCRIPT  
OCTOBER 7, 2021

Public testimony regarding the application of **CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) (SPP 12-000138)** was called to order at 9:09 a.m. via live stream online meeting, with Chairman John Replogle presiding.

COMMISSIONERS PRESENT: Gilbert Aguinaldo, Dean Au, Joseph Clarkson, Michelle Galimba, Dennis Lin, John Replogle

RECUSED: Thomas Raffipiy

ALSO IN ATTENDANCE: Malia Hall, Esq. (Counsel for the Commission), Jean Campbell, Esq. (Counsel for the Planning Department), Jeffrey Darrow (Deputy Planning Director), Christian Kay (Planning Program Manager), and Melissa Dacayanan-Salvador (Windward Planning Commission Secretary)

**APPLICANT: CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/ COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) (SPP 12-000138)**

Hearing on Special Permit application SPP No. 12-000138 record as presented on appeal. SPP No. 12-000138 was remanded back to the Windward Planning Commission by Intermediate Court of Appeals for further proceedings consistent with its January 31, 2020 Memorandum Opinion vacating the County of Hawai‘i Windward Planning Commission’s May 12, 2014 Decision and Order, which denied Special Permit SPP No. 12-000138. 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.

*Secretary’s Note: “—” indicates indiscernible speech due to internet/technical difficulties or simultaneous talk.*

REPLOGLE: Okay. We’re going to move on to statements from the public on agenda items now. We have 12 testifiers registered to give oral testimony and their testimony is for Item #4 Connections /CBESS (SPP 12-138). So, I am going to call your names and I guess you should get online, or you should be online, and I will swear you all in together. It’s Ming Peng, Anna Kennedy, Fay Sakata, Jeff Gomes, Pauline Ke’ala Lee Loy, Dr. Henry Lee Loy, Jason Turner, Kimo Miller, Sadira (Sprout) Kirkham - student, Ngetroi Rall - student, Kaitlyn Grogg-student,

Krysta Costa - student. If everybody could turn their cameras on, please, and I will swear you in all together, please raise your right hand now. Do you swear or affirm to tell the truth before the Windward Planning Commission?

TESTIFIERS: Yes, I do.

REPLOGLE: Okay, before you testify, please state your name and the town you live in, so we know where you're from and you may put your hands down. And I'm going to ask you to limit your testimony to three minutes if you've submitted written testimony there's no need to read the testimony submitted but you're welcome to summarize and update your testimony now. After your testimony the Commissioners may have questions for you, if there are no questions or questions have concluded, please log out of the Zoom platform and switch to YouTube channel, if you wish to observe the meeting okay. Okay, alright. So, I would first like to call Ming Peng to speak.

HALL: You're muted sir.

REPLOGLE: Your speaker, your mic is off.

PENG: Thank you, sorry, I apologize.

REPLOGLE: Okay.

PENG: My name is Ming Peng, P-E-N-G, I live on Mele Manu Street near the proposed site of the school of which I am against because of number one the understanding that the construction and presence of a facility of this size will adversely change the existing character and nature of the environment of the surrounding community. Including but not limited to the increased traffic and noise. I'd also like to add that there is only one way in or out of my subdivision. There is no alternative route for the more than 80 houses that exists there. This poses a further danger. Judge Song previously recommended a denial, the previous Windward Planning Commission issued a denial, both for well documented and legitimate reasons. I feel that nothing has changed, and no meaningful action has occurred to allow this project to continue. I urge you to once again deny this permit. Thank you for your time.

REPLOGLE: Thank you Mr. Peng. Anna Kennedy?

KENNEDY: Yes, here I am Anna Kennedy and I live on 1300 Mele Manu in Pacific Plantation. There are two families living in the home and extended family. We are new to the address but not new to Hilo. "—" it all the submitted applications and materials and feel that the Commission did a really good job in the very beginning to deny this proposal. I definitely support our neighbors already expressed concerns. Another additional concern that I feel affects at least 15 homes that are immediately adjacent would be the proposed school phase program to build This would subject all of us to from anywhere from 10 to 26 years of building disturbance, as well as the noise and confusion of the school. I think that the Commission was right to deny the permit in 2014 and hope you will do that again. I do want to thank all of you also for your good work and your due diligence. Thank you.

REPLOGLE: Thank you, Miss Kennedy. Next is Fay Sakata?

SAKATA: Hi, good morning. My name is Fay Sakata and I live on Mele Manu Street, near the site of the proposed charter school. The project will have an adverse impact on the surrounding neighborhood. The record will show that there were considerable objections from the community. A petition was submitted, which showed that of the 106 lots within the Pacific Plantation Subdivision 90 or 85% oppose the project. Further, a survey was taken of properties within 500 feet of the proposed site. There were 170 lots of this, oh I'm sorry. There were 170 lots excluding governmental land and road lots. Of these, 116 or 68% opposed; 54 or 31% took no position or could not be contacted either vacant land or absentee owners.

One of the criteria for a Special Permit is whether the use would have an adverse impact on surrounding property. The statement from the Police Department noting its adverse traffic impact combined with the perceptions and statements of the overwhelming majority of the project's neighbors should be sufficient to conclude that the request indeed would have an adverse impact. As noted by the Court, the Commission has wide discretion in deciding whether to approve a Special permit. While the request may meet some of the other criteria, the most critical one in our estimation, is its impact to the community. We therefore respectfully request the Commission to exercise its discretion and deny the request. Thank you very much.

REPLOGLE: Thank you, Ms. Sakata. Next is Jeffrey Gomes or Jeff Gomes? Your speaker is off Sir.

GOMES: How about that can you hear me now?

REPLOGLE: Yes, very good.

GOMES: My name is Jeff Gomes. I live in Kaūmana. Since this application was submitted, I have become the victim of attempted shaming, theft, lies, vandalism. By the way, whoever's putting bags of popcorn in my mailbox if you're listening I happen to like popcorn. I've become a victim of the lawsuit trying to get me and my neighbors to pay for Ted Hong's attorney fees and I am the Intervenor who won the contested case hearing. Did everyone read Ted Hong's filed proposed Findings of the hearing? Curiously he added some new matter that comes out of the UH dated September 21<sup>st</sup>. Isn't he the one that did not want new evidence submitted? If you haven't already, please ask yourself how did, I, Jeff Gomes without an attorney win the contested case hearing against Ted Hong, the County attorney, and the State Attorney General? The answer is facts.

Did everyone read Ed specs? Did everyone see my video proving Kaūmana caves runs directly under the site proposed for building. Did everyone read, where the County came to the site to examine the dry well proving Kaūmana caves runs under the property on all sides which led the County to require Connections to prove that Kaumana cave does not run under their property. Which they have not proved. Did everyone read about the site visit, where I proved the County illegally dumped the old concrete barrier from Edita Street onto the Connections property. Did you read the evidence where the site visit, where I proved that illegally dumped concrete was smashed into to the Kaumana cave during the illegal grubbing and grading to put up the fence.



Did you read where I proved the lies John Thatcher was promoting that at one of the community meetings someone from the community said when the children of Puna come to Kaūmana they are going to rob our homes. Or the lie that the only reason they illegally put up the 4-foot fence was because at one of the community meetings someone asked for a fence to be installed. It's not in the minutes. The school held the meetings and took the minutes. No one said any of that. Those are lies. This is why the site is not only inappropriate but dangerous for students, faculty, and the surrounding community. There's not enough water to support the school. At the time, one of the hypothetical situations was, what if there's a pandemic. Seem far-fetched at the time. The property is locked by force with only one way in and out. If there's a fire, live shooter, emergency, people can get trapped.

Ed's specs require utilities to be in place before construction. A yes vote allowing to grant the permit clearly acknowledges that you don't care about the safety and well-being of the students, faculty, and residents of Kaūmana or you did not have enough time to review all the evidence. I strongly suggest that someone make a motion to do a site visit. Please come up and look at this site, talk to the residents and see what's going on. There's too much at stake to just do a vote if you haven't really looked at all the evidence. I don't think you've had enough time. Thank you very much for your time.

REPLOGLE: Thank you, Mr. Gomes. Next will be Pauline Ke'ala Lee Loy?

P. LEE LOY: Aloha. Good morning. My name is Pauline Ke'ala Lee Loy, A resident of Mele Manu Street off of Edita. We've been on this journey for almost nine (9) years now, and I would like to reiterate my opposition to building Connections Public Charter School. The philosophy and concept behind the brick-and-mortar school is well thought out and will likely be successful in a more suitable location without all the red flags that scream out on the current proposed location. Water supply, traffic safety, waste deposits. As a Commission charged with rendering a decision on the approval or denial of a Special Use permit for this construction. Please don't make a hasty decision to finally get this off as an agenda item. This will take some critical thinking skills on your part. If you approve this Special Use permit you are attesting to the safety of all the red flags presented 9 years ago and once again today. If you deny this Special Use permit it indicates, you are not yet convinced that all the red flags will be addressed and mitigated.

Please deny this Special Use permit so Connections Public Charter School can select a more suitable and safe location that allows the Charter School to thrive and not only meet but exceed their goals and mission. Mahalo.

REPLOGLE: Thank you, Ms. Lee Loy. Next is Dr. Henry Lee Loy?

H. LEE LOY: Good morning, everyone. My name is Dr. Henry Lee Loy. I live on Mele Manu Street in Kaūmana in Hilo, Hawai'i. I'm not against Connections School. I am against the proposed location. Let me take you on a three (3) minute tour of the area.

REPLOGLE: We can't quite hear you.

H. LEE LOY: This is the campus. This is Edita Street. This is Kaūmana Drive. These red arrows indicate that Kaūmana Elementary School is 0.5 miles above Connection's property. Ernest B. De Silva lies 1.9 miles below the property. This is a single access road. Guidelines say there should be a minimum of two access sites on different sides. Right across the school is a concrete culvert. Below the campus lies 17 acres "—" agricultural. Photo number 2 shows a school bus stop on Kaūmana Drive "—"

REPLOGLE: We cannot hear you.

K. LEE LOY: Are you able to hear?

H. LEE LOY: Can you hear me?

REPLOGLE: Yes.

LEE LOY: Can you hear me now?

REPLOGLE: Yes.

H. LEE LOY: Should I start over? Did you not hear the very beginning?

REPLOGLE: Okay I'll make an exception, start over.

H. LEE LOY: Thank you Mr. Replogle. Let's take a 3-minute tour of the area.

LIN: I'm sorry, Mr. Lee Loy, Dr. Lee Loy —

LEE LOY: "—" is inappropriate.

REPLOGLE: Excuse me, yes.

LIN: Could we mute one of your mics because it's creating the feedback, so I think it's coming from Ke'ala Lee Loy's mic. Either use the ASPNET mic or Ms. Lee Loy's mic because it's creating some feedback, screeching noise. Thank you.

KAY: I have muted, the ASPNET microphone so Ms. Lee Loy's microphone is the only one open now.

REPLOGLE: Okay.

HALL: I think the ASPNET network had less feedback.

P. LEE LOY: Okay, so —

H. LEE LOY: Can you hear me now?

REPLOGLE: Yes, we could, so try again.

H. LEE LOY: I'm sorry. Let's take a 3-minute tour of the area and I'll show you why the location is inappropriate. This is the campus, this is Edita Street, here's Kaūmana Drive. Kaūmana Elementary is located half a mile above the property, E.B. DeSilva is located at 1.9 miles below the property. This is a single access road. I'd like to say, there should be a minimum of two access points on different sides. Right across the school entrance is a flood channel. Below the campus is 17 acres of agricultural crop. "—"

LIN: I'm sorry Dr. Lee Loy. I still hear a lot of screeching noise which is interrupting your presentation. Christian, could you switch the mics over to ASPNET?

