



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS



STATE OF HAWAII
LAND USE COMMISSION
Meeting held on June 22, 2023
Commencing at 9:00 a.m.

Held at
Hilo Hawaiian Hotel
Mala Ikena Room
71 Banyan Drive
Hilo, Hawaii 96720

VII. CALL TO RECONVENE

VIII. A02-737 U of N BENCORP (Hawaii)

Approximately 62 Acres of Land situated at Waiaha 1st, North Kona, Island of Hawaii, State of Hawaii. Tax Map Key: (3)7-5-10:85 and 7-5-17:06. Status and progress report and action (if necessary) in response to the recently submitted annual report.

IX. ADJOURNMENT



NAEGELI
DEPOSITION & TRIAL



(800) 528-3335

NAEGELIUSA.COM

BEFORE :

1 **PARTICIPANTS**

2

3 **COMMISSIONERS:**

4 Dan Giovanni, Chair

5 Nancy Cabral, Vice-Chair

6 Brian Lee

7 Gary Okuda

8 George Atta

9 Melvin Kahele

10 Kuike Kamakea-Ohelo

11

12 **COMMISSIONERS EXCUSED:**

13 Lee Ohigashi

14 Michael Yamane

15

16 **STAFF:**

17 Daniel Orodener, Executive Officer

18 Scott Derrickson, Chief Planner

19 Martina Segura, Staff Planner

20 Riley Hakoda, Staff Planner

21 Ariana Kwan, Chief Clerk

22 Julie China, Esq., Deputy Attorney General

23

24 **OPSD:**

25 Allison Kato, Esq., Deputy Attorney General

1 **PARTICIPANTS (CONTINUED)**

2

3 **COUNTY OF HAWAII:**

4 Suzanna Tiapula, Esq., Deputy Corporation Counsel

5 Jeff Darrow, Deputy Director, Planning Department

6

7 **PETITIONERS:**

8 Derek Simon, Esq., Petitioner's Attorney

9 Jeffrey Overton

10

11 **PETITIONER'S WITNESS:**

12 Tom Waddle, Construction Management Consultant

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **CHAIR GIOVANNI:** Good morning. Aloha Mai
2 kakou, good morning. This is Dan Giovanni. I am
3 the Chair for the Land Use Commission meeting today,
4 June 22nd, 2023. This is an inter person -- pardon
5 me -- in-person meeting, which is being held at the
6 Hilo Hawaiian Hotel, Mala Ikena Room, at 71 Banyan
7 Drive, in Hilo, Hawaii 96720. And this meeting is
8 open to the public.

9 Court reporting transcriptions are being
10 done from this Zoom meeting recording. For all
11 meeting participants, I'd like to stress the
12 importance of speaking slowly, clearly, and directly
13 into your microphone. And before speaking, please
14 restate -- state or restate your name and identify
15 yourself for the record.

16 Now, even though this is an in-person
17 meeting, please be aware that all meeting
18 participants are being recorded on the digital
19 record of this Zoom meeting. Your continued
20 participation is your implied consent to be part of
21 this public record of this event. If you do not
22 wish to be part of the public record, you should
23 exit the meeting now.

24 I will also share that from time to time
25 we will be taking breaks, nominally, about five to

1 ten minutes every hour. And if the meeting proceeds
2 through lunch time, we'll probably take a break for
3 lunch as well. But we'll just make those decisions
4 on the fly.

5 My name is Dan Giovanni. I have the
6 pleasure to serve as the LUC Chair. We currently
7 have nine seated commissioners. Along with me, we
8 have seven commissioners in attendance today.

9 Ms. Nancy Cabral, representing Hawaii
10 Island, this is actually her last meeting serving
11 her eight-year term, so we welcome and with great
12 grief we say, "Aloha" to Ms. Nancy today.

13 **COMMISSIONER CABRAL:** Thank you.

14 **CHAIR GIOVANNI:** We also have Gary Okuda,
15 Mel Kahele, Kuike Kamakea-Ohelo, Mr. George Atta,
16 and Brian Lee from Oahu. Two commissioners are
17 excused today, Michael Yamane from Kauai, and
18 Commissioner Lee Ohigashi, who's ill, is excused
19 today. He's from Maui.

20 Also in attendance are the LUC Executive
21 Officer, Daniel Orodener; LUC Chief Planner, Scott
22 Derrickson; LUC Staff Planner, Riley Hakoda; LUC
23 Staff Planner, Martina Segura; LUC Chief Clerk,
24 Ariana Kwan; and to my left is the LUC Attorney
25 General, Julie China.

1 Our next order of business today is a
2 status and progress report from A02-737, University
3 of Nations Bencorp (Hawaii Island). This is a
4 status and progress report and potentially the
5 commission may take some action in response to the
6 recently submitted 2022 annual reports.

7 At this point, I'd like the parties to
8 introduce themselves for the record, starting with
9 the petitioner. The orange button. The light goes
10 on. There you go.

11 **MR. SIMON:** Good morning, Chair,
12 Commissioners. My name is Derek Simon appearing on
13 behalf of University of the Nations, Kona. With me
14 today, seated to my left, is Jeffrey Overton of
15 Group 70 International. In the audience is
16 Katherine Garson of my firm, David Hamilton, present
17 CEO of the University of the Nations, Kona, as well
18 as various other members of the university,
19 including those involved with the project
20 development.

21 **CHAIR GIOVANNI:** Thank you, Mr. Simon.

22 From the state?

23 **MS. KATO:** Good morning. Alison Kato,
24 Deputy Attorney General for the Office of Planning
25 and Sustainable Development.

1 **CHAIR GIOVANNI:** Thank you, Ms. Kato.

2 And from the County of Hawaii?

3 **MS. TIAPULA:** Good morning. Deputy
4 Corporation Counsel, Suzanna Tiapula, representing
5 Planning. Deputy Director --

6 **MR. DARROW:** Good morning, Chair and
7 Commissioners. Deputy Director Darrow with the
8 County of Hawaii Planning Department. Good morning.

9 **CHAIR GIOVANNI:** Good morning. Thank you.
10 Let me briefly explain our procedure for
11 today. First, I will update the record. Next I
12 will recognize any written public testimony that has
13 been submitted in this matter, identifying the
14 person or organizations who have submitted the
15 testimony.

16 Next, I will call on members of the public
17 who wish to testify on the status and progress
18 report. Members of the public will each have two
19 minutes to provide their testimony and should stand
20 by afterwards to respond to any questions that
21 parties or the commissioners may have.

22 When all questions have been completed,
23 the Chair will excuse the witness and call the next
24 witness to enter and give testimony. After
25 completion of the public testimony of the

1 proceedings, the Chair would like the petitioner to
2 provide its status report. The Chair will then call
3 on the county's planning department, the Office of
4 Planning and Sustainable Development for comments
5 regarding the status report. The petitioner will
6 then be allowed to respond to comments made by the
7 county and the state.

8 The commissioners will ask questions of
9 the parties at the conclusion of each of their
10 presentations. At the conclusion of the parties'
11 testimony and the commissioners' questions, public -
12 - the public will again be granted a second
13 opportunity to provide public testimony in the same
14 manner that was set forth previously. Once the
15 public testimony concludes, the commission will
16 enter deliberations regarding the status report and
17 whether any action is to be taken.

18 Again, the Chair would like to note that
19 from time to time, I will be calling short breaks,
20 and I ask you now are there any questions from the
21 parties regarding our procedure today?

22 Mr. Simon?

23 **MR. SIMON:** None from petitioner. Thank
24 you, Chair.

25 **CHAIR GIOVANNI:** Thank you.

1 State?

2 **MS. KATO:** No questions. Thank you.

3 **CHAIR GIOVANNI:** Thank you.

4 County?

5 **MS. TIAPULA:** No questions. Thank you.

6 **CHAIR GIOVANNI:** Thank you.

7 Regarding the record, please be informed
8 that the relevant records and documents pertaining
9 to this matter can be accessed for review on the LUC
10 website at luc.hawaii.gov/a02-737, specifically
11 under the tab "pending dockets." Interested parties
12 are welcome to review the documents at their leisure
13 and convenience.

14 Right now we will commence with public
15 testimony on this matter. Ms. Kwan, have we
16 received any written testimony submitted on this
17 matter?

18 **MS. KWAN:** No, Mr. Chair.

19 **CHAIR GIOVANNI:** Thank you.

20 Ms. Kwan, is there anyone who's appeared
21 today who has signed up for public testimony?

22 **MS. KWAN:** No, Mr. Chair.

23 **CHAIR GIOVANNI:** Thank you.

24 **MR. SIMON:** Excuse me, Chair. I hate to
25 interrupt. I believe there was one public comment

1 letter submitted from the Hawaii County Police
 2 Department.

3 **CHAIR GIOVANNI:** What is the record? Can
 4 we get an update on that, Ms. Kwan? What did we
 5 receive?

6 **MS. KWAN:** June 20th we received County of
 7 Hawaii Police Department written testimony.

8 **CHAIR GIOVANNI:** Okay. Thank you.

9 And it's available for anybody to review
 10 on the website, correct?

11 **MS. KWAN:** Yes.

12 **CHAIR GIOVANNI:** Very good.

13 Thank you, Mr. Simon.

14 Okay. Mr. Simon, we'll now proceed with
 15 your presentation. Can you give us an indication of
 16 the scope and duration that you plan for your
 17 prepared remarks and presentation?

18 **MR. SIMON:** Absolutely, Chair. We have --
 19 Mr. Overton and myself have a somewhat brief
 20 presentation, briefer than the November status
 21 report. I expect it to take maybe an hour.

22 **CHAIR GIOVANNI:** Okay.

23 **MR. SIMON:** With or without questions,
 24 thereabouts.

25 **CHAIR GIOVANNI:** Is it a presentation that

1 we'll see?

2 **MR. SIMON:** I do. I do. I have a
3 PowerPoint here.

4 **CHAIR GIOVANNI:** Okay. We ask that you
5 make a copy of the PowerPoint available to our staff
6 so we can include it on the record.

7 **MR. SIMON:** Absolutely.

8 **CHAIR GIOVANNI:** Thank you. Please
9 proceed.

10 **MR. SIMON:** There we go. Again, good
11 morning, Commissioner -- Chair and Commissioners.
12 My name is Derek Simon appearing on behalf of the
13 University of the Nations, Kona. Today, myself and
14 Mr. Overton here will be presenting the status
15 report.

16 We want to start off by thanking the
17 commission staff, the county, and OPSD for their
18 time today. As some of you know or all of you
19 should know, this docket was last before the
20 commission in November, on November 2nd, 2022, for a
21 status report. That report kind of had two
22 components.

23 First, you heard from Mr. David Hamilton,
24 present CEO of University of the Nations. He
25 started off by explaining to the commission a little

1 bit about what the university does, that it's part
2 of a global network of religious-based educational
3 institutions. He provided kind of an overview of
4 the services they provide to underserved
5 communities, both in Kona and globally. And I think
6 that gave the commission sort of a good update, good
7 refresher on who the petitioner is here. It had
8 been some time since we'd been before the
9 commission.

10 We spoke a little bit about Covid, the
11 impacts of Covid and sort of the recovery from
12 Covid. Mr. Hamilton spoke to the fact that
13 enrollment had returned to pre-Covid levels and was
14 trending in a positive direction. He also reported
15 that the last fiscal year for the university was the
16 strongest fiscal year they'd had. And that both
17 those -- and I can tell you today that both those
18 trends continue.

19 We spent quite a bit of time talking about
20 the university's financing model. It's a non-
21 profit-based fund-raising financing model. I think
22 myself, I've done a poor job of explaining that
23 model to the commission in the past, and I think
24 that led to some confusion and uncertainty as to the
25 viability and really practical implications of that

1 non-profit financing model.

2 And Mr. Hamilton spoke to a wide spread
3 that really is with large non-profits from the Red
4 Cross down to much smaller organizations. Mr.
5 Hamilton presented a slideshow that showed just a
6 handful of campuses across the globe that the
7 university and the larger organizations developed
8 using that model. I think the commission was left
9 with a better understanding of the fund-raising
10 financing model they use and how viable it is.

11 And Mr. Hamilton finished his presentation
12 with making some strong commitments to the
13 commission. He wanted to remind the commission that
14 the university is not an absent landowner. It
15 operates immediately next door to the current
16 petition area.

17 He also wanted to emphasize that they're
18 not engaged in land speculation. They are fully
19 committed to developing the master plan. This has
20 been part of their mission and goals for some time.
21 And even with, you know, prior struggles that I've
22 explained to the commission, there was never
23 intention or desire to sell the petition area.

