



LAND USE COMMISSION
STATE OF HAWAII

2019 JUL 11 P 1:47

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

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. (2) 3-5-002: 011

DOCKET NO. A07-773

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER
GRANTING PETITIONER'S MOTION
FOR EXTENSION OF TIME TO
COMPLETE PROJECT AND MOTION
FOR MODIFICATION; AND
CERTIFICATE OF SERVICE

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
GRANTING PETITIONER'S MOTION FOR EXTENSION OF TIME TO COMPLETE
PROJECT AND MOTION FOR MODIFICATION

AND

CERTIFICATE OF SERVICE

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii

7/12/19 by

Executive Officer



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On April 9, 2018, EMMANUEL LUTHERAN CHURCH OF MAUI, a
Hawai'i non-profit corporation ("ELC" or "Petitioner"), filed its Motion for Extension of
Time to Complete Project; Memorandum in Support of Motion; Affidavit of Michael
Reiley; Affidavit of William Frampton; Petitioner's Exhibits "A" thru "F" (collectively
"Motion for Extension"), pursuant to Hawai'i Revised Statutes ("HRS") Chapter 205
and Chapter 15-15 of the Hawai'i Administrative Rules ("HAR") §§ 15-15-70, 15-15-79,

and 15-15-94. In the Extension Motion, ELC requested that the State of Hawai'i Land Use Commission ("Commission") issue an order modifying the Commission's Findings of Fact, Conclusions of Law, and Decision and Order, filed March 7, 2008 ("2008 D&O"), to amend Condition No. 2 to allow for a ten-year extension of time, from March 7, 2018, to March 7, 2028, to complete ELC's project.

On October 12, 2018, ELC filed a Motion for Modification; Memorandum in Support of Motion; Affidavit of Michael Reiley; and Exhibit "1" (collectively "Motion for Modification") under HRS Chapter 205 and Chapter 15-15 of HAR §§ 15-15-70, 15-15-79, and 15-15-94, requesting that the Commission issue an order modifying the 2008 D&O to allow for development of ELC's modified project ("Updated ELC Project"), including the deletion of Condition 20 of the 2008 D&O, which requires Commission approval prior to any sale of the Petition Area or any portion thereof.

The Commission, having examined the testimony, evidence, and arguments of counsel presented during the hearings, along with the pleadings filed by all parties herein, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On March 7, 2008, the Commission filed the 2008 D&O, granting the reclassification of approximately 25.263 acres at TMK No. (2) 3-5-002: 011 ("Petition

Area”) from the State Land Use Agricultural District to the State Land Use Urban District, subject to 23 conditions of approval.

2. On January 2, 2018, ELC submitted a letter to the Commission explaining that there had been delays in completing the project approved under the 2008 D&O (“Original ELC Project”), the reasons for the delays, and the proposed subdivision and sale of a portion of the Petition Area to Waikapū Development Venture, LLC (“WDV” or “Intervenor”), to allow for WDV’s development of affordable workforce housing pursuant to HRS Chapter 201H within approximately half of the Petition Area (“Waikapū Affordable Workforce Housing Project”). ELC further informed the Commission that ELC and WDV would be returning to the Commission to request the necessary approvals for both projects to proceed.

3. On April 9, 2018, ELC filed its Motion for Extension, seeking a ten-year extension to Condition No. 2 of the 2008 D&O.

4. On April 12, 2018, WDV filed its Motion to be Copetitioner, or in the Alternative to Become a Party, or in the Alternative to Intervene (“WDV’s Motion for Intervention”).

5. On April 12, 2018, the Office of Planning, State of Hawai‘i (“OP”) submitted a request to the Commission for an extension of time until May 1, 2018, to respond to, *inter alia*, the Motion for Extension.

6. On April 13, 2018, the Commission responded to OP’s requested

extension and provided the parties until April 27, 2018, to make their respective filings.

7. On April 19, 2018, ELC filed its Memorandum in Support of WDV's Motion for Intervention.

8. On April 19, 2018, OP filed its Response to WDV's Motion for Intervention, stating that OP had no objections to said motion.

9. On April 26, 2018, the Department of Planning, County of Maui ("County"), filed its Statement of No Objection to ELC's Motion for Extension and WDV's Motion for Intervention.

