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LAND USE COMMISSION
STATE OF HAWAII
2007 MAR 19 A 9:53

PETITION FOR DISTRICT BOUNDARY AMENDMENT

DOCKET NO. A07-773
EMMANUEL LUTHERAN CHURCH OF MAUI

**In the Matter of the Petition of
Emmanuel Lutheran Church of Maui To Amend the Land Use
District Boundary Of Certain Lands Situated at Wailuku, Island of Maui,
State of Hawaii, Consisting Of 25.263 Acres from the Agriculture
District to the Urban District, Tax Map Key No. 3-5-002:011**

TABLE OF CONTENTS

	Page
PETITION FOR DISTRICT BOUNDARY AMENDMENT	1
PETITION IN SUPPORT OF DISTRICT BOUNDARY AMENDMENT	2
I. STANDING	2
II. AUTHORIZED REPRESENTATIVES	2
III. AUTHORITY FOR RELIEF SOUGHT	2
IV. DESCRIPTION OF THE PROPERTY	3
V. RECLASSIFICATION SOUGHT AND PRESENT USE OF THE PROPERTY	3
A. Conformity of the Reclassification to the Standards for Determining the Boundaries of the Urban District	3
1. Lands Characterized by "city-like" Concentrations of People, Structures, Streets, Urban Level of Services and Other Related Land Uses	4
2. Proximity to Centers of Trading and Employment Except Where the Development Would Generate New Centers of Trading and Employment	4
3. Availability of Basic Services such as Schools, Parks, Wastewater Systems, Solid Waste Disposal, Drainage, Water, Transportation Systems, Public Utilities, and Police and Fire Protection	4
4. Sufficient Reserve Areas for Foreseeable Urban Growth	6
5. Lands with Satisfactory Topography, Drainage, and Reasonably Free from the Danger of any Flood, Tsunami, Unstable Soil Condition, and Other Adverse Environmental Effects	6
6. Land Contiguous with Existing Urban Areas Shall be Given More Consideration than Non-Contiguous Land, and Particularly when Indicated for Future Urban Use on State or County General Plans	7
7. Lands in Appropriate Locations for New Urban Concentrations and Consideration to Areas of Urban Growth as Shown on State and County General Plans	7
8. May Include Lands Which Do Not Conform to the Standards in Paragraphs (1) to (5) of HAR § 15-15-18: (A) When Surrounded by or Adjacent to Existing Urban Development; and (B) Only When Those Lands Represent a Minor Portion of this District	7
9. Shall Not Include Lands, the Urbanization of Which Will Contribute Toward Scattered Spot Urban Development, Necessitating Unreasonable Investment in Public Infrastructure or Support Services	8

TABLE OF CONTENTS

(continued)

Page

10.	May Include Lands with a General Slope of Twenty Percent or More if the Commission Finds that those Lands are Desirable and Suitable for Urban Purposes and that the Design and Construction Controls, as Adopted by any Federal, State or County Agency, are Adequate to Protect the Public Health, Welfare and Safety, and the Public's Interest in the Aesthetic Quality of the Landscape.....	8
VI.	PETITIONER'S PROPERTY INTEREST	8
VII.	PROPOSED DEVELOPMENT	8
VIII.	PETITIONER'S FINANCIAL CONDITION.....	9
IX.	DESCRIPTION OF THE PROPERTY AND SURROUNDING AREAS	9
X.	IMPACTS OF THE PROPOSED DEVELOPMENT ON THE ENVIRONMENT	11
A.	Environment	11
B.	Flora and Fauna	11
C.	Groundwater or Other Resources	11
D.	Scenic Resources	11
E.	Agriculture.....	12
F.	Recreational Resources.....	12
G.	Culture and History	12
XI.	IMPACTS OF THE PROPOSED DEVELOPMENT ON THE AVAILABILITY OR ADEQUACY OF PUBLIC SERVICES AND FACILITIES	13
XII.	LOCATION OF THE PROPOSED DEVELOPMENT TO ADJACENT LAND USE DISTRICTS AND CENTERS OF TRADING AND EMPLOYMENT	14
XIII.	ECONOMIC IMPACTS OF THE PROPOSED RECLASSIFICATION OR DEVELOPMENT	14
XIV.	NEED FOR RECLASSIFICATION	15
XV.	CONFORMANCE WITH THE HAWAII STATE PLAN	15
A.	Objectives and Policies of the Hawaii State Plan.....	15
B.	Functional Plans	17
1.	State Agriculture Functional Plan.....	17
2.	State Educational Functional Plan.....	17
XVI.	CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM	17

TABLE OF CONTENTS

(continued)

Page

XVII. CONFORMANCE WITH COUNTY GENERAL PLAN, COMMUNITY PLAN, AND ZONING	18
A. General Plan	18
B. Wailuku-Kahului Community Plan	20
C. County Zoning	20
XVIII. DEVELOPMENT OF THE PROPERTY	21
XIX. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS	21
XX. WRITTEN COMMENTS FROM AGENCIES AND ORGANIZATIONS	21
XXI. SERVICE OF PETITION	21
XXII. CONCLUSION	22

VERIFICATION

CERTIFICATE OF SERVICE

TABLE OF CONTENTS
(continued)

Page

Exhibit "1"	Authorization of Emmanuel Lutheran Church of Maui
Exhibit "2"	Regional Location Map
Exhibit "3"	Tax Map
Exhibit "4"	Conceptual Master Plan Map
Exhibit "5"	Metes and Bounds Description and Map of Subject Property
Exhibit "6"	Project Assessment Report
Exhibit "7"	Limited Warranty Deed
Exhibit "8"	Current Balance Sheet and Income Statement
Exhibit "9"	Affidavit of Service of Petition for District Boundary Amendment

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EMMANUEL LUTHERAN CHURCH OF MAUI

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A07-773
)	
EMMANUEL LUTHERAN CHURCH OF)	
MAUI)	
)	
To Amend the Land Use District Boundary)	
Of Certain Lands Situated at Wailuku,)	
Island of Maui, State of Hawaii, Consisting)	
Of 25.263 Acres from the Agriculture)	
District to the Urban District, Tax Map)	
Key No. 3-5-002:011.)	

PETITION FOR DISTRICT BOUNDARY AMENDMENT

COMES NOW, EMMANUEL LUTHERAN CHURCH OF MAUI ("Petitioner"),
a Hawaii non-profit corporation, by and through its attorneys, CARLSMITH BALL LLP, and
respectfully requests this Honorable Land Use Commission of the State of Hawaii
("Commission") to amend the land use district boundary to effect a district reclassification of
approximately 25.263 acres of land ("Property") situated at Wailuku, Maui, Hawaii, from the
Agricultural District to the Urban District.

This request is submitted pursuant to Section 205-4 of the Hawaii Revised Statutes ("HRS"), the Land Use Commission Rules of the State of Hawaii found in Title 15, Subtitle 3, Chapter 15 of the Hawaii Administrative Rules ("HAR"), and the attached Petition in Support of District Boundary Amendment ("Petition").

PETITION IN SUPPORT OF DISTRICT BOUNDARY AMENDMENT

I. STANDING

Emmanuel Lutheran Church of Maui ("Emmanuel Lutheran"), a Hawaii non-profit corporation, is the owner of the Property and has standing to file this Petition pursuant to HRS § 205-4(a), and HAR § 15-15-46(3).

II. AUTHORIZED REPRESENTATIVES

Mr. Blaine J. Kobayashi and the law firm of CARLSMITH BALL LLP, have been appointed to represent Petitioner pursuant to HAR § 15-15-35(b). See Exhibit "1". Petitioner's principal place of business is 520 West One Street, Kahului, Hawaii 96732.

Pursuant to HAR § 15-15-50(c)(2), all correspondence and communications in regard to this Petition shall be addressed to, and served upon, Blaine J. Kobayashi, CARLSMITH BALL, LLP, One Main Plaza, Suite 400, 2200 Main Street, Wailuku, Hawaii 96793, and Richard H. Sudheimer, President, EMMANUEL LUTHERAN CHURCH OF MAUI, 520 West One Street, Kahului, Hawaii 96732.

III. AUTHORITY FOR RELIEF SOUGHT

The Commission is authorized to grant the relief sought herein pursuant to HRS § 205, and Chapter 15 of the HAR.

IV. DESCRIPTION OF THE PROPERTY

The Property is located in Wailuku, Maui, Hawaii, and consists of approximately 25.263 acres, inclusive of all existing easements, and is identified by Tax Map Key No.

(2) 3-5-002:011. A regional location map and tax key map of the Property are attached to this Petition as Exhibits "2" and "3" and incorporated herein by reference. A conceptual master plan map is attached to the Petition as Exhibit "4" and incorporated herein by reference. A metes and bounds description of the Property is attached to this Petition as Exhibit "5" and incorporated herein by reference.

V. RECLASSIFICATION SOUGHT AND PRESENT USE OF THE PROPERTY

Petitioner is respectfully requesting that the Commission amend the present classification of the Property from the Agricultural District to the Urban District. The Property is presently located entirely in the Agricultural District.

The Property is currently vacant and fallow and has been used in the past for sugarcane and pineapple cultivation. More recently, a small portion of the Property was used by short term, small scale tenant farmers to grow bananas and other fruits.

