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**STATE OF HAWAII
LAND USE COMMISSION**

Meeting held on October 19, 2023

Commencing at 9:32 a.m.

Held at

Maui Arts & Cultural Center

Alexa Higashi Room

1 Cameron Way

Kahului, Hawaii 96732

I. CALL TO RECONVENE

II. A07-773(b) WAIKAPU DEVELOPMENT VENTURE, LLC (Maui)

To consider applicant's 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 Hawaii. Tax Map Key: (2)3-5-002:011.

III. ADJOURNMENT

BEFORE :

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PARTICIPANTS

LUC COMMISSIONERS :

- Dan Giovanni, Chairman
- Lee Ohigashi, Vice-Chairman
- George Atta
- Kuike Kamakea-Ohelo
- Melvin Kahele
- Michael Yamane
- Brian Lee
- Nancy Carr Smith

LUC STAFF :

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

COUNTY OF MAUI :

- Michael Hopper, Esq., Deputy Corporation Counsel
- Ann Cua, Planning Department, Administrator
- Tara Furukawa, Planning Department

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PARTICIPANTS (Continued)

OPSD:

Brian Yee, Deputy Attorney General

Katia Balassiano, Planning Program Administrator

PETITIONERS:

(b) **WAIKAPU DEVELOPMENT VENTURE:**

Jeffrey Ueoka, Esq., Counsel

Trisha Kehaulani Watson, J.D., Ph.D., Honua Consulting

Tyler Fujiwara, Traffic Engineer

PUBLIC TESTIMONY:

Glenn Adolpho

Cheryl Adolpho

1 **CHAIR GIOVANNI:** Aloha mai kakou. Good
2 morning. This is the October 19th, 2023 Land Use
3 Commission meeting. This is an in-person meeting,
4 which is being held at the Maui Arts and Cultural
5 Center, Higashi Meeting Room, 1 Cameron Way,
6 Kahului, Hawaii 96732. And it's open to the public.

7 Court reporting transcriptions are being
8 done from the Zoom recording of this meeting. For
9 all meeting participants, I'd like to stress the
10 importance of speaking slowly, clearly, and directly
11 into your microphone. Before speaking each time,
12 please state your name and identify yourself for the
13 record.

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

22 My name is Dan Giovanni, and I have the
23 pleasure to serve as the LUC Chair. We currently
24 have nine seated Commissioners. Along with me
25 today, eight are in attendance, including

1 Commissioner Lee Ohigashi from Maui; Commissioner
2 Mel Kahele; Commissioner Kuike Kamakea-Ohelo;
3 Commissioner George Atta; Commissioner Brian Lee,
4 all from Oahu; Commissioner Michael Yamane from
5 Island of Kauai; Commissioner Nancy Carr Smith is
6 from the Island of Hawaii; Commissioner Gary Okuda
7 is excused from this meeting.

8 Also in attendance are the LUC's Executive
9 Director, Daniel Orodener; LUC Chief Planner, Scott
10 Derrickson; LUC Staff Planner, Martina Segura; and
11 LUC Chief Clerk, Ariana Kwan; and LUC Attorney
12 General, Julie China.

13 Our first order of business for the day is
14 the WDV's -- I use that acronym -- motion for
15 extension of time. This was filed on June 6th,
16 2023, for an extension of time to complete the
17 project and notification of amendment to HRS 201H,
18 Waikapu Affordable Housing Project.

19 I'd like now for the parties to introduce
20 themselves starting with Petitioner.

21 **MR. UEOKA:** Good morning, Chair and
22 Members. Jeff Ueoka for Waikapu Development
23 Venture.

24 **CHAIR GIOVANNI:** Thank you, Mr. Ueoka.

25 From the State?

1 **MR. YEE:** Good morning. Deputy Attorney
2 General, Brian Yee, on behalf of the Office of
3 Planning and Sustainable Development. With me is
4 Katia Balassiano from OPSD.

5 **CHAIR GIOVANNI:** Thank you.
6 From the County?

7 **MR. HOPPER:** Good morning, Chair and
8 Commission Members. Michael Hopper, Deputy
9 Corporation Counsel representing the Maui County
10 Department of Planning. With me are Planners Ann
11 Cua and Tara Furukawa.