10. On April 27, 2018, OP filed its Response to ELC's Motion for Extension, recommending approval of said motion subject to conditions.

11. On May 9, 2018, the Commission held a hearing on WDV's Motion for Intervention in Kahului, Maui, Hawai'i, and voted to grant WDV intervenor status. On June 22, 2018, the Commission issued its Order Granting Waikapū Development Venture LLC's Motion to Intervene.

12. On May 9, 2018, the Commission held a hearing on ELC's Motion for Extension. The Commission voted six to one to defer action on the Motion for Extension for six months and granted the Commission Chairperson discretion to grant an additional continuance of up to six months upon request by the parties.

13. The Commission further ordered ELC to provide, within 60 days of the Commission's next hearing on its Motion for Extension, a "detailed timetable of any

and all required state and county approvals and actions necessary for the current proposal to move forward and to bring Petitioner into full compliance with the [2008 D&O].”

14. On October 12, 2018, ELC filed the Motion for Modification, seeking approval of an Updated ELC Project, which was of a more modest scale than the Original ELC Project and would be developed within approximately half of the Petition Area, with the other half being identified for development of WDV’s Waikapū Affordable Workforce Housing Project. ELC’s Timeline for Development of Updated Project is identified in Exhibit 1 to its Motion for Modification.

15. On October 12, 2018, WDV filed (1) Motion to Approve Sale of a Portion of the Petition Area; (2) Motion to Allow for Subdivision of Petition Area; and (3) Motion to Bifurcate; Affidavit of William Frampton; and Exhibits 1 to 3 (collectively “WDV’s Three-Part Motion”).¹

16. By letter dated October 2, 2018, but received by the Commission on October 15, 2018, WDV requested that the Commission Chairperson extend the six-month deadline imposed by the Commission at the May 9, 2018, hearing.

17. By letter dated October 16, 2018, the Commission Chairperson granted WDV’s request for an extension to the filing dates imposed by the Commission at its May 9, 2018, hearing.

¹ WDV’s Three-Part Motion is addressed under a separate order.

18. On October 19, 2018, ELC submitted its request to the Commission Chairperson for an extension of time to return to the Commission for further hearing on its Motion for Extension and for a waiver of the requirement that Petitioner's detailed timetable be filed at least 60 days prior to that hearing.

19. On October 19, 2018, OP submitted to the Commission a request that the hearing on various motions filed by ELC and WDV, including ELC's Motion for Extension and ELC's Motion for Modification, not be heard until November 29, 2018, and that the parties be given until November 21, 2018, to file their responses.

20. On October 22, 2018, the Commission Chairperson responded to ELC's and OP's requests. The Chairperson granted ELC's time extension and waiver request. The Chairperson set further hearings on the parties' filings for November 29, 2018, and ordered that all filings be made by November 19, 2018.

21. On October 26, 2018, WDV filed its Motion for Modification; Memorandum in Support of Motion; Affidavit of William Frampton; and Exhibits A to F (collectively "WDV's Motion for Modification").²

22. On November 15, 2018, WDV filed an Errata To Motion for Modification; Memorandum in Support of Motion; Affidavit of Counsel; and Exhibit A (collectively "Errata").

² WDV's Motion for Modification is addressed under a separate order.

23. On November 19, 2019, OP filed its Response to ELC's Motion for Modification.

24. On November 19, 2018, OP filed its Response to WDV's Three-Part Motion and Motion for Modification.

25. On November 21, 2018, the County filed its Position Statement on ELC's Motion for Modification and WDV's Three-Part Motion, with Exhibits A - I.

26. On November 27, 2018, the County filed an Errata to Position Statement and Statement of No Position on WDV's Errata.

27. On November 29, 2018, the Commission continued its hearing on ELC's Motion for Extension, and further considered ELC's Motion for Modification, WDV's Three-Part Motion, and WDV's Motion for Modification Motion at the Malcolm Center in Kīhei, Maui, Hawai'i.

28. Jennifer A. Lim, Esq., Dr. Michael Reiley, and Leif Sjostrand appeared on behalf of ELC. Peter A. Horovitz, Esq., and William Frampton appeared on behalf of WDV. Michael Hopper Esq., Deputy Corporation Counsel, was present representing the County together with Deputy Planning Director Joseph Alueta and Planner Tara Furukawa. Deputy Attorney General, Dawn T. Apuna, Esq., and Lorene Maki appeared on behalf of OP.

