

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

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JUL 13 2007

STATE OF HAWAII
LAND USE COMMISSION

In the Matter of the Petition of)
)
EMMANUEL LUTHERAN CHURCH)
OF MAUI)
)
To Amend the Land Use District Boundary)
for Approximately 25.263 acres of land)
in the Agricultural District to the Urban)
District, Wailuku, Maui, Hawai'i,)
Tax Map Key No.: (2) 3-5-002: 011)
)

DOCKET NO. A07-773

**TESTIMONY OF THE OFFICE OF PLANNING
IN SUPPORT OF THE PETITION**

Petitioner's Proposed Use of the Property

Petitioner, Emmanuel Lutheran Church of Maui, proposes to reclassify approximately 25.263 acres of land situated at Wailuku, Island of Maui, State of Hawai'i, identified by Tax Map Key Number (2) 3-5-002: 011 from the State Agricultural District to the Urban District to develop a new campus for the church and school, which will be relocated from its current site in Kahului, Maui.

General Information

The campus will comprise approximately 52,000 square feet of built space, accommodating significant growth in church membership and school enrollment of up to 490 students (pre-K through grade 8). The proposed project includes the following campus components:

- Preschool building
- 18 classrooms (for grades K-8)
- Art and music rooms
- Multi-purpose complex (for school assembly and church use)
- Library
- Computer/technology center
- Science lab
- Administration building
- Church sanctuary (450 seats)

- Athletic and recreation areas
- 180 parking stalls

Infrastructure improvements will include the installation of water lines, sewer lines, and a new access road stemming from the Wai‘ale Road extension, construction of which has recently been completed as part of the Waikapū Gardens subdivision (A04-750, Spencer Homes, Inc.) to the south of the subject property.

The proposed project is designed to be a low-density campus, with significant open space buffers and buildings of no more than two stories clustered around a village green. According to the project Master Plan, submitted as Appendix A of Petitioner’s Exhibit No. 6, at least half of the property will remain undeveloped to accommodate future uses that may include a high school or faculty housing.

Description of the Property

The petition site, which is located approximately midway between Wailuku Town and Waikapū in Wailuku *ahupua‘a*, consists of 25.263 acres in the State Agricultural District. The subject property is also known as Lot A of the Waikapū East (Large Lot) Subdivision No. 3.

The project area is roughly rectangular, with Honoapi‘ilani Highway to the west and the new extension of Wai‘ale Road to the east. On its northern and southern edges, the site is bounded respectively by Lot J and Lot B of the Waikapū East Subdivision No. 3. Lot J is fallow agricultural land currently being used by Stanford Carr Development and Goodfellow Brothers for field offices. Lot B is owned by Valley Isle Fellowship, which has proposed development of a new church, subject to County approval of a State Land Use District Boundary Amendment and a Change in Zoning application. According to the Petitioner, land to the east of the project area is currently being used as a plant nursery. The vacant agricultural land to the west of the property, across Honoapi‘ilani Highway, is the subject of another petition for a State Land Use District boundary amendment: Docket No. A06-766, Towne Development, Inc., et al., which proposes reclassification of 210.0 acres from the Agricultural District to the Rural and Urban Districts for Pu‘unani, a new residential subdivision.

The region surrounding the project area is undergoing intensive development, with a substantial number of residential subdivisions recently completed, under construction, or being proposed. Major projects include Kehalani Project District to the north; the Waikapū Gardens affordable housing project to the south (A04-750, Spencer Homes, Inc.); Waiolani Elua and Waiolani Mauka (A04-746) to the southwest; the Maui Lani subdivision to the east (A04-754, Maui Lani 100, LLC); and to the west, Wailuku Heights, along with the previously mentioned proposal for the Pu‘unani subdivision (A06-766, Towne Development of Hawaii, Inc. et al.). Situated in the midst of heavy residential growth, the property is also located close to the towns of Waikapū, Wailuku, and Kahului, the latter two of which function as Maui’s hub of employment and commercial activity.

KEY ISSUES IDENTIFIED BY THE OFFICE OF PLANNING

1. Agricultural Lands

In 1978, Hawai'i's Constitution was amended, in part, to establish the preservation of agriculture as a priority for the State. Article XI, Section 3 declares that "the State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." In furtherance of these objectives, the Constitution directs that "important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the Legislature and approved by a two-thirds vote" of the State Land Use Commission (LUC) or the county zoning authority.

Subsequent efforts to achieve these agricultural conservation goals culminated with enactment of Act 183, Session Laws of Hawai'i 2005, which directed the Counties to take the lead in identifying important agricultural lands within their jurisdictions. The Counties, therefore, are charged with making the initial determination whether a petition for reclassification of land in the State Agricultural District includes land that is needed to ensure the availability of agriculturally suitable lands within that county.