24 He also wanted to reaffirm there's no
25 changes, you know, changes to the scope or substance

1 or nature of the master plans as being pursued as it
2 was -- you know, at that time, it had been last
3 presented in July 2020. And today it remains an
4 expansion of the existing campus, again, that is
5 immediately next door.

6 And then he also committed to proceeding
7 with the EIS diligently and to file that within the
8 first half of 2023. And we can report today that
9 we're on track for that submission deadline.

10 The commission then heard from Mr.
11 Overton. He gave sort of a high-level overview of
12 the land use planning considerations for the
13 petitioner. He -- he kind of laid out the reasons
14 why the petitioner's an appropriate piece of land
15 for the urban district and appropriate for the
16 master plan development that they're pursuing at the
17 moment. He talked about the significant
18 restrictions on agricultural use on the land,
19 including more soils, geography, topography, and so
20 on and so forth.

21 And then Mr. Overton got a little bit into
22 the changes in the master plan that were being made,
23 that have been made since then, that they're working
24 on at that time. And that's more or less where we
25 left off.

1 Following that November 2nd, 2022 status
2 report, the commission did issue an order or a
3 decision on the status report on December 8th.
4 Under that decision, the 2022 annual report and
5 supplemental annual report were accepted as
6 satisfying the annual reporting obligations under
7 the 2003 decision and order.

8 The commission ordered that the draft EISP
9 submitted to the commission by the end of June -- by
10 the end of June 2023. I don't remember if it was
11 the first half or before the end of June. And it
12 continued to keep the university ongoing as
13 scheduled yearly annual status report. So that
14 brings us here today.

15 Mr. Overton is going to speak in a moment
16 and provide you with an update on the master plan
17 and the status of the environmental impact
18 statement. Thank you.

19 **CHAIR GIOVANNI:** Mr. Overton, I'm going to
20 swear you in. Please state your name and
21 affiliation?

22 **MR. OVERTON:** Jeff Overton. I'm a
23 principal planner with G70 in Honolulu.

24 **CHAIR GIOVANNI:** Do you swear that your
25 testimony today will be the truth?

1 **MR. OVERTON:** I do.

2 **CHAIR GIOVANNI:** Please proceed.

3 **MR. OVERTON:** Thank you. Good morning,
4 Chair and Commissioners. It's nice to be before you
5 today in Hilo. I always love traveling to Hilo for
6 these meetings. I wish I was here last night for
7 dinner.

8 We -- it's a good news report today. You
9 know, we were tasked at the November status update
10 to giddy-up, get the draft EIS pulled together. I
11 believe the Chair characterized it as a bullet-proof
12 EIS is what he is seeking to be submitted by second
13 quarter, end of the second quarter of '23. And
14 we're on track. As Mr. Simon said, we're on track
15 to meet that obligation.

16 So I'll give you just kind of a high-level
17 update on the work we've accomplished. Everybody's
18 had a chance to locate the EISs. I've actually got
19 a hard copy. You can tell from the scope of it or
20 the thumb -- it -- it's hefty. There's 14 technical
21 appendices to the EIS. And this is the bedtime
22 reading volume here which is a little more
23 accessible, the front part of it. We're just in the
24 final strokes on this and intend to submit it to
25 your staff for review by the 30th. And so we're on

1 track with that.

2 As you know, EIS has these in-depth
3 technical studies that we need to address. There
4 has already been a lot of work done on technical
5 studies in the past, in particular, the cultural and
6 archeological and all the pieces for that. But the
7 updates that we went through for this process
8 updating the preliminary infrastructure, the civil
9 engineering study done by G70, the civil engineers
10 at our shop, along with an infrastructure concept
11 master plan.

12 We already had in hand the earlier
13 environmental planning report and the natural
14 resource studies done by AECOS. We had update to
15 the what we call a traffic study or are now calling
16 mobility analysis report by Fehr & Peers, so we have
17 that. It's an important study for this EIS.

18 We had an updated water study by Tom
19 Nance. And based on input we received in the March
20 2021 scoping meeting -- it's been a while -- we had
21 a request to do a noise study. So we did an
22 acoustical analysis by Y. Ebisu & Associates to be
23 included in here, so take some time to get those
24 pieces together and then compile it in an inner
25 document that's going to go through a proper review

1 process. So that's kind of an update on the
2 technical studies.

3 As for the plan, so we're still calling
4 this the 2020 master plan, but, as you know, master
5 plans -- you take a look at them six months later
6 and you go, you know, we really should have done
7 this instead of that. And so no real heavy, real
8 dramatic shifts at all since we last discussed
9 things. We made some site adjustments and shifted,
10 relocated some facilities, primarily trying to make
11 this make more sense for community access.

12 Before, we had some facilities where you
13 had to really penetrate deep into the campus, for
14 example, to get to the athletic complex or the
15 school element, the lower school elements. So we've
16 shifted things a little more makai that are focused
17 on the community support elements. I think it makes
18 a lot of sense from access and circulation and sort
19 of segregating what is the university functions from
20 the more community centered, or shared, components
21 of it.

22 And so you'll see we've shifted the
23 athletic complex downhill. It works a little better
24 with the grades as well in terms of how our light
25 touch on the site, which we've said has always been

1 a mission for us to touch the site as lightly as
2 possible, maintaining open space where we can, and
3 really design -- design with nature as best we can,
4 working with topography and minimizing grade.

5 Another important piece in sort of
6 optimizing our plan was something that we heard from
7 the commission on the last go-round. There was some
8 discussion about the students and faculty living in
9 the community and the pressure that adds to an
10 already tight housing supply in the Kailua-Kona
11 region. And so we've added dorms on the site that
12 support primarily increasing faculty support on-
13 site with these dorms. But we have this sort of
14 integrative model of students and faculty that have
15 a kind of combined integrative living circumstances.

16 So ultimately, that helps us with the
17 pressure in the community for affordable housing
18 needs out there and integrating it here. We've got
19 that capability with dorms on the project. So
20 that's kind of high level. I hadn't intended to do
21 a whole careful cross-analysis, and the EIS spells
22 it out pretty clearly when we put it before you.

23 Next slide. We had a -- just an image
24 that, you know, we're carrying forward that reflects
25 the approach to design. And you know, Francis Sota

1 (phonetic) gave a nice design presentation to the
2 commission when we were at NELHA a year or so back.
3 And this, again, reflects the design. This is not a
4 -- you know, an urban college campus. We're in
5 Kailua-Kona, so we're going to have lower rise
6 buildings, one story, two-story buildings.

7 You can see the way we're working with hip
8 roof design. That's really complimentary to the
9 Kailua-Kona character and setting, very loose. This
10 maybe is a little greener than it may actually end
11 up being, but, you know, we're working to vegetate
12 with xeriscape-type plants and low-water tolerant
13 plants, but there would be landscaping, and it's
14 going to be a very nice campus setting that will
15 flow with some common spaces and, again, reflective
16 of the University of Nations, Kona's mission and
17 their purpose as they work with both their students
18 and faculty in implementing their program.

19 So I just -- I like to always come back to
20 these feel images. It's really how the campus is
21 going to look and feel going forward in terms of
22 character fitting to the Kona community.

23 We do have a short presentation, so our
24 next steps for this draft EIS, we're going to be
25 buttoning up the final pieces. Flying over here, I

1 probably found a couple dozen things I want to make
2 better in the book, but we're just final edits and
3 getting it packaged up, and then, you know, I hope
4 Dan's got coffee because there's going to be some
5 reading coming up for this, and the team will have
6 that over to you, we're saying, on the 30th is our
7 target for delivery on that.

8 So Office of Planning and Sustainable
9 Development will have an opportunity to go through
10 the review of, as well as the county will be
11 provided, a copy, and we look forward to your input.
12 I would call this maybe a completeness review prior
13 to publication. And how the input is received based
14 on this screening level review doesn't really
15 represent -- there would be an opportunity from our
16 formal comments during the publication and agency
17 and public comment period that will run for 45 days
18 once we've published.

19 So you know, potentially, you know,
20 publishing in late July or August, it's going to
21 depend on the substance of the comments and points
22 that the staff come up with in the review, any input
23 in that process, but our team is ready to go to
24 print and move the ball forward.

25 So that basically concludes our brief

1 presentation on the EIS side. And I'm glad to
 2 respond to any questions. Thank you.

3 **CHAIR GIOVANNI:** Stand by for questions.
 4 We'll allow you to complete your presentation.

5 **MR. OVERTON:** That is the completion of
 6 our presentation.

7 **CHAIR GIOVANNI:** Very good. Okay.
 8 So let me get back to my script here.

9 Commissioners, do you have any questions
 10 at this time for the petitioner?

11 Mr. Atta?

12 **COMMISSIONER ATTA:** Yeah. I just wanted
 13 to mention that I've had some background. I worked
 14 in a massive plant about 20 years ago, so -- but
 15 it's been quite some time, so I don't think I have
 16 anything that would prevent me from commenting.
 17 Yeah.

18 **CHAIR GIOVANNI:** Thank you for that
 19 disclosure.

20 So I'm going to ask the parties if you
 21 have any issue with Commissioner Atta continuing on
 22 this matter as a commissioner?

23 Petitioner?

24 **MR. SIMON:** None from petitioner. We
 25 thank Commissioner Atta for his time.

1 **CHAIR GIOVANNI:** Thank you.

2 State?

3 **MS. KATO:** None. Thank you.

4 **CHAIR GIOVANNI:** County?

5 **MS. TIAPULA:** None for the county. Thank
6 you.

7 **CHAIR GIOVANNI:** Thank you.

8 I'm going to -- Mr. Darrow, I'm going to -
9 - if you're going to be speaking, I'm going to put
10 you on the -- yeah, thank you. Please state your
11 name and affiliation.

12 **MR. DARROW:** Aloha, Chair Giovanni and
13 Members of the Land Use Commission. My name is Jeff
14 Darrow, Deputy Planning Director for the County of
15 Hawaii Planning Department.

16 **CHAIR GIOVANNI:** Thank you, Mr. Darrow.
17 If you testify today, will it be the truth?

18 **MR. DARROW:** I'm sorry?

19 **CHAIR GIOVANNI:** Will it be the truth?

20 **MR. DARROW:** Of course, yes.

21 **CHAIR GIOVANNI:** Thank you very much.

22 **MR. DARROW:** Thank you.

23 **CHAIR GIOVANNI:** Commissioners, any
24 further comments or concerns regarding the
25 disclosure made by Commissioner Atta?

1 Seeing none, Mr. Atta, thank you for your
2 disclosure and please continue.

3 Are there any other disclosures? Hearing
4 none -- oh, Ms. Cabral.

5 **COMMISSIONER CABRAL:** So I'll throw in the
6 disclosures. As I did yesterday, I will disclose
7 again that I've worked with the County Planning
8 Department and specifically Jeff Darrow on many
9 different projects here on the Hawaii Island over
10 many years. And I don't have any problems with
11 this. It's all on a professional basis. Thank you.

12 **CHAIR GIOVANNI:** Thank you.

13 So Petitioner, any issue or concerns with
14 Commissioner Cabral continuing?

15 **MR. SIMON:** None for petitioner. Thank
16 you.

17 **CHAIR GIOVANNI:** State, any concerns?

18 **MS. KATO:** No concerns. Thank you.

19 **CHAIR GIOVANNI:** And county?

20 **MS. TIAPULA:** None from the county.

21 **CHAIR GIOVANNI:** Thank you.

22 Fellow commissioners? Hearing none, Ms.
23 -- Commissioner Cabral, please -- thank you for your
24 disclosure and continue as planned.

25 **COMMISSIONER CABRAL:** Thank you.

1 **CHAIR GIOVANNI:** Okay. My neck's getting
 2 worn out here.

3 Okay. Commissioners, any questions that
 4 you have for the presentation by the petitioner?

5 Commissioner Kahele?

6 **COMMISSIONER KAHELE:** Chair, I don't have
 7 a question on the presentation, but I'm looking at
 8 the 2022 report, and apologize, that was in the air
 9 as a commissioner, so all of the work that's going
 10 to be used is going to be -- it's going to be done
 11 by volunteers? No one gets paid? Donated labor?

12 **MR. SIMON:** Commissioner Kahele, I
 13 wouldn't say all of the labor. A good portion of it
 14 -- a large portion will be through the youth builder
 15 program that the university does. This is a program
 16 that builds facilities around the globe. The
 17 university is tied into sort of a global network of
 18 campuses. They have a very far reach, and they have
 19 access to a lot of very talented and experienced
 20 people that donate their time to help with their
 21 projects.