29. Commissioners Scheuer, Cabral, Mahi, Okuda, Aczon, Ohigashi

and Wong were present.³

30. In support of the Motion for Extension, ELC provided oral testimony from ELC's President, Dr. Michael Reiley.

31. The County supported ELC's Motion for Extension.

32. OP expressed concerns about the Ka Pa`akai O Ka `Aina analysis for the Petition Area.

33. Commissioner Ohigashi moved to grant ELC's Motion for Extension and provide ELC with an additional ten years to develop the Petition Area, subject to the Commission reserving the right to modify or condition the length of the extension upon the Commission's subsequent consideration of ELC's Motion for Modification. Commissioner Wong seconded the motion.

34. There being a vote tally of 6 ayes, 1 nay, and 1 excused, the motion passed.⁴

35. Following action by the Commission, Tom Blackburn Rodrigues requested an opportunity to provide public testimony on behalf of Go Maui, Inc. As there were no objections by the parties to Mr. Blackburn Rodrigues' request, the Commission heard his late testimony in favor of WDV's proposed Waikapū Affordable

³ At the meeting, Commissioner Okuda disclosed that his children had attended a Lutheran School in Kāne`ohe, O`ahu, but he believed he could remain fair and impartial in the proceedings. There were no objections by the parties to his continued participation in the proceeding.

⁴ There are currently eight sitting members on the Commission. The Kaua`i seat is presently vacant.

Workforce Housing Project.

36. In support of its Motion for Modification, ELC provided oral testimony from Dr. Michael Reiley. ELC also provided oral testimony from Leif Sjostrand, a senior estimator at Goodfellow Bros., who is also involved with ELC.

37. WDV called Lisa Rotunno-Hazuka to testify in support of ELC's Motion for Modification.

38. WDV called Kimokeo Kapahulehua to testify in support of ELC's Motion for Modification.

39. After Mr. Kapahulehua's direct testimony, but before cross-examination by the parties or questioning by the Commission, Commissioner Ohigashi was excused and the Commission took a lunch recess.

40. The County supported ELC's Motion for Modification.

41. OP did not object to ELC's Motion for Modification but requested that the previously approved ten-year extension to Condition No. 2 of the 2008 D&O be amended to require the first two phases of the Updated ELC Project (i.e., fund raising and construction of a multi-purpose building) be completed within six years.

42. OP did not object to the deletion of Condition No. 20 of the 2008 D&O.

43. OP noted that WDV's and ELC's commitment to prepare a new cultural impact assessment ("CIA") was significant to OP's support of ELC's Motion for

Modification.

44. Commissioner Wong moved to grant ELC's Motion for Modification by (a) amending Condition No. 2 to allow for ten years to complete the project, provided that the initial two phases of the project shall be completed within six years as represented by ELC; (b) deleting Condition No. 20; and (c) requiring that ELC complete a CIA of the Petition Area prior to completing Phase 1 and adhere to the recommendations of the CIA. Commissioner Mahi seconded the motion.

45. There being a vote tally of 6 ayes, 0 nays, and 2 excused, the motion passed.

DESCRIPTION OF THE PETITION AREA

46. The Petition Area is located in Wailuku, Maui, Hawai'i, and consists of approximately 25.263 acres of land, identified by Tax Map Key No. (2) 3-5-002: 011.

47. ELC is the current fee owner of the Petition Area. WDV is under contract with ELC to purchase approximately 12.5 acres within the Petition Area shortly after final subdivision approval is issued by the County approving the subdivision of the Petition Area into two large lots (approximately 12.76 acres to be retained by ELC and approximately 12.50 acres to be conveyed to WDV).

DESCRIPTION OF PROJECT APPROVED UNDER THE 2008 D&O

48. Originally, ELC sought reclassification of the Petition Area to allow for the development of the Original ELC Project, which consisted of a new campus for Petitioner's church and school.

49. The Original ELC Project consisted of approximately 52,000 square feet of structures for the new school campus, which included a preschool building, 18 classrooms for grades K through 8, a multi-purpose complex, and other buildings accessory to school functions. The Original ELC Project was also to include a 450-seat sanctuary for religious and school-related functions.