12 **CHAIR GIOVANNI:** Thank you. So just for
13 the record, Mr. Hopper, I've had no indication from
14 anyone that we need this -- the gentleman from
15 Housing to return today.

16 **MR. HOPPER:** Okay. Thank you for letting
17 us know.

18 **CHAIR GIOVANNI:** Yeah. If that changes,
19 I'll let you know, but it's almost 10 o'clock now,
20 so --

21 **MR. HOPPER:** Thank you.

22 **COMMISSIONER OHIGASHI:** Mr. Chairman?

23 **CHAIR GIOVANNI:** Yes.

24 **COMMISSIONER OHIGASHI:** As a preliminary
25 matter before we begin, I'd like to move that we

1 incorporate the record from yesterday to avoid -- so
2 we don't have to call back the Deputy Director --
3 into the record that is being presented today, so
4 that we have a full record of yesterday and today to
5 make our determination in this matter.

6 **COMMISSIONER YAMANE:** Second, Mr. Chair.

7 **CHAIR GIOVANNI:** The motion is to
8 incorporate yesterday's record into today's record
9 for today's meeting so we don't have to repeat a lot
10 of the detail or request -- do I have any objections
11 to that motion or comments on it from the parties,
12 starting with Mr. Ueoka?

13 **MR. UEOKA:** Jeff Ueoka. No objections.

14 **CHAIR GIOVANNI:** State?

15 **MR. YEE:** No objection.

16 **CHAIR GIOVANNI:** County?

17 **MR. HOPPER:** No objection.

18 **CHAIR GIOVANNI:** Commissioners, any
19 comment? Let's have a voice vote on this motion.
20 All in favor say, "aye."

21 **(All said, "aye.")**

22 **CHAIR GIOVANNI:** Any opposed? No. So
23 moved.

24 Are there any further disclosures at this
25 time by any of the Commissioners that they'd like to

1 make relative to the matter before us today?

2 Hearing none, I'll proceed to a description of the
3 procedures. Let me explain the procedure.

4 First, I will ask the parties to identify
5 themselves, which I have done. Then I will ask if
6 there are any disclosures, which I have done. Next
7 I will give an opportunity for the Petitioner to
8 comment on the Commission's policy governing
9 reimbursement of hearing expenses. Then I will
10 recognize the written public testimony that has been
11 submitted in this matter, identifying the person or
12 organizations who have submitted the testimony.

13 Next, I will call for the members of the
14 public who wish to testify on the motion before the
15 Commission today. Members of the public will each
16 have two minutes to provide their personal testimony
17 and should stand by after their testimony to respond
18 to any questions the parties or the Commissioners
19 may have. When all questions have been completed,
20 the Chair will excuse the witness and call the next
21 witness to the witness box.

22 After completion of the public testimony
23 portion of the proceedings, I will give an
24 opportunity for the parties to admit their
25 additional exhibits and witnesses to the list for

1 the record. Then the Petitioner will provide its
2 case in support of its petition and receive any
3 questions and comments from the Commission.

4 The Chair will then call on the County and
5 subsequently OPSD to make their cases and receive
6 questions and comments from the Commissioners.

7 Petitioner will be able to make rebuttal statements
8 at that point in time.

9 At the conclusion of the parties'
10 presentations of evidence and Commissioners'
11 questions, the public will again be granted the
12 opportunity to provide public testimony in the same
13 manner set previously. Finally, after all parties
14 have presented their case, the Commission will
15 conduct formal deliberations and have a decision on
16 the motion.

17 The Chair would also like to note for the
18 parties and the public that from time to time I will
19 be calling short breaks, only five to ten minutes
20 per hour. And if necessary, if we continue, we will
21 take a lunch break.

22 Any comments or objections to the
23 procedure as I've described it? Mr. Ueoka?

24 **MR. UEOKA:** Jeff Ueoka. No comments.

25 **CHAIR GIOVANNI:** State?

1 **MR. YEE:** No objection.

2 **CHAIR GIOVANNI:** County?

3 **MR. HOPPER:** No objection.

4 **CHAIR GIOVANNI:** Thank you.

5 For the record, please be informed that
6 all relevant records and documents pertaining to
7 this matter can be addressed for review on the LUC
8 website, specifically under the pending documents
9 tab. Interested parties are welcome to review the
10 documents at their convenience.