22 **COMMISSIONER KAHELE:** So most of it's
 23 going to be donated labor?

24 **MR. SIMON:** I don't want to say most of it
 25 because I don't know that to be certain, but a good

1 portion of it will be.

2 **COMMISSIONER KAHELE:** All right. Thank
3 you.

4 **MR. SIMON:** Thank you, Commissioner.

5 **CHAIR GIOVANNI:** Commissioner Cabral.

6 **COMMISSIONER CABRAL:** My static
7 personality. I've heard several hearings on this
8 matter over the years, my eight years here. And
9 I've got to ask, aside from, you know, what always
10 looks good on paper and screen, on the property
11 right now exactly what's going on, on that piece of
12 land at this time? Can you give us an update on
13 that?

14 **MR. SIMON:** Yes. Thank you, Commissioner
15 Cabral, for your question. The vast majority of the
16 petition area is vacant, undeveloped. As noted in
17 the staff report, there's an existing agricultural
18 park. It's a research and agricultural park that
19 was disclosed to the commission back in, I believe,
20 2019 with our position statement on the order to
21 show cause. It was page 29.

22 Admittedly, we probably could have done a
23 better job of keeping the commission more updated
24 with those activities, but essentially, it's an
25 extension of the university's program, and it's an

1 agricultural program. They teach students how to
2 innovate in agricultural fields. Often, these
3 students will go out to developing nations, remote
4 islands in the Pacific, and try to help teach the
5 residents there how to do agriculture with the
6 supplies they have, and often that takes a lot of
7 innovation.

8 They obviously don't have nurseries and
9 whatnot, so that's why you'll see some things there
10 that look like a pallet turned into a raised bed or
11 a drum turned into hydroponics. That's intentional.

12 I would also note that the decision order
13 -- what we decided when we disclosed those are
14 agricultural activities and sort of an extension of
15 the campus back in 2019, it was to note that the
16 decision and order -- the 2003 decision and order in
17 this docket did have about a five-acre expansion of
18 existing campus onto the petition area, so that's
19 just something that we noted at that time.

20 As also noted in the staff report, there
21 are two temporary tents sort of on the -- both of
22 these activities are on the boundary of the petition
23 area and existing campus. Those are temporary
24 makeshift tents that have been up for a little
25 while. They were a huge asset to the university

1 during Covid. It allowed them to hold classes
 2 outdoors and with moving air during a time that that
 3 was very much needed. So to answer your question,
 4 those are the two active uses of the petition area.

5 **COMMISSIONER CABRAL:** Are there people
 6 living on the property at this time?

7 **MR. SIMON:** I do not believe so. There
 8 are not.

9 **COMMISSIONER CABRAL:** No students should
 10 be living on the property. Any other staff?

11 **MR. SIMON:** No students, no dwellings, no
 12 inhabitation of that nature.

13 **COMMISSIONER CABRAL:** So any structures on
 14 the property would all be educational-type
 15 classrooms or growing centers?

16 **MR. SIMON:** With exception of the two
 17 tents, agricultural and educational structures.

18 **COMMISSIONER CABRAL:** Okay. Thank you.

19 **MR. SIMON:** Thank you, Commissioner.

20 **CHAIR GIOVANNI:** Commissioner Lee?

21 **COMMISSIONER LEE:** Thank you, Chair.

22 Can you explain or go into a little bit
 23 more detail on how you make sure that the
 24 construction work is supervised by licensed
 25 contractors and is built according to code and so

1 forth?

2 **MR. SIMON:** Yeah. I may not be the best
3 person to speak on that, but they certainly have a
4 lot of experience doing that. The existing campus
5 they have, I think it was purchased 40 years ago
6 with several dilapidated buildings, you know. Since
7 then, they've built out a pretty nice campus. I
8 think the current replacement value on those
9 buildings is about \$109 million. So they have
10 significant construction experience. But perhaps I
11 can get a representative from the university here to
12 answer that. I'll have Tom Waddle come up. He's
13 one of the members of the project development team.

14 Sit right here, Tom.

15 **CHAIR GIOVANNI:** Mr. Waddle, please state
16 your name and affiliation, and then I'll swear you
17 in.

18 **MR. WADDLE:** Sure. My name's Tom Waddle.
19 I'm a construction management consultant and
20 volunteer at the university.

21 **CHAIR GIOVANNI:** Mr. Waddle, do you swear
22 that the testimony you give today will be the truth?

23 **MR. WADDLE:** Yes, sir.

24 **CHAIR GIOVANNI:** Please proceed.

25 **MR. WADDLE:** Yeah. Could you repeat the

1 question? I'm sorry.

2 **COMMISSIONER LEE:** Sure. Can you go into
3 a little bit more detail of how you ensure that the
4 work is supervised by licensed contractors and where
5 these contractors usually come from, or plan to be
6 coming from, and how do you ensure that the work is
7 performed according to local codes and standards?

8 **MR. WADDLE:** Yeah. Great question. All
9 the work that is under way and has been under way at
10 the campus is all permitted, to start with.
11 Permitting, obviously, is going to require stamped
12 drawings, engineer architectural drawings.

13 The model that we've been proceeding on is
14 we have a general contractor that obviously pulls
15 the permits and has a representative staff for every
16 project. And then we have project managers and
17 superintendents that are either on staff or are
18 volunteering. And then we have a traditional
19 rigorous review and inspection by not only the
20 architect of record, engineer of record, but also
21 the electrical engineer, the plumbing engineer, et
22 cetera, who are on the record drawings.

23 I've been actually personally involved in
24 the process. I've been an old guy contractor from
25 the '70s, so -- and as such, my personal experience

1 has been as a contractor to actually be a part of
2 that staff that oversees the construction.

3 We have a number of volunteers that --
4 that is the model. At one time, we've had up to a
5 hundred volunteers on campus, and each trade
6 provides and ensures our qualities there were a
7 hundred percent compliant. We have 110 percent
8 commitment to building per code per drawing and et
9 cetera.

10 So that's been a pretty successful model.
11 My personal experience on projects of -- I think
12 we've built out almost 40,000 square feet of
13 buildings from 1985, when I first arrived, and just
14 are finishing a tenant improvement currently of
15 about 40,000 square feet, all inspected.

16 When we engage in subcontracts for like
17 electrical, plumbing, fire alarm, HVAC, many of
18 these subcontractors allow our volunteers to work
19 alongside of them to help save costs. But, of
20 course, they'll license subs who are pulling permits
21 or overseeing the work, and they have a reputation,
22 you know, to make sure somebody from New York, who's
23 volunteering and knows the code in New York but
24 doesn't necessarily know the means and methods here,
25 is complying with what we want to do here.

1 It's been a pretty successful process.

2 And I hope that answered your question.

3 **COMMISSIONER LEE:** Thank you. Just one
4 follow-up. Are you from here? Are you a local
5 contractor licensed in Hawaii?

6 **MR. WADDLE:** I've been -- I moved here in
7 '85 and was working on staff with the campus for
8 about four or five years. I went into the
9 community, got my own contractor's license, and
10 stayed here until like '99. And then I had a chance
11 to take a different job in Florida, so I let my
12 license expire only to come back in 2006, by
13 invitation, renewed my license. From that, wearing
14 a general contractor hat, and then I moved to
15 Florida -- I'm sorry, to Dallas about 2010 to help
16 my dad who became ill.

17 I was going to stay there. I let my
18 license expire one more time. And he passed away a
19 while back and I had a chance to return. But I
20 don't have a license now. I've had one twice. And
21 I've been a general contractor, project manager,
22 consultant right now. I was the construction
23 manager for Merrill Development during the heyday of
24 the Henry Street Walmart, you know, Safeway, Borders
25 Bookstore and et cetera, so I've got a lot of local

1 experience. That's pretty important around here, as
2 you know.

3 **COMMISSIONER LEE:** Do you employ sort of
4 an in-house roving contract, or are you that person
5 who would be the consultant that works on other
6 projects in other campuses and you're working on
7 this one now here, is that -- is that the process?

8 **MR. WADDLE:** Yeah. We typically will have
9 at least one professional, right, on projects. We
10 currently do not have any projects under permit that
11 we're doing. We're doing more maintenance at the
12 moment, but when we do have a project that is
13 permitted, and even on the maintenance side, we
14 have, you know, skilled people overseeing, you know,
15 the different departments.

16 **COMMISSIONER LEE:** And one final question.
17 The contractor, the RME, the responsible managing
18 employee, will that be a local person, or will that
19 be a company from out of state that hires an RME to
20 represent them?

21 **MR. WADDLE:** Right. The current project
22 we're finishing, the contractor licensed, the RME is
23 on staff and has been on staff for ten years here.
24 Yeah.

25 **COMMISSIONER LEE:** Thank you.

1 Thank you, Chair.

2 **CHAIR GIOVANNI:** Thank you, Commissioner
3 Lee.

4 Just to follow-up, clarification question.
5 Who is the general contractor who has actually
6 pulled permits from the county once the plans have
7 been approved by the county?

8 **MR. SIMON:** Let me get Mr. Waddle back in
9 here.

10 **MR. WADDLE:** The current contractor is KJ
11 Walk. Warren Israelson is the principal there, and
12 David Drahn is his RME who's been on staff for about
13 ten years and lives here.

14 **CHAIR GIOVANNI:** So RJ --

15 **MR. WADDLE:** KJ Walk.

16 **CHAIR GIOVANNI:** KJ Walk.

17 **MR. WADDLE:** KJ Walk, Inc.

18 **CHAIR GIOVANNI:** Do you know how to spell
19 the Walk?

20 **MR. WADDLE:** W-a-l-k. Warren Israelson is
21 the owner and principal of that company.

22 **CHAIR GIOVANNI:** Okay. Thank you.
23 Commissioner Okuda.

24 **COMMISSIONER OKUDA:** Thank you very much.
25 Mr. Waddle, maybe I have a few follow-up

1 questions. No, no, no. Based on what Commissioner
2 Lee and the Chair had asked, and I can't give you
3 specific citations, but this comes on an HRS Chapter
4 444, which, since you were -- you know, you've had
5 contractor licenses issued by the State of Hawaii,
6 that's the governing section of the HRS, Hawaii
7 Revised Statutes. It governs contracting.

8 So my questions deal with contracting
9 activity as defined by Chapter 444, which is
10 basically any action that's being taken to improve
11 the real property. Now, using the definition under
12 HRS Chapter 444, is it your testimony or the
13 testimony of the landowner here that everyone who
14 has done work on that site to improve the property,
15 anyone who's done contracting work as defined by the
16 statute, has either been issued or at the time held
17 or holds a contractor's license issued by the
18 contractor's licensing board or the State of Hawaii
19 or the person is a bona fide employee, meaning a
20 bona fide employee of the contractor, meaning that
21 that person is on that contractor's payroll, covered
22 by workers' compensation, TDI, and health insurance
23 and the other requirements of Hawaii laws and
24 employee.

25 Or are there some people who are doing

1 work on the property, improving the property who did
2 not hold a contractor's license or were not bona
3 fide employees of licensed contractor?

4 **MR. WADDLE:** I think I understand your
5 question. All the permitted work is done with --
6 under, you know, licensed either general
7 contractors, licensed electricians, licensed
8 plumbers, et cetera. They employ their own
9 personnel, so they'll have their employees.

10 But we do supplement them with volunteers.
11 Volunteers are not paid. They're not employees of
12 the general contractor or the subcontractor, and
13 they have a legal form that they sign that is
14 typical of any non-profit, whether it's the Red
15 Cross or World Vision or United Way. They come
16 alongside the projects that we do. I'm not sure if
17 that's answering your question, but --

18 **COMMISSIONER OKUDA:** No, no. That's very
19 helpful.

20 Do you agree -- or maybe you probably know
21 that Chapter 444 essentially makes it, I think, a
22 crime -- it's a misdemeanor, is my recollection, to
23 basically use someone else's license to do work
24 which normally requires a contractor's license. You
25 do recall that as part of the statute Chapter 444?

1 In other words, there's a pretty strict prohibition
2 against unlicensed contracting work, which includes
3 a potential criminal penalty.

4 **MR. WADDLE:** If I understand your question
5 right, for example, if we didn't pull a permit for
6 the -- the most current project we have is the
7 tenant improvement. It's about 40,000 square feet.
8 So all the electrical work is done by -- is overseen
9 by the permitting electrical contractor who has a
10 license. Same with the plumbing. Same with the
11 fire protection. Same with the air conditioning.