50. At full buildout, the Original ELC Project would have accommodated approximately 450 students.

51. The Original ELC Project was to be completed in three phases. Phase 1 was to include the construction of necessary infrastructure, a preschool building, twelve regular classrooms, and a multi-purpose complex for art, music, and athletics. Phase 1A was to include an administration building and another building to accommodate a library, computer lab, and science room. Phase 2 was to include the 450-seat sanctuary and additional classrooms. At the time, it was anticipated that each phase would take approximately 13 months to complete.

52. Although the Petition Area is approximately 25.263 acres in size, the Original ELC Project was planned to be developed within an envelope of

approximately half that size, with the remainder to be reserved for open space and unidentified future improvements.

UPDATED ELC PROJECT, DEVELOPMENT TIMELINE, AND COST ESTIMATES

53. Upon the completion of the subdivision process to split the Petition Area into two large lots, ELC will sell one of those lots to WDV. ELC will develop the Updated ELC Project on the portion of the Petition Area it retains. WDV will develop the workforce housing project authorized under County of Maui Resolution No. 18-150.

54. Consistent with the Original ELC Project, the Updated ELC Project will provide a new campus for Petitioner's church and school. However, the Updated ELC Project has been scaled down and will be developed in three phases, with the possibility of a fourth phase.

55. Phase 1 will focus on securing the funding necessary to develop the Updated ELC Project. Petitioner will use the proceeds from the sale of a portion of the Petition Area to WDV to pay off a mortgage currently encumbering the Petition Area, at which point Petitioner will commence its fundraising campaign.

56. Phase 1 will start in 2019 and is anticipated to be completed sometime between 2020 and 2021.

57. Phase 2 will consist of the construction of a multi-purpose building and necessary site work and infrastructure. The multi-purpose building will house Petitioner's preschool during the week and then be converted over the weekend to host

worship services and other church functions. The multi-purpose building may also function as a gym space during the week after preschool hours.

58. Prior to any groundbreaking activities for Phase 2, Petitioner will obtain State of Hawai'i Department of Land and Natural Resources, State Historic Preservation Division, approval of an Archaeological Monitoring Plan and conduct a soil analysis study in consultation with the State of Hawai'i Department of Health, Hazard Evaluation and Emergency Response office.

59. Phase 2 is planned to start in 2021 and be completed sometime between 2023 and 2024. The total estimated cost for Phase 2 is \$3,850,000.

60. Phase 3 will involve the construction of approximately three classrooms and necessary site work and infrastructure. The classrooms will house ELC's middle school (grades 6-8) and include office space for ELC's pastor and preschool director. Upon completion of Phase 3, ELC will evaluate the necessity for and feasibility of Phase 4.

61. Phase 3 is planned to start in 2025 and be completed sometime between 2027 and 2028. The total estimated cost for Phase 3 is \$2,200,000.

62. Phase 4, if pursued, would consist of constructing additional classrooms sufficient to support Petitioner's elementary school (grades K-5), a sanctuary, and potentially other accessory buildings. Depending upon need and funding, ELC may relocate the entirety of its preschool-to-8th-grade school program to

its portion of the Petition Area and sell its existing Kahului campus. Phase 4 would begin with ELC exploring the marketability of its existing Kahului campus in 2028, and end with the possible sale of the Kahului campus.

63. ELC has not obtained cost estimates or determined projected start and completion years for Phase 4 because Phase 4 is too speculative at this time.

TIME EXTENSION REQUEST

64. Under the 2008 D&O, ELC was required to complete construction of the Original ELC Project within ten years of March 7, 2008, or by March 7, 2018.

65. Following the Commission's issuance of the 2008 D&O, ELC obtained a rezoning of the Petition Area to allow for development of the Original ELC Project.

66. Shortly after the rezoning, ELC had significant transitions within its internal leadership, including deaths of key members, which negatively affected its ability to timely develop the Original ELC Project. ELC's current efforts are now led Dr. Michael Reiley, Pastor Joshua Schneider, and David Hobus. Leif Sjostrand, one of ELC's long-standing members and a senior estimator at Goodfellow Bros., is also involved in developing the Updated ELC Project.

67. The Great Recession also adversely affected ELC's ability to develop the Original ELC Project. ELC's Kahului campus was placed on the market in 2009, but eventually taken off after a year due to a lack of buyer response and a drop in

appraised value from a high of \$5.6 million to a low of \$3.5 million in 2012, which represented a 37.5% reduction. The Great Recession also resulted in a significant reduction in ELC's enrollment numbers, from 175 students in 2008 to as low as 120 students.

