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LAND USE COMMISSION
STATE OF HAWAII
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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

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| In the Matter of the Petition of |) | DOCKET NO. A07-773 |
| |) | |
| EMMANUEL LUTHERAN CHURCH OF MAUI |) | OFFICE OF PLANNING’S RESPONSE TO WAIKAPU DEVELOPMENT VENTURE LLC’S MOTION FOR MODIFICATION; |
| |) | CERTIFICATE OF SERVICE |
| 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 Agricultural District to the Urban District, |) | |
| Tax Map Key No. (2) 3-5-002:011. |) | |
| _____ |) | |

OFFICE OF PLANNING’S RESPONSE TO WAIKAPU DEVELOPMENT VENTURE LLC’S MOTION FOR MODIFICATION

THE OFFICE OF PLANNING, STATE OF HAWAII (“OP”), recommends approval of Waikapu Development Venture LLC’s (“Intervenor”) Motion (“Motion”) brought before the Land Use Commission (“LUC”) to allow for the use of the 12.5 acre portion of the Petition Area for a workforce housing project.

The Emmanuel Lutheran Church of Maui (“Petitioner” or “ELC”) is proposing to sell approximately 12.5 acres of the Petition Area (25 acres) to Intervenor in order to help finance the development and construction of their proposed school and church on the remainder of the Petition Area. The Intervenor is requesting the following:

1. Allow the use of the 12.5-acre portion of the Petition Area for the development of its 201H Affordable Workforce Housing Project, by amending Condition No. 1.
2. Amend Condition No. 2 to allow the Intervenor to develop the 201H project within four (4) years, or such other time as may be reasonably allowed by the County of Maui.

Intervenor states that they are not seeking to release any of the other conditions of approval.

I. Original Project

Under the original Decision and Order, the Petitioner proposed to develop a new school on 25.263 acres in Wailuku. Their current school in Kahului, with students from pre-school to eighth grade and in service since 1972, is limited in space on 1.3 acres. The Petition Area is bounded by Waiale Road and Honoapiilani Highway and is currently undeveloped. The school was intended to accommodate 450 students and have a separate pre-school building, 18 classrooms for students in K-8, a multi-purpose complex, along with a 450-seat sanctuary for functions (“Project”).

The expanse of the Project was intended to cover approximately half the site (12.5 acres) with the remainder reserved for unidentified future uses and open space. The development of the Project was intended to span three phases: Phase 1 involved the construction on infrastructure, the preschool and some classrooms and multi-use buildings; Phase 1A covered the administration building, the library and another building for labs and classrooms; and Phase 2 covered the sanctuary and remaining classrooms.

II. OP Comments and Recommendations on Petitioner's Motions

1. Amendment of Condition No. 10. We note that Condition No. 10 is for Soil Analysis. The Intervenor's Motion states that they are requesting relief from Condition No. 10, however, we believe this is incorrect and should instead refer to Condition No. 1, Compliance with Representations to the Commission.

OP is supportive of the Intervenor's proposal to develop and construct the 201H Affordable Workforce Housing project. Intervenor has already obtained approval from the County of Maui. The Intervenor has entered into a contract with ELC to purchase approximately 12.5 acres of ELC land in order to develop an affordable workforce housing project. The sale of approximately half the lands at the ELC's Wailuku location is anticipated by ELC to provide the funding necessary to complete the proposed modified church and school complex.

An amendment to this condition is not necessary, since this condition can still apply as stated to the new proposal for affordable housing.

2. Condition No. 2. OP has no objection to the timeframe of four (4) years as proposed by the Intervenor.

III. Additional Comments

1. Condition No. 20. Sale of the Petition Area. OP would support deletion of this condition. Intervenor is proposing to develop a 201-H Affordable Workforce Housing Project on the 12.5-acre portion of the Petition Area. This will entail selling various residential units to individuals.
2. Other Conditions. Intervenor is not seeking the release or amendment of any other

development condition on the original Decision and Order. OP is in support of Intervenor's representations.

3. Cultural Impacts. OP is concerned as to whether cultural impacts have been properly considered and appropriate findings made for the Petition Area, in particular, the protection of customary and traditional native Hawaiian rights pursuant to the Hawaii Supreme Court's holding in *Ka Paakai O KaAina v. Land Use Commission*, State of Hawaii, 94 Hawaii 31, 7 P.3d 1068 (2000). We note that Intervenor has submitted an Errata to Motion for Modification, including a summary of cultural impact assessments, and has represented that additional witnesses will be provided at the upcoming LUC hearing.

The OP otherwise has no objections and recommends approval of the Intervenor's Motion to allow the use of the 12.5 portion of the Petition Area for a 201H Affordable Workforce Housing Project, to allow the amendment of Condition 2, and to allow the deletion of Condition 20.

DATED: Honolulu, Hawaii, November 19, 2018

OFFICE OF PLANNING
STATE OF HAWAII



LEO R. ASUNCION
Director

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Maui, State of Hawaii, Consisting of 25.263)
Acres from the Agricultural District to the)
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Tax Map Key No. (2) 3-5-002:011.)

CERTIFICATE OF SERVICE

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

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DATED: Honolulu, Hawaii, November 19, 2018.

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STATE OF HAWAII



LEO R. ASUNCION
Director