12 So there's no work that is being performed
13 that requires a permit by a subcontractor that is --
14 that's being done by a non-licensed subcontractor
15 that we're paying. Although work is being done by
16 license-holding subcontractors, our volunteers will
17 work under them, but I'm not sure that answers your
18 question, if I understood it correctly.

19 **COMMISSIONER OKUDA:** No, no. Your
20 explanation is helpful that your volunteers work
21 under a licensed contractor.

22 And let me just preface and give you the
23 reasons why I'm asking this question.

24 **MR. WADDLE:** Sure.

25 **COMMISSIONER OKUDA:** Because, you know, if

1 someone is injured in a property and the injury is
2 traced to the failure to comply with certain code
3 requirements or other standards of practice
4 regarding the industry, what I'm -- what I don't
5 want is somebody turning around and saying, well,
6 you, Land Use Commission, or you, Mr. Okuda,
7 Commissioner, you knew about this, about a potential
8 violation -- I'm not saying there is a violation.
9 That's why I'm inquiring into this.

10 **MR. WADDLE:** Right.

11 **COMMISSIONER OKUDA:** But I don't want
12 people to say that we, as a government agency, had
13 notice of a health and safety requirement and we
14 didn't do our due diligence and inquire into it, and
15 as a result, some injury, which might have been
16 avoided, was not avoided, and now we have, you know,
17 people who are hurt.

18 Let me ask you this question. Are you
19 aware of any administrative rule or decision by the
20 contractor's licensing board or a court of law --
21 and you can inquire with your attorney regarding
22 that -- which has held that the Chapter 444
23 requirements of work being done by a licensed
24 contractor or a bona fide employee of the licensed
25 contractor, that there is an exception for unpaid

1 volunteers?

2 In other words, as long as the person is
3 an unpaid volunteer, that that's somehow an
4 exception to the requirement that all contracting
5 work, as such term is defined by Chapter 444, that
6 there's an exception to the requirement that the
7 work be performed by either a licensed contractor or
8 a bona fide employee of the licensed contractor, are
9 you aware of any exception to Chapter 444 that says
10 volunteers is a carve-out or exception on this
11 otherwise strict requirement that you have to have a
12 licensed contractor doing the work?

13 **MR. WADDLE:** Yeah, good question. I don't
14 have a legal background, and so I'm not ready to --
15 I don't know an answer to that. I know that there
16 are -- take the same application for Habitat for
17 Humanity. They'll have some projects similar to
18 ours. They'll have a ton of volunteers, so -- and I
19 know our attorneys have drafted, you know, the right
20 volunteer format for a form to fill out that address
21 issues like workman's comp and et cetera.

22 And I know the campus has its own
23 insurance policy so that -- that deal with these
24 things, but I'm not personally aware of the details
25 of them or have a -- you know, a detailed answer for

1 your question.

2 **COMMISSIONER OKUDA:** Yeah. Well, as you
3 kind of alluded to, there are some practical
4 implications here. For example, since construction
5 activity is many times not considered by workers'
6 compensation insurers as a low-risk situation, and
7 you know, there's significantly higher premiums
8 than, for example, somebody who might be working on
9 a computer terminal typing up legal documents at a
10 law office --

11 **MR. WADDLE:** Right, right.

12 **COMMISSIONER OKUDA:** -- there's a
13 recognition that there is significantly more risk
14 for someone to be injured, you know, doing
15 construction. What if -- if a person was a bona
16 fide employee of a licensed contractor, you know,
17 that contractor be required to carry workers'
18 compensation insurance, and the employee would be
19 protected.

20 What kind of protection do these
21 volunteers receive for injuries which they might
22 suffer by volunteering on the property?

23 **MR. WADDLE:** I'm not certain of what our
24 insurance carrier provides for that. I know that --
25 and I'm not sure how the -- you know, the industry

1 at large deals with that either. You know, whether
2 it's -- it's our campus or other non-profits that
3 are engaged with volunteers. It's obviously a
4 pretty common practice, but I don't have the
5 specific answer for that. I don't know.

6 **COMMISSIONER OKUDA:** Yeah. And you
7 understand that just because something's a common
8 practice, we, at the Land Use Commission, because
9 we're quasi-judicial, we're essentially required to
10 follow strictly the requirements of the law.

11 **MR. WADDLE:** Yeah.

12 **COMMISSIONER OKUDA:** Okay. Well, just for
13 me personally -- sorry, Mr. Simon.

14 **MR. SIMON:** Commissioner Okuda, I
15 apologize. I don't mean to cut you off. I just
16 wanted to note that we absolutely understand the
17 concerns you're raising. I'm not a Chapter 444
18 expert. I've appeared before the contractor board
19 several times, but having dealt with this issue, I
20 think it is certainly something that we can provide
21 more clarity to the commission on. We weren't
22 prepared to speak on this today.

23 I don't mean to interrupt your question
24 either, but I just want to commit to you that we can
25 -- we can help -- you know, like Tom pointed out,

1 there are other organizations that have that working
2 with (inaudible) that do this. Whether or not that
3 is something the contractor/license board has
4 approved, you know, it's something we can try to
5 find more clarity on. But I just wanted to
6 highlight the fact that, you know, I think it's --
7 you know, without the statute in front of us, it's a
8 little hard to give you direct answers.

9 **COMMISSIONER OKUDA:** Yeah, yeah. And --
10 and I don't necessarily expect, you know, an answer
11 to that question because it would be unfair for me
12 or any of us to expect you to give a definitive
13 answer without you having prior notice of the fact
14 that that was an issue. So I'm kind of giving you
15 the semi-prior notice here.

16 If I can ask kind of like a related
17 follow-up question, just a foundational question.
18 And let me preface my question by saying this is the
19 reason why I'm going to ask these other questions.
20 It's because of the admonition or warning from the
21 Hawaii Supreme Court in the DW Aina Lea Development
22 versus Bridge Aina Lea case that's found at 134
23 Hawaii 187, at pages 211, 212. The P.3d citation is
24 339 P.3d 685, at 709 to 710.

25 Basically, the Hawaii Supreme Court is

1 telling the Land Use Commission that we, the Hawaii
2 Supreme Court, don't want situations where
3 requirements or conditions are placed on property
4 for development or other things, and these
5 conditions are not met because that just leads to a
6 host of public policy problems. So in other words,
7 the Hawaii Supreme Court is telling us on the Land
8 Use Commission that we basically have to hold
9 applicants to the conditions that have been, you
10 know, imposed, or required as a condition of a
11 boundary amendment.

12 And just so that, you know, no one thinks
13 that I'm just making this up, this is the quote from
14 -- you know, from the case. It says, and I quote,
15 "The senate committee on energy and natural
16 resources specifically noted that, quote, 'vacant
17 land with the appropriate state and county land use
18 designation is often subjected to undesirable
19 private land speculation and uncertain development
20 schedules,' close quote, and that, quote, 'such
21 speculation and untimely development inflates the
22 value of land, increases development costs, and
23 frustrates federal, state, county, and private
24 coordination of planning efforts, adequate funding,
25 public services, and facilities,'" close quote.

1 So the reason why I'm asking these follow-
2 up questions is basically so that, you know, we
3 carry out our obligations under -- you know, under
4 the Bridge Aina Lea case and the statute.

5 So let me first ask you this. Mr. Simon,
6 you made reference to the decision and order
7 regarding 2022 status report hearing, which was
8 filed in this docket on December 8, 2022. Looking
9 at that document, did you see any statement in that
10 document, the decision and order, which you believe
11 is erroneous, misstated, or really shouldn't be
12 there in that document?

13 **MR. SIMON:** I've absolutely read the
14 document. I've read, you know -- I've gone through
15 it. I think nothing comes to my mind at the moment.
16 You're a fellow attorney, so you can always, you
17 know, nitpick a little deeper when you need to. So
18 not off the top of my head. I believe it's an
19 accurate portrayal of what occurred at the November
20 2nd, 2022 status report.

21 **COMMISSIONER OKUDA:** Yeah. Okay. I just
22 wanted to know if something just popped out of the
23 document, so just so that, you know, if we're kind
24 of reading literally off the same page.

25 Okay. You know, this is a reference to

1 paragraph 28(a), and it's a statement here, and I
2 quote, "When the petitioner accumulates enough
3 donations and revenue generated, the petitioner will
4 then enter contracts for construction." Okay. So
5 my questions deal with that reference in the
6 decision and order. And anyone on your team can
7 answer the question.

8 Will the EIS include some type of
9 spreadsheet, budget projection? I'm not an
10 engineer, so I don't know whether the term is really
11 correct about like, you know, like critical path
12 analysis.

13 Is there some kind of evidence or bunch of
14 evidence which will show what the projected
15 donations and revenue are projected to be generated
16 over a specific amount of time and kind of reference
17 to the amounts of that are going to be anticipated
18 to be entered or spent for the construction, just so
19 that when we use the EIS as a decision-making tool,
20 we can really tell whether or not this project is
21 going to be financially viable and what the
22 benchmarks are or whether it's not financially
23 viable and so then we're going to be starting to
24 look at this admonition of the Hawaii Supreme Court
25 saying, hey, you know, we got to do more than just

1 simply take people's word. We have to have
2 admissible evidence to back up the decision.

3 **MR. SIMON:** Thank you, Commissioner Okuda.
4 The content requirements under Chapter 343 and the
5 implementing regulations don't generally address
6 this issue. At the status report in November 2022
7 was requested that construction cost estimates be
8 included, and we've committed to that.

9 We have not -- it does not at the moment
10 include projections as to financing or fund-raising
11 options. You know, the EIS is an environmental
12 disclosure document. It's not -- it doesn't approve
13 a project. It's a document the commission would use
14 to inform its decision on a motion to amend that
15 would actually approve this project.

16 You know, traditionally, that is usually
17 the time that the commission will look at things
18 like financial viability and stuff like that. You
19 know, the -- the posture of this docket is unique,
20 and I think we've always been very honest about
21 that, but again, from our point of view, we listened
22 to what the commission said back in November, and
23 that was request for a construction cost estimate by
24 phase, and we've included that.

25 **COMMISSIONER OKUDA:** Well, okay. And

1 maybe I shouldn't have limited, you know, or made it
2 seem like the requirement is that's in the EIS. My
3 question was just whether or not it would be in
4 there. But at some point, you do agree that -- or
5 at least I think, and you don't have to agree with
6 me, that I believe for us to exercise our duties
7 under the Bridge Aina Lea case, we're going to need
8 to see evidence that this case is not speculative.

9 And evidence, in addition to simply
10 testimony under oath that, you know, rely on us and
11 our good faith, I'm not saying anybody's lying or
12 anything like that, but we probably need hard
13 admissible evidence to, you know, determine
14 financial viability.

15 **MR. SIMON:** It has always been the
16 petitioner's expectation that that information will
17 be required by the commission. Again, in our mind,
18 that's something for the commission to consider on a
19 motion to amend to update the docket as opposed to
20 environmental disclosure -- environmental impact
21 statement.

22 **COMMISSIONER OKUDA:** Okay. And let me
23 just kind of follow up on another point that was
24 raised in the questioning here and the testimony
25 here. And my question deals with what's going on on

1 the land, which is subject to this petition and the
 2 land which is going to be covered by the EIS.

3 So are there dwellings or structures
 4 presently existing on the land that is going to be
 5 covered by the EIS?

6 **MR. SIMON:** There are no dwellings on the
 7 petition area --

8 **COMMISSIONER OKUDA:** Or structures or any
 9 kind of structure.

10 **MR. SIMON:** Yeah. So I want to be very
 11 clear about the dwelling portion. There's no
 12 dwelling. There's nobody living on the petition
 13 area. There are agricultural structures that are
 14 part of the agricultural part. Some of those are
 15 shown in the photographs taken by staff back in, I
 16 believe, April.

17 Those were constructed under the
 18 understanding that they were exempt agricultural
 19 structures that HRS 486.88, I believe, provision of
 20 the -- you know, the enabling statute for zoning, of
 21 exemptions for certain agricultural structures. And
 22 that is -- in the university's mind, those are
 23 compliant. But again, that's something that the
 24 university certainly is happy to engage with the
 25 county on.

1 **COMMISSIONER OKUDA:** Okay. Well, and that
 2 leads to my follow-up question. First of all, the
 3 structures -- and I shouldn't have used the word
 4 "dwelling" because that has a specific legal
 5 definition, so strike my question as to dwelling.

6 Let's just use the term "structure,"
 7 meaning whatever's actually existing now on the
 8 property which basically didn't grow out of the
 9 ground or wasn't like a geologic formation, okay?