68. ELC's current student enrollment is at approximately 137 students, with the goal of returning to the 175 to 180 enrollment range. ELC is in the process of seeking accreditation, which will further strengthen the school's marketability, increase its enrollment numbers, and open funding and scholarship opportunities.

69. The mortgage encumbering the Petition Area also affected ELC's ability to develop the Original ELC Project, as many grant funding opportunities either require an applicant's property to be unencumbered or take the property's existing encumbrances into consideration when awarding funds.

70. A time extension from the current deadline of March 7, 2018, will allow for the opportunity for development of the Updated ELC Project and the Waikapū Affordable Workforce Housing Project.

FINANCIAL CAPABILITY/FUNDRAISING FOR UPDATED ELC PROJECT

71. ELC has been active on Maui for more than 50 years. ELC's preschool was started in 1972.

72. ELC will use the proceeds from the sale of a portion of the Petition Area to WDV to pay off the mortgage currently encumbering the Petition Area.

Remaining proceeds will also be used to fund the planning and development of the Updated ELC Project.

73. Condition 20 of the 2008 D&O prohibits the sale of the Petition Area or any portion thereof without prior Commission approval.

74. Earlier fundraising efforts by ELC had been hampered by the existing debt on the Petition Area. Certain grants are not accessible for properties that are subject to debt, such as a mortgage.

75. ELC has engaged with local and national individuals skilled in fundraising and grant writing for schools to begin the process of fundraising for the Updated ELC Project.

76. ELC's denomination, the Lutheran Church Missouri-Synod, has approved the head of its national Gift Planning Office, Michael Fisher, to work with ELC free-of-charge for 18 months to develop and execute gift planning strategies for the Updated ELC Project. Beginning in December 2018, Mr. Fisher will hold six different sessions in Hawai'i to assist ELC with gift planning. There is an executed Memorandum of Understanding in place between ELC and Mr. Fisher.

CIA FOR PETITION AREA

77. Chris Hart & Partners, Inc., conducted a CIA for the Petition Area prior to the 2008 D&O. Based on that CIA, the Commission found and concluded in the 2008 D&O that the Original ELC Project would not have any adverse effects on Native

Hawaiian traditional and customary rights that would require protection under Article XII, Section 7, of the Hawai'i State Constitution.

78. Notwithstanding the Commission's previous findings and conclusions in the 2008 D&O, ELC and WDV have committed to conducting an additional CIA for the Petition Area.

CONCLUSIONS OF LAW

1. Pursuant to HAR § 15-15-94(b), "[f]or good cause shown, the [C]ommission may act to modify or delete any of the conditions imposed or modify the [C]ommission's order."

2. ELC has demonstrated good cause to amend Condition No. 2 of the 2008 D&O to allow for an additional ten years, or until March 7, 2028, for ELC to complete its development of the Updated ELC Project on a portion of the Petition Area.

3. ELC has demonstrated good cause to amend and modify the 2008 D&O to allow for the development of the Updated ELC Project and allow for a portion of the Petition Area to be developed as the Waikapū Affordable Workforce Housing Project.

4. ELC has demonstrated good cause for the deletion of Condition No. 20, which requires Commission approval prior to the sale of any portion of the Petition Area.

5. ELC's requested actions are consistent with HRS § 205-16 and relevant portions of the Hawai'i State Plan.

6. Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

DECISION AND ORDER

Based upon the findings of fact and conclusions of law stated herein, and as stated in the Commission's 2008 D&O filed March 7, 2008, in Docket A07-773, it is hereby determined that the continued reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

This Commission, having duly considered ELC's Motion for Extension and Motion for Modification, the oral and written testimony of ELC, WDV, OP, and the County, and motions having been made and seconded at a meeting on November 29, 2018, in Kihei, Maui, Hawai'i, and the motions having received the affirmative votes required by HAR § 15-15-13(a), and there being good cause for the motions,

HEREBY ORDERS that ELC's Motion for Extension be GRANTED.