11 Reimbursement policy. Mr. Ueoka, have you
12 reviewed HAR 15-15-45 regarding the reimbursement of
13 hearing expenses?

14 **MR. UEOKA:** Chair, yes.

15 **CHAIR GIOVANNI:** Could you state your
16 client's position with respect to this policy?

17 **MR. UEOKA:** No objections to it. We'll
18 follow it. Thank you.

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

20 I will now recognize written public
21 testimony submitted in this matter, identifying the
22 person or organization submitting the testimony.

23 Ms. Kwan, has there been any written
24 testimony submitted on this matter?

25 **MS. KWAN:** Yes, Mr. Chair. On October

1 12th, we received testimony from County of Maui
2 Department of Housing and Human Concerns. On
3 October 17th, we received comments from Lena Kamai,
4 Linda Schatz, and Councilmember Thomas Cook. And on
5 November 17th, we received Lena Kamai and Kerri
6 Abarra.

7 **CHAIR GIOVANNI:** Are all these posted?

8 **MS. KWAN:** Yes.

9 **CHAIR GIOVANNI:** Thank you.

10 Next, I will call on any members of the
11 public to provide testimony on this agenda item.
12 Are there any -- Ms. Kwan, has anyone signed up to
13 provide public testimony today?

14 **MS. KWAN:** Yes, Mr. Chair. The first
15 signup is Cheryl -- I don't know how to say her last
16 name.

17 **CHAIR GIOVANNI:** Ms. Cheryl, we don't know
18 how to say the last name here.

19 **MS. ADOLPHO:** Adolpho.

20 **MS. KWAN:** My apologies. Go to the
21 testimony seat.

22 **CHAIR GIOVANNI:** Please go over to the
23 microphone and table.

24 **MS. KWAN:** Oh, you want Glenn to go before
25 you? Okay. Sure.

1 Glenn, would you take the testimony seat?

2 First up is Glenn Adolpho.

3 **CHAIR GIOVANNI:** Glenn Adolpho. Okay.

4 Mr. Adolpho, I would like you to identify
5 yourself and your residential address, and then I
6 would swear you in and then you proceed to give your
7 testimony.

8 **MR. ADOLPHO:** My name is Glenn Adolpho.
9 My name is Glenn Adolpho. I'm a resident of
10 Waikapu. And my residential address is 63 Kaikai
11 Street, Wailuku, Hawaii.

12 **CHAIR GIOVANNI:** Thank you. Mr. Adolpho,
13 do you swear the testimony you're about to give will
14 be the truth?

15 **MR. ADOLPHO:** Yes.

16 **CHAIR GIOVANNI:** Please proceed. You have
17 two minutes.

18 **MR. ADOLPHO:** Thank you. Aloha mai kakou,
19 everyone. Aloha, Commissioners. Thank you for
20 giving me this opportunity to testify. For the
21 record, my name is Glenn Adolpho. I'm a resident of
22 the Waikapu community. I served as a board member
23 for the Waikapu Homeowner's Association and also as
24 a member for the Waikapu Community Association for
25 the past 15 years.

1 Today I am testifying on my own behalf,
2 and I'm here to testify on item A07-773(b) regarding
3 the Waikapu Community -- I mean, sorry, regarding
4 the Waikapu Development Venture Project and a motion
5 to extend the time to complete the project and also
6 notification of amendments to HRS 21H (sic) Waikapu
7 Affordable Housing Project.

8 I'm here to testify in support of, number
9 one, extending the time to complete the project, and
10 number two, allowing the developer to amend the
11 plans to replace 12 duplex homes within the project
12 to 12 single-family homes, bringing the total number
13 of homes to 80 for this project. This will help the
14 current affordable housing shortages here on Maui.

15 Many of our local people have been faced
16 with the reality of having to uproot their families
17 and move to the mainland where they can afford a
18 home. I have family members myself in the same
19 situations, nephews and nieces that have gone off to
20 college. And when it's time to come home, they
21 realize just how expensive a home is and also how
22 expensive it is to live in Hawaii.