Currently, the productive value and potential of agricultural lands are most commonly assessed using two separate rating systems: the Agricultural Lands of Importance to the State of Hawaii (ALISH) system and the Land Study Bureau's (LSB) classifications for soil productivity.

The subject property is classified as:

- Land Study Bureau – "A"... the highest class of soil productivity.
- Agricultural Lands of Importance in the State of Hawaii – "Prime"... lands have a soil quality, growing season and moisture supply needed to produce sustained crop yields economically.

The Petitioner states that the property was used for large-scale production of pineapple and sugarcane until 2003, after which short-term tenant farmers began cultivating the land for bananas and other fruits. Since mid-2005, the property has lain vacant and fallow. Kama Ditch, which once supported the property's agricultural water consumption, is now overgrown and covered with soil.

The proposed reclassification will result in a small decrease in the supply of prime agricultural land with high-productivity soil and existing irrigation infrastructure.

The Maui County Planning Department has indicated their support for the proposed project, as part of a stretch of urban uses linking Wailuku and Waikapū along a narrow corridor between Honoapi'ilani Highway and Wai'ale Road. However, the Department has also called for retention of existing Agricultural District lands located to the west of the

project area, across Honoapi'ilani Highway, just south of the Wailuku-Kahului Project District 3 (Kehalani).

The State Department of Agriculture (DOA) has noted the value of highly productive lands with access to irrigation but commented that the piecemeal development in the surrounding region limits the property's agricultural potential.

Given these State and County comments, the Office of Planning therefore supports the proposed reclassification due to its consistency with County plans and because the increasingly residential nature of the region renders small parcels such as the subject property less suitable for agricultural production.

2. Water Supply

a. Potable Water

The County Department of Water Supply (DWS) estimates the project's potable water demand at 32,000 gallons per day (gpd).

The project area is served by the Central Maui Water System, a distribution network administered by DWS, which draws water from the 'Īao aquifer, the Waihe'e aquifer, the 'Īao tunnel and the 'Īao-Waikapū Ditch, and then distributes these potable supplies across the Central Maui region.

The 'Īao aquifer, which is the primary source for the Central Maui Water System, has been designated as a Ground-Water Management Area (GWMA). GWMA's are established when water demand in an area threatens to outpace the water resource capacities, a potentially critical problem that is monitored by comparing the rates at which water is being pumped from an aquifer with that aquifer's sustainable yield (defined as "the maximum rate at which water may be withdrawn from a water source without impairing the utility or quality of the water source"). With respect to the 'Īao aquifer, the sustainable yield was set at 20 million gpd and, in 2003, the average rate of pumping was found to exceed 18 million gpd (90 percent of the sustainable yield), thereby triggering designation of a GWMA. As such, the State Commission on Water Resource Management (CWRM) has been granted administrative control over the 'Īao aquifer, setting limits on the amount of water DWS can draw from this source.

Currently, CWRM has granted permits to draw from the 'Īao aquifer that total 17.709 million gpd (including 711,000 gpd permitted to private entities). CWRM reports that, during the 12-month period from June 2006 to May 2007, pumpage rates for the 'Īao aquifer have averaged 18.174 million gpd, or 102.6 percent of the amount currently allowed under existing permits. In summary, all of the permitted ground water from the 'Īao aquifer is currently being used and no additional permitted water from the 'Īao aquifer is available to support pending and future projects the Central Maui System.

However, DWS has suggested that it may apply to CWRM for use of the remaining unclaimed 2.291 million gpd, such that the 'Āao aquifer's full sustainable yield of 20 million gpd would be permitted for use. In such case, that additional 2.291 million gpd would be made available to support pending and future projects within the region.

In addition, prior testimony by DWS before the LUC indicates that, since designation of the 'Āao GWMA, a number of actions have been taken to bolster and better manage Central Maui's potable water supply. Several wells are planned within the 'Āao aquifer to more effectively distribute the withdrawal points, and upgrades to existing sources have yielded an additional 1.2 million gpd from treated surface water and the Waihe'e aquifer. In addition, a number of new sources are being developed within the region, including new wells in the Kahului aquifer (estimated yield of 2 million gpd) and a new surface water treatment plant (6 million gpd).

The Petitioner notes that no waterlines currently serve the subject property, with the nearest lines running along Honoapi'ilani Highway and Wai'ale Road, terminating respectively at Kehalani Makai Parkway and Ku'ikahi Drive, to the north of the project area. Water transmission infrastructure will need to be extended to serve the subject property. Although these waterlines will likely underlie Wai'ale Road, on County-owned land, Petitioner contends that such improvements fall within County exemptions to Chapter 343, Hawai'i Revised Statutes (HRS), regarding triggers for an Environmental Impact Statement. The Office of Planning has recommended that the Petitioner pursue written documentation from the County confirming such exemption.

b. Non-Potable Water

The project's non-potable water demand is estimated at approximately 11,000 gpd—calculated as DWS's estimate for total project water demand (43,000 gpd), less their estimate of potable water demand (32,000 gpd).