KAY: Yes.

LIN: I think that one was better.

KAY: Right, so I have to ask to unmute I can't do it unilaterally. So, I've sent that request, so if you can unmute it looks like it's been done and then I'll mute Ms. Lee Loy's microphone.

LIN: Thank you.

KAY: Yeah.

CLARKSON: Also Christian, this is Commissioner Clarkson:

KAY: Yes.

CLARKSON: It may be coming through the Chair's mic which is never muted. Perhaps muting his mic when he's not speaking will help.

KAY: Okay.

H. LEE LOY: Okay, can I start again? Photo number two shows a school bus on Kaūmana Drive picking up students in the morning, note there are no sidewalks and the road curves. Photo number 3 shows a car accident at Kaūmana Drive and Edita, note no sidewalks, no crosswalks, no traffic signal lights. This resident is an elderly lady trying to come out of Edita when she was struck by this truck coming down Kaūmana Drive. Photo number four location map shows the subdivisions and the streams in relation to the property. Waipāhoehoe Stream, Alenaio Stream, Wailoa River, Downtown Hilo, Hilo Bay. Waipāhoehoe Stream runs right alongside the property and then right below it in runs into the subdivisions of Lakeland and Sunrise. Along this border is an intermittent stream that drains into Alenaio Stream, which runs through the Ponahawai, Kūkūau subdivisions behind the Fire Station into Hilo town into the canal that floods sometimes into Wailoa River and into Hilo Bay. Finally, photo number five shows a concrete channel along Edita Street during severe storms the Kaūmana Caves floods, fills the channel and the culvert and sometimes is known to overflow to this area. Look carefully, because this is the entrance to the school right across from the concrete flood channel.

In conclusion, a school with 435 students, 30-person dormitory, six horse barn, livestock's, 17 acres of agricultural incumbency 70 acres in an established residential neighborhood is inappropriate. Because there is not enough water, increased traffic, waste, agricultural chemicals storm runoff. This adversely affects the health and safety of students, staff, surrounding community, subdivisions downstream, Hilo town, Hilo Bay therefore, I respectfully ask you to deny the Special Permit. Thank you so much.

REPLOGLE: Thank you, Mr. Lee Loy. Next up is Jason Turner?

TURNER: Thank you, my name is Jason Turner my address is 1209C Kaumana Drive. I've lived there for 16 years, and my property runs up against the proposed Special Permit property and I'm strongly opposed to it. In short, I can't believe the amount of time and taxpayer money that Connections School has already wasted on this endeavor. To be clear, as a member of the Kaumana Community we don't want the school, we don't need the school, Connections has consistently been a bad neighbor. It's a failing school which makes this entire project a bad idea First we don't want the school. The Kaūmana community isn't coming to the Planning Commission asking for a school. We don't want it. Why? We already have a school; in fact, we have several schools which have been serving the Kaūmana community for well over 100 years. Kaūmana Elementary is less than a mile from the project site. DeSilva less than two miles. Hilo middle school, Hilo High school less than 3 miles.

Further, Connections School doesn't serve the Kaūmana community. Connection's student body is primarily made up of kids from outside of Kaūmana. Frankly, even outside of Hilo. In addition, from the beginning Connections have been bad neighbors to this neighborhood. I first learned about this project as a D-9 bulldozer was knocking down trees and a chicken coop in my yard. Along the edge of my yard. There was no notice, no school administrator was walking the line to talk with the neighbors. Later I found out the school didn't even have permission to clear the land with the bulldozer and had been required to clear the land by hand. More recently, I found their students and faculty picking fruit for my avocado trees over the fence line. When I asked them to stop, I was told, and I quote, "we were teaching the kids about agriculture". So, stealing fruit from their neighbors is teaching the kids about agriculture.

And yet, what are we really talking about here. Connections is a failing school; it consistently ranks as one of the lowest on Hawai'i island and its students consistently score well below the state average. So why in the world would you give a failing school a permit to build another campus. If you have a child who is a bad driver and getting into accidents. Do you buy him a brand-new car? No! You take away their license and enroll them into driving proficiency program. In sum, as a member of the Kaumana community, I can tell you, we don't want to school, we don't need the school. I can tell you that Connections have been bad neighbors. I can tell you that they are a failing school and providing this permit is just a bad idea that makes no sense whatsoever. Build the campus somewhere it's needed. Build it somewhere it's wanted, not just somewhere close to where the principal lives. Thank you.

AU: Mr. Chair?

REPLOGLE: Yes.

AU: Commissioner Au, I have a question for the testifier.

REPLOGLE: Please Mr. Au, go ahead.

AU: Good morning, Mr. Turner. I appreciate you as a community member coming to testify at this venue and I appreciate all those testifiers prior and future testifiers thank you for taking out time in your day. Question to you Mr. Turner. You mentioned that your property is adjacent to the proposed development, and you shared with us a few of the issues that happened. I'm assuming there's no positive interaction with the school that you've had or is it all negative interaction with the school?

TURNER: Sadly, it's been all negative. It's a constant looking over the fence line to see what what's going on this week. You know, to pull back the curtain I'm an educator and I believe in school systems. I believe in opportunities for kids and this project is going to thorn in the side of this community from the beginning. Again, let's reset this. This isn't the community coming to the Planning Commission saying please build the school for us. This is the exact opposite.

So, no, there isn't any positive that I can report and that doesn't feel good as an educator. But there just isn't. If we put our effort into Kaūmana Elementary that's something I'll give you. Put our efforts into DeSilva school, Hilo Middle and Hilo Inter. The schools that serve the Kaūmana community. I'm right there but this is none of that. Frankly, I mean, why are we doing it here, because the principal lives a block away this makes no sense at all. Sorry just doesn't.

AU: Thank you Mr. Turner.

REPLOGLE: Mr. Lin?

LIN: Yeah, thank you Chair. Hi Mr. Turner. I have a question for you and as well, I want to thank all the testifiers here today. But I wanted to make comment to your actually a question regarding. So, you say E.B. DeSilva, Hilo High, Hilo Intermediate, Kaūmana Elementary those are schools that are within the area. So, if those schools had any plans to expand and use the same location, would you be opposed, and would the community be opposed?

TURNER: You know I can't speak for the community. Had that school set up a meeting with the community and asking what we need. They are children right, so why would a school come to a community asking what we "—". If the community was asking for an expanded footprint of Kaūmana Elementary or one of those schools, and you know, maybe that's part of the discussion, this is the opposite. So, why would a school come to a community that serves it asking for greater footprint, should be the opposite way around or if you're coming to a community saying we need to expand the footprint because all of our kids would have gone there, we don't know. Right, so I understand your hypothetical and I can't say this started so poorly from the beginning that it's hard for me to imagine a different scenario. But I appreciate the question and I understand the question I just I don't know that I have a clear answer for you.

LIN: Thank you.

REPLOGLE: Thank you. Okay, thank you Mr. Turner. We are now going to Kimo Miller?

MILLER: Aloha.

REPLOGLE: Good morning.

MILLER: Morning. Is the Planning Commission planning on building sidewalks on Kaūmana Drive? Oh, wait, wait, my name is Kimo Miller. I'm a resident on Kaūmana Drive near Edita Street. I'm voicing my opposition to having Connections Charter School in our quiet Kaūmana neighborhood. First of all, as noted in earlier testimonies, their vision of having a K thru 12 school in our neighborhood will without a doubt cause disruptions and challenges to the lifestyles that many of us in our elderly years have enjoyed for many years. It's been approximately 7 years since the Commission dealt with this Charter School request and I am dumbfounded. Why in these 7 years the schools visionaries have not found a more suitable location in Hilo with the land and access that would not disrupt an already existing neighborhood.

They had time to look for alternative sites and even meet with the community to look for some compromises, but no, it seems they are choosing to be more in our face in our Kaumana community and ignore us. I know alternatives exist for this school. I think we all know, there's alternatives that exists. Perhaps some mutually agreeable compromises could be reached, but at least they could have tried, but they have not made any efforts. I'm asking the Planning Commission to help Connections Charter School plan a future that all can support. And the reason why I brought up about sidewalks is because I don't know if you guys know Kaūmana, but at the corner of Kaūmana and Chong Street there's a popular swimming hole. When the rain hits hard in Kaūmana which it does, that swimming hole is very dangerous. The swimming hole is only about 200 yards from the entrance of the Charter School. I have reason to believe, as all of us who are parents would believe that if kids are living at the school, they're going to find out about this swimming hole. They are going to track up and down Kaūmana Drive to swim in this hole and Kaūmana Drive is not safe to walk on. Especially up in this area.

So, if there are safe sidewalks for them to walk safely great. The other thing is how about the caves. These are kids going to be living here they're going to be tracking up and down to the caves. What else do they got to do? I mean outside of their proposed agricultural activities, but I think it's a bad idea to have a school in our neighborhood and that's why I'm voicing my opposition and I really appreciate you guys allowing us to see our peace and mahalo.

REPLOGLE: Thank you Mr. Miller. Next will be Sadira (Sprout) Kirham, a student. Sadira?

KIRKHAM: Aloha and good morning, everyone. I believe that Connections should indeed continue with their project on the Kaūmana property, including building a second campus. This will greatly improve our community and our lives on an ecological and social scale. If I as a

student were to have a campus where I could explore and express myself in the outdoors my education and time—

REPLOGLE: Excuse me, excuse me.

KIRKHAM: Yes.

REPLOGLE: Sadira, is there someone talking in your location?

KIRKHAM: Oh, they are listening to the Zoom in the room next to mine. Should I go tell them to have it off?

REPLOGLE: They should. They should or turn it way down.

KIRKHAM: Okay, do I need to start over? Can I pick back up?

REPLOGLE: Thank you Sadira. It's your choice if you'd like to start over go ahead, if not just pick up where you are. We could hear you; it was just the noise was interfering.

KIRKHAM: If I as a student were to have a campus where I could explore and express myself in the outdoors my education and time as a student would have greatly improved, especially during a pandemic. Our agricultural endeavors will bring positive changes to the environment and inspire changes inwardly and outwardly. People will look into see how they can improve, as well as having uplifted self-esteem so, that we may reflect without beating ourselves up. We will help ourselves so that we may help others. We will look out to see how we can benefit the planet and the other creatures on it, including us. Connections kids are creative, innovative, unique, and compassionate. We are the future, and we will shine the light that creates the path to change.

Connections believes in project-based learning and creating a caring and growing environment. It is a place to not only learn school subjects but, to learn valuable life skills as well. It is a place where you may step out of your comfort zone and into your best self as you create fond memories Hands on kinesthetic learning and sovereign communities create curiosity and connection. In the future I'd like to continue creating positive changes for the community and I believe Connections is greatly helping me on that path. For my senior project I like to grow food on the Kaūmana property and cook and bake healthy items at an affordable price range for anyone in need. Connections prepares you for the next step and support you along the way. Stay connected at Connections. Mahalo for your consideration.

AU: Mr. Chair?

REPLOGLE: Thank you Sadira.

AU: I have a question.

REPLOGLE: Any questions?

AU: Mr. Chair, can you hear me, I have a question.

REPLOGLE: Yes, Mr. Au.

AU: I think my bandwidth is not that good, but can you hear me, okay?

REPLOGLE: I can hear you.

AU: Okay, I have a question for you, Ms. Kirkham. Thank you for coming to testify, it's nice to see our young keiki out there being part of this government process, and I do understand you're reading off a script.

KIRKHAM: Yes, I had some things to add like off script if I do have the time. But I'm open to questions.

AU: Okay, well just I don't have a question for you, I just want you to maybe just express in a really, really brief statement of why you think your school should be in this particular location, with all the controversy going around? So please just take a really quick second to think about what you're going to say before you say it. Gather your thoughts, but just share with me why you think it's important to have this school in this location with the controversy going on?