23 Given the choice, they would prefer to
24 move back home where they can be among family
25 members and start their families. The grandchildren

1 could be watched by the grandparents, and you know,
2 there's a network of family support here for them.

3 Mr. Gomes and Mr. Ota have been very
4 transparent with our community association. They
5 attend our meetings, and they have given us updates
6 on the status of their project at each and every one
7 of our meetings any time we call on them. They have
8 even helped our community to clean up a homeless
9 encampment that was starting -- that was starting
10 with old junk cars, appliances, furniture being
11 dumped on the side of the road, and then homeless
12 people camping in there. It became a big issue and
13 one of the top priorities for our community.

14 When we first met with them, this was
15 discussed. They took it upon themselves to clean up
16 the trash and the derelict vehicles that was left
17 there all on their own with no help from the
18 community, so we appreciate their efforts and what
19 they have done for our community.

20 These are two local boys from Maui, trying
21 to help build much needed affordable housing for our
22 people of Maui, and I humbly ask for your support in
23 granting the request so that they can move their
24 project forward. Again, mahalo for allowing me this
25 time to testify and mahalo for your service to our

1 island and the people. And at this time, I'll be
2 happy to answer any questions that you folks may
3 have.

4 **CHAIR GIOVANNI:** Thank you very much, Mr.
5 Adolpho, for your testimony.

6 Any questions for the witness from the
7 Petitioner?

8 **MR. UEOKA:** Jeff Ueoka. Thank you, Mr.
9 Adolpho. No questions.

10 **CHAIR GIOVANNI:** Thank you.
11 From the County?

12 **MR. HOPPER:** No questions, Chair.

13 **CHAIR GIOVANNI:** Thank you.
14 From State?

15 **MR. YEE:** No questions.

16 **CHAIR GIOVANNI:** Thank you.
17 Commissioners, any questions for Mr.
18 Adolpho?

19 Let me add my thank you for coming forward
20 and representing.

21 **MR. ADOLPHO:** You're welcome. Thank you.

22 **CHAIR GIOVANNI:** Yeah. You may go.
23 And the next witness would be?

24 **MS. KWAN:** Next we have Cheryl Adolpho.

25 **MS. ADOLPHO:** Aloha mai kakou. Mahalo for

1 this opportunity to testify.

2 **MS. KWAN:** Excuse me.

3 You need to swear her in.

4 **MS. ADOLPHO:** My apologies.

5 **CHAIR GIOVANNI:** My apologies. I just
6 need one second to confer on a separate matter.

7 Yeah, I just want to clarify one thing for
8 the record that came to my mind listening to Mr.
9 Adolpho. The matter before us today is exclusively
10 the motion to extend time. It doesn't deal with any
11 conversion of plans from duplexes to single-family
12 homes.

13 Mr. Ueoka, you look perplexed.

14 **MR. UEOKA:** Thank you, Chair. Jeff Ueoka.
15 I was hoping that because in the 2019 motion to
16 bifurcate and all of that, you know, is for motions,
17 it was stated that as a representation that the
18 developer would build in compliance with the 201H
19 application.

20 We were hoping today that the Commission
21 would also recognize the proposed 201H application
22 that we're taking back to the County as the changes
23 to the plan, because it was a representation that we
24 were going to build the 12 duplexes --

25 **CHAIR GIOVANNI:** Yeah, I think your intent

1 is clear. We've also heard that there is
2 concurrence with County Housing personnel, so we
3 don't see any issue here. It's just a matter of
4 cleaning the record, and I think you should formally
5 request our acknowledgement of that rather than just
6 assuming that we acknowledge it by representation.
7 Yeah. But it's not agendized today. So if you come
8 before us today just to clean the record, it should
9 be requested.

10 One second. Trying to clean it up. We're
11 going to do some background checking here. We'll
12 return to this question. Okay. My apologies.

13 So will the witness please identify
14 yourself by name and reference to where you live and
15 then I'll swear you in.

16 **MS. ADOLPHO:** Okay. Aloha mai kakou.
17 Mahalo for this opportunity to testify. For the
18 record, my name is Cheryl Adolpho, and I am speaking
19 on my own behalf. I was born and raised on Maui.
20 I'm a resident at Waikapu at 63 Kaikai Street in
21 Wailuku.