The Petitioner reports having reached agreement with Wailuku Agribusiness regarding the use of agricultural irrigation water, accessible from the southern border of the site, to meet the project's non-potable needs.

However, CWRM has informed the Office of Planning that surface water in the region is involved in an ongoing contested case and may eventually be subject to restrictions. Petitioners in the contested case are requesting that the hydrologic units associated with the area's four primary streams ('Āao, Waihe'e, Waikapū, and Waiehu) be designated as Surface-Water Management Areas (SWMAs) and that diversions of waters be restricted to restore stream flow sufficient to support cultural uses and biological and ecological resources. Diversions by Wailuku Water Company (formerly known as Wailuku Agribusiness) are specifically at issue, and CWRM expects that resolution of the case will take more than one year. If the contested case results in restriction of Wailuku Water Company's irrigation water, such that sufficient supplies are not available for Petitioner's use, the Office of Planning notes that potable water may be required to meet the project's non-potable water

needs and that measures to reduce non-potable demand, such as the use of drought-tolerant landscaping, may be advisable.

3. Affordable Housing

To accommodate Maui's growing population and housing needs, the Wailuku-Waikapū region of Maui has been subject to intensive residential development, with a significant number of units being built for lower-income families under Maui's affordable and workforce housing policies. The Office of Planning believes that such growth needs to be supported not only with regional jobs, public services, and commercial areas, but also with space for community-building. The proposed project will serve an important community development function for this growing residential region, providing a venue for social gathering and an educational alternative to relieve the area's overcrowded public schools. Such uses are consistent with the property's designation as Public/Quasi-Public in the Wailuku-Kahului Community Plan.

The Maui County Council recently passed Ordinance No. 3418, codifying the County's residential workforce housing policy, which requires that at least 40 percent of new housing units be reserved for qualifying lower-income groups. The Ordinance applies to new residential subdivisions as well as projects that construct five or more residential rental units.

Because the Petitioner has not proposed development of a residential component, workforce housing requirements do not currently apply to the project. However, the Office of Planning notes that the Petitioner's Project Assessment Report does indicate that faculty housing may be proposed for subsequent development in the project area and that such housing construction may be subject to Maui County's workforce housing requirements, in accordance with Ordinance No. 3418.

The State Department of Health, Office of Environmental Quality Control (OEQC) has also recommended that the Petitioner provide additional information regarding environmental impacts associated with any potential housing development on the subject property.

4. Ocean Issues

A. Stormwater

The subject property is located approximately 2.3 miles from the nearest shoreline. The Petitioner states that Best Management Practices (BMPs) will be utilized to minimize construction runoff. An existing drainage channel, built as part of the Kehalani Offsite Drainage System, cuts diagonally across the northern and eastern boundaries of the subject property under an easement granted to Hawaii Land & Farming Company, Inc. Currently, stormwater runoff from approximately 9.35 acres of the project area sheet flows into this drainage channel, with the remainder of the runoff from the southern portion of the property

sheet flowing onto the Wai'ale Road extension. The Petitioner states that the project's drainage systems will prevent any increase in the amount of runoff flowing into the existing drainage channel or onto Wai'ale Road. Drainage infrastructure for the proposed development will include a system of grated catch basins placed along driveways and landscaped portions of the site. Runoff collected in these catch basins will be conveyed to retention basins located within the project's playfields and landscaping.

The Office of Planning recommends that, where possible, the Petitioner develop the project's drainage systems to incorporate low-impact design features, such as grassed swales, bioretention systems, and long-term maintenance programs. In addition, DWS, DPWEM, and OEQC have each requested that BMPs be implemented during and after project construction to ensure that the property's stormwater runoff is controlled for the protection of the downstream properties and the 'Iao aquifer that underlies the site.

B. Wastewater

Wastewater flows from the proposed project, which are estimated at approximately 10,050 gallons per day (gpd), will be collected onsite by a gravity sewer system and then routed to the Wailuku-Kahului Wastewater Reclamation Facility through an existing 12-inch sewer transmission line that crosses the property at its southeastern corner. The Petitioner reports that, as of June 30, 2005, the treatment facility had sufficient capacity to accommodate the wastewater generated by the project, with a design capacity of 7.9 million gpd, a cumulative allocation of 6.3 million gpd, and an average daily flow of 4.64 million gpd. The Maui County Department of Public Works and Environmental Management (DPWEM) agrees that currently (as of June 15, 2007) wastewater system capacity is available, but notes that such capacity cannot be reserved or ensured until the issuance of a building permit. DPWEM further notes that the Petitioner will be required to contribute toward any expansion costs or off-site improvements necessary to support the proposed project.