KIRKHAM: Because I believe that Connections cares about the community within our school and outside of our school and cares about the students even once they leave. Having the school in this location would create a healthy and safe environment for a lot of students and create jobs for a lot of people. And it kind of saddens me that some of the people here seem to be slandering our school and our students and saying it's one of the worst schools in Hawai'i. Because I see what they're saying from an academic standpoint to some degree but, because I know the statistics, but I don't think we have the worst school. I think our school is very unique in the way it teaches but that's because our students are very unique and everyone is different in their learning and I believe that having a school that is outside will create so many opportunities for people in life, including people like myself. Because I'm disabled and having a school where I can learn through my disabilities without feeling like I'm being held back and confined it's very nice to think about the future of the next generation after mine getting "—" because it will be down the line to have a school. It's very nice to think that the future keiki can have a wonderful childhood experience.

AU: Thank you.

KIRKHAM: Thank you for listening and thank you for your time.

REPLOGLE: Anything any other questions? Okay, thank you Sadira that was very good, well spoken. Next, we have Ngetroi Rall also a student.

RALL: Hello.

REPLOGLE: Good morning.



RALL: Do I just start?

REPLOGLE: Yes, you may begin.

RALL: Sorry.

REPLOGLE: It's okay.

RALL: Salutations everyone. I'm Ngetroi Rall, one of the students working on the Kaūmana property. I've been a student of Connections since first grade and as an 11th grader I can see how an outdoor campus can and will take our schools education on to the next level. Connection's project-based learning style of education has got me the opportunity to start my own business Mamaki Dream, with my fellow students. I would have never been able to have this opportunity with any other school. We have made sure this business is eco conscious. Connections has provided me and my fellow peers guidance and support. Mamaki Dream is a mamaki tea business with the teachers of Kaūmana helped us to create and develop. Our mission is to provide our clients with a product that is healthy and beneficial for a reasonable price.

Our vision is to go back to our school and one day see Hawaiian culture spread further than just the Hawaiian Islands, starting with mamaki tea an ancient healing herbal tea. Done.

REPLOGLE: Thank you, Any questions Commissioners? Okay thank you Ngetroi.

RALL: Oh, okay.

REPLOGLE: Next, we have Kaitlyn Grogg, also a student.

GROGG: Okay.

REPLOGLE: You may begin Kaitlyn.

GROGG: Okay. Aloha everyone, I am junior who has been at Connections since the first grade, and I am one of the students working on the Kaūmana property in order to prepare the land for agricultural development. I just want to discuss my experiences as a long-term student at the school. Personally, like myself, I was one of the students who did all of my work online last year and coming back to in person schooling was really, really difficult. Especially because our current schooling situation has us confined in a building with only narrow hallways outside of classrooms and we are surrounded by a bunch of storefronts. So, we don't really have our own parking lot either and there's not a lot of room for the students. Having the opportunity to work at the Kaūmana property is a really, really great break from the confined quarters of the Kress building itself. It allows students to do hands on work and experience agriculture in Hawai'i which can better teach students about real world situations.

We learn about invasive plants and how to safely clear them as not to disturb the native ones. We learn how to cultivate plants such a sweet potato, mamaki, and like even coffee. And we

really hope to use those products like at school, like for our lunches which would provide healthier meals, more locally sourced meals and it's honestly been my own personal experience. The staff at Connections cares very deeply about their students, they view them not only as students, but as family. And we care about our family and our neighbors, the environment, we really want to do all we can for them, and despite the fact that my classmates and I will likely not be around the school by the time a new campus would be built. We still want to work as hard as we can for the next generation of students, that they can have better resources than we ever did. We do this because those kids to come after us are going to be our future, and we have to do the best we all can to make sure they get a bright one. That's all I have to say.

REPLOGLE: Thank you Kaitlyn and last will be Krysta Costa, also a student.

COSTA: Yo, what's up everyone?

REPLOGLE: Good morning, Krysta. You may begin.

COSTA: I'm a senior currently going into college.

REPLOGLE: Did you say your name and where you live?

COSTA: Sure, my name is Krysta Costa and I live in Downtown Hilo. Really—

REPLOGLE: Thank you.

COSTA: So, I'm a senior at Connections and I've been here since fourth grade. I really feel the support that they give and last year I was a hybrid student, and this year is the same. However, this year is vastly different, I've had much more fun in so many great new memories and learned a lot. I was lucky enough to be able to work and help out at the schools Kaumana property. One of the distinctive memory from my time working out there was quite the memorable one. I was feeling hungry, and I went up to the waiwi tree that they had and one of the workers there saw and said he wanted to show me something. So, he gave me a yellow waiwi and he picked the red one and he told me how that the red ones were sweeter than the yellow ones, and that flies like them a lot, so they lay eggs on them and had worms.

So, after I ate half of it, he broke open the red waiwi to show me and saw how it had a black head and the white body with long line, a thin body. It was very fun to discover something new, he told me I didn't have to worry because they were digestible and that it wouldn't do anything else. It was funny though, but I actually immediately threw away the other half of the fruit I had my hand after I saw it. All and all I really just have a lot of fun there even though I do find some disturbing things, but I feel like I learned something new every day, and I really like that. Thank you for listening.

REPLOGLE: Thank you, Krysta. Okay, if everybody can turn on their cameras oh, that's already done. Okay, do you have any questions for the testifiers Commissioners, any further questions?

The public testimony ended at 9:54\_a.m.

Respectfully submitted,

*Melissa Dacayanan-Salvador*  
Melissa Dacayanan-Salvador (Nov 9, 2021 09:01 HST)

Melissa Dacayanan-Salvador  
Secretary to Boards and Commissions

WINDWARD PLANNING COMMISSION  
COUNTY OF HAWAI‘I

HEARING TRANSCRIPT  
OCTOBER 7, 2021

A regularly advertised hearing on the application of **CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) (SPP 12-000138)** was called to order at 11:29 a.m. via live-stream online meeting, with Chairman John Replogle presiding.

COMMISSIONERS IN ATTENDANCE: Dean Au, Joseph Clarkson, Michelle Galimba, Dennis Lin, and John Replogle

COMMISSIONER RECUSED: Thomas Raffipiy

COMMISSIONER EXCUSED: Gilbert Aguinaldo

ALSO IN ATTENDANCE: Malia Hall, Esq. (Counsel for the Commission), Jeffrey Darrow (Deputy Planning Director), Jean Campbell, Esq. (Counsel for the Planning Department), Christian Kay (Planner), and Melissa Dacayanan-Salvador (Windward Planning Commission Secretary)

**APPLICANT: CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL/COMMUNITY BASED EDUCATION SUPPORT SERVICES (CBESS) (SPP 12-000138)**

Hearing on Special Permit application SPP No. 12-000138 record as presented on appeal. SPP No. 12-000138 was remanded back to the Windward Planning Commission by Intermediate Court of Appeals for further proceedings consistent with its January 31, 2020 Memorandum Opinion vacating the County of Hawai‘i Windward Planning Commission’s May 12, 2014 Decision and Order, which denied Special Permit SPP No. 12-000138. 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.

*Secretary’s Note: “—” indicates that there were technical and/or internet difficulties, which made the conversation inaudible.*

REPLOGLE: Next, we are moving on to unfinished business. And that is the applicant Connections New Century Public Charter School/Community Based Education Support Services (CBESS) (SPP 12-000138)

AGUINALDO: Excused himself and left meeting.

RAFFIPIY: Mr. Chair?

REPLOGLE: Yes, Mr. Raffipiy.

RAFFIPIY: I'm going to recuse myself on this one.

REPLOGLE: That's right.

RAFFIPITY: "—" in the past meeting so, thank you very much and appreciate, thank you all for your support.

REPLOGLE: Okay, thank you, Tom. The hearing on the Special Permit SPP No. 12-000138 record as presented on appeal. SPP No. 12-000138 was remanded back to the Windward Planning Commission by the Intermediate Court of Appeals for further proceedings consistent with its January 31, 2020 Memorandum Opinion vacating the County of Hawai'i Windward Planning Commission's May 12, 2014 Decision and Order, which denied Special Permit No. 12-000138. Application for the 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 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.

AU: Mr. Chair?

REPLOGLE: Yes.

AU: Mr. Chair, I have a question.

REPLOGLE: Mr. Au.

AU: I'd like to make a motion to go into Executive Session before we get started with Item #4 to discuss with the Commission's attorney just to make sure that all of us are on the same page.

REPLOGLE: That's a very good idea, I was going to offer that option to you.

LIN: I second that motion.

REPLOGLE: Okay, all those in favor? Aye.

AU: Aye.

CLARKSON: Aye.

LIN: Aye.

REPLOGLE: Okay, so, we apologize to all of you waiting to get on with this, but we are going to go into executive session, briefly, so we can better serve you. Okay.

*The live-stream meeting was placed on hold and at 11:32 a.m. the Commission went into executive session. The live-stream meeting was reconvened at 11:59 a.m.*

HALL: For everyone, I am Malia Hall, Deputy Corporation Counsel for the Commission. They just wanted me to give an overview for everyone here and also for the public of kind of the procedures that will be happening today. The Commission has before it is Special Permit application that is greater than 15 acres thus if they were to motion for approval and that passed this would be processed and given to the Land Use Commission for a final decision. The Land Use Commission has the authority to approve with modifications or deny this this permit if the Commission puts it up for approval. On the other side of that if the Commission decides to deny this permit today, that it would not be forwarded to the Land Use Commission and would be appealable to the Third Circuit. Other than that, everybody will be allowed to give a presentation, the Commissioner's will be asking questions of everyone here the Applicant, the Intervenor, and the Department. If anybody else has any other questions before we proceed, I will pass it back to the Chair and I thank you all for being here today

REPLOGLE: Thank you Ms. Hall. So, we will now proceed with our staff presentation, if there are no objection Planner Christian Kay will provide us with a brief presentation on the application before hearing from the parties.

KAY: Thanks, Mr. Chair and I'll share my screen here just one moment please. Can everybody see the presentation on the screen? What about now?

REPLOGLE: Yes.

KAY: Alright, perfect. Just by way of a quick background here, everything that you're going to see on the screen came from the original presentation given in 2012. With the exception of the final slide which is just a timeline and that was pulled directly from the remand document that you are provided. Again, this is a Special Permit Application No. 12-138 for Connections New Century Public Charter School and CBESS. Okay hold on one moment and I'm being told that I have the wrong screen up. There we go. That's maybe a little bit better. The subject property is situated in the South Hilo District of Hawai'i Island more specifically in the Kaūmana area. For reference with that Kaūmana Drive running generally this direction through the slide. The subject property is outlined in black and consists of about 70.15 acres. Property itself is split in the middle by Edita Street, which is running north south through the slide here.

The zoning for the subject property and some of the surrounding areas is Agricultural 1-acre with other various Agricultural Single-Family Residential and Family Agricultural zoning in the area. The State Land Use designation for the subject property and much of the surrounding area is Agricultural as indicated in green with more Urban designations to the north here as indicated in pink. The General Plan Land Use Pattern Allocation Guide Map designates the subject property within the Low-Density Urban designation. There are some Rural, Open, and Important Agricultural lands in the area as well. Here is an aerial photograph of the subject property again for reference we've got Kaūmana Drive running this direction to the slide and Edita Street

running this direction again splitting the subject property outlined here in black. It's currently vacant of any structures.

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 in the State Land Use Agricultural District. The request is for a new academic campus which will accommodate an elementary, intermediate, and high school and the common facilities that would support these programs. The subject property is divided by Edita Street and includes what is referred to as the "lower parcel" and the "upper parcel". All major school facilities will be located on the lower parcel. The applicant is proposing to design and construct the project in 9 phases. The entire project is projected to be completed within 16 to 25 years. The reason for the request is to consolidate their academic programs at a single location and provide facilities that support the goals and visions of the school.