22 **CHAIR GIOVANNI:** Thank you. Do you swear
23 the testimony you're about to give is the truth?

24 **MS. ADOLPHO:** I do.

25 **CHAIR GIOVANNI:** Please proceed.

1 **MS. ADOLPHO:** Thank you. I'm a resident
2 of Waikapu and a member of the Waikapu Community
3 Association. I'm here to testify on item A07-773(b)
4 regarding the Waikapu Development Venture Project
5 and motion for extension of time to complete the
6 project, and notification of amendment to HRS 201H,
7 Waikapu Affordable Housing Project.

8 I am supporting extending the time to
9 complete the project and, if it's okay for me to
10 say, the plan to replace 12 duplex units to 12
11 single-family homes.

12 **CHAIR GIOVANNI:** It's okay for you to say.

13 **MS. ADOLPHO:** Thank you. Being born and
14 raised here, Maui will always have a special place
15 in my heart. After graduating from college on the
16 mainland and returning to Maui, I was really worried
17 that I may have to, like many family and friends I
18 know, make the heartbreaking decision to move to the
19 mainland.

20 Thankfully, my husband and I were blessed
21 with the opportunity to purchase a home here on
22 Maui. Since then, I try to do what I can to promote
23 the availability of affordable homes for our local
24 people, for the people who love and care for Maui
25 and invest and support our island communities.

1 I know that Mr. Gomes and Mr. Ota have
2 good intentions and also would like to have more
3 affordable housing available for our working local
4 residents. I'm grateful they have taken on this
5 venture to hopefully make it a reality.

6 I appreciate each of you and your time and
7 service. Mahalo.

8 **CHAIR GIOVANNI:** Mahalo.

9 So Petitioner, any questions for the
10 witness?

11 **MR. UEOKA:** Jeff Ueoka. Thank you very
12 much, Mrs. Adolpho. No questions.

13 **CHAIR GIOVANNI:** Thank you.
14 County, any questions?

15 **MR. HOPPER:** No, thank you, Chair.

16 **CHAIR GIOVANNI:** State?

17 **MR. YEE:** No questions. Thank you.

18 **CHAIR GIOVANNI:** Thank you.

19 Commissioners? No questions.

20 So thank you very much for coming forward.

21 **MS. ADOLPHO:** Mahalo.

22 **CHAIR GIOVANNI:** Ms. Ariana?

23 **MS. KWAN:** Nobody else signed up at this
24 time.

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

1 So at this time, we have to do a little
2 internal research, and so I'm going to call for a
3 ten-minute recess, and we'll go back on the record
4 at 10:05. Thank you.

5 **(Recess taken from 9:54 to 10:07 a.m.)**

6 **CHAIR GIOVANNI:** I'd like to go back on
7 the record. So first, I'd like to have the record
8 acknowledge that Ms. China had to step away for a
9 short while due to an external condition, emergency
10 she's also responsible for. We're going to continue
11 in her absence.

12 Okay. So there are no additional public
13 witnesses, is that correct?

14 **MS. KWAN:** Not at this time.

15 **CHAIR GIOVANNI:** Okay. Admission of
16 exhibits. Mr. Ueoka, please describe the exhibits
17 which you wish to have admitted to the record, if
18 any, at this point in time.

19 **MR. UEOKA:** Thank you, Chair. Jeff Ueoka.
20 We'll stand by what we submitted.

21 **CHAIR GIOVANNI:** Thank you. And that
22 includes the PowerPoints from yesterday, which is --

23 **MR. UEOKA:** Oh, correction. We'll also be
24 adding another PowerPoint today. We will get it to
25 Ms. Ariana when this is complete and I'm able to

1 format it properly.

2 **CHAIR GIOVANNI:** Fair enough. Any
3 objections by the parties?

4 **MR. HOPPER:** No objection, Chair.

5 **MR. YEE:** No objection.

6 **CHAIR GIOVANNI:** Thank you.

7 County, do you have any exhibits you wish
8 to have admitted to the record today?

9 **MR. HOPPER:** Chair, just the four that
10 were attached to the County's position statement and
11 response to the motion. You should already have it.
12 And also public testimony submitted by County
13 agency, but I think that that's already part of the
14 record. But just the four exhibits attached to the
15 County's position statement.