10 So regarding structures on the property,
 11 were all those structures constructed by a licensed
 12 contractor or someone who was a bona fide employee
 13 of the licensed contractor?

14 **MR. SIMON:** I cannot myself speak to that,
 15 but Mr. Waddle may, and he may not.

16 **MR. WADDLE:** Most of the existing
 17 structures are there but prior to my timeframe here,
 18 so I don't know the answer to that question. I know
 19 that when they've done some projects, typically the
 20 staff has a -- well, the RME, you know, from KJ Walk
 21 is on staff, so I just don't know how engaged or not
 22 engaged they were.

23 Most of those structures are less than 600
 24 square feet and are all ag-related. Like, for
 25 example, I know there's like a chicken coop, and

1 there's a few canopies that cover an aquaponics, so
2 they're insignificant structures that I'm aware of.
3 But I don't -- I wasn't around when they were
4 constructed, so I don't know the answer to that.

5 **COMMISSIONER OKUDA:** Okay. Well, not to
6 be too nitpicky, but Chapter 444 doesn't contain an
7 insignificant exception to the requirements. And so
8 -- but let me just get back to this.

9 So you can't tell us one way or the other
10 whether or not these structures were constructed by
11 a licensed contractor or a bona fide employee of a
12 licensed contractor, correct?

13 **MR. WADDLE:** I can't. I can find it out
14 for you. I don't know that answer right now.

15 **COMMISSIONER OKUDA:** Okay. And right now,
16 because I don't want to belabor this point, but no
17 one sitting here in the room today can answer that
18 question whether or not the structures were
19 constructed by a licensed contractor or a bona fide
20 employee of a licensed contractor, correct?

21 **MR. SIMON:** I do not believe anybody here
22 can answer that. Again, we're more than happy to
23 provide additional information on that.

24 **COMMISSIONER OKUDA:** Has -- has anyone
25 from the County of Hawaii given any type of approval

1 of these structures, including a building permit or
2 a certificate of occupancy or a statement, either
3 oral or written, telling you or anyone on your team
4 or anyone part of the university that these
5 structures are acceptable?

6 **MR. WADDLE:** We had a review by the
7 building department starting in 2020 of every
8 structure on campus, including the 60 acres. And in
9 that review, some structures were deemed to be
10 unpermitted. And so I think they were originally
11 structures that were made for temporary
12 construction, protection of lumber and et cetera
13 that got repurposed.

14 So the campus -- and I was on staff then
15 in 2020. So the county rep for the building
16 department looked at everything on the farm and on
17 the existing campus. We made a very thorough list
18 and the campus has removed every building that was
19 in question that was repurposed that may be started
20 as a temporary construction protective covering, and
21 it got repurposed to something else. So campus was
22 like 110 percent committed to complying with
23 everything the county had asked at that point in
24 time.

25 There was a conversation about the

1 dwellings in the -- not dwellings, the structures in
2 the farm area, and conversation was basically, hey,
3 they are under a hundred square feet. They're ag
4 purposes and don't require permit -- 600 square
5 feet, sorry. But all of that was pretty much in
6 email, so I don't know of any specific document that
7 took them off of the list, per se.

8 **COMMISSIONER OKUDA:** So perhaps, some of
9 the structures, in your view, still might not be
10 compliant with the requirements of the County of
11 Hawaii?

12 **MR. WADDLE:** On -- in the farm area, I
13 don't know of any that aren't compliant with that
14 code, you know, of being -- not requiring a permit
15 if they're less than 600 square feet.

16 **COMMISSIONER OKUDA:** Okay. Well, just so
17 that I'm clear, and I promise you this is my last
18 question, so right now, anyway, is it your position
19 -- when I say, "your position," I mean the
20 university's position, your group's position that
21 you are totally compliant with county requirements
22 regarding the structures on the property, or you're
23 not totally compliant, or you don't know?

24 **MR. WADDLE:** I think it would be a little
25 bit of a blend. As far as the farm is concerned,

1 I'm not aware of any structures that are not
2 compliant. Our position with the county's always
3 been 110 percent cooperation, and so if they have
4 come up with something that they deem is not
5 compliant, we will make it compliant. You know,
6 we're 100 percent committed to that. But I'm not
7 aware of any of the structures in the farm that have
8 that status.

9 **COMMISSIONER OKUDA:** Okay. Because,
10 again, just so that I can frame the basis of my
11 question, you know, there was once a fire in Palolo
12 Valley, kind of like down the hill from where I
13 live, and someone died in the fire. And there was a
14 big -- not a big, but a significant claim being made
15 that, you know, this was not clearly a permitted
16 structure, and that led to an injury. And I want to
17 make sure that we, on the Land Use Commission, are
18 exercising our due diligence to make sure that, you
19 know, we have compliance with the law.

20 We can all disagree about whether certain
21 requirements make sense or not make sense, but as
22 long as the legislature and the applicable
23 administrative agencies, whether it's the county or
24 the contractor's licensing board, have these legal
25 requirements, we on the commission are duty-bound to

1 carry it out.

2 Thank you, Mr. Chair. No further
3 questions.

4 **CHAIR GIOVANNI:** Thank you, Commissioner
5 Okuda.

6 We'll take an eight-minute break and
7 resume at 10:15.

8 **(Recess taken from 10:07 - 10:18 a.m.)**

9 **CHAIR GIOVANNI:** Okay. Back on the record
10 at 10:18. Is the recording in progress? Thank you,
11 Ms. Kwan.

12 Commissioners, additional questions for
13 the petitioner?

14 Commissioner Lee?

15 **COMMISSIONER LEE:** Thank you, Chair. For
16 the petitioner, Mr. Simon, for this project in the
17 past or in the future, have the funds used to
18 construct the project been derived to an extent,
19 either directly or indirectly, from public
20 resources, public funds, grants, bonds, things like
21 that?

22 **MR. SIMON:** No funds of that nature,
23 Commissioner.

24 **COMMISSIONER LEE:** Thank you.

25 **MR. SIMON:** Thank you, Commissioner.

1 **CHAIR GIOVANNI:** Thank you.

2 Commissioners?

3 The Chair has a few questions. I'd like
4 to start with your annual reports to the commission
5 on the status reports. Can you remind the
6 commission when those are due or scheduled?

7 **MR. SIMON:** I believe the date is August
8 8th on a yearly basis. What did I say -- the
9 anniversary of the 2003 decision and order. I may
10 be off by a day or two, but I believe -- I have
11 August 8th.

12 **CHAIR GIOVANNI:** And the one that was due
13 last August we received several months later, is
14 that correct?

15 **MR. SIMON:** I mean, I may have a copy
16 right here. Let me -- I don't want to give you the
17 wrong answer. It is -- the one from 2022 is file
18 stamped by the commission August 8th, 2022.

19 **CHAIR GIOVANNI:** Okay. So the next one is
20 due?

21 **MR. SIMON:** August 8th, 2023?

22 **CHAIR GIOVANNI:** Okay. So I was -- the
23 Chair would like to encourage you to put a lot more
24 detail in your report in a couple of areas, and I'm
25 addressing the general concerns that you may be

1 hearing from commissioners here today.

2 One is I'd like to -- do you have a budget
3 for the project, for the build-out of the project, a
4 general budget, high-level, how much is it going to
5 cost?

6 **MR. SIMON:** We do, and that will be
7 included in the EISs, as we committed --

8 **CHAIR GIOVANNI:** Do you have a preliminary
9 number you can share just so we can -- is it a
10 breadbox or fire truck or a --

11 **MR. SIMON:** Let me see if I have that. I
12 should have that. Just give me one second. I want
13 to save Mr. Waddle another trip up here, but I need
14 him here in a sec.

15 **CHAIR GIOVANNI:** Okay. Take your time.
16 Here comes Mr. Waddle.

17 **MR. SIMON:** He's not going to tell you,
18 but he's going to give to me -- hold on. I have --
19 do you want a phase-by-phase breakdown?

20 **CHAIR GIOVANNI:** Sure.

21 **MR. SIMON:** So general contractor
22 estimated cost for phase 1 is just slightly over \$31
23 million. Phase 2 is just -- my apologies. Let me
24 give you some figures, and then we can explain them.

25 Phase 1 is just over 20 million for phase

1 1. Phase 2 is just slightly over 50 million. And
2 phase 3 is about 85 million. And so those estimates
3 I just provided include adjustments for volunteer
4 labor.

5 **CHAIR GIOVANNI:** Which leads me to my next
6 question. What percentage of the 155 million is
7 volunteer labor?

8 **MR. SIMON:** That is an adjusted number.
9 So the actual cost without the volunteer labor is
10 about -- the total for the project is 267 million.

11 **CHAIR GIOVANNI:** So you have a \$267
12 million project of which 112 million would be
13 volunteer labor?

14 **MR. SIMON:** I think it's just slightly
15 below that number, but --

16 **CHAIR GIOVANNI:** Here comes Mr. Waddle
17 again.

18 **MR. SIMON:** Yeah. He's saving me time.

19 **MR. WADDLE:** In doing the forecast for the
20 budget on this, using some actual cost updated
21 square foot budget, obviously, it's a concept
22 estimate right now.

23 **CHAIR GIOVANNI:** Sure.

24 **MR. WADDLE:** Historically, the campus has
25 saved approximately 40 percent in a project, and

1 where that's derived from is we have a contractor
2 who typically has no overhead in profit expense or
3 charge to the campus, so volunteer, and so they're
4 not charging a proper margin, and we're experiencing
5 the same thing on each subtrade level.

6 So we may experience an overall -- and
7 even on the architectural side, so when you look at
8 hard cost, soft cost, you know, for a project, we've
9 got a volunteer architect. We've got a volunteer
10 contractor and subtrades that are not charging their
11 percentage, so by the time we accumulate all that
12 and then supplement on the labor side, we have an
13 overall experience of about a 40 percent savings.

14 Obviously, not all of that's just because
15 of labor. In fact, a majority of it is non-labor
16 but markup fees and et cetera and general
17 conditions.

18 **CHAIR GIOVANNI:** And what is the
19 preliminary schedule to complete phases 1, 2, and 3?
20 In other words, is this --

21 **MR. WADDLE:** It's a 30-year project.

22 **CHAIR GIOVANNI:** Okay. So do you have a
23 breakdown on the phases?

24 **MR. WADDLE:** I don't other than just in my
25 head, honestly.

1 **MR. SIMON:** And I think Jeff or I could
2 speak to this as well.

3 **MR. WADDLE:** Okay.

4 **MR. SIMON:** I believe the current phasing,
5 the phase 1 is projected to be about a five- to ten-
6 year phase. And both phase and 2 (sic) of the
7 subsequent phases are projected to be about ten-year
8 phases, each.

9 **CHAIR GIOVANNI:** And that's all delineated
10 and described in the draft EIS?

11 **MR. SIMON:** That's correct. And I will
12 note that the figures Tom is giving -- Mr. Waddle's
13 giving are pretty consistent with the 2020 estimates
14 we provided at the July 2020 status report. So
15 there's been some changes, but the costs have not
16 gone up.

17 **CHAIR GIOVANNI:** So in my head, and I'm
18 just doing some quick math, as you were, Mr. Waddle,
19 but that equates to a volunteer contribution that's
20 very significant, and the commission understands
21 that it's probably critical to the overall success
22 of the project.

23 But the \$112 million of savings due to
24 volunteerism, I mean, the rough number I would use
25 in my own head is about \$100,000 a year for

1 volunteer working full-time, depending on the
2 volunteer. That's 1,120 man- years of volunteerism
3 that would be contributing to this project. That's
4 an enormous amount, so I hope you can appreciate
5 that where the commissioners are coming from, with
6 an effort of that magnitude, 1,120 man-years of
7 volunteer labor equivalent, somebody's going to get
8 hurt. We want to make sure that protections are
9 there, the procedures are there, all right?

10 **MR. WADDLE:** Yeah.

11 **CHAIR GIOVANNI:** So we're going to be
12 looking a lot closer to that. And one of the things
13 I'd like to ask -- this is kind of a related
14 question -- is about your bookkeeping. Do you keep
15 track of the efforts, the volunteer labor hours and
16 the eight labor hours that are used for this
17 project?

18 **MR. WADDLE:** We make an attempt to do
19 that. It's not as good as I'd like it to be, but we
20 do have those -- we do keep track, yeah.

21 **CHAIR GIOVANNI:** Let's say just
22 hypothetically, let's say I'm a volunteer. I'm very
23 interested in helping you. How does that work?

24 **MR. WADDLE:** Yeah. We -- I'll give you an
25 example.

1 **CHAIR GIOVANNI:** A hypothetical example,
2 yeah.