Here is an indication of the lower parcel site plan, where again all of the structures related to the school program would be built. And then the upper parcel site plan, which shows generally vacant of improvements, except for an elevated walkway that would traverse the entirety of the upper portion of the parcel.

So again, this timeline comes from the remand. July 25, 2012, this Special Permit application was submitted to the Planning Department. October 16<sup>th</sup> the Director's recommendation was given the Planning Commission send a favorable recommendation of the State Land Use Commission. November 9, 2012, the first public hearing was the date of the first public hearing before the Windward Planning Commission. There was a second public hearing on December 6, 2012, a third public hearing on January 10, 2013, and on March 7, 2013, there was a fourth public hearing before the Commission at which time a Contested Case Petition was presented. October 12 through January 22 pardon me October 12, 2013, through January 22, 2014, was a series of 5 Contested Case Hearings.

On April 7, 2014, a Hearing's Officer provided recommendation to the parties and the Commission on that was for a denial. On May 1, 2014, was the fifth public hearing before the Commission at which time the Commission voted to deny the special permit application. May 12, 2014, the Commission issued its Final Findings of Fact, Conclusions of Law and Decision and Order. July 14, 2015, the Decision and Order affirming the Planning Commission Findings of Facts, Conclusions of Law and Decision and Order was issued by the Third Circuit Court. October 2, 2016, was a First Amendment Judgement by that court, January 13, 2017 was the Second Amended Final Judgment by that court and on January 31, 2020 the Intermediate Court of Appeals submitted a decision to remand back to the Planning Commission.

The Planning Department has issued its recommendation has retained its recommendations of an approval and a favorable recommendation up to the State Land Use Commission. We've been sending out information to you right along, you should have received a significant amount of written public testimony as well as draft Findings of Fact, Conclusions of Law and Decision and Order documents from both Mr. Matsukawa and Mr. Hong. With that I'll turn the time back over to the Chair, thank you.

REPLOGLE: Thank you, Christian. Okay. Please hold any questions until after the parties have presented. So will the parties for this Special Permit application Docket No. SPP 12-138 identify yourselves for the record and remember to unmute yourself. Let's start with the Applicants Kevin Richardson, Deputy Attorney General (Attorney for Applicant Connections New Public Charter School), Ted Hong (Attorney for the Applicant Community Based Education Services), Heather McDaniel (Chair of CBESS), John Thatcher (Member of CBESS Board and former Principal), Romeo Garcia (Current CBESS Principal, the Intervenor Michael Matsukawa Esq. (Attorney for Intervenor Jeffrey Gomes).

HALL: Sorry Chair, point of order.

REPLOGLE: Yes, please.

HALL: For identifications, you would just let them identify themselves for the record.

REPLOGLE: Oh, okay.

HALL: “—” read offs, so you can just say you know applicant and then let them identify themselves and then go to the Intervenor and then et cetera.

REPLOGLE: Okay. So, Mr. Richardson I guess you have the floor.

RICHARDSON: Thank you. Good afternoon, Commissioners and Chair my name is Kevin Richardson and I'm a Deputy Attorney General representing Connections New Century Public Charter School with respect to this Special Permit application No. 12-138.

HONG: Good afternoon, Mr. Chairman, members of the Commission, my name is Ted Hong. I represent Community Based Education Support Services more commonly referred to as CBESS.

GARCIA: Aloha, [spoke in the Hawaiian language]. My name is Romeo Garcia and good afternoon to everyone, I am the po'o kumu Principal at Connections Public Charter School and I am not a member of the CBESS organization itself, so I represent Connections Charter School.

THATCHER: Aloha, I'm glad that Romeo straightened that out. I'm the retired Principal. I retired on July 1 from Connections Public Charter School after 19 years as the principal. My name is John Thatcher.

MATSUKAWA: My name is Michael Matsukawa. I'm the Attorney for the Intervenor Jeff Gomes.

REPLOGLE: And we are represented in the Planning Department by Deputy Planning Director Jeffrey Darrow and Deputy Corporation Counsel Jean Campbell, Attorney for the Planning Department. I'm going to swear you all in together. Please raise your right hand. Do you swear to affirm to tell the truth on this matter now before the Windward Planning Commission?

MATSUKAWA: I do.



HONG: Yes.

RICHARDSON: I do.

THATCHER: Yes.

GARCIA: Yes.

REPLOGLE: Thank you. Mr. Hong, Mr. Richardson you have the floor.

HONG: Okay.

RICHARDSON: I guess I'll start off first. So, after conferring with CBESS and its counsel on this matter. Connections joins and supports CBESS's position, including the presentation that's going to be offered to the Commission today as well as CBESS's written submittals, including the proposed Findings of Fact, Conclusions of Law and Order, additional exhibits and supportive application and the proposed conditions of approval submitted to the Commission on October 5<sup>th</sup> and 6<sup>th</sup>. Accordingly, Connections respectfully request this Commission approve the Special Permit application and forward it to the State Land Use Commission for final decision making. Thank you.

HONG: Mr. Chairman, members of the Commission good morning. Again, my name is Ted Hong. I represent CBESS. This morning our presentation is going to consist of two speakers. The first speaker is Romeo Garcia was the current Principal. He's going to talk about a brief overview of the school, its purpose, mission, the demographics of the school and what their future vision is in terms of you know traffic issues, community outreach. The second speaker is going to be John Thatcher, a former Principal. He was the one who was instrumental in drafting these plans before the planning Commission right now. He would like to talk about the overall concept and certainly address the issue that we feel is the issues that we feel are on the Planning Commission's plate. With respect to the Intermediate Court Opinion Intermediate Court of Appeals Decision, which would be the issue of water use and also agriculture. And then I'd like a brief opportunity to conclude our presentation and certainly be more than happy to answer I'm sure a number of questions from the Commissioner's.

REPLOGLE: Thank you.

GARCIA: Aloha, again.

REPLOGLE: You have the floor.

GARCIA: Thank you very much. Aloha. [spoke in the Hawaiian language] again. My name is Romeo Garcia, I am the po'o kumu which also translates to Director and Principal at Connections Public Charter School. Mr. Hong provided an outline of the things that I'm going to cover in my part of the presentation and so I will go right ahead and begin and actually I'm going to go ahead and set my timer for myself to make sure that I stick within my allotted time.

I'd like to start with introducing myself and my background in education. I have a bachelor's degree in theatre arts and rhetoric from Occidental College in Los Angeles. I have a master's degree in education with a focus on staff development and curriculum development at Mills College in Oakland, California. And prior to moving to Hawai'i Island in 2015 I was a doctoral student in educational leadership at Mills College in Oakland. So, I am currently on a leave of absence from that doctoral program. I have been an educator for 37 years. I began as an elementary school teacher in Oakland, California and I actually became a teacher were in one of the schools that I attended as a child there.

After that I went to work at Mills College in Oakland as the Director of Federal TRIO Programs Upward Bound and Educational Talent Search, which provides support to low-income first-generation students. It's a national program in helping and assisting them and preparing them for college since their parents had not earned a college degree. The information about preparing for college and both going through high school and being successful in college was not available to them so, those programs helped to provide students with the support, and we had a very successful program there. I was also for four years the assistant to the President at Mills College where I became a part of the college administration.

After leaving the Mills College, I was a Co-founder of Arise Charter High School in Oakland and I'll refer to that a little bit later on in my comments. I've been an educational consultant. I was the Executive Director of the Peralta Community College District Foundation and also Dean of Special Services and Programs at Merritt College in Oakland. I moved to Hawai'i island in 2016 where I served as the po'o kumu at Laupāhoehoe Community Public Charter School. And because I became ill, I decided to take a leave of absence from there and then decided that returning to full time work was not what I wanted to do at that time and to continue my health recovery, and so I began working at Connections in 2018 as the Vice Principal. So, to kind of step back a little bit and my primary focus as the Vice Principal was to provide students support and support to staff as well to help our students to be successful.

John Thatcher and I met in 2005 at a national conference of small schools from around the United States and I was in the process then of creating this new High School in Oakland, a charter school in Oakland as I referred to earlier Arise High School. But my connection to the Big Island started many years before that to Hawai'i island. 30 years ago, when I was colleagues with friends who work at the University of Hawai'i at Hilo in the Upward Bound and Talent Search programs here. So, both Cornelia Anguay and Kurt Dela Cruz have been longtime friends of mine and were part of helping me to make my move to Hawai'i island where I plan to spend the rest of my life and my career until I retire and working in education. I would like to share my screen so that's introduction to myself and my background in education. I would like to share my screen for a brief moment to give another aerial view of the property that some of our students actually took this drone footage. So, let's see if this works. Here we go. Okay I'm really trying here, and can anyone see my screen now? No. Okay. Trying to connect it to here and zoom. And we'll try one more time if that doesn't work, I will continue on with my presentation.

So, what I will do is refer to the photograph that was shown earlier by the Commission staff person I believe it was Mr. Kay that showed the property. The total of 70 acres that the school has leased or that CBESS has leased from the State. And as he stated before the upper portion of the property, the 35 acres there we will not be doing any land school development there in terms of buildings and structures, particularly because it does sit above the Kaūmana caves. We do plan on putting a raised walkway there so that we can still use the land as an agricultural site for our students to learn about the environment, but certainly not do anything there that's going to endanger the cave property. The lower portion we've already started using the campus there or the property there for agricultural purposes as our students spoke very well of earlier and it's great to have the opportunity to have the land there to really help give them the opportunity to learn about agriculture and sustainability and looking into opportunities for the future is one of our students said to work in that field both here on Hawai'i island and maybe throughout the state.

So, I would like to share part of our mission for Connections. Our mission is to create an 'ohana that is conducive to the recognition and development of individual talents. Thematic and experiential learning experiences are provided that focus on how students construct knowledge using creative and critical thinking. Classroom experiences are connected to real life experiences so that students can grow in the understanding of themselves in relation to their community and to the world. The 'Ōlelo No'eau that drives our work at Connections 'Ōlelo No'eau #203 is "A'ohe pau ka 'ike i ka hālau ho'okāhi". "All knowledge is not taught in one school". Which fits into us wanting to expand to provide another opportunity for our students and another environment for our students to learn.

I'd like to share some geographical information about where our students come from that attend Connections. This is a breakdown of the Hawai'i County districts and cities that the students are from based on their mailing addresses. So, 69% of our students 69.64% of our students and this material has been provided to the Commissioners in writing. 69.64% of our students, which is 250 of our students live in the Hilo district. 30.08% of our students 108 of them come from the Puna district, and we have one other student that doesn't live in either one of those districts. The cities that our school represents with their students and our families, the largest group of students is 61.56% of our students 221 of them live in Hilo. With 14.48% of the students living 52 students live in the Kea'au area. So, we have students from Hakalau, Hawai'i National Park, Honomū, Kea'au, Kurtistown, Mountain View, Pāhala, Pāhoa, Pāpa'ikou, Pepe'ekeo and Volcano. So, we provide transportation for our students if they need it with our school buses to get to our campus that is currently in Downtown Hilo.

Other demographics about our students are again we're a K – 12 school our total enrollment as of today is 360 students, when I wrote this report, it was 359. But we continue to be a resource for students to transfer to us when they have a need. Of those students 188 are male and 171 are female. 68% of our students are in special education and 19 of our students have 504 plans which are special plans to provide students with support. And 28 of our students are English language learners. I will point out that the percentage and the number of students that are in special education and that have 504's is high for the size of our school. One of the reasons for that is Connections has a history of serving students with different special needs serving those students well and helping them to be successful all through school from kindergarten all the way

through high school and move on to their next plans for their lives. Whether that has to do with college or working in the community and I will share a little bit more about that as well.