A. Conformity of the Reclassification to the Standards for Determining the Boundaries of the Urban District

HAR § 15-15-18 sets forth the standards used by the Commission for determining urban district boundaries. The proposed reclassification conforms to those standards as shown by the following analysis:

1. Lands Characterized by "city-like" Concentrations of People, Structures, Streets, Urban Level of Services and Other Related Land Uses.

The Property is located midway between the towns of Wailuku and Waikapu. Wailuku, which is the County of Maui's seat of government, contains a variety of single-family residential, multi-family residential, commercial, and recreational uses. The proposed development of the Property will be compatible with the existing and future land uses in the Wailuku and Kahului areas, as evidenced by nearby projects such as the Spencer Homes Affordable Housing Residential Subdivision, the Waiolani residential subdivisions, the future Maui Lani Mixed-Use Subdivision, and the Consolidated Baseyards Light Industrial Subdivision.

2. Proximity to Centers of Trading and Employment Except Where the Development Would Generate New Centers of Trading and Employment.

The Property is located in the Wailuku-Kahului area, which are the centers of commerce and government for the island of Maui. Numerous professional and business services are located within Kahului and Wailuku. The main federal, state, and county offices are all centrally located in Wailuku, with additional governmental offices located in Kahului.

3. Availability of Basic Services such as Schools, Parks, Wastewater Systems, Solid Waste Disposal, Drainage, Water, Transportation Systems, Public Utilities, and Police and Fire Protection.

Public services and facilities, together with improvements to be constructed, are adequate to support, and are not anticipated to be unreasonably burdened or impacted by the proposed development or reclassification of the Property. Basic infrastructure services such as sewer and water are available in close proximity to the Property. The County of Maui currently

provides solid waste disposal service for the area. The Property abuts Honoapiilani Highway, a major roadway in the area.

With respect to infrastructure, the Preliminary Engineering Report prepared by Otomo Engineering, Inc., attached to the Project Assessment Report as Appendix F, indicates that any project-related impacts can be readily addressed and/or mitigated by the implementation of anticipated infrastructure improvements. The Project Assessment Report is attached to this Petition as Exhibit "6" and incorporated herein by reference.

The State Department of Education's public school system serves the Kahului area, which includes Lihikai and Kahului Schools (Grades K to 5), Maui Waena Intermediate School (Grades 6 to 8), and Maui High School (Grades 9 to 12). Schools in the Wailuku region include Wailuku Elementary School (Grades K to 5), Iao Intermediate School (Grades 6 to 8), and Baldwin High School (Grades 9 to 12). At full build-out, the Project will be able to accommodate approximately 490 students in grades pre-K through 8.

Police protection for the Wailuku-Kahului area is provided by the Maui County Police Department, with its main headquarters located in Wailuku. Likewise, fire protection for the Wailuku-Kahului area, which encompasses fire prevention, suppression, rescue, and emergency services, is provided by the Maui County Fire Department, with stations located in Kahului on Dairy Road, and in Wailuku on Kinipopo Street. The proposed development will not result in any extension of the existing service area limits for these emergency services.

There are several parks and numerous recreational opportunities within the immediate vicinity of the Property. Shoreline and boating activities are provided at the Kahului Harbor and adjoining beach parks, and individual and organized athletic activities at various County parks.

The War Memorial Athletic Complex, located along Kaahumanu Avenue, includes a gymnasium, swimming pool, tennis courts, baseball fields, and football and soccer fields. The Wailuku-Kahului area also includes the Kahului Community Center, Kanaha Beach Park, and Keopuolani Park (an approximately 140-acre regional park complete with soccer fields, baseball fields, playground equipment, pedestrian and bike ways, and an outdoor amphitheatre).

4. Sufficient Reserve Areas for Foreseeable Urban Growth.

The proposed development will utilize 25.263 acres of land for a new campus for the Emmanuel Lutheran Church and its school. The master plan calls for a low-density village concept with existing view corridors maintained and substantial open space being provided. The proposed buildings will consist of one (1) and two (2) stories and will be sited around a village green that will include an amphitheater. The proposed development is located in an area of existing and planned residential development as evidenced by the Wailuku-Kahului Community Plan, and development of the Project will not significantly affect reserve areas for foreseeable urban growth.

5. Lands with Satisfactory Topography, Drainage, and Reasonably Free from the Danger of any Flood, Tsunami, Unstable Soil Condition, and Other Adverse Environmental Effects.

The Property has an average slope of approximately 6.2 percent. As indicated by the Flood Insurance Rate Map, as shown on Figure 5 of the Project Assessment Report, the Property is located within Zone C, which is an area of minimal flooding.

The Property is not subject to tsunami, unstable soil conditions or other adverse environmental effects which would render it unsuitable or inappropriate for the proposed development.

6. Land Contiguous with Existing Urban Areas Shall be Given More Consideration than Non-Contiguous Land, and Particularly when Indicated for Future Urban Use on State or County General Plans.

Although the Property is not contiguous with existing urban areas, it is surrounded by urbanized lands, such as the Spencer Homes Affordable Housing Residential Subdivision and the Waiolani residential subdivisions to the south, and the future Maui Lani Mixed-Use Subdivision to the northeast. The Property is currently designated "Public/Quasi-Public" by the Wailuku-Kahului Community Plan, which is consistent with the proposed project.

7. Lands in Appropriate Locations for New Urban Concentrations and Consideration to Areas of Urban Growth as Shown on State and County General Plans.

Given the "Public/Quasi-Public" designation by the Wailuku-Kahului Community Plan, and the surrounding urbanized lands, the Property is in an appropriate location for new urban concentration and growth.

8. May Include Lands Which Do Not Conform to the Standards in Paragraphs (1) to (5) of HAR § 15-15-18: (A) When Surrounded by or Adjacent to Existing Urban Development; and (B) Only When Those Lands Represent a Minor Portion of this District.

While Petitioner believes the Property conforms with the standards in paragraphs (1) to (5) of HAR § 15-15-18, it is important to note that the Property is surrounded by urbanized land uses such as the Spencer Homes Affordable Housing Residential Subdivision, the Waiolani residential subdivisions, the future Maui Lani Mixed-Use Subdivision, and the Consolidated Baseyards Light Industrial Subdivision. The impacts on agriculture is not significant given the

fact that the Property represents a very minor percentage of the estimated 244,726 acres of lands in the Agriculture District on the island of Maui.

9. Shall Not Include Lands, the Urbanization of Which Will Contribute Toward Scattered Spot Urban Development, Necessitating Unreasonable Investment in Public Infrastructure or Support Services.

Urbanization of the Property will not contribute to scattered spot urban development given the surrounding urban development. The Property is also located in close proximity to the towns of Wailuku, Kahului, and Waikapu. The proposed development will not necessitate unreasonable public investment in infrastructure facilities or public services.

10. May Include Lands with a General Slope of Twenty Percent or More if the Commission Finds that those Lands are Desirable and Suitable for Urban Purposes and that the Design and Construction Controls, as Adopted by any Federal, State or County Agency, are Adequate to Protect the Public Health, Welfare and Safety, and the Public's Interest in the Aesthetic Quality of the Landscape.

The Property is characterized by an average slope of approximately 6.2 percent.

VI. PETITIONER'S PROPERTY INTEREST

Emmanuel Lutheran Church of Maui is the fee simple owner of the Property and will develop the Property. Attached as Exhibit "7" is a true and correct copy of the Limited Warranty Deed for the Property (formerly Tax Map Key No. (2) 3-5-002:001).

VII. PROPOSED DEVELOPMENT

Petitioner proposes to develop the Property into a new campus for Emmanuel Lutheran Church and School. For approximately 40 years, Petitioner has provided the Maui community with religious services, with Christian educational opportunities since 1972. Petitioner's current campus in Kahului is operating on a constrained campus of 1.3 acres, which

has resulted in a limited student enrollment (38 students in pre-K and 175 students in grades K through 8).

Petitioner's proposed development will be implemented in three (3) phases, and at full build-out, will provide approximately 18 classrooms, specialty classrooms for art and music, a pre-school building, athletic and recreation areas, and a multi-purpose complex that will allow for athletic and church uses. A library, technology center, and science lab will also form a part of the Project. The buildings will all be one (1) or two (2) stories in height, and the Project will consist of significant amount of open space as illustrated by the conceptual master plan.

Phase 1 of the Project is anticipated to commence in late 2008, and will take approximately a year to complete. The estimated cost for the full build-out of the Project is \$20,000,000.

VIII. PETITIONER'S FINANCIAL CONDITION

Evidence of Petitioner's financial condition is reflected in the current balance sheet and income statement attached as Exhibit "8" to this Petition. Petitioner intends to finance infrastructure improvements through a variety of sources, including, but not limited to, existing assets, foundation grants, construction loans, fundraisers, benefit concerts, pledge campaigns, and contributions from businesses and guests.

IX. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREAS

The Property is currently vacant and fallow, having been used in the past for the cultivation of sugarcane and pineapple. A small portion of the Property was recently used by short term, small scale tenant farmers to grow bananas and other fruits. The Property is located in an area of existing and planned urban development. Urban projects include the Spencer Homes Affordable Housing Residential Subdivision, the Waiolani residential subdivisions, the

future Maui Lani Mixed-Use Subdivision, and the Consolidated Baseyards Light Industrial Subdivision.