3 **MR. WADDLE:** Yeah, okay. We have a --
4 there's a friend of the campus who's a contractor in
5 Kansas City, and he brings a team over twice a year.
6 And there's about 20 of them, approximately, maybe
7 25, and they stay two weeks. And so we exchange
8 room and board, you know, for their stay. We
9 obviously organize the work at hand.

10 Then they may have some electricians that
11 are hanging drywall because we're hanging drywall in
12 that two-week period of time, so it requires a lot
13 of flexibility on the behalf of those who are
14 volunteering. Some of them are giving up their
15 vacation time. Some are retired. Some are between
16 jobs. It's just all over the map.

17 When I was on campus in the '80s, for
18 example, we had up to a hundred people at a time
19 from different nations. Not all of them even spoke
20 English. OSHA safety is always number one, and so
21 on the supervisory level we not only have to have
22 materials and tools and et cetera but all the safety
23 equipment and supervisory staff to oversee the work
24 in whatever capacity it might be in. I'm not sure
25 that answered your question, but --

1 **CHAIR GIOVANNI:** It kind of answers the
2 question on how you get the people to show up, but
3 it doesn't address my earlier question of how you
4 keep records of who's doing what.

5 **MR. WADDLE:** Oh, okay. We keep track of
6 how many show up and where they're staying and how
7 long they're staying and the like, the day-to-day
8 like what would be a daily log, basically. We
9 haven't been as diligent as we could be on that in
10 terms of, okay, we've got three guys hanging
11 sheetrock today and ten framing or whatever. That's
12 not as diligent as it could be.

13 **CHAIR GIOVANNI:** That's the notion that I
14 think we're taking, and we're encouraging you to be
15 a whole lot more diligent as you go forward with the
16 project of this magnitude. And I would imagine the
17 county would be interested in that diligence as
18 well.

19 Can you describe in greater detail what
20 you mean by the word "oversee"? When you have a
21 licensed contractor that oversees these volunteers
22 that show up by the tens, hundreds for weeks at a
23 time?

24 **MR. WADDLE:** Sure. Yeah. Just use my own
25 experience to try and answer that. When I was on

1 staff and we had up to a hundred volunteers at a
2 time, we had a staff of maybe ten. I wore the
3 superintendent hat. We had a staff who was the
4 foreman for the framers. We had a staff person who
5 was the foreman for the cabinet -- the finish
6 carpenters, a staff person/foreman for the plumbing
7 and electrical and site work and heavy equipment and
8 et cetera.

9 **CHAIR GIOVANNI:** So were all these staff
10 people you're referring to, are they licensed
11 contractors, or are they volunteers?

12 **MR. WADDLE:** They were all -- some were
13 licensed. Some were volunteers. And this was back
14 in the '80s, you know, keep in mind. But we had
15 licensed contractor doing the work, and -- which was
16 not uncommon back then and for general contractors
17 to do a lot of work in-house, and so they'll have
18 their own foreman, you know, leading the framing
19 crew or whatever the case may be.

20 So in each case, the volunteer was -- was
21 overseen by what would be a working foreman in
22 whatever the trade might be.

23 **CHAIR GIOVANNI:** So the general concern --
24 as you earmark on a \$250 million project over the
25 next 30 years, the general concern that you're

1 hearing from the commission is that you're getting
2 someone who happens to have a license, to use that
3 license to pull permits, and you start the work.
4 And he's graciously saying, you can use my license.
5 I'd be happy to oversee the project, but you get
6 your band of volunteers to do all the work and just
7 manage yourself.

8 **MR. WADDLE:** I see what you're saying.

9 No.

10 **CHAIR GIOVANNI:** And that's what it looks
11 like, to some of us, might be the case, and that's
12 what we're trying to avoid, and I think the county
13 would like to avoid that as well.

14 **MR. WADDLE:** Oh, I couldn't agree more.
15 Yeah, and that isn't the case of what we implement.

16 No. We -- it's not a scenario where the license
17 holder says, hey, you know, go after volunteers.

18 No. We have a staff that is responsible for
19 overseeing every volunteer, what they do, how they
20 do it, when they do it, OSHA-compliant, the whole
21 nine yards, yeah.

22 **CHAIR GIOVANNI:** And so what I encourage
23 you to do and what this commission will be looking
24 for as part of your annual reports is documentation
25 that's actually being implemented accordingly.

1 **MR. WADDLE:** Yeah, yeah. We can do that.

2 **CHAIR GIOVANNI:** That's what we'd
3 encourage you to do that.

4 **MR. WADDLE:** That's a good idea. And it's
5 consistent with our practice, too, so we'll make
6 sure and provide that.

7 **CHAIR GIOVANNI:** So our staff was able to
8 make a site visit on, I think it was, April 12th,
9 2013, not just a short time ago. Unfortunately, I
10 couldn't attend that site visit, but I have seen the
11 photographs, copies of them, but before some of
12 those what have been referred to as agricultural
13 structures or temporary structures.

14 I certainly hope that the -- all of the
15 work that goes forward for this \$260 million is not
16 reflected in these temporary structures, if you know
17 what I'm trying to say.

18 **MR. WADDLE:** Yeah. We -- I wasn't aware
19 of the visit, and I -- I would have really have
20 welcomed the opportunity to show staff and the
21 counsel all of the work we actually have done.
22 We've just finished and are waiting for a CO on a
23 40,000 square foot, you know, classroom buildout,
24 and we've got almost 400,000 square feet of campus,
25 you know, structures that are pretty -- that are

1 quite well built and all by this process. So we
2 certainly welcome another visit so we can set the
3 record straight versus what may be the experience
4 you had while there.

5 **CHAIR GIOVANNI:** We'll accept that
6 invitation and look forward to it.

7 **MR. WADDLE:** Yeah. That would be great.

8 **CHAIR GIOVANNI:** I'm going to leave it
9 there. Thank you.

10 Commissioner Cabral?

11 **COMMISSIONER CABRAL:** Yeah. Don't leave
12 yet. I don't know who the right person is, but I --
13 the -- my business in property management, I deal
14 with a lot of contractors, a lot of vendors of
15 varying degrees and skills. And even I deal with
16 volunteers in homeowners' associations and that who
17 want to have their own little "we'll fix it up
18 ourself" party.

19 And all of additional information makes me
20 extremely concerned because I know that I cannot
21 compensate anyone more than \$1,500 for any work that
22 they do, and I cannot compensate them with a cash on
23 top of the table, under the table, or even a free
24 trip to Hawaii to have them do that work. Okay?

25 So I'm really concerned, and obviously the

1 organization has done this all over the world, all
2 over the other states. We're here in the regulated
3 empire of Hawaii, where if you look at this, and I'm
4 really concerned because if I can't do it and
5 maintain, my homeowners, as volunteers, can't do
6 some of these things, and it's clear that even in
7 these makeshift structures that are all over the
8 property, there's electrical wires running overhead
9 and lights and all type of things, and there's water
10 hoses so there's plumbing coming in from somewhere,
11 so I wasn't there, so I don't know, but I am
12 extremely concerned that you're setting yourself up
13 with this volunteerism and stuff, that it's going to
14 be in violation of the contracting laws in Hawaii.

15 And then in Hawaii County, absolutely, you
16 have to have a licensed plumber to do everything,
17 plumbing, everything, and a licensed electrician to
18 do everything. I mean, I personally can change the
19 outlets and the light fixtures and have done it in
20 my own home, but I cannot go do it anywhere else.
21 So -- right, Jeff? I can't do that?

22 And I can't even -- you're not even
23 supposed to change the toilet guts in your toilet,
24 you know, at somebody else's place. So I am very
25 concerned over this plan moving forward to say this

1 \$100 plus million based on volunteers that -- to me,
2 that million sounds like it's more than \$1,500, so
3 I'm concerned. Okay? That's -- I don't know what
4 else to say, and I -- but you better have the
5 lawyers check with it because it --

6 The other thing is, too, you're right
7 here, you're going to be under open site -- I get
8 reported to agencies if they think I do it wrong, I
9 mean, you know? Because it -- you're going to have
10 other contractors. If they're not busy enough, they
11 might be looking at what you're doing to report you.
12 And also neighbors, you know? Again, it's the
13 regulated -- we respond to every complaint and --
14 right, from every griper in town.

15 I can say these things now I'm on my way
16 out, but you know -- so I'm very concerned about how
17 the plan to move this project forward is built on
18 quicksand. That's my concern. Thank you. It
19 wasn't in a question. Sorry. I'll let you have an
20 answer if you have an answer.

21 **MR. WADDLE:** I do have one comment, and
22 I've worn a property management hat before as well,
23 so I understand exactly your experience. The campus
24 does have two distinct entities. One's for
25 maintenance and one's for new work. The maintenance

1 would be like any other school maintenance
2 department. Oh, you know, we've got to replace this
3 toilet. We've got a leak in the roof. Let's bring
4 out the roofing subcontractor.

5 We have our own volunteer staff to do
6 whatever is possible to do. And there's a line in
7 the sand when there's anything that is of substance,
8 that we bring in a licensed electrician, especially.
9 So -- but anything on the permit side is like 110
10 percent compliant with contract law. So that's our
11 commitment, and that's been our practice. We're not
12 perfect at it. We're trying to get better. But I
13 understand those concerns and certainly agree with
14 them, yeah.

15 **COMMISSIONER CABRAL:** Well, the concerns
16 coming up with all this financial, plus this long
17 track record of things shifting all the time, you
18 know. And then -- and that's our job is to try and
19 make sure that projects moving forward at least
20 start in a right direction, okay?

21 **MR. WADDLE:** Yeah.

22 **COMMISSIONER CABRAL:** And this has already
23 changed channels a few times, so it's a really big
24 concern. But since I'm just commenting, you know,
25 it's a really valuable piece of property you have

1 there that you folks have owned for a long time.

2 I don't know -- you should look at -- I'm
3 in real estate. I can help you sell that for a lot
4 of millions, and then go buy less expensive property
5 somewhere that would be easier to develop. It might
6 still be ag, but you already know how to get ready
7 for that to come to us. But you know, up like where
8 the new county buildings are and all of those
9 others, there's a lot of structures in different
10 areas now that the whole -- everything's kind of
11 moving north. The land has still got --
12 everything's got a slope, but your piece of property
13 is very challenging. I mean, you know, you might
14 look at that math. That might have some positive
15 numbers for you. Anyway, thank you very much for
16 indulging me.

17 Thank you.

18 **CHAIR GIOVANNI:** Thank you, Commissioner.

19 Anything further? Commissioner Okuda.

20 **COMMISSIONER OKUDA:** Yeah. To Mr. Simon,
21 it's really up to you what you want to include in
22 your status report or not. But you might consider
23 addressing the issue about the aiding and abetting
24 statute. And just so that it's clear on the record
25 what it says, I'm citing or quoting from HRS Section

1 444-9.3, which is titled "Aiding and Abetting."

2 And this is what section 444-9.3 states,
3 and I quote, "Aiding or abetting an unlicensed
4 person to evade this chapter or knowingly combining
5 or conspiring with an unlicensed person or allowing
6 one's license to be used by an unlicensed person or
7 acting as agent or partner or associate or otherwise
8 of an unlicensed person would be intent to evade
9 this chapter, shall be a misdemeanor and may be
10 subject to -- and may subject the licensee to
11 additional discipline by the board," close quote.

12 So you might consider addressing those
13 concerns that we raised in your status report, but
14 it's really up to you what you want to do.

15 **MR. SIMON:** Absolutely, Commissioner.

16 Your point is well taken. The issue's been raised.
17 It's --

18 **COMMISSIONER OKUDA:** Okay. Thank you very
19 much.

20 **MR. SIMON:** Thank you very much.

21 **CHAIR GIOVANNI:** Thank you.

22 Commissioners, anything further directly
23 for the petitioner at this time? You'll get another
24 opportunity.

25 Okay. So let's -- thank you very much.

1 We'll shift gears to the county for a presentation
2 on the record.

3 **MS. TIAPULA:** Good morning. I think I'll
4 offer our deputy director, Mr. Darrow, an
5 opportunity to address you.

6 **CHAIR GIOVANNI:** Thank you.

7 Mr. Darrow, please proceed.

8 **MR. DARROW:** Thank you, Mr. Chairman.

9 Good morning, Members of the Land Use Commission.

10 The county continues to support the
11 project. The project is located within the Kona
12 urban area. The proposed request of this amendment
13 to the state land use boundary amendment is
14 supported. We are anticipating the submittal of the
15 draft EIS so that we can review. We appreciate
16 commissioners' comments this morning regarding all
17 areas that were spoken about.