In terms of other student demographics, we have a very diverse student population. The largest group of students ethnic group of our students are 138 students are self-identify as native Hawaiian and so that makes up 38.44%, 98 students self-identify as White and that's 27.30%. : And there is a mix of student's different numbers from it is 19 students down to one that comprise come from different groups American Indian, Alaska Native, Black, Chinese, Filipino, Japanese, Portuguese, Samoan, Micronesian, Tongan, and Other Asian and Other Pacific Island. So, from that and again the Commissioners, you have this information in writing, you can see that we have a very diverse group both ethnically and geographically.

Since Connections serves predominantly low-income families at 87.9% of our families are identified as low income. We offer nutritious school meals to all students. Through our U.S. Department of Agriculture checking my time agriculture program. During the school closures caused by the pandemic we also offered lunches to any child under the age of 18. That came from the Hilo community. We have different grants that I'd like to talk about some of the grants that we have are announced or share some of the grants that we have. We have artists in the school grants were professional artists come to our school and teach our students, as well as our teachers in different art techniques. We have a REACH grant for after school programming and an UPLINK grant for after school programming with a focus on technology.

U.S. Department of Agriculture child nutrition program. Again because of our location and our student demographics, we are designated as a community eligibility with a provision. So that makes it so all of our students that is in the school are able to have free lunch and breakfast. We also have just received this past, beginning of the school year a \$48,000 Farm to School grant from the U.S. Department of Agriculture and we're now in the process of applying for an additional grant which could go up to \$250,000 with the Department of Agriculture to continue in our farm to schoolwork. We are also a Title One school based on our low-income status and so we receive federal funding for that. We also have the 21st Century Learning Center grant that primarily served students in our after-school program. We have multiple partnerships with the Akaka Foundation, Hawai'i Afterschool Alliance, Hawai'i Agricultural Foundation, the Ho'ouana Pono Drug Prevention Program. We have partnerships with Kamehameha Schools Environmental Education Programs, Kama'āina Kids, Kohala Foundation, and the University of Hawai'i System both the UH and HCC.

Our alumni have a vast number of experiences. We currently have alumni from our campus that work at the school, one of our teachers is a math and culinary arts teacher who has been teaching at Connections for five years. She's a graduate. We are coordinator of our 21st Century Learning Center grant. Two of our educational assistance at the elementary level. One staff person who works in our Studio Shaka After School Program and one of our staff who works on our facilities team. And we have two of our current students who work in Studio Shaka after school program. So, we also believe that it's great to be able to employ graduates of our program and they can come in and work with students based on their experience. I will highlight one of our graduates who just recently appeared last week in an article written by the University of Hawai'i his name is Kit Neikirk and part of the quotation there. This graduate current

research focuses on recording and analyzing the changes to mitochondria in relation to the knock down of genes. Neikirk began his post-secondary academic career as a high school freshman at only 13 years old. When he also started classes at the Community College, he graduated high school from Connections Public Charter School in Hilo as a sophomore. The youngest in his graduating class he entered the University of Hawai'i at Hilo in 2019 as a 15-year-old triple major in biology, sociology, and chemistry. He plans to graduate with his bachelor's degree in the spring of 2023. He's currently studying in Ireland as part of his exchange semester in Europe. And he plans to attend Medical School and continue his journey towards becoming a health care provider and my time is saying I'm up, and so I will wrap things up here just one more comment.

Our alumni are also a very active part of the local workforce. Working everywhere from KTA, Walmart, lots of different businesses Hāpuna Prince Hotel, Home Depot different stores to name a few. Our students, because of their relationship to their experience at Connections and it's become a resource and they have allegiance to the school. Because of their appreciation they visit us on a regular basis to give us updates in terms of what's going on in their lives, and we have many generations, multiple generations of students and siblings that come to our school. Based on this part of the presentation and on the multiple letters I think 50 plus letters of support that have been submitted on our school's behalf I also request that you approve the Special Permit that we're requesting. At this time I can answer some questions later, but at this time I'll turn it over to John Thatcher.

REPLOGLE: Thank you. Mr. Thatcher?

THATCHER: Okay, aloha. I'm John Thatcher, the former principal of Connections. I also worked as a teacher for the Department of Education for about 18 years. So, I retired with 37 years of experience with the State of Hawai'i education system, I have two master's degrees one is in Administration and Supervision from a program that was called an Educational Entrepreneurs Program at Arizona State University was a federally funded program for charter school administrators. I have another master's degree from UH Manoa in Educational Communications and Technology. I am a member of the newly created U.S. Department of Agriculture Hawai'i State Technical Advisory Committee for urban agriculture. I am also currently serving on the Hawai'i Charter Schools Network Board with Steve Hiramaki and other charter school leaders throughout the state.

While I was working as a teacher, I helped to refine field test and train teachers throughout the State of Hawai'i and in Micronesia. Using a science and health curriculum that was developed by the curriculum research and development group at the University of Hawai'i Manoa. A huge part of this program was school gardens and nutrition. We use this to integrate science and health in many different areas, so I have extensive experience with home gardens especially and school gardens.

A little background on how we got to this place. Applied for the land. In 2006 State Legislature passed a law that says that Charter Schools could request vacant land for use as facilities from the State as the State entity, we could request facility. In 2006 right after that Connections asked DLNR for a list of properties in the Hilo area that we could use as a potential building site for a

school. We were given a list of properties. At the time, the Charter schools were told by the administration of the County that we were exempt from State laws, except those related to health and safety. And that the major effects of this was that Charter school is located in State Land Use Agricultural Districts did not have to obtain a Special Use permit. So, that was in 2006 and many things have changed and so we eventually came to the position of asking for a Special Use permit in 2012 I believe this when we started that.

Connections has always had a set of essential goals that we adhere to and a lot of the reason that we chose the land in Kaūmana was that it really helped us in our ability to use the land as a living classroom. The two out of five goals at this address are we want our students to be able to understand use and evaluate technology. As well as produce new innovative uses of application in a variety of fun tech for a variety of audiences. We also want our students to be able to use the land for projects that are self-initiated. So, one of our students said, we use a lot of project-based approach, and so the vision of using the land for this is really supports the agriculture programs that we envision, the aquaculture, the arboriculture, the forestry, and the conservation projects. That we have been planning and have been realizing to some degree on the property, the agricultural especially.

One of the issues that the Intermediate Court sent back to you folks was the water issue. The portable water issue and the issue that all of our students would be using 60 gallons a day seemed very, very overinflated to us at the time. We understand the 4,200 gallons of water that's available through the current pipes and we believe that that can support more than 70 students. I actually have compared figures with Steve Hiramaki and one of his fights was about the same number of students. And both of our sites are actually using an average of about 4.5 gallons of water per student per day. I wanted to confirm that with Steve because he's got good records on this, and he actually brought it up to me originally. And I said well yeah that's consistent with our records of our water bill, and the way that we calculated this is I looked at recent last 2 school years while I was at Connections. And I saw that the times that our students were on campus we used a range per month between 2.6 and 6.7 gallons per day per student. This figure is very, very different than the figure that was used to calculate the fact the idea that we could only have 70 students on the property. So, I think that this is something that really needs to be looked into what are the actual figure for the amount of water that would be used in Kaūmana.

All of the buildings in the new Kaumana site we're planning on using water reduction and conservation fixtures. Irrigation is a big use of water in most schools, but we propose to use rain catchment systems for irrigation and for our agriculture program. And one of the reasons that I am on the it's called the Staff Committee. The State Technical Assistance Committee is urban agriculture is a new program with the USDA and there are places like New York City, with a long history of using rain catchment for agriculture garden that are growing at schools and community site. And so in checking with that I was asked if I would serve on the committee because of our experiences doing that as one of the reasons.

I think if we were talking about composting toilet and septic tanks, which the school intends to use both of these, these are the practices that have been in place for many years now, because we realize, and government has made steps to eliminate the cesspool. Composting toilets are an idea that is not really that recent are used in a lot of trailers, a lot of areas that are outside of the area

served by sewer system. So, by using these kinds of systems I think we can also further reduce our use of water. It's interesting to note that just about all of the houses in the Pacific Plantation subdivision and the surrounding areas use cesspools and these properties are not served by the municipal sewer system it hasn't come up this far yet. Septic tanks would be a better way of catching the wastewater and all of the water, the wastewater that is in cesspools will eventually end up in Hilo Bay.

So, I agree with the maps that the water that's in the ground is being put there through cesspools can pollute Hilo Bay and is polluting Hilo Bay. The school would like to use different technologies including a wastewater system, so we would have a septic tank and also wastewater system very similar to the one that's being used at the Puna Kai Shopping Center. This wastewater system is proven technology, the engineers are from the Big Island that designed this, and it's been approved that shopping center wastewater system was approved by you folks. So, we're not trying to do anything that's different, we are not planning on polluting the ground, we are trying to do something that will show ways of undoing some of the damage that has been done through the residents throughout much of this island.

So, another thing that we're doing right now, and Mr. Garcia mentioned it that we have a part of school's grant, the U.S. Department of Agriculture has invested \$12 million this year, you know 176 projects throughout the United States. This is the most projects that have been funded since 2013 and 4 projects were funded in Hawai'i. Two of them are on Kauai, one is in Waimanalo on Oahu, and we are the only project that was funded on the Big Island this year. Our students are using the living classrooms that we are constructing, we are clearing the land of exotic and introduce plan and we are hand clearing, so we are not destroying the native ohia's and other plants that are found up there. There are 11 native plants that are found on the property.

I think it's important to note that we are using curriculum that embraces the way the canoe class were used by the ancient Polynesian and the ancient Polynesian were master farmers and there is a lot of research that document their use of rainwater and systems. That would be able to collect water and move it from a holding area into "—" and into other garden areas. This stage was self-sustainable for food before and we strongly believe that this is something that can happen again, and so this is our biggest motivation for really working with our students to teach them sustainable technologies, sustainable practices. So that in their life even they will understand how to set up a water catchment tank, how to make sure the water is pure, how to test the water, how to use it safely for agriculture and other uses. So, we believe strongly that this is a future oriented skill that not only will help them in potential jobs in the future, but also in their own homes. I think I have used all of my time that was allotted, and I don't have a timer on but that's the end of my presentation. Thank you.

GARCIA: Mr. Hong and Mr. Chair, there are a couple items that I'd like to add regarding the facility that Mr. Thatcher was talking about. Is it okay Mr. Chair continuing our presentation? Mr. Hong, yes. So, the two issues that I want to address are one has to do with the traffic, which is—

HONG: Romeo? Jeff, Jeff Darrow. Can we take a short recess?

DARROW: Yeah, no problem.

REPLOGLE: That sounds like a good idea.

HONG: Okay, Mr. Chairman how about five minutes would that be appropriate?

REPLOGLE: Yes, it would. We will take a five-minute recess; we will be back at 12:50 p.m.

HONG: Thank you, Sir.

GARCIA: Thank you.

REPLOGLE: You're welcome.

*At 12:44 p.m. the Chair called a recess and the hearing reconvened at 12:52 p.m.*

REPLOGLE: Okay, are we ready to go again? Before we start, I would like to ask if any of you might want to take a lunch break? For, I don't know. I'm up for just plowing through but, I would like to offer that possibly a break would be good, I don't know.

LIN: Mr. Chair, I think, maybe after the Charter schools' representatives are finished, and then we can take a lunch break.

REPLOGLE: Okay, I didn't mean to do it immediately, but people would like lunch okay sounds good.

