

LAND USE COMMISSION
MEETING MINUTES
October 18, 2023 – 9:30 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting in person. Interested persons were also advised to submit written testimony no later than 24 hours in advance of the meeting to allow for distribution to Commission members prior to the meeting, and to register to testify during the meeting.

IN PERSON: Maui Arts & Cultural Center, Alexa Higashi Room 1 Cameron Way, Kahului, HI
YOUTUBE RECORDING: (<https://www.youtube.com/watch?v=h8Pu8AzyiIQ>)

COMMISSIONERS PRESENT:

Dan Giovanni
Lee Ohigashi
George Atta
Kū‘ike Kamakea-‘Ōhelo
Melvin Kahele
Michael Yamane
Brian Lee
Nancy Carr Smith

STAFF PRESENT:

Daniel Orodener, Executive Officer
Scott Derrickson, Chief Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Julie China, Esq. Deputy Attorney General

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (*YouTube: 00:00:04*)

Chair Giovanni, called the meeting to order at 9:30 a.m.

APPROVAL OF THE MINUTES (*YouTube: 00:04:43*)

The first agenda item was the approval of the October 4th, 2023, Minutes. There was no written testimony, or members of the public who wished to testify on the approval of the Minutes.

Commissioner Ohigashi moved to adopt the October 4th, 2023, Minutes, and Commissioner Lee seconded the motion.

October 4th, 2023, Minutes were approved with 8 ayes, 0 nays, and 1 excused.

TENTATIVE MEETING SCHEDULE (*YouTube: 00:03:53*)

Chair Giovanni called for Land Use Commission Staff to provide the Tentative Meeting Schedule.

Executive Officer, Dan Orodener provided the following tentative meeting dates, and cautioned the Commissioners not to plan to release the remaining days due to upcoming items:

October 19, 2023: WDV Motion to Extend Time and Notify 201-H Change (Maui)
October 30-November 2, 2023: ULI Fall Conference (Los Angeles, CA)
November 15, 2023: Proposed Rule Amendments (Virtual Meeting)
November 16, 2023: A81-524 Y-O LTD. (Kona, Hawai‘i Island)
December 6-7, 2023: OPSD Soil Study Presentation (O‘ahu)

A07-773(a) EMMANUEL LUTHERAN CHURCH OF MAUI (“ELC”) *(YouTube: 00:05:58)*

Status and progress report and action (if necessary). The Petition area includes approximately 25.263 Acres of Land Situated at Wailuku, Island of Maui, State of Hawai‘i. Tax Map Key: (2) 3-5-002: 011.

Appearances

Office of Planning and Sustainable Development (“OPSD”)

Katia Balassiano (Land Use Division Program Administrator)

Brian Yee, Esq. (Deputy Attorney General)

County of Maui

Ann Cua (Planning Department Administrator)

Tara Furukawa (Planner)

Michael Hopper, Esq. (Deputy Corporation Counsel)

Petitioner and Petitioner Witnesses

Joshua Rempfer (Principle)

Leif Sjostrand (Congregation President)

Jeff Ueoka, Esq. (WDV Petitioners Council)

Public

Sandy Baz

Public Testimony *(YouTube: 00:14:20)*

The Land Use Commission received no written testimony from the public on the ELC status report. Chair Giovanni opened the meeting up for testimony on the matter, and Sandy Baz provided public testimony in support of ELC’s project.

Presentations *(YouTube: 00:16:38)*

Mr. Rempfer provided a brief presentation on the progress of the ELC Portion of the Project.

Commissioners questioned the Petitioner on the cultural impact analysis regarding the ELC portion of the parcel, projected student population at full buildout, economic status, progress of phase 2 and phase two per the conditions in the 2018 Decision and Order for the Motion of Modification, traffic impact analysis (“TIAR”), development plans and a motion to amend, and responsibility of conditions *(YouTube: 00:20:46-01:00:35)*.

The County of Maui shared the Commissioners concerns regarding the responsibility to carry out the Conditions of the District Boundary Amendment *(YouTube: 01:01:15-01:02:14)*.

The Office of Planning and Sustainable Development presented their concerns regarding the cultural impact assessment, the TIAR, and the development timeline and deadline. OPSD also suggested ELC obtain counsel and a different planning consultant. Additionally, the OPSD offered the Petitioner to set up a meeting to help the Petitioner understand the current conditions and the processes involving the Docket. The County of Maui and the Office of Planning and Sustainable Development both represented once the two-lot subdivision has occurred, the authority remains with the Land Use Commission *(YouTube: 01:02:14-01:13:54)*.