18 In regards to the issue of structures that
19 has been talked about this morning, the Planning
20 Department, to my knowledge, has not received any
21 type of complaint for the activity on the property.

22 Just from personal experience working with
23 our inspectors as well -- it's inspectors from the
24 Department of Public Works. We do receive
25 complaints on a pretty regular basis for structures

1 within the agricultural district, whether it's state
2 land use or county. And there are many times that
3 these structures are falling under HRS 46.88, which
4 is an exemption clause from the building permit
5 process. Our county does have a simple declaration
6 form that is needed to be submitted in regards to
7 those. But it does exempt from the overall building
8 permit process.

9 Again, the county has no further comments.
10 We are in support of the request. Thank you.

11 **CHAIR GIOVANNI:** Thank you, Mr. Darrow.

12 Questions?

13 Commissioner Okuda.

14 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.

15 Mr. Darrow, good to see you again. With
16 respect to the property, which is subject of this
17 hearing today, has that declaration which you
18 described been submitted regarding the structures on
19 the property?

20 **MR. DARROW:** Not to my knowledge, but if
21 it was submitted, it would be submitted to the
22 Department of Public Works, Building Division, and
23 not to the Planning Department.

24 **COMMISSIONER OKUDA:** So is it true or not
25 true that at this point in time, the county cannot

1 definitively tell us whether or not these structures
2 are, for lack of a better term, legal or illegal?

3 **MR. DARROW:** Correct.

4 **COMMISSIONER OKUDA:** Okay. Thank you very
5 much.

6 Thank you, Mr. Chair. No further
7 questions.

8 **CHAIR GIOVANNI:** I had the same question,
9 but can I ask from the other end. Mr. Simon, has
10 the petitioner ever submitted this form for the
11 exemptions for the structures that it has built?

12 **MR. SIMON:** I could speak to my personal
13 knowledge on that. I can also confer with -- I
14 think that these structures have been there for a
15 while. I don't know if everybody necessary to
16 answer that question's here with us. I know they
17 went through a detailed process with the county to
18 get other buildings in compliance. But you know,
19 they're 100 percent committed to doing the same
20 here. I just don't know the answer to your --

21 **CHAIR GIOVANNI:** Yeah. I think the
22 question is for the exempted -- the structures --
23 not for the permanent structures that you've dealt
24 with the county on, on the existing development, but
25 on the -- the specific land where you've in the

1 photographs of the temporary or agricultural
 2 structures, they've been given different names this
 3 morning.

4 Now we're hearing from the county that
 5 those could be exempted from permit, provided you
 6 file this form. And the county can't tell us,
 7 because Public Works is not here today, whether that
 8 form is on record. So I'm asking you to do your
 9 research. And in your August 8th annual report,
 10 please affirm or clarify the status of the process
 11 that you've gone through to get those structures
 12 exempted from the permitting process and erected.

13 **MR. SIMON:** Absolutely, Chair.

14 **CHAIR GIOVANNI:** Commissioner Cabral.

15 **COMMISSIONER CABRAL:** Yeah, thank you.

16 Sorry.

17 Mr. Darrow, is my understanding of those
 18 potential agriculture buildings that could be
 19 exempt, they would still require a permit and would
 20 not be able to be exempt from any type of permit if
 21 they were to have electricity coming to or servicing
 22 that building, and I'm not sure about the plumbing
 23 status, but am I correct on the electrical?

24 **MR. DARROW:** Yes, you are correct. Once
 25 there's electrical or plumbing within that

1 particular structure, it triggers the need for a
 2 building permit as well as the electrical and
 3 plumbing permit.

4 **COMMISSIONER CABRAL:** Thank you.

5 **CHAIR GIOVANNI:** This is the Chair. So it
 6 does appear from the photos that some of those
 7 structures have both plumbing and electrical. So
 8 just look to get the situation clarified on a going-
 9 forward basis.

10 Again, Mr. Darrow, thank you for being
 11 here today. It's good to see you again. Can you
 12 explain a little bit for us, at the county, on a
 13 going-forward basis for the proposed structures, I
 14 know that we haven't seen the EIS, and you haven't
 15 seen the -- but starting with the submittal of
 16 construction drawings, the review and approval
 17 process, the issuance of permitted drawings and
 18 plans, who has the authority or the qualifications
 19 to receive them from the county and then proceed to
 20 implement?

21 And then what inspections, whether they be
 22 courtesy inspections or formal inspections are done,
 23 and then close out of permits. Just describe the
 24 process, soup to nuts, please.

25 **MR. DARROW:** Just for clarification,

1 you're asking mainly for the building permit
2 process? Okay.

3 **CHAIR GIOVANNI:** Yeah. Not the temporary
4 structures here. We're talking about a real
5 permanent building.

6 **MR. DARROW:** We're not talking about, you
7 know, once the state land use boundary amendment is
8 approved, a zoning process. We're talking mainly to
9 a building permit.

10 Both the Planning Department and the
11 Department of Public Works have moved into an online
12 system. And it's called Epic. The contractor would
13 submit plans through Epic, which are reviewed
14 through the Department of Public Works, Building
15 Division, as well as electrical plans, plumbing
16 plans, and everything.

17 They have their set schedule for
18 inspections starting with, you know -- it -- they
19 may have to come in, which I would gather they would
20 come in first with grading or grubbing permits, so
21 they would come in and work through that process.
22 That would be reviewed and approved and inspected in
23 regards to the grading activity.

24 I would anticipate they would probably
25 work together concurrently submitting building

1 plans. During that time, once they begin
2 construction, they would have foreman inspections,
3 and then from there, there are several different
4 inspections as the construction goes vertical as
5 well as electrical and plumbing inspections.

6 Ultimately, it results in a final
7 inspection. I can't answer specifically how much
8 the building department or any of the inspectors
9 really takes a look at who is building and that
10 process. I think they mainly rely on the
11 contractors submitting the plans. Again, I'm just
12 not sure. I've never really looked into that
13 particular area of construction.

14 But I think moving forward, it's something
15 that obviously all of us have learned something from
16 and including the petitioner, and I'm sure that
17 moving forward, that will be onboard and on track,
18 but hopefully that answers your question.

19 **CHAIR GIOVANNI:** Yeah. That answers most
20 of it. Thank you for that, and I know it's a
21 complicated process. The one part you kind of
22 skipped over, intentionally or unintentionally, but
23 if construction plans are developed by, let's say,
24 an architect who submitted -- we're talking vertical
25 construction now. I presume those can be submitted

1 by an architect.

2 But once they're reviewed and approved and
 3 stamped by the county, does it require a licensed
 4 contractor to receive those drawings -- to receive
 5 the permit directly?

6 **MR. DARROW:** My understanding for
 7 commercial structures such as this, it would. There
 8 is different allowances for homeowners, but in this
 9 particular case, my understanding it would be a
 10 contractor, a licensed contractor.

11 **CHAIR GIOVANNI:** A licensed contractor?

12 **MR. DARROW:** Correct.

13 **CHAIR GIOVANNI:** Right.

14 **MR. DARROW:** And the plans are normally
 15 submitted by architects. Yeah.

16 **CHAIR GIOVANNI:** All right. So the
 17 license -- so you -- the architect does his job.
 18 You do your job. The licensed contractor shows up,
 19 pays the fee, and signs out, and he can go to work?

20 **MR. DARROW:** Right.

21 **CHAIR GIOVANNI:** Now it's up to them to
 22 implement the work --

23 **MR. DARROW:** Yeah.

24 **CHAIR GIOVANNI:** -- with the presumption
 25 that it will be performed by licensed contractors or

1 qualified contractors, all qualified personnel, I'll
2 say, subject to inspections and then improvements --

3 **MR. DARROW:** Yeah. And again, I'm unclear
4 as to the allowances in regards to, you know, who
5 works on the project and those kind of things, but
6 obviously, I've learned a lot today from --

7 **CHAIR GIOVANNI:** Yeah.

8 **MR. DARROW:** Yeah.

9 **CHAIR GIOVANNI:** And the reason that we're
10 zeroing in on it, you're talking about a, you know,
11 200 -- a quarter-of-a-billion-dollar project of
12 which 40 percent is done by temporary volunteers
13 that come here two weeks at a time, as an example.

14 **MR. DARROW:** Yes. You know, just add onto
15 that they have to pass each of these inspections,
16 and I know from -- and I'm sure others know, it's
17 not an easy process to pass a building inspection or
18 an electrical or a plumbing inspection. They are
19 very, very thorough. Some of them, I mean, to the
20 point that they measure the distance between nails.
21 I mean, it gets a little crazy, but --

22 **CHAIR GIOVANNI:** Yeah.

23 **MR. DARROW:** So, I mean, I think when it
24 comes to the inspections, they're looking at the
25 product. I don't know, again, how much they look at

1 the actual labor. I think they, again, rely on
2 who's there at the inspection and who's responsible,
3 who's submitted those plans. Ultimately, they're
4 responsible.

5 **CHAIR GIOVANNI:** I agree. That's the way
6 it is.

7 Yes?

8 **MS. TIAPULA:** I might also add that for
9 the next meeting of Land Use Commission, if the Land
10 Use would like to invite Department of Public Works,
11 we could invite them to this forum to explore in
12 better detail how the work is actually supervised,
13 the actual labor.

14 **CHAIR GIOVANNI:** I think that's a great
15 suggestion for this particular docket -- for this --
16 you know, as this docket continues and comes back
17 before us, I think that Department of Public Works
18 should be welcome.

19 **MS. TIAPULA:** And we would share the
20 concerns that have been expressed today with the
21 department, so that the staff -- the individual
22 attending that meeting is able to respond to your
23 concerns.

24 **CHAIR GIOVANNI:** Yeah. I think we all
25 want the same thing, including the petitioner, the

1 county, and the State Land Use Commission. We want
 2 good plans. We want them executed appropriately and
 3 according to the law. That's all we want. Okay.

4 Anything further, Commissioners?

5 Okay. Thank you, county.

6 State?

7 **MS. KATO:** Thank you. Alison Kato for
 8 OPSD. Similar to the last November, we're still in
 9 the EIS phase, but it appears that petitioner is on
 10 schedule with respect to the DEIS. Based on the
 11 presentation, the DEIS appears to include many
 12 updated pieces, and OPSD looks forward to receiving
 13 a copy for their review and comment.

14 Regarding changes to the master plan, the
 15 elements that benefit the larger community appear to
 16 be either maintained or improved with respect to
 17 access. And we hope that petitioner continues to
 18 take care with respect to community outreach and
 19 addressing concerns and impacts to the community.

20 We appreciate the concerns raised today,
 21 and we also hope to see a more detailed annual
 22 report regarding petitioner's status. Thank you.

23 **CHAIR GIOVANNI:** Thank you.

24 Commissioners, questions for OPSD?

25 Commissioner Okuda.

1 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.
2 Ms. Kato, again, it's really up to you what follow-
3 up you'd like to do, but if I can ask, if you find
4 it reasonable, if you can consult with your
5 counterpart over at the DCCA specifically, either
6 the regulated industries complaint office or the
7 contractor's licensing board, to see whether or not
8 this type of use of volunteer labor in the matter
9 that has been described at today's proceeding
10 creates any issues of concern under Chapter 444.

11 So it would be either or both or someone
12 at the regulated industries complaint office of the
13 DCCA or the contractor's licensing board, or both.
14 Okay. Thank you.

15 **MS. KATO:** Okay. I'll do that. Thank
16 you.

17 **CHAIR GIOVANNI:** Commissioner Cabral.

18 **COMMISSIONER CABRAL:** I might want to
19 suggest if we could add to that list the employment
20 offices, too, because of the requirement with
21 workers' compensation and how exactly people might
22 -- that there are going to be regulations on what a
23 volunteer can or cannot do, and some of that might
24 even depend on how many feet in the air they can
25 work, you know, and things like that, how tall a

1 ladder a volunteer can go up.

2 So again, University of Nations of Kona
3 should be checking all of that, their legal
4 department in Hawaii, you know. It's not a
5 universal law, but on employment what happens with
6 the employment status and workers' comp to cover
7 somebody. And that's who I always have to deal
8 with, so I don't know where else you would go, but
9 that would be what I -- the state agency on that
10 might be able to provide some insight on. What we
11 need to also make sure is that they're going to be
12 in compliance moving forward. Okay. Thank you.

13 **MS. KATO:** I'll discuss with OPSD and see
14 if we can figure that out.

15 **COMMISSIONER CABRAL:** Thank you.

16 **CHAIR GIOVANNI:** Thank you.