HONG: Mr. Chairman and members of the Committee, I think Mr. Garcia had a few more remarks that I'll like him to conclude.

REPLOGLE: Okay.

GARCIA: Thank you very much. One of the areas has to do with the community members concern regarding traffic. This again being a long-term project some of our immediate ways of being able to address the issues of traffic is that we're going to be installing a turn lane on Edita or proposed to install the turn lane on Edita that would go on to the property. So, that's one part. The other is that regarding traffic is we don't anticipate until we're able to actually build out a parking lot often to the future as part of our 9 phases. That there will be a lot of car traffic from our school community. What we would be doing is continuing and what our families are used to and dropping off students at our Connections campus right there in Downtown Hilo in the Kress Building. Then we would use our buses to continue to shuttle our students up to the campus and so there would not be an additional amount of car traffic coming up or down Kaūmana. Once our buses pick our students up from the different locations around between Puna and Hilo then they would just be able to take them directly up to the campus. So that's one of the mitigating factors that we consider in terms of addressing traffic concerns in the immediate time and then going into the future.



The other is regarding Community outreach and you know, as I said before, I was a founder of a high school in Oakland, California and we actually constructed this school next to a Senior Citizen Center and we got some pushback from that. And part of how we were able to mitigate the concern from the neighbors there as well, is to actually become a part of that community to have conversations with all of our neighbors in that area. So, that they can be a part of helping us to understand and develop our school in a way that's going to really work for the school community and as well as the surrounding community. So, part of my experience in education and as an educational leader is to really engage the community surrounding any program that I am a part of because I want to make sure that we are good neighbors and that we are mindful of and sensitive to not having a wholesale change of a particular area. With the 35 acres in the video that I was going to show, at this point we've only started using about an acre and a half of the 35 acres for the agricultural work that we're doing with students. So, as we move forward with our planning our conceptual and our aspirational goals that started in the very beginning are flexible and open to making sure that we develop the campus in a way that does not create a problem for the larger community. I think with a land area of the size that we have that we can easily do that and work together with the community. So, I look forward to outreaching to the community inviting them onto the campus onto the property as it exists now, and all along the way, so that they can be a part of how we develop our school. Thank you very much.

REPLOGLE: Thank you. Mr. Hong.

HONG: So, Mr. Chair and members of the Commission. I just want to make three points in conclusion. The first is an administrative issue. We would ask that the Commission adopt and incorporate as part these proceedings and the previous record, which would include the Record on Appeal. That will also, as you know in terms of looking to record, it would show the number of times that we reached out to the community, it would show the record of alternative sites actually considered by our engineering expert witnesses. We will include the petition, the final EA and the transcript of the proceedings. The second point I'd like to make is in terms of alternative sites, as I mentioned before, I just note for the record that would be volume two of the Record on Appeal PDF pages 540 to 544. In the Record on Appeal as required under Planning Commission Rules, we had to reach out to the community on a number of occasions. That record of those outreaches is in that petition, the application also we had that sign in sheets "—" people who actually were there to participate.

So, we ask that the Commission certainly take a look at that, as part of the record and the final point I wanted to make is actually a little more personal. I was concerned by some of the statements that were made. I'm a resident of the Kaūmana community. I live within about a mile of the subject property since 1991. I've been a member of the Kaūmana Elementary School PTA, I've been a member of Kaūmana School Safety Committee. My mother is a retired DOE Sped teacher, special education teacher. I appreciate and understand as the model of Connections is that knowledge is not taught in one school. Other children learn differently. Charter schools' area an important part of that learning process for other children and a lot of students who do not fit within the role of going to a traditional brick and mortar school.

This record is law it's been detailed. It shows that with respect to any of the factors that the Planning Commission should consider. That we proved our burden that we can meet those land

use goals, policies and objective and we would ask the Committee, the Commission, excuse me to approve the petition and let us go to the Land Use Commission. I would note in the recommendations from the Planning Department that before we go to the Land Use Commission at the State level, we would have to update a number of our reports including the traffic report. Which we have no problem. We would be more than happy to answer any questions that the Commissioners may have, I think that they probably would have a lot of questions about this project. And so, with that, again, we asked the Commission to approve the permit application and thank the Planning Department and Planning Director and just know this on the side it's interesting to see this kind of full circle, because Mr. Darrow was actually the first of the Planning Department that presented the original petition application to the Planning Commission in another life. Thank you again for your patience and consideration.

REPLOGLE: Thank you. So, I have a question for my fellow Commissioners. Should we break for lunch now or should we hear the Intervenor's side and then break? I would like the hearings to be —

HALL: Sorry, Chair, point of order.

REPLOGLE: Oh yes, please.

HALL: The Commissioners will be allowed to ask questions now of the applicant if they have any and then it will be the Intervenor's turn to present.

REPLOGLE: Okay. Thank you. Fellow Commissioners do you have questions for the applicant? Mr. Clarkson?

CLARKSON: Yes, this is a question I guess for Mr. Hong. Rather than educational experts from Connections. You in our previous meeting asked us to rely on the record, rather than an additional hearings at which testimony could be updated. But do you think that the record is sufficient to allow the Commission to address as I will put the ICA address the requisites of the public trust doctrine on this remand? And if so, why, and how can we use that record to address public trust issues?

HONG: The public trust doctrine does not apply in this particular application and although in the footnote that the Intermediate Court of Appeals said that the Intervenor can raise it. We've actually submitted opposing briefs at the Intermediate Court and the Third Circuit Court about the public trust doctrine. It only applies to prime agricultural land, not to agricultural land that has been designated poor or certainly the soil classification is B as in the current record. That's the Kauai Springs Case that I think you were referring to. And I would note that with respect to the record with the supplemental exhibit that we submitted and the testimony that's been elicited to this point, I think that the Commission now can address the three issues that were remanded and vacated by the Intermediate Court.

REPLOGLE: Anything further Joe?

CLARKSON: Well, yeah. You mean the footnote in the ICA memorandum is still there, I didn't see anything where they backtracked on the public trust issue. Perhaps we'll have to rely on our Counsel to advise us as to whether you're correct and we need not entertain public trust in this matter. But, to me, I mean a plain reading of the memorandum indicates that they expected us to include that as part of the remand process and the consideration upon remand.

HONG: So, with all due respect when I read that same footnote, it says that the intervening can raise it again with the Planning Commission. Does it say that the Planning Commission asked to consider the fact? Now if, you, Mr. Clarkson feel that this is an issue that we need to address I'd be happy to submit a memorandum regarding that particular situation, but as we pointed out to the Third Circuit and the Intermediate Court both courts who did not rule on that particular issue. The Kauai Springs case has no application in this particular matter because again we're not talking about prime agricultural land.

CLARKSON: Thank you.

REPLOGLE: Anything further? More questions for the applicant?

CLARKSON: I have one more.

REPLOGLE: Okay, Mr. Clarkson.

CLARKSON: It relates to the water issue, a whole lot of the Commission's "—" Findings of Fact related that were vacated by the Court of Appeals related to water. And one of the reasons that they did so was that they could not find in the record the source of the 60 gallons per day per student figure that was used to discuss the suitability of the water supply. But when I read through the record, I very quickly came upon what I thought to be the source of that number which was the applicant, your application's Environmental Assessment (EA) that was included in the record. And that the EA is actually the source of the 60 gallons per day figure and then that was reiterated sometime later by a Mr. McCall from the water bureau. Who also used that figure so my question is can we rely on the EA or not? Are you saying that was an error originally?

HONG: No, the 60 gallons per day is the current DOE standard for the standard back then, for any schools to so whether it's a student at Hilo High School or Waiākea High School or Waiākea Elementary School. The 60 gallons per day requirement because this is still part of "—" set and what we are saying to the Planning Commission and all along, is that, through in terms of our water use and we've shown through our Supplemental Exhibit 2 the actual table of water use at our school that our water usage is less than 60 gallons per day. And also, that, if the Water Department is going to set that 4,200 gallons per day maximum and says that equates to only 70 students. We are saying that in terms of the 4,200 gallons per day that could actually extend to more students, because we look at our record, we do not use it certainly do not come close to 60 gallons per day.

CLARKSON: Thank you.

REPLOGLE: I don't know if anyone else could answer this Mr. Hong. But is it possible that the 60 gallons a day includes is not what one student would use but it includes what the cafeteria uses, what the Fire requirements are and all of that stuff as well when they say 60 gallons?

HONG: I think you're correct Mr. Chair.

REPLOGLE: Okay, thank you anything further Commissioners? Okay.

HONG: If I can interject just briefly Mr. Chairman.

REPLOGLE: Yes, you may.

HONG: In terms of that response, you are correct in the terms of 60 gallons per day, but I would note that with respect to HAAS, Mr. Hiramaki's school and also in terms of our plans. That water that we plan to use for fire hazards, fire suppression actually would come from catchment. HAAS is doing that currently, which has been acceptable to the Fire Department and other regulatory agency. So, we would submit in terms of the 60 gallons per day, although for the normal DOE student, the fire suppression may be included as part of that 60 gallons per day. In our case similar to HAAS we would not include that amount within the 60 gallons per day. We would separate that out because we were using potable water from the County Water Supply.

REPLOGLE: Thank you, I understand that part of your school's plan. I just wanted to verify that school students in Hawai'i aren't drinking 60 gallons of water a day. Anyway, so now if there's nothing further for the applicant we will move on to the Intervenor, Mr. Matsukawa and—

AU: Mr. Chair, this is Commissioner Au. I have a question.

REPLOGLE: Yes.

AU: Sorry to draw this out, but Mr. Hong and Mr. Thatcher. I just feel that there's a, I'm going through a conflict right now because at the last hearing that we had regarding this application. I had the sense that Mr. Hong did not want to add additional information, but the fact that Mr. Thatcher and Mr. Hong is agreeing that there were discussions and comparability of water usage to HAAS. I'm just a little bit confused here. What path are we going down? Because I was from the understanding that we're just going to go based off of what was already on record. So can you just maybe briefly address them Mr. Hong I just want to get a better understanding.

HONG: Oh, it's kind of along the lines of hope for the best prepare for the worst. So, we're hoping for the best which would be the Commission has sufficient evidence or there's sufficient information in the record to make the decision, given the Intermediate Court of Appeals guidance. But we prepared for the worst which is there's been a lot of information in the media, there's been a lot of information, misinformation regarding what even was presented today. And so, it would be hard pressed for us not to respond or certainly address those issues in the event that this has to go back up on appeal. And that's why certainly, I agree that you have sufficient information. We didn't want to present additional information, we didn't feel the need to do

that, but it is obvious that after that last hearing, I think the Board has been and several of the public or mostly the Boards been bombarded by what we feel is completeness information and it will be ashamed that the Board made a decision based on that at least without the opportunity for us to respond to it.

REPLOGLE: Yes, Mr. Au?

THATCHER: Thank you Dean for asking that question and I can't speak for the school, but I have spoken with Mr. Garcia, who may want to add more to this, but even if this was passed with the 70 students limit to begin with, I think that we could easily show that the school is not using that much water. It's not something that I can make a decision on, but I am after 2019 of being the principal for Connection, I know that the students do not use that much water. And so, if the decision is to uphold the 70 students, then I think there's going to be enough steps in the process, enough stages that this could be something that is worked out very quickly in the beginning stages.

REPLOGLE: Thank you, Mr. Au did you have something else? Okay, thank you. Okay so if there's no further questions for the applicants Mr. Matsukawa, please provide the Commission with your position.