As indicated by the Flood Insurance Rate Map for the County of Maui, the Property is located within Zone C, which is an area of minimal flooding according to the Federal Emergency Management Agency.

The Property is listed as "Prime Agricultural Land" according to the Agricultural Lands of Importance to the State of Hawaii (ALISH) map as shown on Figure 5 of the Project Assessment Report.

The University of Hawaii Land Study Bureau's Detailed Classification has classified the productivity of the land underlying the proposed project site as "A". This classification system rates lands on a scale of "A" to "E," reflecting land productivity characteristics. Lands designated "A" are considered to be of highest productivity, with "E" rated lands ranked the lowest.

More specifically, the soils underlying the Property are of the Pulehu-Ewa-Jaucas soil association. The soils within the Property are classified as Iao clay (IaA and IaB), which is characterized as having slow runoff.

The Property slopes in a west to east direction with an average slope of 6.2 percent. An open channel was constructed on the northeastern corner of the Property as part of the Kehalani Offsite Drainage System. A Wailuku Agribusiness irrigation ditch known as Kama Ditch traverses across the Property on the southwesterly corner. The ditch is overgrown and covered with soil.

X. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE ENVIRONMENT

A. Environment.

The proposed development is not expected to have significant adverse impacts on the environment. While air quality and noise levels will be impacted to a certain extent during the course of development such as exhaust emissions from on-site construction equipment, construction vehicle traffic, and construction noise, the impact will be short-term. In addition, best management practices that include performing construction-related activities in strict compliance with all applicable air and noise regulations will mitigate any temporary impacts.

B. Flora and Fauna.

The Property is in an area that has been extensively disturbed by long-term agricultural cultivation. Vegetation on the Property is comprised primarily of weeds and scrub grasses, as well as banana trees. There are no known rare, endangered, or threatened species located within or in the vicinity of the Property.

Onsite fauna include rats, mice, mongoose, francolins, and mynah birds. There are no rare or endangered species of fauna or avifauna found in or around the Property.

C. Groundwater or Other Resources.

There are no wetlands in the vicinity of the Property.

D. Scenic Resources.

The scenic resources of the Property are characterized by views to Waikapu Valley and the West Maui Mountains, and agricultural fields and Mount Haleakala to the east. The Property is not part of a scenic corridor and will not impact views from inland vantage points.

E. Agriculture.

Approximately 25.263 acres of land would be removed from agriculture. This acreage, however, represents a very minor portion of the Agriculture District on the island of Maui. Further, given the Property's location to existing residential areas and the overall transition of the area from agricultural cultivation to rural residential uses, development of the Property for the proposed uses is reasonable, appropriate, and will not significantly impact agriculture on the island of Maui.

F. Recreational Resources.

As previously stated, the Property is located in an area of numerous recreational resources. Petitioner's proposed development is not anticipated to increase the demand on recreational resources.

G. Culture and History.

The Property is located in the Wailuku ahupua'a, a traditional land division extending from the mountain to the sea. The Property is located in a general area where native Hawaiian sand dune burials have been found. However, due to the prior extensive land clearing, grubbing, and grading associated with prior agricultural cultivation, the potential for identifying subsurface burials has been substantially reduced.

Based on research of the Property, as well as the archaeological field inspection, the proposed development will not adversely impact any cultural beliefs, practices, resources or gathering rights.

XI. IMPACTS OF THE PROPOSED DEVELOPMENT ON THE AVAILABILITY OR ADEQUACY OF PUBLIC SERVICES AND FACILITIES

The Preliminary Engineering Report prepared by Otomo Engineering, Inc. includes an assessment of existing infrastructure as well as anticipated improvements that may be needed to support the proposed development. The report details those improvements, which include improvements to roadways, drainage, and sewer. The report notes that project-related impacts can be accommodated with the implementation of the proposed improvements.

A Traffic Impact Analysis Report ("TIAR") was prepared for the Project by Phillip Rowell and Associates to determine the Project's impact to existing traffic conditions. The TIAR is attached to the Project Assessment Report as Appendix E. Access to the Project will be provided via a new driveway along the west side of Waiale Road, midway between Kuikahi Drive and the north boundary of the Waikapu Gardens affordable housing subdivision. A secondary entrance off of Honoapiilani Highway to the Property, however, is recommended for emergency services, construction activities, and special events.

The traffic consultant opined that the signalized intersections in the Project area will all operate at acceptable levels of service with the additional traffic generated by the Project. Likewise, the unsignalized intersections will also operate at acceptable levels of service except for the intersection of Waiale Road at Kuikahi Drive. The traffic consultant opined that signalization of this intersection appears to be the most feasible mitigation measure. Signalizing said intersection would result in the provision of acceptable levels of service.

The source of water for the proposed development will come from Iao Valley and the Moku hau wells located in Happy Valley. The domestic water demand for the Project is anticipated to be approximately 29,400 gallons per day ("gpd").

The County Department of Water Supply's 3.0 million gallon Iao storage reservoir has some storage capacity remaining. Hawaii Land & Farming, Inc. also is in the process of constructing a 1.5 million gallon mid-level tank on Kuikahi Drive. The foregoing should provide adequate storage to accommodate the demands of the Project.

The Project is anticipated to generate approximately 10,050 gpd of wastewater. Wastewater from the Project will be collected by an onsite gravity system, and transmitted to the Kahului Wastewater Reclamation Facility which has adequate capacity to accommodate the demands of the Project.

XII. LOCATION OF THE PROPOSED DEVELOPMENT TO ADJACENT LAND USE DISTRICTS AND CENTERS OF TRADING AND EMPLOYMENT

The Property is located in close proximity to the towns of Kahului and Wailuku. Wailuku is the County's seat of government, and along with Kahului, are centers of trading and employment with numerous professional and business services.

The proposed development is surrounded by urbanized lands such as the Waikapu Gardens affordable housing subdivision and the Waiolani Mauka residential subdivision.

XIII. ECONOMIC IMPACTS OF THE PROPOSED RECLASSIFICATION OR DEVELOPMENT

The proposed development will benefit the social and economic welfare of the community by providing construction and construction-related employment during the build-out of the Project, and increasing educational opportunities for residents of Maui. Over the long term, the proposed development will also provide teaching and other employment opportunities at the school's campus.

The proposed development will have minimal impact in terms of agriculture. Given the Property's location in close proximity to existing residential areas, and the need for the

Emmanuel Lutheran Church school to expand in order to meet enrollment demands, agricultural use by the Petitioner was not deemed practical or appropriate.

The conversion of 25.263 acres of land will also not adversely impact the overall agricultural productivity for Maui in light of the fact that the Property represents only a very minor percentage of the approximate 244,726 acres of land within the Agricultural district on the island of Maui.

XIV. NEED FOR RECLASSIFICATION

Reclassification of the Property from its current "Agricultural" designation to "Urban" designation is necessary in order for Petitioner to develop the Property. In addition, the Property's "Agricultural" zoning does not allow for the proposed development. Accordingly, a separate Change in Zoning application has been filed with the Department of Planning. The request is being made to change the zoning of the Property to "Public/Quasi-Public" which will allow for the Property to be developed in accordance with Petitioner's plans.

XV. CONFORMANCE WITH THE HAWAII STATE PLAN

The Hawaii State Plan, found in HRS § 226, is a comprehensive guide for the future long-range development of the State. Among other things, the Hawaii State Plan's purposes are to identify the goals, objectives, policies, and priorities for the State, provide a basis for allocating limited resources, and improve coordination between federal, state, and county agencies.

A. Objectives and Policies of the Hawaii State Plan

The Hawaii State Plan also provides numerous objectives and policies for the State. In particular, the proposed reclassification conforms to the following objectives and policies:

HRS § 226-5, HRS, Objectives and Policies for Population

HRS § 226-5(b)(7): Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

HRS § 226-11, Objectives and Policies for the Physical Environment - Land-Based, Shoreline, and Marine Resources.

HRS § 226-11(b)(3): Take into account the physical attributes of areas when planning and designing activities and facilities.

HRS § 226-11(b)(9): Promote increased accessibility and prudent use of inland and shoreline areas for public recreational, educational, and scientific purposes.

HRS § 226-12, Objective and Policies for the Physical Environment - Scenic, Natural Beauty, and Historic Resources.

HRS § 226-12(b)(3): Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, oceans, scenic landscapes, and other natural features.

HRS § 226-12(b)(5): Encourage the design of developments and activities that complement the natural beauty of the islands.

HRS § 226-21, Objectives and Policies for Socio-Cultural Advancement - Education.

HRS § 226-21(b)(1): Support educational programs and activities that enhance personal development, physical fitness, recreation, and cultural pursuits of all groups.

HRS § 226-21(b)(2): Encourage the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

HRS § 226-21(b)(8): Emphasize quality educational programs in Hawaii's institutions to promote academic excellence.

HRS § 226-23, Objective and Policies for Socio-Cultural Advancement - Leisure.

HRS § 226-23(b)(4): Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or biological values while ensuring that their inherent values are preserved.