16 **CHAIR GIOVANNI:** So noted. Are there any
17 objections to the County's new exhibits, Mr. Ueoka?

18 **MR. UEOKA:** Jeff Ueoka. No, no
19 objections.

20 **MR. YEE:** No objection.

21 **CHAIR GIOVANNI:** Commissioners, any
22 objections? Hearing none.

23 County's exhibits are admitted to the
24 record.

25 OPSD, do you have any exhibits for the

1 record?

2 **MR. YEE:** We'll stand on our only filing
3 of the letter from Department of Transportation,
4 dated February 6th, 2018. That's previously filed.

5 **CHAIR GIOVANNI:** Is that a new exhibit?

6 **MR. YEE:** No. It was simply attached to
7 our response.

8 **CHAIR GIOVANNI:** Okay. Fine. So you --
9 basically, no new exhibits?

10 **MR. YEE:** Correct.

11 **CHAIR GIOVANNI:** Thank you.

12 I'd like the record to show that Ms. China
13 has returned and is now in attendance. Thank you,
14 Ms. China.

15 Okay. Presentations. Mr. Ueoka, for
16 planning purposes, will you describe how you will be
17 presenting your case today and approximately the
18 duration?

19 **MR. UEOKA:** Jeff Ueoka. PowerPoint
20 presentation. You guys have the motion and the
21 petition in front of you and should be less than 10
22 minutes.

23 **CHAIR GIOVANNI:** Okay. So let's proceed
24 with your presentation of the PowerPoint; we'll see
25 where we are on the clock and then decide whether

1 we'll take questions there or take another brief
2 recess.

3 Please proceed.

4 **MR. UEOKA:** Thank you, Chair. Okay. So
5 today we have our motion to extend time and the
6 request for this body to recognize or adopt or find
7 that the proposed 201H amendments are acceptable and
8 we will be in substantial compliance moving forward.

9 So the amendments to the 2008 D&O were
10 done on July 11, 2019. They included completion of
11 construction deadline, the bifurcation, the
12 compliance with the 201H application, and the
13 cultural impact assessment requirement, amongst some
14 other more procedural matters.

15 So condition 2 basically stated that
16 complete the construction of workforce housing
17 project no later than four years from the date of
18 this order. So that would have been a July 11, 2023
19 deadline. As of this date, we are not completed
20 with the project, and we are seeking an extension.

21 We're asking that we be able to extend the
22 completion of construction deadline to September
23 7th, 2027. That is the same date we're asking for
24 an extension for the County of Maui in our proposed
25 201H amendment application.

1 The bifurcation statement was something
2 along this. Those -- docket is henceforth
3 bifurcated into Dockets (a) and (b), and those
4 matters relating to that portion of petition area
5 abide with ELC and those matters apply to petition
6 area for Waikapu Development Venture apply to
7 Waikapu Development Venture. So that's the
8 bifurcation. We're not asking for anything on that
9 today.

10 Compliance with the 201H application.
11 This was the statement in the 2019 D&O, so it
12 essentially stated that an intervenor's description
13 of the HRS 201H project in its application is hereby
14 considered to be intervenor's representations to the
15 Commission for all purposes, including condition 1,
16 which is the compliance representations.

17 So what we're asking for today is that the
18 Commission find that for all purposes, including the
19 application of condition 1, WDV shall develop the
20 project in accordance with Resolution 18-150, as
21 amended. That will be up waiting for another County
22 Council. 18-150 was the original 201H application -
23 - or 201H resolution. It was amended in 2020 for an
24 extension of time by the County.

25 So yesterday came up -- not necessarily

1 pertinent today, but it was asked by Commissioner
2 Lee. These are the Maui County 100 percent
3 residential workforce housing unit exemptions that
4 are included in various sections of County Code
5 regardless of 201H. So it's a good group of
6 exemptions for a project. I don't know the exact
7 dollar value of any of that, but those are what's
8 exempt.

9 As part of the 2018 201H application,
10 additional exemptions requested were fees relating
11 to the Fire Code inspection, permits; building,
12 plumbing, electrical inspection fees; and traffic
13 impact fees. None exist right now, but every 201H
14 application I've ever seen has always put that in
15 just in case they're adopted in between when the
16 201H is approved and when you actually start going
17 for permits.