MATSUKAWA: Thank you Mr. Chairman and members of the Commission. Thank you for your service. The last discussion between Mr. Au and Mr. Hong, I think is what was bothering me because at the last hearing it was clearly said that the remand hearing would be limited to the record that was already established and Ms. Hall your Corporation Counsel, I believe made a statement that if there were additional pieces of information that would come in at the remand hearing that we're not based on the record that they would be disregarded. So, when I heard Mr. Garcia, Mr. Thatcher and even Mr. Hong talk about additional exhibits and additional information on the water discussion with Mr. Hiramaki, demographics, traffic mitigation, USDA grants demographics it's not fair for the Commission to have said we're going to limit the case to the record. Which essentially would make this hearing a re-argument based on the record, not a new presentation of additional information I understand they can present their case, based on the record, but I think we've gone astray, to that extent I object.

However, in light of the fact that this case was prepared for re-argument we submitted proposed amendments to your existing Findings of Fact, to address the issues raised by the Court of Appeals as to the adequacy or sufficiency of the arguments that I mean the findings that the Commission made the last time, and I think we've addressed them point by point. I think, as to the other issue of the public trust doctrine, you know, there is no statement in the Constitution of the State of Hawai'i that limits the public trust doctrine only to publicly own land that is prime for agriculture. The prime agricultural land is a separate issue that deals with another part of the State constitution as to how we deal with agricultural zoned land.

The State Supreme Court has made several decisions on that point. We're looking at a different part of the State Constitution that makes no distinction between the kind of land or publicly owned resource that we're dealing with. So, the ICA did say that you need to address the issue if raised the Intervenor did raise it in the Intervenor's proposed amendments and we believe that

there is not sufficient record, not sufficient evidence in the record to show that the requirements of the public trust doctrine have been satisfied. With that I'll close by presentation.

REPLOGLE: Thank you, Commissioners, any questions for Mr. Matsukawa?

HALL: Chair, Commissioner Clarkson has his hand up.

REPLOGLE: Yes, Mr. Clarkson?

CLARKSON: So, my question is to Mr. Matsukawa. Considering what you just said, and I actually agree. What would you recommend to the Commission or a procedure that would, in your opinion, allow us to satisfy our obligations at least in this one area of public trust?

MATSUKAWA: Well, I think the door was closed when the applicants did not want to expand an evidentiary portion of their hearing to at least include the public trust doctrine on a limited basis. That being said, you're now locked into the record that was established previously, and when you go through all of the information set forth therein. There really is not enough evidence to demonstrate that the applicants have met the burden of proof, I think that's the focus would be the doctrine applies we need to see if it's been satisfied or addressed based on the existing record not additional information that has been flowing through during this morning's hearing.

CLARKSON: Thank you.

REPLOGLE: Anything further Commissioners? Okay, if there's no more questions for the Intervenor, I will go to Ms. Campbell does the Planning Department have anything further to add?

CAMPBELL: We do. Thank you. Good afternoon, commissioners, Jean Campbell Deputy Corporation Counsel for the Planning Department just a super brief statement for you. As Christian mentioned earlier the Department did previously find that the original application based on the record aligned with Chapter 205 and met the criteria for a Special Permit and the Department has not changed its original revised recommendation or the accompanying conditions. If the Commissioners have questions Deputy Director Darrow, Planner Kay and I are all available to answer questions for you. Thank you.

REPLOGLE: Thank you. Commissioners, any questions? Mr. Clarkson?

CLARKSON: Yes, this is for the Department. I just wondered why the, one of the principal objections that was raised over and over again during all the hearings and the contested case was the traffic issue. And that was one of the important Findings of Fact in the original decision to deny. The Court of Appeals did not vacate not finding a fact at all. They discussed all of the testimony presented by the community, by the traffic experts. Can you explain why you think that traffic issues are changed or why after the Commission made that a major part of their original decision to deny that that's no longer relevant?

DARROW: Good afternoon, Commission, Commissioner Clarkson. When we received this application approximately 10 years ago it was received with a traffic report that was conducted by an expert. That expert looked at all the traffic issues and came to their conclusions. The Planning Department ended up including conditions in the approval that were proposed to be able to resolve some of those issues regarding any impacts the traffic would have in this particular area and that condition is the left storage lane that was spoken earlier by Mr. Garcia, as well as there was concern regarding the safety of students in the area brought up by the Police, that was another condition. The condition for the I'm sorry I got so many backgrounds and recommendations all over the place. The Condition 7 said that "the applicant shall construct a separate turn lane for left turns from the eastbound Edita Street into the Lower Campus at Road A meeting with the approval of the Department of Public Works". As well as Condition 8 which required "the construction of an 8-foot paved shoulder along the northwestern (makai) side of Edita Street from the south end of the subject property to the intersection of Edita and Kaumana meeting with the approval of DPW".

The Department in looking at the information felt that that was sufficient to be able to mitigate the impacts that would be caused by traffic from the school.

CLARKSON: Thank you.

REPLOGLE: Okay. Commissioners are there any questions for any of the parties? Mr. Hong, Mr. Richardson do you have anything further you would like to present the Commission before I entertain a motion? Okay.

HONG: Well, actually I'm sorry I was having trouble with the buttons.

REPLOGLE: Okay, no problem.

HONG: The suggestion by Mr. Matsukawa, we have to somehow disapprove that the public trust doctrine doesn't apply merits I think briefing in this particular case. And I think that in terms of due process, we should be able to, or the Commission should ask for briefs on the part of both parties. I will say that the reason why we didn't address it is because again look at the case law. The Kauai Springs Case the public trust doctrine, as defined by the Supreme Court only applies to primary agricultural land. Mr. Matsukawa is advancing a new argument that has never been adopted in the State of Hawai'i period. So, if you want to address that and use that as a means to somehow deny our permit application then we should be entitled to brief this. Thank you.

REPLOGLE: Thank you, Mr. Hong. Okay, Commissioners I'll entertain a motion for action.

GALIMBA: Given this.

REPLOGLE: Ms. Galimba?

GALIMBA: Yes, thank you, given this discussion of public trust doctrine and as little as I want this to go into another meeting perhaps procedurally or be clear "—". As Mr. Hong suggests and

now both sides to address it. I believe that I would want to do that in a written form. Is that correct?

HONG: Yes, thank you.

REPLOGLE: Mr. Matsukawa?

MATSUKAWA: You know to me it's improper. We all knew what the issues were for many months now, and at this late date to recontinue this hearing on a subject matter that could have been adequately briefed and argued before I think it's unnecessary. The Commission has its own attorneys to consult with they don't need our briefing.

REPLOGLE: Thank you. Commissioners?

CLARKSON: I agree with Michelle to a certain extent, I will say at this point. Based on my reading of the record and the Court of Appeals memorandum and what I've been hearing, as I would move to deny. Particularly because the traffic issue is still outstanding in my opinion, and because we have to rely on the record, we have to rely on an 11-year-old traffic impact assessment and because we cannot consider public trust issues, and I think those are relevant. I personally think the relevant to this decision if we're not allowed to consider those than I would have to move to deny and let some other entity make the decision as to whether my opinion is correct or not. Either that, or I think we basically need to reconsider all of these issues, including public trust, including water, including traffic I'll remind the rest of the Commissioners that respectfully I was the only one that voted against relying on the record because I knew that there were going to be updates available that were—

HALL: Sorry, Commissioner Clarkson just a point of order is that motion before we start discussion?

CLARKSON: All right, yes, I'm sorry. I'm moving to continue to as a later meeting at which new evidence related to public trust issues and other factual issues relating to this permit application can be considered and reconsidered by the Commission.

REPLOGLE: Do we have a second for that? Does not appear to be a second available.

GALIMBA: I will second it.

REPLOGLE: Okay it's been moved by Mr. Clarkson and seconded by Ms. Galimba that we continue this hearing when more facts or both sides can present their facts on the public trust, water, and traffic in an updated fashion I might add, not on the record, it would require I guess the latest opinions or reports.

AU: Mr. Chair?

REPLOGLE: Yes, discussion. Did I state what you want correctly Mr. Clarkson?



CLARKSON: Absolutely that's perfect.

REPLOGLE: Okay, so Mr. Au discussion?

AU: So, the way the motion stands right now I do not support the motion. I believe that we need to follow the laws of the land and the rules. The applicant has done everything that they needed to do, and we've done our due process back in 2012, 2014, all the way till now. The way the motion stands right now, I do not support it, but I would like to hear from Commissioner Lin and Commissioner Replogle. You know we are not the last stop for this applicant, and we need to vote according to what our what our job is and what we need to address on as a Commission. So, I'd like to hear from Commissioner Lin and Commissioner Replogle.

REPLOGLE: Commissioner Lin?

LIN: Thank you, Mr. Au here's my thoughts. I've read the record; this is a very extensive record and I feel that the applicant has done their job. I feel that the community, the spirit of aloha that I've read through that record is not that great. I mean a lot of different points of view were shown negative, positive, whatever it be, but that spirit of aloha was not there in my opinion. The school did their job, they look for land, they requested the appropriate authorizations, they did all their research, they did provide reports done by traffic experts done by finding experts and I think they checked all the boxes. And so, I can't agree with the motion that is on the table right now and I think if we choose to provide more information this will just drag on. Because these reports take time to prepare, to assess further traffic, to have more experts come in, to do water studies, to do another planning and geological and whatnot. If it took 10 years to get to where we are now will it take another 10 years to get to a state that we are acceptable to decide this case on. It's 10 years for our community, it's 10 years for students, it's 10 years of County taxpayer dollars for the Commission or the Planning Department for other departments to review this case. I think a decision has to be done today based off of what we have read and what we have been provided with the exception of what was provided today as testimony and whatnot. But based on the record of what we've read. So, Mr. Au that that is my opinion Chair?

REPLOGLE: Thank you, Mr. Lin. My opinion is basically the same as Mr. Lin's I feel like the applicant has provided us with all the information and at the last meeting, we decided that we wouldn't take necessarily new information. And even though some of it has come in, it really hasn't changed what was stated in the original application with the traffic reports, the water. These issues, I think right or wrong will be addressed at sooner or later. If the school ends up using 8,000 gallons of water a day somebody's from the County's is going to say "Oh, wait a minute". It's just not going to happen. So, there are checks and balances and were being asked if they're wishing to change agricultural land into a school is okay in this particular situation. And it seems like it every one of our meetings Ag land is being turned into a store or something and that bothers me, but I have come to realize that there are there are cases where yeah. It may have been just slap down that everything's in Ag and we'll deal with it as it shows up. But, for right now, I feel I don't support a continuance and I feel that the applicant has met his burden of proof, if you will. And the Intervenor has presented their side as well, and I think today's the day the decision has to be made and it is going to go up to the Land Use Commission. They may

have other things that they can look at and do or deny or whatever, but I think it's time to hand it off and allow the school to move forward.

REPLOGLE: Mr. Clarkson?

CLARKSON: Yeah, I think the Chair prejudging the disposition today. You assumed—

REPLOGLE: Okay, I apologize for that. That was not my intent. Mr. Au you know what I think now. Okay, so, would someone care to call for a vote on Mr. Clarkson's proposal that we continue?

KAY: So, there's a motion and a second, would you like me to do the roll call vote Mr. Chair?

REPLOGLE: Please, that would be nice.

KAY: And this is the motion to defer?

REPLOGLE: Yeah, continue.

KAY: Continue. Commissioner Clarkson?

CLARKSON: Aye.

KAY: Commissioner Galimba?

GALIMBA: I will go with aye.

KAY: Okay, Commissioner Au?

AU: No.

KAY: Commissioner Lin?

LIN: No.

KAY: Chair Replogle?

REPLOGLE: No.

KAY: Mr. Chair motion fails, 2 yes votes and 3 no votes.

REPLOGLE: Thank you, Christian. So, I will entertain a new motion?

LIN: Mr. Chair?

REPLOGLE: Yes, Mr. Lin?