B. Functional Plans

The State Functional Plans implement the Hawaii State Plan by identifying needs, problems and issues, and by recommending policies and priority actions which address the identified areas of concern. The proposed reclassification request is consistent with the following State Functional Plans:

1. State Agriculture Functional Plan

Petitioner seeks to have the Commission reclassify approximately 25.263 acres of land from the Agricultural to the Urban District. The Property is currently vacant and fallow. The proximity of the Property to existing and planned urban land uses, the extremely low percentage impact on available agricultural land on the island of Maui, and the existing Community Plan designation of the Property, provide a reasonable nexus and an appropriate foundation for the proposed reclassification request.

2. State Educational Functional Plan

The Project's doubling of the Emmanuel Lutheran Church school's student population will supply needed additional educational opportunities for Maui students.

XVI. CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM

Hawaii's Coastal Zone Management Program ("CZM"), found in HRS § 205A, establishes numerous objectives, policies, and standards to guide and regulate public and private uses in the coastal zone management area. The Property involved in this Petition is not located within the County of Maui's Special Management Area ("SMA"). Accordingly, an analysis of the proposed development's relationship to the CZM is not warranted.

XVII. CONFORMANCE WITH COUNTY GENERAL PLAN, COMMUNITY PLAN, AND ZONING

A. General Plan

The General Plan of the County of Maui ("General Plan") was adopted in 1980, and updated in 1990. The General Plan is a statement of the long-range social, economic, environmental, and design objectives for the general welfare and prosperity of the people of Maui County. Section 8-8.5 of the Revised Charter of the County of Maui states:

The general plan shall indicate desired population and physical development patterns for each island within the county; shall address the unique problems and needs of each island and region within the county; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

The General Plan contains over 20 different objectives, each with various policies for implementation. These objectives advance the following five (5) major themes stated in the General Plan:

1. Protect Maui County's agricultural land and rural identity;
2. Prepare a directed and managed growth plan;
3. Protect Maui County's shoreline and limit visitor industry growth;
4. Maintain a viable economy that offers diverse employment opportunities for residents; and
5. Provide for needed residential housing.

The proposed reclassification and development will be consistent with a directed and managed growth plan, as evidenced by its location to existing urbanized lands and consistency with the Public/Quasi-Public designation by the Wailuku-Kahului Community Plan. The proposed development will assist in maintaining a viable economy as construction-related employment opportunities for residents would be generated.

The proposed reclassification is also consistent with the following objectives and policies of the General Plan:

- To plan the growth of resident and visitor population through a directed and managed growth plan so as to avoid social, economic and environmental disruptions.
- To preserve for present and future generations existing geographic, cultural and traditional community lifestyles by limiting and managing growth through environmentally sensitive and effective use of land in accordance with the individual character of the various communities and regions of the County.
- Provide and maintain a range of land use districts sufficient to meet the social, physical, environmental and economic needs of the community.
- To preserve and protect the County's unique and fragile environmental resources.
- To preserve scenic vistas and natural features.
- To see that all developments are well designed and are in harmony with their surroundings.
- Require that appropriate principles of urban design be observed in the planning of all new developments.
- To encourage developments which reflect the character and the culture of Maui's people

- Establish urban design guidelines and standards which will reflect the unique traditional architectural values of each community plan area.

- To provide Maui residents with continually improving quality educational opportunities which can help them better understand themselves and their surroundings and help them realize their ambitions.

- Seek continual improvement in the quality of education at all levels for all residents.

B. Wailuku-Kahului Community Plan

The Wailuku-Kahului Community Plan, one of nine (9) community plans for Maui County, is mandated by the Revised Charter of the County of Maui and the General Plan. Each region's growth and development is guided by a community plan, which contains goals, objectives, and policies drafted in accordance with the General Plan.

The purpose of the community plan is to provide a relatively detailed agenda for implementing the objectives and policies of the General Plan. Included within the community plans are the desired sequence, patterns, and characteristics of future developments for the particular region, as well as statements of standards and principles with respect to development and sequencing of future developments.

The Wailuku-Kahului Community Plan's current designation of the Property is "Public/Quasi-Public" which would be consistent with, and allow for, the proposed development.

C. County Zoning

The Property is currently zoned "Agricultural" by Maui County zoning. This zoning does not allow for the proposed development. As such, a separate Change in Zoning application has been filed with the Maui Planning Department for processing with the Maui

Planning Commission and referred to the County Council. The request is being made to change the zoning from "Agricultural" to "Public/Quasi-Public" which would allow for the proposed development.

XVIII. DEVELOPMENT OF THE PROPERTY

Development of the Property will be accomplished within ten (10) years after the date of the Commission's approval.

XIX. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS

Petitioner is aware of, and sensitive to, the existence and practice of native Hawaiian customary and traditional rights that are protected by Article XII, section 7 of the Hawaii State Constitution. Based on research into the history of the area which included an archaeological field inspection, there are no known traditional gathering activities or cultural practices affecting the Property.

XX. WRITTEN COMMENTS FROM AGENCIES AND ORGANIZATIONS

To date, there are no written comments from the various agencies and organizations in regards to the proposed reclassification.

XXI. SERVICE OF PETITION

Pursuant to HAR § 15-15-48, copies of this Petition must be served upon the County of Maui Planning Department and Planning Commission, the State of Hawaii Office of Planning, and all persons with a property interest in the Property.

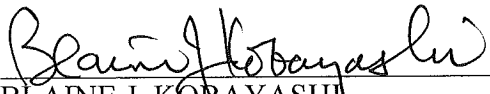
Copies of this Petition will be served upon the above-named parties. An affidavit of compliance with this section is attached as Exhibit "9". In accordance with HAR § 15-15-48(b), copies of this Petition will also be served upon potential intervenors upon receipt of a notice of intent to intervene pursuant to LUC Rule § 15-15-52(b).

XXII. CONCLUSION

The proposed development is located in an area specifically designated for such development as evidenced by the Wailuku-Kahului Community Plan and its "Public/Quasi-Public" designation. The proposed development will allow Petitioner to reasonably expand its existing facilities which are currently very limited. Given the Property's location to Kahului and Wailuku, and its proximity to existing urbanized areas, the proposed development is a reasonable and appropriate use of the Property.

Based on the foregoing, Petitioner respectfully requests that the Commission find that the Petition complies with the necessary requirements of a petition for boundary amendment pursuant to HAR § 15-15-50. Petitioner also respectfully requests that the Commission find that the proposed development meets the standards for determining urban district boundaries pursuant to HAR § 15-15-18, and therefore, grant the reclassification of the Property from the Agricultural District to the Urban District.

DATED: Wailuku, Hawaii, March 19, 2007.



BLAINE J. KOBAYASHI

Attorney for Petitioner
EMMANUEL LUTHERAN CHURCH OF
MAUI

RECEIVED
MAR 19 2007
STATE OF HAWAII
LAND USE COMMISSION

STATE OF HAWAII
LAND USE COMMISSION


RICHARD SUDHEIMER

1.S. Mary E. Ah Sam
Name: Mary E. Ah Sam

My commission expires: 4-24-2007

CERTIFICATE OF SERVICE

RECEIVED
MAR 19 2007

I hereby certify that due service of a copy of the within document was made by **STATE OF HAWAII
LAND USE COMMISSION**
depositing the same with the U. S. mail, postage prepaid, or by hand delivery, on

March 19, 2007, addressed to:

LAURA H. THIELEN
Director
Office of Planning
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

BY MAIL

ABE MITSUDA
Planning Program Administrator
Office of Planning , Land Use Division
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

BY MAIL

JEFFREY HUNT
Director, Planning Department
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

PLANNING COMMISSION
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

BRIAN T. MOTO
Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

MAUI ELECTRIC COMPANY, LIMITED
Attention: Neal Shinyama
P. O. Box 398
Kahului, Maui, Hawaii 96733-6898

BY MAIL

HAWAIIAN TELCOM INC.
P. O. Box 2200
Honolulu, Hawaii 96816

BY MAIL

WAILUKU AGRIBUSINESS CO. INC.
255 East Waiko Road
Wailuku, Hawaii 96793

BY MAIL

HAWAII LAND & FARMING
COMPANY, INC.
745 Fort Street, Suite 2110
Honolulu, Hawaii 96813

BY MAIL

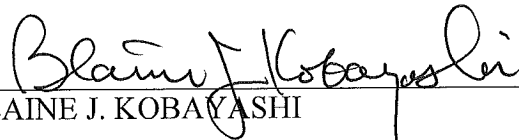
WAIKO BASEYARD, LLC
255-B Waiko Road
Wailuku, Hawaii 96793

BY MAIL

WAIKAPU 28 INVESTMENT, LLC
P. O. Box 946
Wailuku, Hawaii 96793

BY MAIL

DATED: Wailuku, Hawaii, March 19, 2007.



BLAINE J. KOBAYASHI

Attorney for Petitioner
EMMANUEL LUTHERAN CHURCH OF
MAUI

Exhibit "1"

Authorization of Emmanuel Lutheran Church of Maui

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MAR 19 2007

AUTHORIZATION

TO WHOM IT MAY CONCERN:

STATE OF HAWAII
LAND USE COMMISSION

This will certify that EMMANUEL LUTHERAN CHURCH OF MAUI, a Hawaii non-profit corporation, is the owner of certain real property situate at Wailuku, Maui, State of Hawaii, more particularly described hereinbelow.