5. Cultural/Historical/ Archaeological Resources

The Petitioner contracted Archaeological Services Hawaii, LLC to do an archaeological field inspection of the site, the report for which was submitted in May 2004. The study was conducted via pedestrian survey and backhoe trenching. No subsurface deposits were detected and the one historically significant site identified on the surface was Kama Ditch. The report suggests that the lack of archaeological resources is likely due to the site's extensive disturbance during previous agricultural activity. Although the Petitioner's consultant concludes that no further archaeological investigation or site preservation is required, the report does recommend archaeological monitoring during construction.

The Office of Hawaiian Affairs (OHA) has expressed concerns that, given the property's potential for subsurface archaeological sites, including burials, the 11 test trenches excavated during the Petitioner's archaeological field inspection are inadequate for the 25-acre project area. OHA has requested that a comprehensive archaeological inventory survey

be submitted to the Department of Land and Natural Resources, State Historic Preservation Division (SHPD) for review and approval, and that an archaeological monitor be present on site during ground-altering work. The Office of Planning is currently working with SHPD to develop recommendations.

With respect to cultural access rights, the Petitioner reports that the subject property is not known to be historically significant, nor is it used by any cultural practitioners. However, no formal cultural impact assessment was conducted, and it is unclear what kinds of informants and sources were consulted in making that determination.

6. Environmental, Recreation, Scenic Resources

The Petitioner states that, although the proposed project will affect views of East Maui from Honoapi'ilani Highway, the site plan was developed to protect *mauka* and *makai* view corridors, incorporate low-density design, and preserve open space buffers. To enable further mitigation of the project's visual impact, OEQC has recommended that the Petitioner provide photo simulations of post-construction views to and from the project site.

The proposed project is not expected to increase the regional demand for recreational facilities. Students at the proposed campus will be served by a gymnasium, basketball courts, and other athletic fields and play areas.

The Petitioner reports that flora and fauna within the subject property are typical of areas historically used for agriculture, with the vegetation dominated by weeds, scrub grasses, and banana trees, and the onsite fauna dominated by rats, mice, mongoose, francolins, and mynah birds. According to the Petitioner, the site is not known to comprise habitat for any rare, threatened, or endangered species. However, as no biological survey of the site was conducted, OEQC has recommended that the Petitioner provide documentation from a qualified expert confirming the absence of rare and endangered species in the project area.

Maps of the project region indicate the presence of a non-perennial stream, Kaiapaoka'ilio, running along the northern edge of the subject property. As Kaiapaoka'ilio Stream is not discussed in the project petition or assessment report, the Office of Planning has recommended that Petitioner provide additional information about the stream and inspect the portion that abuts the subject property for signs of any biological resources that might be impacted by the proposed project.

The Petitioner contracted Vuich Environmental Consultants, Inc. to conduct an environmental site assessment that included a visual inspection of the project area and a review of records to identify any current or previous environmental investigations of the subject property or neighboring parcels. The on-site visual inspection found nothing of concern with respect to hazardous substances. The records review identified the old Waikapū landfill as a potential problem, situated to the southeast of the subject property, within one-quarter of a mile. However, the Petitioner's consultant found that, because the

project is up grade from the old landfill, migration of landfill pollutants toward the subject property was unlikely. The consultant concluded that, although not required, soil testing may be advisable, given the close proximity of the landfill site and the agricultural history of the property. The Department of Health, Hazard Evaluation and Emergency Response Office (HEER) concurs, finding that the potential for pesticide and fertilizer build-up from previous agricultural use is sufficient to warrant soil testing. HEER also notes that Photo 14 in Petitioner's Environmental Site Assessment shows a chemical storage shed on the property and recommends that testing of the project area include investigation of this potential contaminant source.

7. Energy

Recently passed legislation (Act 96, Session Laws of Hawai'i 2006) has reaffirmed the State's commitment to energy conservation as a means to reduce dependence on imported oil, secure the economic interests of the State, and promote a sustainable future for Hawai'i. Chapter 196, Hawai'i Revised Statutes, now requires that new State facilities meet and receive certification from the U.S. Green Building Council in accordance with their Leadership in Energy and Environmental Design (LEED) standards. The new law will help state agencies reduce energy consumption and costs, while also promoting energy efficiency, by example, for residents and businesses to embrace.

The Department of Business, Economic Development and Tourism (DBEDT) has recommended that proposed buildings, activities, and site grounds within the project area be developed in accordance with energy efficiency design guidelines to promote energy savings. The project Master Plan, provided as Appendix A of Petitioner's Exhibit No. 6, has stated that "where appropriate sustainable, high performance design will be incorporated," including, for example, the optimal orientation of buildings for natural cooling and ventilation. However, the Office of Planning believes that more specific commitments to energy conservation measures are needed and recommends the use of LEED-silver standards as a benchmark for the proposed project's design.