The Petitioner acknowledged clear understanding of what the Commission is asking ELC to do; prepare a phased plan with a timeline, and possibly ask for an extension of time (YouTube: 01:13:58- 01:15:25)

Public Testimony (YouTube: 01:21:54)

Once again, Chair Giovanni opened the meeting up for testimony on the matter, and there were no members of the public who wished to testify on this matter.

Deliberations (YouTube: 01:22:35-01:31:22)

Commissioner Ohigashi moved to request additional time for an additional status report, and a follow up status report be scheduled by LUC Staff. Commissioner Kahele seconded the motion.

Commissioner Carr-Smith offered a friendly amendment to include the phrasing regarding the insufficiency of the status report. Commissioners Ohigashi and Kahele accepted the friendly amendment.

Commissioner Lee offered an additional friendly amendment to include a sixth month time frame. Commissioners Ohigashi and Kahele accepted the second friendly amendment.

The final motion: due to the status report provided by ELC being insufficient, the Land Use Commission grants additional time to Emmanuel Lutheran Church to provide the LUC an updated status report addressing all the Commissions concerns at a hearing scheduled by staff six months from October 18, 2023. The Motion passed with 8 ayes, 0 nays, and 1 excused.

A07-773(b) WAIKAPŪ DEVELOPMENT VENTURE, LLC(YouTube: 01:31:35-03:10:32)

Status and progress report and action (if necessary). The Petition area includes approximately 25.263 Acres of Land Situated at Wailuku, Island of Maui, State of Hawai'i. Tax Map Key: (2) 3-5-002: 011.

Appearances

Office of Planning and Sustainable Development ("OPSD")

Katia Balassiano (Land Use Division Program Administrator)

Brian Yee, Esq. (Deputy Attorney General)

Petitioner and Petitioner Witnesses

Keoni Gomes (Owners Rep)

Heidi Bigelow (Project Manager)

Jeff Ueoka, Esq. (Petitioners Counsel)

County of Maui

Ann Cua (Planning Department Administrator)

Tara Furukawa (Planner)

Saumalu Mataafa (Deputy Director of Housing and Human Concerns)

Michael Hopper, Esq. (Deputy Corporation Counsel)

Public

Bruce U'u

Sandy Baz

Public Testimony (*YouTube: 01:32:01-01:37:43*)

The Land Use Commission received no written testimony from the public on the ELC status report. Chair Giovanni opened the meeting up for testimony on the matter, Bruce U'u and Sandy Baz provided public testimony in support of WDV's project.

Presentations (*YouTube: 01:37:43-03:03:28*)

Mr. Ueoka provided a brief presentation on the progress of the WDV Portion of the Project.

After the Petitioners presentation, the County of Maui asked to change the order of the proceedings due to the availability of Saumalu Mataafa the Deputy Director of the Department of Housing and Human Concern. Maui County stated their support for the project. The Commission questioned Mataafa on the County funding, the possibility of reallocation, the availability of the housing to non-Maui residents, enforcement of Maui County chapter 2.96 and 3.35, fee waivers and State chapter 104 for prevailing wages (*YouTube: 01:51:50-02:22:57*).

The Petitioners presentation continued, and the Commission questioned the Petitioner on the sewer line, cultural impact analysis, TIAR condition, undergrounding utilities, 201-H funding from the State, two-lot subdivision, timeline for securing funding, and responsibility and bifurcation of conditions (*YouTube: 02:23:16-02:47:09*).

The Office of Planning and Sustainable Development stated that they were satisfied by the Petitioners status report. OPSD presented that condition bifurcation and condition number 5 are not pertinent to the status report at this time and need to be addressed later. The Commission asked OPSD questions regarding standard conditions and TIARs (*YouTube: 02:47:23-03:00:46*).

Public Testimony (*YouTube: 03:03:06*)

Once again, Chair Giovanni opened the meeting up for testimony on the matter, and there were no members of the public who wished to testify on this matter.

Deliberations (*YouTube: 03:03:28-03:09:50*)

Commissioner Ohigashi and Chair Giovanni found the status report sufficient, and no further action was needed at the time of the hearing.

The Motion passed with 8 ayes, 0 nays, and 1 excused.

RECESS (*YouTube: 03:10:16*)

There being no further business to attend to, Chair Giovanni recessed the meeting at 2:05 p.m., and called the meeting to reconvene the next day at 9:30 a.m.