EMMANUEL LUTHERAN CHURCH OF MAUI hereby authorizes BLAINE J. KOBAYASHI and CARLSMITH BALL LLP, its attorneys, and/or their respective designated representatives, to apply for all necessary permits and approvals relative to the development of said real property, including but not limited to applying for a Land Use District Boundary Amendment of said property.

Dated: January 19, 2007.

EMMANUEL LUTHERAN CHURCH OF MAUI

By Richard Sudheimer
RICHARD SUDHEIMER
Its President

TMK (2) 3-5-002:011

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 19th day of January, 2007, before me personally appeared RICHARD SUDHEIMER, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the President of EMMANUEL LUTHERAN CHURCH OF MAUI, a Hawaii non-profit corporation, and that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Claudia E. Ham
Name:

Notary Public, State of Hawaii Claudia E. Ham, Notary Public
State of Hawaii

My commission expires: My commission expires: 10/29/2009

Exhibit "2"

Regional Location Map

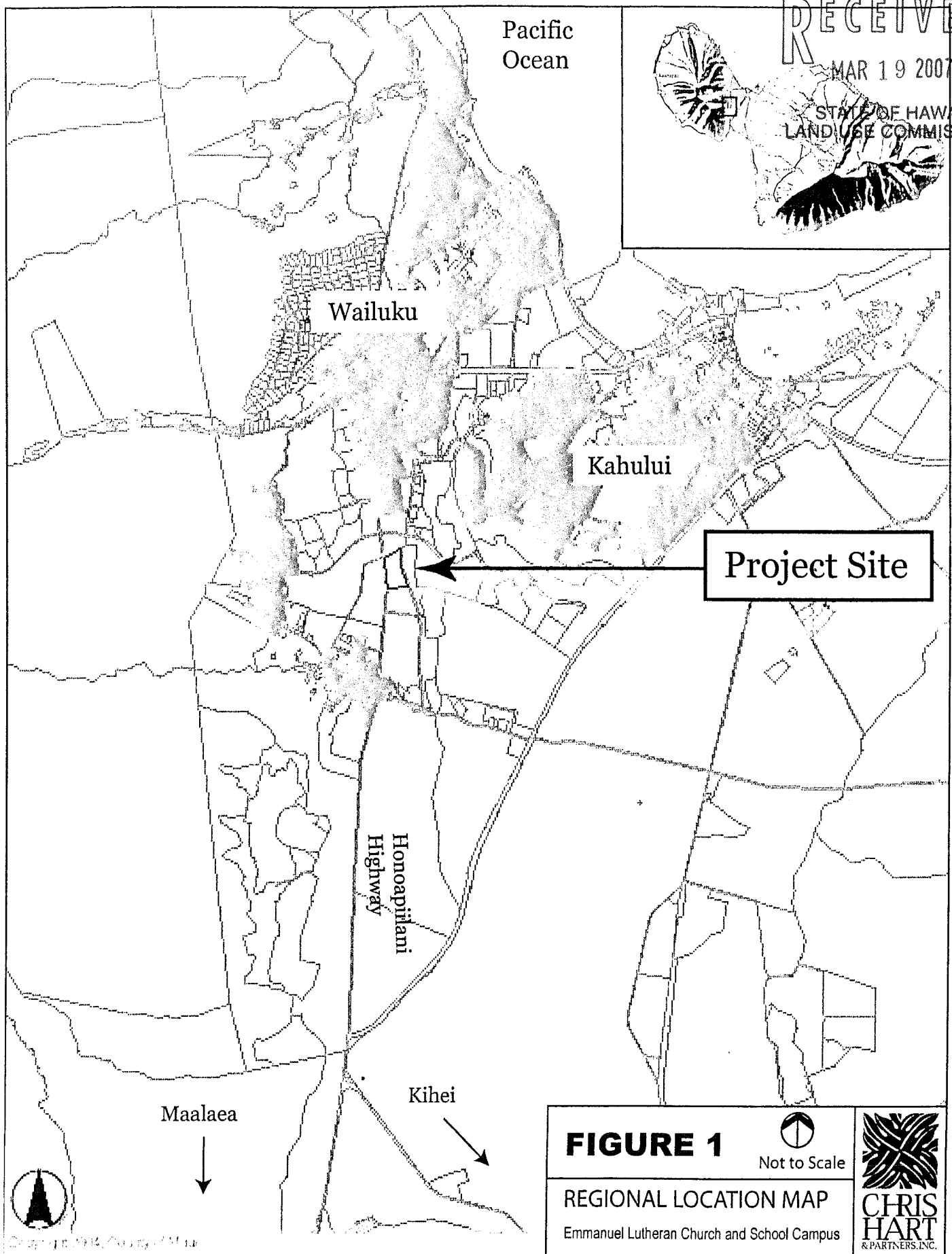


Exhibit "3"

Tax Map

ZONE	SEC.	PLAT
3	5	02
CONTAINING		PARCE
SCALE: 1 in. = 500 ft.		