Projects that build to LEED-silver standards increase their upfront costs by an average of approximately 2 percent, but long-term savings in operating costs far exceed this initial investment, with an average reduction in energy use of 30 percent. The benefits of "green building" are especially apparent for schools, with long-term financial benefits (direct savings of \$12 per square foot in energy, health, and personnel costs) being four times greater than the upfront increase in development costs (\$3 per square foot). More importantly, several studies have found that students in green schools are healthier and actually perform better in school. Declines in asthma incidence are reported to be as high as 38 percent due to improved air quality, and the improvement of student scores in response to daylighting classrooms is conservatively estimated at 3 to 5 percent.

8. Transportation

Honoapi'ilani Highway, a two-way, two-lane, undivided state highway, runs along the western boundary of the subject property, connecting Wailuku Town to the north with Ma'alaea to the south and ultimately leading west toward Lahaina. As a major thoroughfare connecting West Maui and Central Maui, Honoapi'ilani Highway has speed limits ranging from 30 to 55 miles per hour (mph), with 45 mph being the current limit in the project region. Wai'ale Road, which runs parallel to Honoapi'ilani Highway along the eastern edge of the subject property, has recently been extended from Ku'ikahi Drive south to Waiko Road. According to the Petitioner, the Wai'ale Road extension is currently open for public access, but its designation to the County is pending. Ku'ikahi Drive runs along the northern edge of Lot J, to the north of the subject property, and Waiko Road runs along the southern boundary of the Waikapū Gardens Affordable Housing Project (A04-750, Spencer Homes, Inc.), located to the south of the project area.

Vehicular access to the proposed campus will be provided by a driveway off of Wai'ale Road. The Petitioner also has proposed a right-in, right-out, gated driveway from Honoapi'ilani Highway to provide emergency access, but the State Department of Transportation (DOT) has denied this request, finding that, on principal arterials like Honoapi'ilani Highway, sufficient distances between access points are required to maintain the function, safety, and capacity of the highway. DOT notes that project maps, site plans, and sketches should be modified as necessary to clarify that there is no access to Honoapi'ilani Highway from the project area or from other proposed roads related to neighboring projects (i.e., Road A in Petitioner's TIAR).

DPWEM notes that, as currently designed, the site plan requires that vehicles pass through the campus to reach parking and student drop-off areas, creating potentially dangerous interactions between pedestrians and cars. DPWEM recommends that vehicular traffic be channeled along the outer periphery of the central campus to better separate cars from students and thereby promote pedestrian safety.

The Petitioner had a Traffic Impact Analysis Report (TIAR) prepared for the project. The report found that, during the work week, the proposed project will generate 470 trips in- or out-bound in the AM peak period and 315 trips in- or out-bound in the PM peak period. Church activities are expected to generate 60 trips in- or out-bound during the Sunday peak period.

According to the TIAR, development of the project will not affect the Level of Service (LOS) at most intersections analyzed. Of those intersections where the LOS is negatively impacted, all but one (described below) are expected to operate at LOS D or better, with "D" representing the minimum level acceptable for peak hour conditions in urban areas.

The one intersection identified as problematic in the TIAR is Wai'ale Road and Ku'ikahi Drive, where the eastbound to northbound left turn will function at LOS F during the weekday peak periods. Although the Petitioner's TIAR proposes signalization of this

intersection to mitigate the problem, Petitioner notes that, due to significant background growth in the region, the intersection in question will operate at LOS F whether or not the proposed project is developed.

Based on these analyses, the TIAR concluded that the proposed project will not result in significant adverse impacts to traffic and therefore requires no mitigation measures. However, DOT has argued that mitigation measures are required for any development that contributes significantly toward the area's traffic, as is the case with the proposed project, which will aggravate traffic conditions during the weekday AM peak period, when school traffic will clash with workers commuting from nearby residential subdivisions. DOT notes that it would be unfair and unreasonable to require mitigation only at the point at which LOS falls from "D" to "E" because traffic is cumulative, with each development contributing toward the gradual decline of conditions.

DOT has, therefore, requested that the Petitioner's TIAR be revised to propose additional traffic mitigation measures. DOT suggested, in particular, that extension of Wai'ale Road further south, beyond Waiko Road, may be one regional improvement for evaluation in a revised TIAR.

Currently, the only improvement proposed in the TIAR to mitigate regional traffic involves signalization of the Wai'ale Road and Ku'ikahi Drive intersection, and the Petitioner has not yet committed to fulfilling this recommendation. The Petitioner has indicated that, rather than assuming full responsibility for the traffic light installation, they may request an arrangement under which the cost is shared across the various developers in the area. The Office of Planning notes that, although background traffic from surrounding residential uses is expected to account for most of the growth in regional traffic, the proposed project will contribute significantly to congestion during the AM peak period. At the intersection of Wai'ale Road and Ku'ikahi Drive, in particular, school-related trips will account for approximately one-third (33.2 percent) of the projected increase in traffic between the years 2005 and 2010.