LIN: I move that the application for Special Permit Docket No. SPP-12-000138 be approved and a favorable recommendation be forwarded to State Land Use Commission based on the Planning Director's recommendation, which shall be adopted.

REPLOGLE: A second?

AU: I second.

REPLOGLE: So, Mr. Lin has made a motion that we accept this Special Permit application and it was seconded by Mr. Au. Discussion?

KAY: May I make this one point of clarification, this is a revised favorable recommendation that was submitted in 2012 from the Department?

REPLOGLE: I believe so.

KAY: Okay, thank you.

REPLOGLE: Discussion?

AU: Mr. Chair?

REPLOGLE: Mr. Au?

AU: So, I second the motion and I want to explain what my reasoning is behind this. So, I mentioned in the prior comment that I believe in the law, and I believe in rules. We live in a society, our society we live in there's rules and regulations and that's what keeps us in check and that's what gives us opportunities to appeal and go to the next level and appeal it. I know this hearing is on YouTube and a lot of people are listening to it and it'll be in the papers, probably. But we need to just follow the rules of the land and let it take its course and there was a lot of passionate people, passionate testifiers. I was on the Commission back in 2012. I was on the Commission for the first three hearings. That room was packed at the Hawai'i County Building it was packed. There was a lot of people, and the majority of the people were in opposition. And I appreciated that, and I appreciate what I'm hearing today from the community, because the community needs to come out and express their voice and express their opinions and these are the venues to do this.

But again, I am a person that follows the rules of the land, we live again in a society that is controlled by rules and regulations, and if we don't have rules and regulations we are in chaos. We're going to be like a third world country, so there is opportunity for everybody out there and, and this is one of those opportunities, and I feel the passion from the community, and I feel their hurt and I feel their issues of being cheated and not communicated with. So, to the general public, to the testifiers in opposition, please continue to carry on and do what you're doing and I appreciate everybody, so I just wanted to make that comment and state my reason, so thank you.

LIN: Mr. Chair?

REPLOGLE: Yes, Mr. Lin?

LIN: So, just to add on to my previous comments. So, I agree with Mr. Au there is another opportunity for this community to express their concerns, to express or how this is going to impact their community. But, as well as for the applicant to show that they can do what they have to do to fix these issues that are being brought up. Because this has been 10 years of time, things have changed, for our decision today we're basing it off the record and if new information wants to be brought up. I think the State Land Use Commission on that level you guys can bring it up. But yeah, I just feel that there has to be more connection. more communication between both parties is making sure that you guys hash out the issues that are being addressed or not addressed. Because based on reading what communications are read it's become very upsetting. I don't think this is the Hilo that and I've been born raised to be in. So, I just hope that everybody on this call, those who are watching reach out to your neighbors, reach out to your community, and come together.

REPLOGLE: Thank you. Anyone else, Commissioners? Mr. Clarkson?

CLARKSON: Yes, I'd like to speak against the motion. I'm tempted to asks Commissioner Au, how we voted in the original decision, and if he voted to deny what actually happened to change his mind but I won't. I won't put him on the spot. I will say that I too believe in the rule of law. I think that the makeup of the original Commission that heard this voted to deny. I think the burden of persuasion is on the applicant. The law does not require us to give a Special Permit unless we're convinced that all of the requirements of that permit have been met. I'm still very much not convinced both because of the public trust issues and also because I think that the testimony of Mr. "—" be the traffic analyst who basically found zero change whatsoever at the intersection of Edita Street and Kaūmana was not plausible. And I also found in the traffic impact report this is something that I would have asked for clarification for if we were given the opportunity to review new information. Never really considered the time it took to accumulate cars leaving this area on Edita to get to the Kaūmana/Edita intersection.

I just found it very unpersuasive that there would be no impact from literally dozens to hundreds of cars coming in and out of this facility. So, I'm in some I don't think that the applicant has persuaded, they can persuade the original Commission to see nothing and the Memorandum of Remand that would require us to do anything other than clean up our Findings of Fact, add evidence to those that they found unpersuasive from the record and remove others that they felt are relevant. But we've got to remember that the school has existed for many years and still exists, it's existed for the last 10 years. The issue is what are the implications of moving the school to public lands in a residential community. And to me I'm not persuaded. That's all.

REPLOGLE: Thank you, Mr. Clarkson. Any anything else? Ms. Galimba?

GALIMBA: Yes, I'll take my turn here. So, Mr. Clarkson's logic, as usual, is excellent. I think his points out are very important issues, however, and this is a very difficult issue. I am you know there's just great arguments on both sides are compelling. However, I do feel that that a

school is a very important thing, charter schools. My own daughter went to a charter school and now she's at Harvard, so I love charter schools. And I feel that the conditions that were detailed for this application are adequate to address the issues of the community. However, I would also like to echo Commissioner Lin in saying that there needs to be a real effort made to both sides to remember who we are the love of Hawai'i island. Figure out how to live together given, of course, that this passes the next level of regulation, so let's not assume that that's going to happen. But in any event, whatever happens we all have to aloha each other. So there.

REPLOGLE: Thank you Ms. Galimba. Mr. Clarkson?

CLARKSON: I just want to add one more thing a couple more things very briefly. I love the concept of this Charter school. I went to a technical high school, a hands-on school, I really, really think that the curriculum is the kind of curriculum I would have liked to send my children to they went to Paauilo school in Hāmākua for early years. But that's not the issue, the issue is, is this the right location for that wonderful school. And the other thing I wanted to ask the Commissioners is to not just punt this up to the Land Use Commission because we're tired of it. I know there's that temptation, but I personally feel our obligation when we accepted a position on this Commission is to undertake all the hard slog, consideration that is required to make the best decision possible by the Commission and I hope you'll all agree at least with that.

REPLOGLE: Thank you Mr. Clarkson. Mr. Lin?

LIN: I appreciate Mr. Clarkson's comment regarding that, and I think we have done our job here reviewing the information that was provided to us and making a decision and it may not be everybody's decision, but you know I made a decision based off the information I was provided and my interpretation of that information. And I like to remind my fellow Commissioners, as well as those who are watching that if this does get approved or it gets sent off for recommendation, it does not mean it will get automatically approved elsewhere and that last condition of the Director recommendation states that if a condition is not met, this permit can be revoked. So, I just wanted to make that clear. I do appreciate Mr. Clarkson's thought process and his comments are much appreciated.

REPLOGLE: Thank you, Mr. Lin. Mr. Clarkson? Oh, I thought you were raising your hand.

CLARKSON: I was just saluting Mr. Lin.

REPLOGLE: Okay.

GALIMBA: Chair, one more thing I just to add.

REPLOGLE: Please.

GALIMA: Mr. Clarkson I did vote with you last time so correcting the record on wanting more info so you are not alone.

CLARKSON: My apologies.

REPLOGLE: Okay. I don't look at it as I want to get this over with and get it out of here. But I personally believe that the applicant has answered all the questions. I feel deep in my gut bad that the people of Kaūmana feel the way they do, but that's their right and I respect their feelings. I understand it but that wasn't I don't think our question to answer. And the people of Kaūmana are going to get another opportunity at the Land Use Commission to voice their opinions and both sides, the applicant, and the appellee when they go before the Land Use Commission will be very well prepared to present their cases. And I along with Mr. Lin feel that this has to move, it needs to go to the next step. If we were this is it and final, I may be persuaded by Mr. Clarkson, but at this point I don't see it as such, I think this is a fair action if we approve and that's my stand on it.

And I do feel for the people of Kaūmana, I feel for the people at the school. It's not a good scene and, as Commissioner Galimba said remember we're all Hawai'i island people, we have to work together, do it together, it's us. Anyway, with that said, is there anything more from the Commissioners further discussion? Mr. Lin?

LIN: I just have one clarification for our Corporation Counsel Ms. Hall or Ms. Campbell. Based on the motion would it be allowable to just clarify that on our approval that we allow State Land Use Commission to accept new information or that's under the jurisdiction of the Land Use Commission?

HALL: Yeah, you're correct on the second part.

LIN: Okay.

HALL: It will be up to the Land Use Commission whether to allow new evidence or not.

LIN: Thank you.

REPLOGLE: Okay. Last word, Joe? Okay.

CLARKSON: It's late, I'm ready to vote.

REPLOGLE: Alright. Mr. Christian?

KAY: Yes, sir. Okay, so this is on a motion to approve and send a favorable recommendation to the Land Use Commission. Commissioner Lin?

LIN: Aye.

KAY: Commissioner Au?

AU: Aye.

KAY: Commissioner Clarkson?

CLARKSON: No.

KAY: Commissioner Galimba?

GALIMBA: Aye.

KAY: And Chair Replogle?

REPROGLE: Aye.

KAY: Thank you Mr. Chair, motion carries four (4) to one (1).

REPROGLE: Thank you, you will be notified in writing of this decision.

HONG: Thank you Mr. Chair and members of the Commission and the Planning Department. May we be excused?

REPROGLE: Yes.

KAY: One other thing and I don't know. Do we adopt the Findings at this hearing, or do we put that on the next agenda to adopt the Findings and send them up? Or is this just a recommendation like we normally do. This question is for Malia.

HALL: Hello. So, we do have a proposed Finding of Fact from the Applicant that you guys could adopt or you could push to the next hearing an adoption of the Findings of Fact that I could draft for you as well.

KAY: Malia, the motion was to approve based on the amended recommendation that was provided by the Department back in 2012. Those need to be then transferred into a Findings of Fact to go up or can it go up as a recommendation as such.?

HALL: The record will go up as is with the record the Planning Director's and record. But I believe the Land Use Commission will still want Findings and a Conclusion of Law, Decision and Order from the Commission supporting their approval.

KAY: Thank you, and so we'll do that at a subsequent meeting?

HALL: Yeah, we would need a motion from the Commission either to adopt the proposed Findings of Fact from the applicant or to review and adopt proposed findings at the next meeting.

AU: Mr. Chair, I'm prepared to make that motion.

REPROGLE: Okay, Mr. Au, please.

AU: I move that the adoption of the written Findings of Facts, Conclusions of Law, and Decision and Order be continued to the next scheduled meeting for the approval of Special Permit Docket No. 12-000138.

GALIMBA: I second.

REPLOGLE: It's been moved and seconded any discussion?

KAY: Just a clarification, I'm sorry go ahead.

CLARKSON: I'm going to speak in favor of the motion, and I would hope that our Counsel would write up a draft Findings for the Commission's review and adoption.

KAY: Is that your motion Dean, pardon me Commissioner Au is that the Corporation Counsel would draft those and that's what you'd be voting on.

AU: Yes.

KAY: Okay, thank you.

HALL: And just for the party sake, I will send those out to you in advance as well, at the same time they go to the Commission, you guys will also receive it.

KAY: And this is at the next hearing in November?

HALL: Yes.

REPLOGLE: Okay. Any further discussion? Okay, would you, Mr. Kay read the motion so we can vote?

KAY: Sure, the motion is to at the November hearing adopt the Findings of Facts, Conclusions of Law, Decision and Order to be developed by Deputy Corporation Counsel Hall and I'll read the roll. Commissioner Au?

AU: Aye.

KAY: Commissioner Galimba?

GALIMBA: Aye.

KAY: Commissioner Clarkson?

CLARKSON: Aye.

KAY: Commissioner Lin?



LIN: Aye.

KAY: And Chair Replogle?

REPLOGLE: Aye.

KAY: Thank you, Mr. Chair motion carries five (5) to nothing (0).

REPLOGLE: Okay.

The item ended at 2:03 p.m.

Respectfully submitted,

*Melissa Dacayanan-Salvador*  
Melissa Dacayanan-Salvador (Nov 9, 2021 09:01 HST)

Melissa Dacayanan-Salvador  
Secretary Windward Planning Commission