LAND USE COMMISSION
MEETING MINUTES
October 19, 2023 – 9:30 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting in person. Interested persons were also advised to submit written testimony no later than 24 hours in advance of the meeting to allow for distribution to Commission members prior to the meeting, and to register to testify during the meeting.

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COMMISSIONERS PRESENT:

Dan Giovanni
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Brian Lee
Nancy Carr Smith

STAFF PRESENT:

Daniel Orodener, Executive Officer
Scott Derrickson, Chief Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Julie China, Esq. Deputy Attorney General

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO RECONVENE (YouTube: 00:21)

Chair Giovanni called the meeting to order at 9:32 a.m.

A07-773(b) WAIKAPŪ DEVELOPMENT VENTURE, LLC (YouTube: 2:42)

To consider applicants Motion for Extension of Time to Complete Project and Notification of Amendment to HRS 201h Waikapu Affordable Housing Project. The Petition area includes approximately 25.263 Acres of Land Situated at Wailuku, Island of Maui, State of Hawai‘i. Tax Map Key: (2) 3-5-002: 011.

Appearances

***Office of Planning and Sustainable
Development (“OPSD”)***

Katia Balassiano (Land Use Division Program
Administrator)

Brian Yee, Esq. (Deputy Attorney General)

Petitioner and Petitioner Witnesses

Keoni Gomes (Owners Rep)

Heidi Bigelow (Project Manager)

Jeff Ueoka, Esq. (Petitioners Counsel)

Trisha Kehaulani Watson, (Honua Consulting)

County of Maui

Ann Cua (Planning Department Administrator)

Tara Furukawa (Planner)

Michael Hopper, Esq. (Deputy Corporation Counsel)

Public

Glenn Adolpho

Cheryl Adolpho

Commissioner Ohigashi moved to incorporate the record from the proceedings on 10-18-2023 to the hearing on 10-19-2023, Commissioner Yamane seconded the motion. The motion was approved with 8 ayes, 0 nays, and 1 excused (YouTube: 4:06).

Public Testimony (*YouTube: 8:58-21:34*)

The Land Use Commission received six pieces of written testimony from the public on this matter. Which were posted to the LUC website and made publicly available prior to the hearing. Chair Giovanni opened the meeting up for testimony on the matter, and Glenn Adolpho and Cheryl Adolpho testified in support of Waikapū Development Venture's Project.

Presentations (*YouTube: 25:07*)

Mr. Ueoka provided a brief presentation on the progress of the WDV Project, why additional time is needed, and how the 201-H Project Plan is being updated.

After the Petitioners presentation the Commission asked questions regarding good cause on the record, TIAR, and information on current owners. Questions on the cultural impact analysis, the 'ōpe'ape'a (Hawaiian hoary bat) and best management practices, and if hunting and gathering was considered (*YouTube: 29:30-48:47*).

The County of Maui Planning Department supports the Petitioners Motion to extend time and the recognition of the change to the 201-H plan. The Commission asked the County on how the Lahaina fires impacted operations at the County, and if an additional time extension to complete the project is supported (*YouTube: 48:47-58:44*).

The Office of Planning and Sustainable Developments is in support of the Project and the Petitioners Motion to extend time. The OPSD also stated that the concerns regarding the TIAR should be addressed later when more information is on the record (*YouTube: 1:00:24-1:05:12*).

Chair Giovanni asked the Petitioner if the effect of cutting the green space pocket park and roads resulted in a net positive net change due to the increase in yard space in the lots. The Petitioner answered yes. Commissioner Ohigashi asked the Petitioner if they would object to an additional two years in the extension, and the Petitioner had no objections. (*YouTube: 1:05:59-1:07:25*).

Public Testimony (*YouTube: 01:08:27*)

Once again, Chair Giovanni opened the meeting up for testimony on the matter, and there were no members of the public who wished to testify on this matter.

Deliberations (*YouTube: 01:08:52-01:16:30*)

Commissioner Ohigashi moved to approve the Petitioners Motion for Extension of Time to Complete the Project from 9/07/2023 to 9/07/2029 and the notification of the HRS 201H Waikapū Affordable Housing Project filed on June 6, 2023, and as described by the Petitioner including the updated description of the 201-H Project which shall constitute their representation for the purposes of Condition 1 of the Decision and Order. Commissioner Yamane seconded. The Motion passed with 8 ayes, 0 nays, and 1 excused.

ADJOURNMENT (*YouTube: 01:16:37*)

There being no further business to attend to, Chair Giovanni adjourned the meeting at 11:11 a.m.