At a minimum, DOT recommends that the Petitioner mitigate the project's impact on AM peak traffic by implementing measures to manage project-related transportation demand. In addition to carpooling for faculty and staff, DOT also proposes that the Petitioner discourage parents from dropping their children off at school by providing school buses and promoting bicycles and walking as alternative modes of transport for students.

In its analysis of the project access driveway, the Petitioner's TIAR also proposed the widening of Wai'ale Road to enable designation of a separate left turn lane on the northbound route, leading into the project entrance, along with a left turn refuge lane to facilitate northbound traffic exiting the site. Again, it is unclear whether the Petitioner intends to implement these improvements as part of the proposed development.

In light of both the widening of Wai'ale Road and the signalization at Wai'ale Road and Ku'ikahi Drive, the Office of Planning has recommended that Petitioner obtain

documentation from the County of Maui confirming that Petitioner's proposed improvements on County land are exempt from the requirements of Chapter 343.

In addition, DOT has requested that the Petitioner submit an updated TIAR after the school is opened, at the request of the Highways Division District Engineer. The updated TIAR would provide for a more precise understanding of the school's impact on regional traffic, account for traffic associated with Valley Isle Fellowship's proposed development of Lot B to the south, and enable the identification of additional mitigation measures required. At the County level, DPWEM noted that the assessment of regional impacts in the current TIAR fails to address the intersection of Wai'ale Road and Ka'ohu Street to the north of the project area. DPWEM requests that analysis of this intersection be included in the final TIAR that Petitioner submits for County review and approval.

DOT also commented that the project area may be subject to conditions previously imposed on the large lot (TMK (2) 3-5-002:001), of which the subject property was once a part, prior to subdivision. These conditions were imposed during the rezoning of a 14.437-acre portion of the large lot from Agricultural District to M-1 Light Industrial District (Ordinance No. 2856) and are referenced in the Limited Warranty Deed for the subject property, submitted as Petitioner's Exhibit No. 7. However, upon further investigation, the Office of Planning has learned that the 14.437 acres to which these conditions were attached are now owned by Waiko Baseyard, LLC and located well south of the subject property, to the east of the Waiko Road and Wai'ale Road intersection (TMK (2) 3-5-002-009). The Office of Planning therefore concludes that such conditions are not applicable to the subject property or the proposed action.

9. Schools

The proposed project includes the development of a new campus for Emmanuel Lutheran School, with capacity sufficient to accommodate up to 490 students in grades pre-K-8, representing a 130 percent increase from the current enrollment of 213 students at the school's existing campus. The proposed project would relieve some of the demand on the area's overcrowded public schools and offer a welcome educational alternative to the families residing in the region. Given the nature of the proposed project, which does not include a residential component, no fair share agreement with the State Department of Education (DOE) is required. Although the Project Assessment Report, submitted as Petitioner's Exhibit No. 6, indicates that future development of the project site may include faculty housing, the Petitioner has stated that the number of residences that might be developed would be significantly less than the 50 units required to trigger contributions toward the public education system.

State Land Use District Standards

The Petition area is currently located in the State Agricultural District (25.263 acres). The Petitioner states that the property meets the standards set forth in HAR §15-15-18 for determining State Urban District boundaries.

Land Use Commission (LUC) Rules Section 15-15-18 sets forth standards to be used by the Commission for determining urban boundaries. For example:

1. Lands characterized by “city-like” concentrations of people, structures, streets, urban level of services and other land uses.
2. Proximity to centers of trading and employment and availability of basic services.
3. Lands with satisfactory topography, drainage and reasonably free from floods, tsunami, unstable soil conditions and other adverse environmental effects
4. Land contiguous with existing urban areas, particularly when indicated for future urban use on state or county general plans.

Conformance with State Urban District Standards.

The proposed project site is located in a growing residential region, situated between a number of new and proposed housing subdivisions. Honoapi‘ilani Highway, a major state arterial, runs along the property’s western boundary, and Wailuku town, Maui’s hub of commercial activity and employment, is located approximately 1 to 2 miles to the north. With the exception of water, all basic services are currently available at or near the project area, with connecting infrastructure to be developed onsite. Located approximately 2.3 miles inland, the project site is not in the tsunami inundation zone, nor is it vulnerable to coastal flooding. The property is located in Flood Insurance Rate Map (FIRM) Flood Zone C, an area subject to minimal flood hazard. Given the foregoing characteristics of the subject property, the proposed project is consistent with the standards for urban district boundaries.

Coastal Zone Management Objectives and Policies

The Petition area, which is located 2.3 miles inland, does not fall within Maui County’s Special Management Area. The Petitioner states that the proposed project will be consistent with Coastal Zone Management Program objectives concerning protection and preservation of cultural and historic resources, coastal ecosystems, and marine resources. The sole site on the property identified as historically significant (Kama Ditch) will not be impacted by the proposed project, and the discovery of any cultural materials during construction will trigger consultation with the SHPD and the Maui Island Burial Council. Coastal ecosystems and marine resources will be protected and preserved from indirect impacts through the development of new drainage infrastructure and the implementation of BMPs to ensure the containment of dust and project-related runoff. Given the inland location

of the property and the Petitioner's mitigation plans, the proposed project is consistent with the Coastal Zone Management Program's objectives.