PROJECT SITE

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MAR 19 2007

STATE OF HAWAII
LAND USE COMMISSION

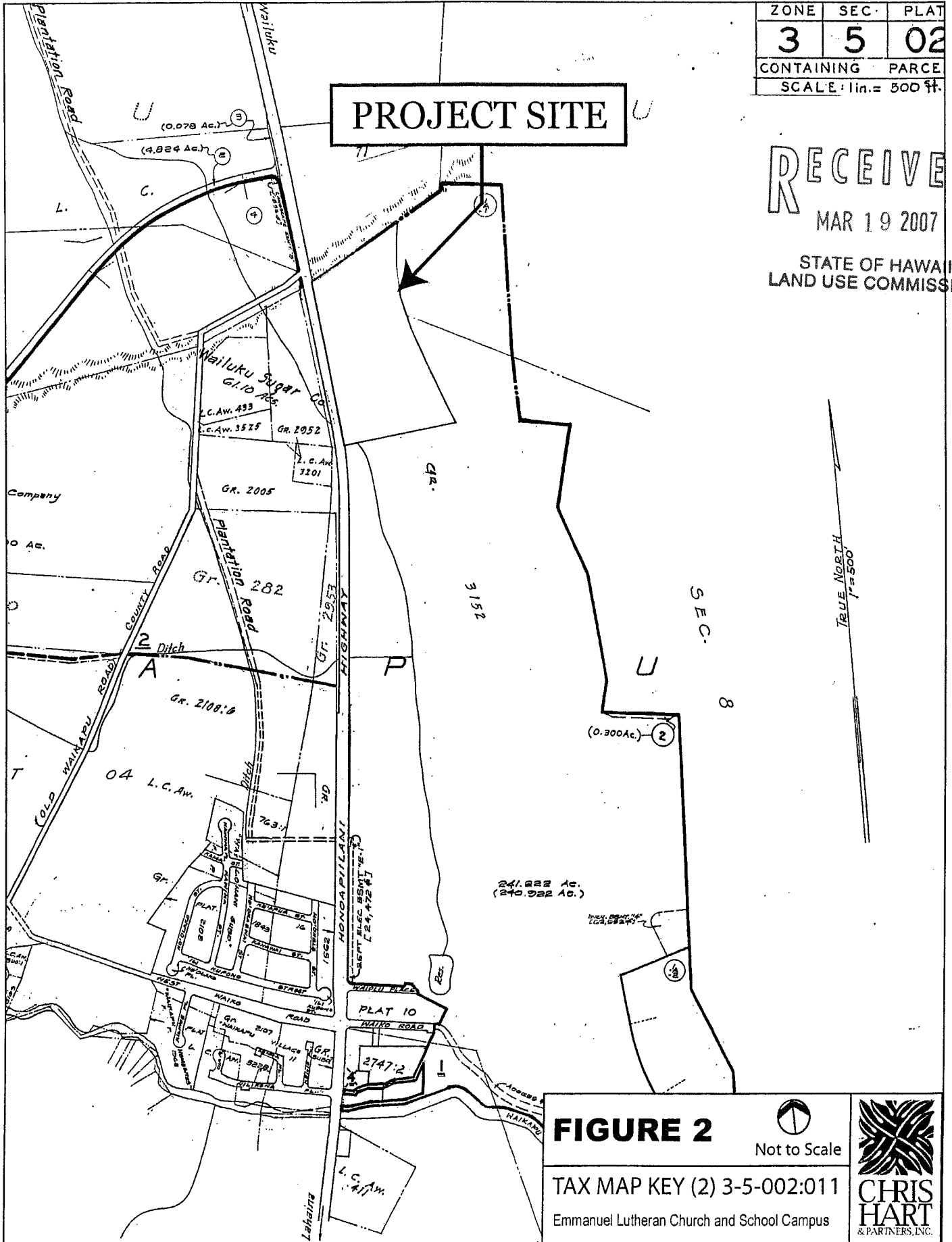


FIGURE 2

Not to Scale

TAX MAP KEY (2) 3-5-002:011

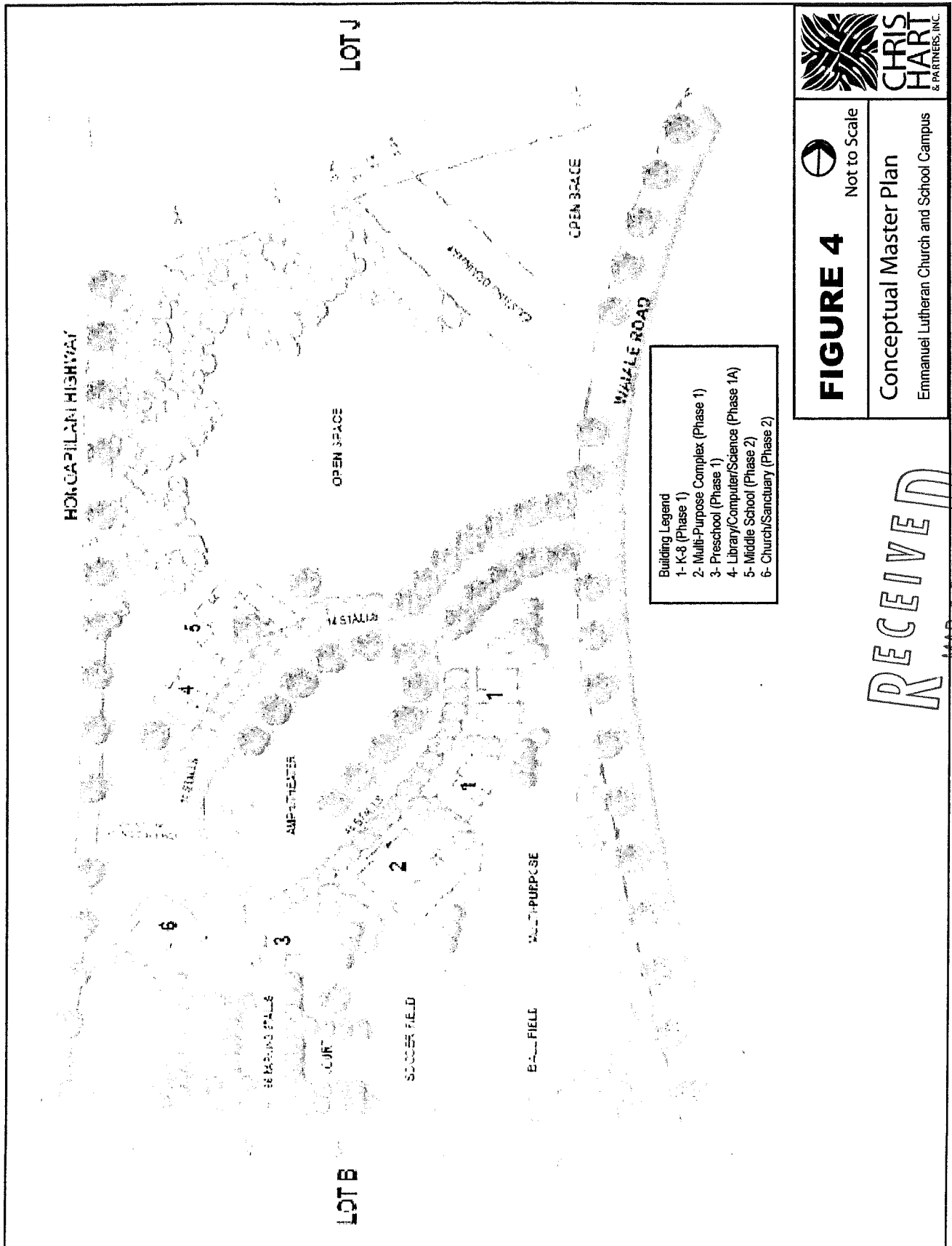
Emmanuel Lutheran Church and School Campus



EXHIBIT "3"

Exhibit "4"

Conceptual Master Plan Map



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MAR 19 2007

STATE OF HAWAII
LAND USE COMMISSION

Exhibit "5"

Metes and Bounds Description and Map of Property

RECEIVED
MAR 19 2007

STATE OF HAWAII
LAND USE COMMISSION

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Grant 3152 to Henry Cornwell and Grant 3343 to Claus Spreckels) situate, lying and being on the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) at Waikapu and Wailuku, Island and County of Maui, State of Hawaii, being LOT A of the "WAIKAPU EAST (LARGE-LOT) SUBDIVISION NO. 3" and thus bounded and described:

Beginning at a point at the southwesterly corner of this lot, being also the northwesterly corner of Lot B of Waikapu East (Large-Lot) Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,563.76 feet south and 2,085.73 feet west and running by azimuths measured clockwise from true South:

1. Thence along the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) on a curve to the left with the point of curvature azimuth from the radial point being: $271^{\circ} 55' 48''$ and the point of tangency azimuth from the radial point being: $262^{\circ} 39' 11''$, having a radius of 2,899.93 feet, the chord azimuth and distance being: $177^{\circ} 17' 29.5''$ 469.02 feet to a point;
2. $172^{\circ} 39' 11''$ 865.57 feet along same to a point;
3. $241^{\circ} 16'$ 878.02 feet along R. P. 4529-B and 4549, L. C. Aw. 71 to Michael J. Nowlein, being also along Lot 9-A of Waiale Road and Kuikahi Drive Extension Subdivision to a point;
4. Thence along the remainder of Grant 3343 to Claus Spreckels, being also along Lot L of Waikapu East (Large-Lot) Subdivision No. 3 on a curve to the right with the

EXHIBIT "5"

point of curvature azimuth
from the radial point being:
104° 32' 45" and the point
of tangency azimuth from the
radial point being: 284°
39' 17", having a radius of
1,600.00 feet, the chord
azimuth and distance being:
14° 36' 01" 3.04 feet to a
point;

5. Thence along same on a curve to the left with the point of
curvature azimuth from the
radial point being: 104°
39' 17" and the point of
tangency azimuth from the
radial point being: 99°
00', having a radius of
1,600.00 feet, the chord
azimuth and distance being:
11° 49' 38.5" 157.85 feet
to a point;
6. 9° 00' 84.93 feet along same to a point;
7. Thence along same on a curve to the left, having a radius
of 1,560.00 feet, the chord
azimuth and distance being:
354° 03' 30" 804.45 feet
to a point;
8. 339° 07' 622.61 feet along the remainders of
Grant 3343 to Claus Spreckels
and Grant 3152 to Henry
Cornwell, being also along
Lot L of Waikapu East (Large-
Lot) Subdivision No. 3 to a
point;
9. 82° 00' 904.67 feet along the remainder of
Grant 3343 to Claus
Spreckels, being also along
Lot B of Waikapu East (Large-
Lot) Subdivision No. 3 to the
point of beginning and
containing an area of 25.263
acres, more or less.

Exhibit "6"

Project Assessment Report
(Bound Booklet Attached at the End)

Exhibit "7"

Limited Warranty Deed

RECEIVED

MAR 19 2007

R-731

STATE OF HAWAII
BUREAU OF CONVEYANCES
STATE OF RECORDS
LAND USE COMMISSION
DEC 30, 2004 08:01 AM

Doc No(s) 2004-264052



20 3/4 Z6

/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$675.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (✓) Pickup () To:

MR RICHARD H SUTHEIMER
EMMANUEL LUTHERAN CHURCH OF MAUI
520 WEST ONE STREET
KAHULUI, HI 96732

TG: 200420153 - B
TGE: AL2016373
DORIE SCHOEPPNER

RS
③

Tax Key: (2) 3-5-002-001

Total No. of Pages: 12

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That WAILUKU AGRIBUSINESS CO., INC., a Hawaii corporation, whose address is 255 East Waiko Road, Wailuku, Hawaii 96793, hereinafter called the "Grantor," in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor paid by EMMANUEL LUTHERAN CHURCH OF MAUI, a Hawaii non-profit corporation, whose address is 520 West One Street, Kahului, Maui, Hawaii 96732, hereinafter called the "Grantee," the receipt whereof is hereby acknowledged, does hereby grant and convey unto the Grantee as a tenant in

severalty, all of Grantor's right, title and interest in and to the real property described in Exhibit "A" attached hereto and by this reference incorporated herein; subject, however, to all encumbrances noted on said Exhibit "A".

TO HAVE AND TO HOLD the same, together with any improvements thereon and the rights, easements, privileges, and appurtenances thereunto belonging or appertaining unto the Grantee, the heirs, representatives, administrators, successors and assigns of the Grantee, forever.

AND the Grantor covenants with the Grantee that the former is now seised in fee simple of the property granted; that the latter shall enjoy the same without any lawful disturbance; that the same is free from all encumbrances made by persons claiming by, through or under the Grantor, except the liens and encumbrances hereinbefore mentioned, and except also the liens and encumbrances created or permitted by the Grantee after the date hereof; and that the Grantor will WARRANT and DEFEND the Grantee against the lawful claims and demands of all persons claiming by, through or under the Grantor, except as aforesaid.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, or neuter, the singular or plural number, individuals or corporations, and their and each of their respective successors, heirs, personal representatives,

and permitted assigns, according to the context hereof. If these presents shall be signed by two or more Grantors or by two or more Grantees, all covenants of such parties shall for all purposes be joint and several.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.


IN WITNESS WHEREOF, the Grantor and the Grantee have executed these presents on this 27th day of Dec, 2004.

APPROVED AS TO FORM:
MANCINI, WELCH & GEIGER

WAILUKU AGRIBUSINESS CO., INC.