Accordingly, Condition No. 2 of this Commission's 2008 D&O shall be amended as follows:

2. Reversion of District Classification. Petitioner shall develop the Petition Area and complete the construction of the Project no later than twenty (20) years from the date of the decision and order. If Petitioner fails to complete Project construction within twenty (20) years from the date of the decision and order, the Commission may, on its own motion or at the request of any party, file an Order to Show Cause and require Petitioner to appear before the Commission to explain why the Petition Area should not revert to its previous Agricultural classification.

IT IS ALSO ORDERED that Condition No. 20 of the 2008 D&O is hereby deleted in its entirety.

IT IS ALSO ORDERED that the Updated ELC Project on a portion of the Petition Area is hereby considered to be Petitioner's representations to the Commission for all purposes, including the application of Condition No. 1 of the 2008 D&O.

IT IS FURTHER ORDERED that the foregoing amendments and modifications to the 2008 D&O shall be subject to the following conditions:

1. Petitioner shall complete the initial two phases of the Updated ELC Project within six (6) years of the Commission's issuance of this Order.
2. Petitioner shall have a CIA of the Petition Area completed prior to Petitioner's completion of Phase 1 of the Updated ELC Project, and Petitioner shall adhere to the recommendations of said CIA.

IT IS ALSO FURTHER ORDERED that Petitioner shall record an amendment to the existing Declaration of Conditions Applicable to an Amendment of

District Boundary From Agricultural to Urban, recorded in the Bureau of Conveyances of the State of Hawai'i as Document No. 2008-076764, to reflect the amendment to Condition No. 2, the deletion of Condition No. 20, and the addition of the two new conditions stated above.

All other conditions to this Commission's 2008 D&O filed March 7, 2008, shall continue in full force and effect.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 11th day of July, 2019. This ORDER may be executed in counterparts. This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 11th day of July, 2019, per motions on November 29, 2018..

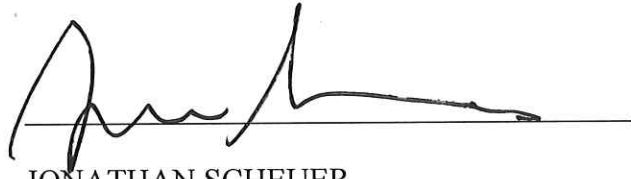
APPROVED AS TO FORM

LAND USE COMMISSION

STATE OF HAWAI'I

Randall S. Nishiyama

Deputy Attorney General



JONATHAN SCHEUER

Chairperson and Commissioner

* 

NANCY CABRAL*

Vice Chair and Commissioner

*Voted "No" on Motion for Extension of Time and "Yes" on Motion for Modification



AARON MAHI

Vice Chair and Commissioner



EDMUND ACZON

Commissioner

Excused

DAWN N. CHANG

Commissioner

Vacant Seat

Kauai County

Commissioner



LEE OHIGASHI

Commissioner



GARY OKUDA

Commissioner

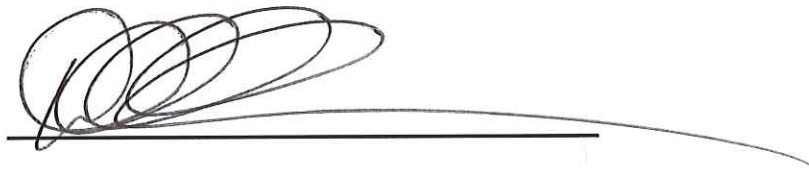


ARNOLD WONG

Commissioner

Filed and effective on: July 11th, 2019

Certified by:



DANIEL ORODENKER

Executive Officer



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

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Consisting Of 25.263 Acres from the)	
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<u>Tax Map Key No. 3-5-002: 011.</u>)	

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER GRANTING PETITIONER'S MOTION FOR EXTENSION OF TIME TO COMPLETE PROJECT AND MOTION FOR MODIFICATION was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

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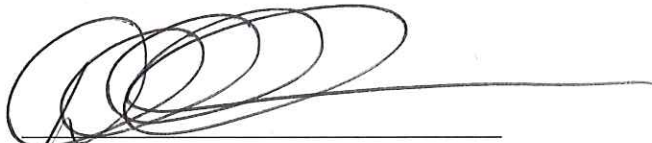
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Attorney for Petitioner
WAIKAPU DEVELOPMENT VENTURES, LLC.

Dated: Honolulu, Hawaii, 7/11/19.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

DANIEL ORODENKER
Executive Officer