Conformance with County Plans

General Plan

Maui County is currently conducting a General Plan update. This process includes extensive work with communities throughout the County toward the development of a Countywide Policy Plan, a Maui Island Plan, and updates to the various Community Plans. The current Wailuku-Kahului Community Plan was prepared in 1993 and adopted by the Council in 2002. It is uncertain when the Maui County Council will adopt updates to the individual Community Plans and the General Plan as a whole, but estimates range from 2008 onward.

Community Plan

The Wailuku-Kahului Community Plan currently designates the property as "Public/Quasi-Public," a classification that is consistent with its use as a church and school campus. Because Maui's current General Plan and Community Plans do not designate Urban Growth Boundaries, it is not possible to determine from those documents whether the project is located in an area projected for growth.

Zoning

The Petition area is currently zoned "Agricultural," in accordance with its present State Land Use District classification. On September 15, 2006, the Petitioner filed an application with the County for a Change in Zoning from "Agricultural" to "Public/Quasi-Public." The application has not yet been scheduled for a hearing with the Maui Planning Commission, nor has it been certified as complete.

County Support

In its Position Statement, submitted in response to the subject petition, the Maui County Planning Department has indicated their support for the proposed project as part of a narrow corridor of urban uses linking Wailuku Town with Waikapū. However, the Department also argues for the retention of existing Agricultural District lands located to the west of Honoapi'ilani Highway, just south of the Wailuku-Kahului Project District 3 (Kehalani).

Recommendation

Based on the foregoing information, the Office of Planning believes that the proposed project meets the standards for the Urban District, in accordance with §15-15-18 of the Hawai'i Administrative Rules (HAR), as well as the decision-making criteria for boundary amendments (§15-15-77, HAR).

The Office of Planning acknowledges that, in areas of growing residential development, community-building uses such as the Petitioner's proposed church and school

are critical to support the social and educational needs of the public. The County and the community have ostensibly concurred, as demonstrated in the Wailuku-Kahului Community Plan.

The location of the project does not negatively impact unique and valuable environmental and cultural resources. Nor does it commit the state or the county to funding entirely new infrastructure, although extension and expansion of existing infrastructure will be necessary.

Based on the foregoing information and analysis, the Office of Planning recommends that the Petition of Emmanuel Lutheran Church of Maui, be approved for reclassification from the Agricultural into the Urban District to develop the proposed church and school campus.

We recommend the following conditions:

1. **Water Resources Allocation.** Petitioner shall provide potable and non-potable water source, storage, and transmission facilities and improvements to accommodate development of the Petition Area, to the satisfaction of the Maui County Department of Water Supply (DWS) and other appropriate State and County agencies. Petitioner shall notify the State Land Use Commission (LUC) of changes to its proposed water source for the project's non-potable water needs.
2. **Water Conservation Measures.** Petitioner shall implement water conservation measures and Best Management Practices (BMPs), such as use of indigenous and drought-tolerant plants and turf, and incorporate such measures into the landscape planting.
3. **Wastewater.** Petitioner shall develop a wastewater collection and transmission system and other sewer improvements in the Petition Area, as required by the State Department of Health (DOH) and the Maui County Department of Public Works and Environmental Management (DPWEM). Petitioner shall pay a pro-rata share of off-site wastewater treatment improvements as determined by the County of Maui.
4. **Highways and Roads.** Prior to opening of the proposed school, Petitioner shall prepare a revised Traffic Impact Analysis Report (TIAR), using assumptions and methods that are mutually agreed upon by the State Department of Transportation (DOT) and the Petitioner, to determine the regional and local traffic impacts of the proposed development and recommend appropriate mitigation measures, including Transportation Demand Management (TDM) provisions to support carpooling, school buses, walking, and bicycling as alternative modes of student transport.

After the proposed school is opened, the Petitioner shall conduct a follow-up study of traffic counts within the area to verify the assumptions and projections upon which the TIAR was based. Such study shall be submitted to DOT for review and approval. If DOT determines that the traffic counts in the follow-up study are substantially

different from those projected in Petitioner's TIAR, Petitioner shall prepare a supplemental update to the TIAR to determine the actual impact of the proposed school and recommend appropriate mitigation measures.

Petitioner shall contribute their proportional share of state highway planned improvements and/or traffic mitigation measures that will alleviate the impacts generated by the proposed development and uses, as agreed by the Petitioner and DOT, in accordance with the findings of the TIAR and any required updates.