17 Anything further? Okay. Thank you, Ms.
18 Kato.

19 So petitioner, any additional comments
20 you'd like to put on the record?

21 **MR. SIMON:** Yeah. I'll be brief. I do
22 want to thank the commission and staff for today.
23 It's not always fun, but it's a little pain here and
24 there, but I think it's good and it ensures that we
25 are all on the same page and avoids surprises down

1 the road. And so in that sense, I appreciate it,
2 and I know my client does as well.

3 You know, as Mr. Overton explained, I
4 think we're on track. We are on track to get the
5 draft EIS delivered as promised. We think it's a
6 good document, and we look forward to comments and
7 feedback on that.

8 We've heard the commission's concerns, a
9 number of them, both with respect to annual report
10 and then more information the commission would like
11 to see flowing in, as well as getting clarity on
12 some of these other issues related to volunteer work
13 and stuff. So with that, I just want to thank you
14 all for your time again.

15 **CHAIR GIOVANNI:** Thank you, Mr. Simon.

16 I didn't go into it in detail, but one
17 other area that was just briefly mentioned by Mr.
18 Overton had to do with the dormitories that will be
19 in the new plan, so we will wait and look forward to
20 that detail when we see the draft EIS. But that
21 whole idea of bringing in a temporary workforce and
22 exchanging them housing and where are you going to
23 put them in these dormitories, and workers,
24 students, volunteers, it's -- you know, we're aware
25 of the housing and visiting personnel crises in that

1 part of our state, so --

2 **MR. SIMON:** Absolutely.

3 **CHAIR GIOVANNI:** -- please put some detail
4 in on that.

5 **MR. SIMON:** Yes. Thank you, Chair.

6 **CHAIR GIOVANNI:** Commissioner Cabral?

7 **COMMISSIONER CABRAL:** Yeah. One more
8 thing, at some point in time, and I'm remembering
9 back to all these different hearings, so I can
10 clearly be confused, circuit overload, but at one
11 point there was affordable housing was going to be
12 provided as part of this project. Is that no longer
13 in the mix and I missed it, or is that in another
14 phase of this mix, or is that -- or did I
15 misremember it?

16 **MR. SIMON:** No. Let me -- I mean, there's
17 -- there's -- even going back to 2019, a lot has
18 happened, so let me try to help you understand a
19 little bit. The petition area was approved for the
20 district boundary amendment in 2003 for a market
21 rate kind of higher end condominium project, and
22 there was a cultural center and some campus
23 expansion as well.

24 That -- shortly after that, the university
25 realized that that really wasn't what they did.

1 They weren't commercial real estate developers in
2 the sense that they were developing stuff for market
3 sales, so there was -- there was an attempt in 2006
4 to come back and update the amended decision and
5 order to basically align with what -- similar to
6 what they're proposing now, which is actually just a
7 campus expansion so they can continue and expand
8 their ability to do what they do.

9 Fast-forward to 2019. The university came
10 before you and presented the commission with a new
11 updated master plan that they wanted to do. Similar
12 to what was presented in 2006, they wanted to expand
13 their campus and get rid of that market rate
14 housing. And that's sort of what's -- that,
15 starting in 2019 with that plan, that's kind of
16 carried forward to today.

17 We discovered that we triggered Chapter
18 343, have to go through the EIS process and whatnot.
19 As part of that, there's no more market rate housing
20 being developed. And so when -- when -- I think it
21 was in 2019 or 2020, we had discussion with the
22 county office of housing and provide them a copy of
23 our master plan, and they determined that the
24 dormitories don't trigger housing code.

25 You know, normally, residential

1 development will trigger the housing code. And the
2 reality, the dormitories are low-income housing. I
3 mean, the students at the university -- David could
4 speak to it, but I think that they're -- that
5 they're basically able to go to the university
6 through donations they received from family and
7 friends to allow them to go on that.

8 And I think the average donation that
9 enables them to do so is about \$15,000, and that's,
10 you know, more or less what they live on for the
11 year. The university is active in providing
12 affordable housing outside of this petition area
13 project. They renovated over 120 units immediately
14 next door at the Kamaaina Hale Housing Development.
15 I believe it was an HHFDC affordable housing project
16 that basically had fallen in disrepair. I think
17 something like 70 to 80 percent of the units had
18 become unrentable.

19 And so they took that over, and now I
20 think 127 units -- don't quote me exactly. It's
21 over 120 units are now back and occupied by people
22 qualifying for affordable housing.

23 So what happened in 2020 -- or at the
24 November 2022 status report, the -- the issue of
25 affordable housing came up as it should. It's

1 something that we need to discuss and talk through.
2 And the number of commissioners, including Chair,
3 you know, basically brought up the fact that by
4 expanding the campus you're bringing in more staff
5 and faculty. And so we need to look at what we can
6 do to help or at least ensure that that doesn't
7 impact or degrade the existing affordable housing
8 stock that's already, you know, under tremendous
9 pressure.

10 And so since November, it -- making some
11 refinements to the master plan, they added five more
12 dormitories specifically for long-term staff, so
13 that, you know, even though we're bringing -- as the
14 campus expands -- there's -- there's already more
15 dormitories for students but for the longer-term
16 staff that are actually going to be on the island
17 for more than a semester or a couple quarters,
18 they're going to have housing that will prevent them
19 from going out into the community and taking
20 affordable housing opportunities from others.

21 So that -- that's sort of our -- that's a
22 very long-winded way to try to address your
23 question, but I hope that was helpful.

24 **COMMISSIONER CABRAL:** So there's still --
25 that's still part of the mix, and we'll learn -- or

1 my fellow commissioners will learn more with all of
 2 the additional reports coming in?

3 **MR. SIMON:** The -- the additional dorms
 4 for people working for the university but not -- the
 5 master plan does not include, you know, offsite or
 6 onsite affordable housing for --

7 **COMMISSIONER CABRAL:** Outsiders.

8 **MR. SIMON:** -- for -- I don't want to say
 9 outsiders, but for members of the community meeting
 10 certain AMI thresholds.

11 **COMMISSIONER CABRAL:** Okay. Thank you
 12 very much for the update.

13 **MR. SIMON:** Thank you, Commissioner.

14 **CHAIR GIOVANNI:** Yeah, thank you,
 15 Commissioner, for bringing that up.

16 And Mr. Simon, for your response.

17 Anything further? Okay. It's time for
 18 our final round of public testimony, should anyone
 19 in the room wish to provide public testimony at this
 20 time. Please let us know.

21 Ms. Kwan, has anyone signed up for public
 22 testimony at this time?

23 **MS. KWAN:** No, Mr. Chair.

24 **CHAIR GIOVANNI:** Okay. Further discussion
 25 of the commission? So commissioners, this is a

1 status report. We're not required to take any
2 action at this time. And if no action is taken, the
3 requirement of the continued annual reports will
4 remain in effect, meaning that we'll see an annual
5 report on August 8th, 2023.

6 Also, we will expect that our staff will
7 receive the preliminary -- Mr. Overton's binders or
8 thereof at the end of the month to our staff on the
9 EIS. And we're hopeful that within 30 to 60 days,
10 subsequent to that, that the draft EIS will be
11 publicized. Is that -- is that correct, Mr.
12 Overton, in terms of a general schedule?

13 **MR. OVERTON:** (Inaudible) requesting
14 supplemental information. It may take some time,
15 but that's our understanding.

16 **CHAIR GIOVANNI:** Yeah. So the EIS process
17 has a life of its own, and it's good to see that
18 it's on track for the next critical step, so we'll
19 look forward to that. We can decide after seeing
20 your status report whether or not -- I mean, your
21 annual report -- whether or not we want you to come
22 and talk to us again in terms of a status meeting or
23 the like.

24 But let me open it to the commissioners.
25 If you feel that you have any concerns at this time

1 on the process that I've just outlined going forward
2 and you'd like to -- if your concerns have not been
3 sufficiently addressed, this is your opportunity to
4 ask for any specific actions you'd like the
5 commission to take.

6 Commissioner Cabral?

7 **COMMISSIONER CABRAL:** Everybody else
8 (inaudible).

9 **CHAIR GIOVANNI:** Nobody's talking. It's
10 all yours.

11 **COMMISSIONER CABRAL:** Okay. Well, it
12 could be my last action. I am -- over my years, I
13 get more and more concerned that these things just
14 test -- not -- it's everybody's fault. Let me blame
15 everybody. The bureaucratic procedures and the
16 timeframe involved with this just drags all of this
17 stuff out, and I think I am -- and clearly, some of
18 this is -- the environmental impact statements
19 through June 30th and we're here on the 22nd, and
20 we're going to have it on June 30th. So deadlines
21 are important and we sort of push and rush to get
22 those, so I would hate to have this wait another --
23 for the annual report to come in and no action.

24 So I would like to request or make a
25 motion, let's say, that this body reconvene after

1 the environmental impact statement's been available
 2 and reviewed and is the information requested by all
 3 the parties of how labor is going to be done with
 4 volunteers and how they're going to be protected and
 5 in compliance with state and county ordinances.

6 I request or move that we -- that another
 7 updated hearing be scheduled, and obviously,
 8 everyone has to figure that -- when that can happen.
 9 But you know, it -- within six to eight months
 10 instead of just letting it go on for another six to
 11 eight years.

12 **CHAIR GIOVANNI:** So Commissioner Cabral,
 13 are you specifically moving that we -- or requesting
 14 us -- LUC staff to organize a follow-up status
 15 report in some specific timeframe?

16 **COMMISSIONER CABRAL:** Yes. I would say
 17 that we look to try and have one in eight months.

18 **CHAIR GIOVANNI:** Okay. Eight months. So
 19 that would be -- let's see this is June, so it would
 20 be next --

21 **COMMISSIONER CABRAL:** February.

22 **CHAIR GIOVANNI:** February?

23 **COMMISSIONER CABRAL:** Yeah. Or before
 24 then. I mean, the idea that, you know, you need
 25 three months or so for the EIS. They're going to

1 need time to check on everything. That shouldn't
 2 take that long. And then before you know it, it
 3 will be Christmas, and no one wants to meet
 4 Thanksgiving or Christmas, so that gives you January
 5 or so for -- you know, okay? Trying to make it
 6 reasonable. Sooner, sooner is better when you got
 7 the answers, but --

8 **CHAIR GIOVANNI:** I'm going to interpret
 9 the motion to be a request for a follow-up for
 10 another status report before the commission next
 11 February 2024 or sooner, as determined by --
 12 communally in between the petitioner and the LUC
 13 staff.

14 **COMMISSIONER CABRAL:** Correct. Thank you.

15 **CHAIR GIOVANNI:** Do I have a second to
 16 that motion?

17 **COMMISSIONER ATTA:** Second.

18 **CHAIR GIOVANNI:** Commissioner Atta seconds
 19 the motion. Any further discussion?

20 Take a roll call vote on that motion.

21 **MR. ORODENKER:** Thank you, Mr. Chair. The
 22 motion is to request that staff schedule a follow-up
 23 status report hearing in February 2024 or sooner.

24 Commissioner Cabral?

25 **COMMISSIONER CABRAL:** Yes.

1 MR. ORODENKER: Commissioner Atta?

2 COMMISSIONER ATTA: Yes.

3 MR. ORODENKER: Commissioner Kamakea-

4 Ohelo?

5 COMMISSIONER KAMAKEA-OHELO: Aye.

6 MR. ORODENKER: Commissioner Kahele?

7 COMMISSIONER KAHELE: Aye.

8 MR. ORODENKER: Commissioner Okuda?

9 COMMISSIONER OKUDA: Yes.

10 MR. ORODENKER: Commissioner Lee?

11 COMMISSIONER LEE: Yes.

12 MR. ORODENKER: Commissioners Yamane and

13 Ohigashi are excused. Chair Giovanni?

14 CHAIR GIOVANNI: Aye.

15 MR. ORODENKER: Thank you, Mr. Chair. The
16 motion passes unanimously.

17 CHAIR GIOVANNI: Thank you.

18 Unfortunately, you can come as a community when this
19 is the time to see what's going on, right? Okay.

20 COMMISSIONER CABRAL: Yeah.

21 CHAIR GIOVANNI: Commissioners, do we have
22 any further discussion or business you'd like to
23 bring up at this time? No further discussion.

24 Thank you, parties, for your time and
25 energies today and for the work that you've put in

1 up to now.

2 And this concludes our meeting. And if
3 not, I declare it adjourned. Thank you.

4 **(Meeting adjourned at 11:14 a.m.)**

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I, Jodi Dean, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 10th day of July, 2023.



Jodi Dean