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November 2, 2021

Hon. John R. Replogle  
Chair  
Windward Planning Commission  
Aupuni Center  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

**RE: Remand of SPP 12-000138 to the Windward Planning Commission**  
**Applicant: Connections New Century Public Charter School/Community Based Education Support Services (CBESS)**  
**Tax Map Key: 2-5-006:141**

**Proposed Amendment to the DRAFT County of Hawaii, Windward Planning Commission's Proposed Findings of Fact, Conclusions of Law, Decision and Order.**

Dear Chairperson Replogle and Windward Planning Commission Members:

Thank you for allowing my clients to review the DRAFT County of Hawaii, Windward Planning Commission's Proposed Findings of Fact, Conclusions of Law, Decision and Order in the above entitled matter.

On behalf of CBESS, my client would like to propose the following amendment to paragraph 24:

<u>Current Draft:</u>	<u>CBESS, Proposed Amendment:</u>
24. The Development would relocate and expand the existing charter school which is presently operating from two separate campuses. The elementary and middle schools are in the Kress Building on Kamehameha Avenue, in downtown Hilo, and the high school is in leased facilities at the Nani Mau Gardens, just outside of Hilo town.	24. The Development would relocate the existing charter school in phases as appropriate, with the high school as the first phase. All students K-12 would utilize the site for agricultural and other trade education.

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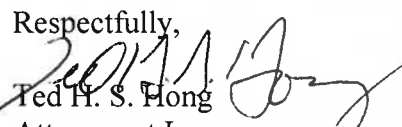
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Connections, due to circumstances, had to give up its lease of the Nani Mau Gardens and is only operating from the Kress Building.



<u>Current Draft:</u>	<u>CBESS, Proposed Amendment:</u>
<p>66.                   * * *</p> <p>The proposed Development is State Land and therefore is considered a public trust resource. The proposed use is not contrary to the public trust doctrine because the Applicants intend to use the land for educational purposes that will benefit our present and future generations. Further, on the lower campus, the Applicants intend to develop an agricultural program, which would have cultivated gardens to teach children how to grow food. On the upper campus, the Applicants intend to create a forestry/conservation program, which will focus on forest resource management and conservation and forest ecosystem restoration. Both programs are in line with the public trust doctrine's goal to promote the furtherance of a self-sufficient State. There are few higher uses of land than to educate our keiki on how to cultivate, manage and restore the land so that the land may be preserved for future generations</p>	<p>This paragraph should be stricken because it expands the application of the "Public Trust Doctrine" and will have an effect on future projects.</p> <p>The "Public Trust Doctrine" protects forests, water resources and prime agricultural lands from unnecessary urbanization. <i>Kauai Springs, Inc. v. Planning Comm'n of Cnty. of Kauai</i>, 130 Hawai'i 407, 426, 312 P.3d 283, 299 (Ct. App. 2013) <i>cert. granted sub nom. Kauai Springs, Inc. v. Planning Comm'n of Cnty. of Kaua'i</i>, No. SCWC 29440, 2013 WL 4779589 (Haw. Sept. 4, 2013) and <i>aff'd</i>, 133 Haw. 141, 324 P.3d 951 (2014).</p> <p>The property which was the subject of the Special Permit Application is not classified as "important" by the State Department of Agriculture, but instead, classified as "D" or "Poor" for agricultural activity by the State Land Study Bureau.</p>

CBESS does not have any additional proposed amendments for the Commission's consideration. Thank you for your kind attention to this matter.

Respectfully,  
  
 Ted H. S. Hong  
 Attorney at Law

Attorney for Petitioner  
 Community Based Education Support Services (CBESS)

cc: All parties and counsel