Any improvements planned by Petitioner within or adjacent to the Honoapi'ilani Highway right of way, including landscaping or development of sidewalks and bike paths, shall be coordinated with and submitted for review and approval to DOT Highways Division. Such improvements must be planned, designed, and constructed in compliance with State requirements and the current standards established by the American Association of State Highway and Transportation Officials (AASHTO), and shall be provided at no cost to the State.

Improvements to County roads, such as widening of Wai'ale Road to accommodate a separate left turn lane leading into the Petition Area, shall be subject to review and approval by DPWEM. Such improvements must be planned, designed, and constructed in compliance with County requirements and shall be provided at no cost to the County.

5. **Stormwater.** Petitioner shall fund, design, and construct drainage system improvements to manage runoff resulting from development of the Petition Area, to the satisfaction of appropriate State and County agencies, based on one-hour of runoff from a 50-year storm. Petitioner shall be required to prevent runoff from adversely affecting State and County highway and roadway facilities or other properties located down grade from the Petition Area.
6. **Air Quality Monitoring.** Petitioner shall implement soil erosion and dust control measures and participate in an air quality-monitoring program as specified by DOH.
7. **Best Management Practices.** Petitioner shall implement BMPs to preserve air quality and protect surface and groundwater resources. The BMPs shall be designed to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and groundwater pollution, and control dust during and after the development process, in accordance with DOH guidelines and the County of Maui's grading ordinance.
8. **Soil Analysis.** Petitioner shall conduct a soil analysis study of the Petition Area, in consultation with the State Department of Health, Hazard Evaluation and Emergency Response Office (HEER), to determine any impacts on the proposed use from fertilizers, pesticides, and other chemical contaminants that may be present at elevated levels in the Petition Area. Petitioner shall undertake measures to abate and

remove any hazardous materials identified during said study, to the satisfaction of the HEER.

9. **Civil Defense.** Petitioner shall fund and construct, on a fair-share basis, adequate solar-powered civil defense measures to serve the Petition Area, as determined by the State of Hawaii Department of Defense, Office of Civil Defense, and the County of Maui Civil Defense Agency.
10. **Archaeological Inventory Survey and Historic Preservation Mitigation Plan.** Prior to commencement of any ground-altering activities, Petitioner shall obtain written approval and acceptance of the project's archaeological field inspection and monitoring plan from the Department of Land and Natural Resources, State Historic Preservation Division (SHPD).
11. **Previously Unidentified Burial/Archaeological/Historic Sites.** Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from SHPD that mitigative measures have been implemented to its satisfaction.
12. **Established Access Rights Protected.** Petitioner shall preserve any established access rights of Native Hawaiians who have customarily and traditionally used the Petition Area for access to other areas to exercise subsistence, cultural, or religious practices.
13. **Notification of Potential Nuisances.** Petitioner shall disclose to all prospective buyers and/or lessees of the Petition Area that potential odor, noise, and dust pollution may result from agricultural uses on adjacent lands.
14. **Provisions of the Hawaii Right to Farm Act.** If any lands adjacent to the Petition Area remain in the Agricultural District, Petitioner shall notify all prospective buyers and/or lessees of the Petition Area that the Hawaii Right to Farm Act, Chapter 165, Hawai'i Revised Statutes, limits the circumstances under which pre-existing farm activities may be deemed a nuisance.
15. **Integrated Solid Waste Management Plan.** Petitioner shall develop a Solid Waste Management Plan for the Petition Area in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes and the solid waste disposal requirements set forth by the DPWEM.
16. **Energy Conservation Measures.** Petitioner shall implement energy conservation measures such as use of solar energy and solar heating and incorporate such measures into the Project.

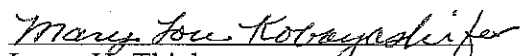
Petitioner shall use their best efforts to incorporate into the design and construction of the Church Sanctuary, energy conservation and environmental sustainability guidelines such as those developed under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System.

Petitioner shall design and construct all other buildings within the Petition Area to meet the LEED-silver standard, as referenced in Chapter 196, Hawaii Revised Statutes.

17. **Compliance with Representations to the Commission.** Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Reclassified Area may result in reversion of the Reclassified Area to its former classification or change to a more appropriate classification.
18. **Reversion of District Classification.** Petitioner shall develop the Petition Area in a reasonable time period as specified by the Commission, provided that the deadline shall be no later than ten (10) years from the date of the decision and order. If Petitioner fails to complete project construction within the specified time period, the Commission will file an Order to Show Cause and Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous Agricultural classification.

DATED at Honolulu, Hawaii, this 13th day of July, 2007.

OFFICE OF PLANNING
STATE OF HAWAII


Laura H. Thielen
Director
Office of Planning

Docket No. A07-773

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service.

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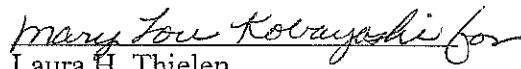
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Dated: Honolulu, Hawaii, this 13th day of July, 2007.


Laura H. Thielen
Director
Office of Planning