By Peter A. Horovitz

By



Its AVERY B. CHUMLEY
President

By

Its _____

Grantor

and permitted assigns, according to the context hereof. If these presents shall be signed by two or more Grantors or by two or more Grantees, all covenants of such parties shall for all purposes be joint and several.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed these presents on this 27th day of Dec, 2004.

APPROVED AS TO FORM:
MANCINI, WELCH & GEIGER

WAILUKU AGRIBUSINESS CO., INC.

By Peter A. Horovitz

By _____
Its _____

By Beverly Y. Crudele
Its Secretary

Grantor

EMMANUEL LUTHERAN CHURCH OF MAUI

By Richard H. Sudheimer
Richard H. Sudheimer
Its President

By Lucy L. Niles
Lucy L. Niles
Its Secretary
Grantee

STATE OF HAWAII)
) SS.
COUNTY OF MAUI- HAWAII)

On this 23rd day of December, 20⁰⁴, before me personally appeared AVERY B. CHUMBLEY and BEVERLY Y. CRUDELE, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Nora Rosario TS.
Print Name: Nora Rosario
Notary Public, State of Hawaii.

My commission expires: 12-13-2006

STATE OF HAWAII

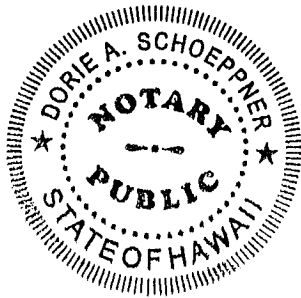
)

) SS.

COUNTY OF MAUI

)

On this 27th day of DEC, 2004, before me personally appeared Richard H. Schneider and Lucy L. Niles, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Dorie A. Schoeppner
Print Name:

Notary Public, State of Hawaii.

My commission expires: _____

Dorie A. Schoeppner
Expiration Date: September 28, 2007

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Grant 3152 to Henry Cornwell and Grant 3343 to Claus Spreckels) situate, lying and being on the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) at Waikapu and Wailuku, Island and County of Maui, State of Hawaii, being LOT A of the "WAIKAPU EAST (LARGE-LOT) SUBDIVISION NO. 3" and thus bounded and described:

Beginning at a point at the southwesterly corner of this lot, being also the northwesterly corner of Lot B of Waikapu East (Large-Lot) Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 5,563.76 feet south and 2,085.73 feet west and running by azimuths measured clockwise from true South:

1. Thence along the easterly side of Honoapiilani Highway (F.A.P. No. 13-G) on a curve to the left with the point of curvature azimuth from the radial point being: $271^{\circ} 55' 48''$ and the point of tangency azimuth from the radial point being: $262^{\circ} 39' 11''$, having a radius of 2,899.93 feet, the chord azimuth and distance being: $177^{\circ} 17' 29.5''$ 469.02 feet to a point;
2. $172^{\circ} 39' 11''$ 865.57 feet along same to a point;
3. $241^{\circ} 16'$ 878.02 feet along R. P. 4529-B and 4549, L. C. Aw. 71 to Michael J. Nowlein, being also along Lot 9-A of Waiale Road and Kuikahi Drive Extension Subdivision to a point;
4. Thence along the remainder of Grant 3343 to Claus Spreckels, being also along Lot L of Waikapu East (Large-Lot) Subdivision No. 3 on a curve to the right with the

point of curvature azimuth
from the radial point being:
104° 32' 45" and the point
of tangency azimuth from the
radial point being: 284°
39' 17", having a radius of
1,600.00 feet, the chord
azimuth and distance being:
14° 36' 01" 3.04 feet to a
point;

5. Thence along same on a curve to the left with the point of
curvature azimuth from the
radial point being: 104°
39' 17" and the point of
tangency azimuth from the
radial point being: 99°
00', having a radius of
1,600.00 feet, the chord
azimuth and distance being:
11° 49' 38.5" 157.85 feet
to a point;
6. 9° 00' 84.93 feet along same to a point;
7. Thence along same on a curve to the left, having a radius
of 1,560.00 feet, the chord
azimuth and distance being:
354° 03' 30" 804.45 feet
to a point;
8. 339° 07' 622.61 feet along the remainders of
Grant 3343 to Claus Spreckels
and Grant 3152 to Henry
Cornwell, being also along
Lot L of Waikapu East (Large-
Lot) Subdivision No. 3 to a
point;
9. 82° 00' 904.67 feet along the remainder of
Grant 3343 to Claus
Spreckels, being also along
Lot B of Waikapu East (Large-
Lot) Subdivision No. 3 to the
point of beginning and
containing an area of 25.263
acres, more or less.

TOGETHER WITH an easement for roadway purposes over Roadway Lot L of "WAIKAPU EAST (LARGE-LOT) SUBDIVISION NO. 3" and the KUIKAHI DRIVE EXTENSION; provided, however, that if and when any of said roadway lots shall be conveyed to or acquired by any governmental authority as a public highway, then all private easement rights granted hereby in said roadway lots shall automatically terminate.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement dated June 2, 1986, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 19563 on Page 104, by and between Wailuku Agribusiness Co., Inc. and County of Maui, by its Department of Water Supply, re: private fire protection system

3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement dated March 14, 1990, and recorded in the said Bureau of Conveyances as Document No. 90-069334, by and between Wailuku Agribusiness Co., Inc. and Department of Water Supply of the County of Maui, re: private water system.

Above agreement was amended by instrument dated August 24, 1990, and recorded as Document No. 90-164426.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement dated March 14, 1990, and recorded in the said Bureau of Conveyances as Document No. 90-069335, by and between Wailuku Agribusiness Co., Inc. and Department of Water Supply of the County of Maui, re: private fire protection system.

5. Existing sewerline Easement "S-1" (15 feet wide), as shown on survey map prepared by Warren S. Unemori, Land Surveyor, with Warren S. Unemori - Engineering, Inc., dated June 27, 1994, revised January 11, 1995 and February 17, 1995.

6. Grant to County of Maui dated March 30, 1994, and recorded in the said Bureau of Conveyances as Document No.

95-079773, granting an easement for sewerline purposes over Easement "S-1", being more particularly described therein.

Lack of joinder by C. Brewer Homes, Inc., now known as Hawaii Land & Farming Company, Inc., a Delaware corporation.

7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Memorandum Concerning Grant of Various Property Rights dated --- (acknowledged August 19, 1999 and August 18, 1999), and recorded in the said Bureau of Conveyances as Document No. 99-189645.

8. Grant to Hawaii Land & Farming Company, Inc., a Delaware corporation, dated August 3, 1999, and recorded in the said Bureau of Conveyances as Document No. 99-189647, granting a perpetual Offsite Drainage Easement "D-1" in favor of Tax Key (2) 3-5-001-001 and (2) 3-4-007-002.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Unilateral Agreement and Declaration for Conditional Zoning dated April 6, 2000, and recorded in the said Bureau of Conveyances as Document No. 2000-049836.

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Subdivision Agreement dated June 21, 2001, and recorded in the said Bureau of Conveyances as Document No. 2001-104990, by and between Wailuku Agribusiness Co., Inc., a Hawaii corporation, and the County of Maui, through its Department of Public Works and Waste Management.

11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement to Grant Easement dated June 25, 2001, and recorded in the said Bureau of Conveyances as Document No. 2001-097114, by and between Wailuku Agribusiness Co., Inc., a Hawaii corporation, and Waiko Baseyard, LLC, a Hawaii limited liability company.

12. Grant to Waiko Baseyard, LLC, a Hawaii limited liability company, dated June 25, 2001, and recorded in the said Bureau of Conveyances as Document No. 2001-097115, granting a non-exclusive easement over and across a portion of the

"existing cane haul" road, being more particularly described therein.

13. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Private Fire Protection System Agreement dated March 21, 1997, and recorded in the said Bureau of Conveyances as Document No. 2002-046402, by and between Brewer Environmental Industries, Inc., a Hawaii corporation, and Wailuku Agribusiness Co., Inc., a Hawaii corporation.

14. Grant to Waikapu 28 Investment, LLC, a Hawaii limited liability company, dated January 30, 2003, and recorded in the said Bureau of Conveyances as Document No. 2003-058167, granting easements for utility purposes being more particularly described therein.

15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement for Allocation of Future Subdivision Potential dated November 3, 2004, and recorded in the said Bureau of Conveyances as Document No. 2004-227693, by and between Wailuku Agribusiness Company, Inc. and Hawaii Land & Farming Company, Inc.

16. Designation of Easement "D-1" for drainage purpose shown on survey map prepared by Reed M. Ariyoshi, Registered Professional Land Surveyor, with Warren S. Unemori-Engineering Inc., dated September 21, 2004.

17. Designation of Easement "E-2" for electrical purpose shown on survey map prepared by Reed M. Ariyoshi, Registered Professional Land Surveyor, with Warren S. Unemori-Engineering Inc., dated September 21, 2004.

18. Grant to Maui Electric Company, Limited, a Hawaii corporation, and Verizon Hawaii Inc., a Hawaii corporation, dated Nov 23, 2004, and recorded in the said Bureau of Conveyances as Document No. 2004, granting easements for utility purposes being more particularly described therein.

19. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Covenants, Conditions, Easements, Reservations and Restrictions dated Dec 27, 2004, and recorded in the said Bureau of Conveyances as Document No. 2004-26405-1

20. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described herein.

21. Any unrecorded leases and matters arising from or affecting the same.

END OF EXHIBIT "A"
Tax Key: (2) 3-5-002-001

Exhibit "8"

Current Balance Sheet and Income Statement for
Emmanuel Lutheran Church of Maui

EMMANUEL L'EMMANUEL LUTHERAN OF MAUI

CONSOLIDATED BALANCE SHEET

31-Dec-06

RECEIVED
MAR 19 2007
STATE OF HAWAII
LAND USE COMMISSION

CURRENT ASSETS

CHURCH

Checking Account	\$7,371.00	
Savings Account--FHB	\$1,909.00	
Savings Account-ASB	\$11,268.00	\$20,548.00

GRADE SCHOOL

Checking Account	\$19,731.00	
Savings Account-FHB	\$283,792.00	
Savings Account-ASB	\$104,573.00	
Accounts Receivable	\$12,545.00	\$420,641.00

PRE-SCHOOL

Checking Account	\$30,152.00	\$30,152.00
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TOTAL CURRENT ASSETS

\$471,341.00

INVESTMENTS

CHURCH

CEF Notes	\$332,812.00	
Savings Bonds	\$25,436.00	\$358,248.00

GRADE SCHOOL

CEF Notes	\$79,410.00	\$79,410.00
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PRE-SCHOOL

CEF Notes	\$49,991.00	\$49,991.00
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TOTAL INVESTMENTS

\$487,649.00

EQUIPMENT(Current Value)

Church	\$8,500.00
Grade School	\$10,500.00
Pre-School	\$2,000.00
Van	\$5,000.00
Pickup Truck	\$1,000.00

TOTAL EQUIPMENT

\$27,000.00

FIXED ASSETS

Parsonage(Church's Portion)	\$62,800.00
Modular Classroom	\$152,028.00
Church School & Land *	\$2,338,900.00
Waikapu Land *	\$1,136,800.00

* Assessed Value

TOTAL FIXED ASSETS

\$3,690,528.00

TOTAL ASSETS

\$4,676,518.00

CONSOLIDATED BALANCE SHEET(CONT)

LIABILITIES

School Mortgage	\$121,362.00
Waikapu Land Mortgage	\$577,774.00

TOTAL LIABILITIES	\$699,136.00
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EQUITY	\$3,977,382.00	\$3,977,382.00
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<i>TOTAL LIABILITIES & EQUITY</i>	<i>\$4,676,518.00</i>
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UNAUDITED

EMMANUEL LUTHERAN CHURCH INCOME AND EXPENSE

Church Year--January Through December

	ACTUAL 2005	ACTUAL 2006
INCOME		
General Offerings	171389	170115
Reimbursibles(Schools)	6400	8075
Designated Offerings	13701	550
Other Income	1250	1394
TOTAL INCOME	192740	180134
EXPENSES		
Mission Support	36938	29261
Pastor Support	83887	86895
Christian Worship	9506	6432
Christian Witness	2303	1859
Christian Stewardship	355	573
Christian Growth	4351	3404
Christian Youth	2046	2000
Grade School/ Mortgage	4000	1000
Secretary Support	15032	18813
Administration	6049	10422
Church Property	12098	16670
Capital Expenditures	1742	1700
Designated Gift Reserve	13130	0
TOTAL EXPENSE	191437	179029
Over/Under	1303	1105

UNAUDITED

EMMANUEL LUTHERAN GRADE SCHOOL INCOME AND EXPENSE

School Year--July Through June

	2005-06 ACTUAL	2005-2006 BUDGET	31-Dec-06 2006-07 ACTUAL	2006-07 BUDGET
INCOME				
Day School				
Registration	32761	26100	47412	26400
Comprehensive	10310	59000	80450	60400
Activity Fee	9588	9910	10818	10060
Tuition	602917	601090	533190	684846
After School Program	29797	29800	19296	29500
Summer School Program	21072	21120	4590	21120
Total School Income	706445	747020	695756	832326
Income From Church	12500	10800	0	11200
Fund Raiser	60873	20000	0	0
Other Income	89991	7550	22378	6744
TOTAL INCOME	869809	785370	718134	850270
EXPENSES				
Personnel	485739	498428	267823	554885
Employee Benefits	96604	113377	58634	119565
Administrative	19677	28715	13953	29285
Instructional	69854	44350	45907	40250
Plant Operation	52047	69000	44443	64285
Debt Retirement	30228	31500	24500	42000
Other Expense	42978	0	1985	0
TOTAL EXPENSES	797127	785370	457245	850270
Over/Under	72682	0	260889	0

UNAUDITED

EMMANUEL LUTHERAN PRE-SCHOOL
School Year--September Through August

INCOME	31-Aug-06 2005-06 ACTUAL	2005-06 BUDGET	31-Dec-06 2006-2007 ACTUAL	2006-07 BUDGET
Registration	4050	5850	1240	5850
Tuition	194695	198770	70255	205040
Other Income	507	5143	5486	4200
TOTAL INCOME	199252	209763	76981	215090
EXPENSES				
Instruction Expenses	130451	140938	41166	141500
Operating Expenses	1640	3250	1021	3250
Administrative Expense	14427	17525	4904	18590
Repairs & Maintenance	293	1300	115	800
Employee Benefits	35203	42750	12998	46950
Capital Improvements	904	4000	874	4000
TOTAL EXPENSES	182918	209763	61078	215090
OVER/UNDER	16334	0	15903	0
UNAUDITED				

Exhibit "9"

Affidavit of Service of Petition for
District Boundary Amendment

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

RECEIVED
MAR 19 2007

STATE OF HAWAII
LAND USE COMMISSION

In the Matter of the Petition of)
EMMANUEL LUTHERAN CHURCH OF)
MAUI) DOCKET NO. A07-773
To Amend the Land Use District Boundary)
Of Certain Lands Situated at Wailuku,)
Island of Maui, State of Hawaii, Consisting)
Of 25.263 Acres from the Agriculture)
District to the Urban District, Tax Map)
Key No. 3-5-002:011.)
EMMANUEL LUTHERAN CHURCH OF
MAUI

**AFFIDAVIT OF SERVICE OF PETITION
FOR DISTRICT BOUNDARY AMENDMENT**

STATE OF HAWAII)
COUNTY OF MAUI) ss.

BLAINE J. KOBAYASHI, being first duly sworn on oath, deposes and says:

1. Affiant is the attorney for EMMANUEL LUTHERAN CHURCH OF MAUI, the
Petitioner for a State of Hawaii Land Use District Boundary Amendment from Agricultural
District to Urban District, identified as Docket No. A07-773, for land situated at Wailuku, Maui,
Hawaii, and identified as TMK No. (2) 3-5-002:011.

2. In compliance with §15-15-48(a), Hawaii Administrative Rules, Affiant will on
March 19, 2007, deposit in the United States mail, post paid, or by hand delivery, a copy of the
Petition for District Boundary Amendment filed on March 19, 2007, to the following:

LAURA H. THIELEN
Director
Office of Planning
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

BY MAIL

EXHIBIT "9"

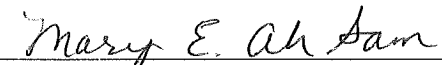
<p>ABE MITSUDA Planning Program Administrator Office of Planning , Land Use Division State of Hawaii P. O. Box 2359 Honolulu, Hawaii 96804</p>	<p>BY MAIL</p>
<p>JEFFREY HUNT Director, Planning Department County of Maui 250 South High Street Wailuku, Maui, Hawaii 96793</p>	<p>BY HAND DELIVERY</p>
<p>PLANNING COMMISSION County of Maui 250 South High Street Wailuku, Maui, Hawaii 96793</p>	<p>BY HAND DELIVERY</p>
<p>BRIAN T. MOTO Corporation Counsel Office of the Corporation Counsel County of Maui 200 South High Street Wailuku, Maui, Hawaii 96793</p>	<p>BY HAND DELIVERY</p>
<p>MAUI ELECTRIC COMPANY, LIMITED Attention: Neal Shinyama P. O. Box 398 Kahului, Maui, Hawaii 96733-6898</p>	<p>BY MAIL</p>
<p>HAWAIIAN TELCOM INC. P. O. Box 2200 Honolulu, Hawaii 96816</p>	<p>BY MAIL</p>
<p>WAILUKU AGRIBUSINESS CO. INC. 255 East Waiko Road Wailuku, Hawaii 96793</p>	<p>BY MAIL</p>
<p>HAWAII LAND & FARMING COMPANY, INC. 745 Fort Street, Suite 2110 Honolulu, Hawaii 96813</p>	<p>BY MAIL</p>
<p>WAIKO BASEYARD, LLC 255-B Waiko Road Wailuku, Hawaii 96793</p>	<p>BY MAIL</p>
<p>WAIKAPU 28 INVESTMENT, LLC P. O. Box 946 Wailuku, Hawaii 96793</p>	<p>BY MAIL</p>

This Affidavit is provided in compliance with §15-15-50(c)(5)(C), HAR.

That further Affiant sayeth naught.


BLAINE J. KOBAYASHI

Subscribed and sworn to before me
this 16th day of March, 2007.

L.S. 
Name: Mary E. Ah Sam

Notary Public, State of Hawaii

My commission expires: 4/24/2007