18 I have with me today Trisha Kehaulani
19 Watson. She was the author of the cultural impact
20 assessment. I went over the big points yesterday,
21 but I have them listed here. I won't read them, in
22 the interest of time. But she's here if you guys
23 have any questions on that.

24 We also have Tyler Fujiwara, our Traffic
25 Engineer, in case you guys have any traffic

1 questions, although it's not on the agenda for
2 today.

3 And that's it. Thank you very much.

4 **CHAIR GIOVANNI:** Okay.

5 Commissioners, any questions for Mr.
6 Ueoka?

7 Commissioner Ohigashi?

8 **COMMISSIONER OHIGASHI:** Mr. Ueoka, in
9 order to extend the time, we have to find good
10 cause, right? Could you identify in simple terms
11 what you believe good cause exists to extend the
12 time deadline?

13 **MR. UEOKA:** Jeff Ueoka. This is an 80-
14 unit, 100 percent residential workforce housing unit
15 project. Maui County and the State of Hawaii, in
16 fact, is in a crisis for housing in general,
17 especially affordable housing. This project won't
18 solve it, but it will meet some of the needs, so in
19 my opinion, that would be good cause. Thank you.

20 **COMMISSIONER OHIGASHI:** I'm sort of like
21 looking for reasons why it wasn't completed earlier
22 and why that is not in line with what normally
23 occurs in a project and therefore it is obvious that
24 there is basis to enter an order extending time. So
25 I'm asking you to identify those factors.

1 Normally, I would see them in the motion
2 that there's a good cause exists because this --
3 this land. It's a good project, we all agree to
4 that, but that's in my mind that the standard for us
5 to extend time or standard to extend time deals with
6 unanticipated costs. I think you've mentioned it.
7 Interest rates increases. The affordability of a
8 project became questioned. Viability of the project
9 came in question. You had to seek these fundings.
10 It took this amount of time and that's why you need
11 to -- or did I give you the answer already? I
12 apologize. You understand the question?

13 **MR. UEOKA:** Jeff Ueoka. So Commissioner
14 Ohigashi, my apologies if I wasn't clear. It's --
15 this was approved in 2019, late 2019. Within a
16 year, COVID-19 hit and while construction could
17 actually proceed, this project was nowhere near the
18 construction fees, you know, so -- and the planning
19 fees, so nothing proceeded for a year or two.

20 At the end of the COVID-19 pandemic,
21 interest rates were at a very high level. Cost of
22 labor and materials were at a very high level,
23 higher than anticipated in 2017/'16 when this
24 project first came about. It was a different world
25 after COVID. And compounding that was the fact that

1 Bill 107 passed on the County of Maui, which changed
2 the affordable housing sales price guideline
3 calculations to basically lower them.

4 So all of those factors basically made the
5 project -- it wasn't going to move forward. In a
6 last-ditch effort, ownership requested the Maui
7 County Council -- or presented to the Maui County
8 Council for a budget amendment. That gave them,
9 I'll call it, the GAP financing that would be needed
10 in order to make the project pencil and workable.
11 That was received earlier this year. As you know,
12 we came for the status update, so those were the
13 hardships or changes in circumstances that dictate
14 the need for additional time. And we do believe
15 they were legitimate causes and would warrant, you
16 know, a showing of good cause for an extension.
17 Thank you.

18 **CHAIR GIOVANNI:** Commissioner Lee?

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

20 Mr. Ueoka, can you give us a little bit
21 more information on the current owners on their
22 development experience, credentials, bona fides, you
23 know, that kind of stuff?

24 **MR. UEOKA:** Yeah. One of the members, Mr.
25 Gomes, is civil site contractor for, oh, gosh, a

1 very long time. They're very experienced civil
2 contractors. Family had a trucking company since
3 probably the seventies. But they're civil site
4 contractors.

5 One of the other partners, I think it's
6 Waikapu, LLC, one of the members, they have a
7 development arm, affordable housing, primarily.
8 They've constructed over 200 affordable housing
9 units here on Maui and are always anxious to build
10 more. Thank you.

11 **COMMISSIONER LEE:** Thank you, Mr. Ueoka.
12 Thank you, Chair.

13 **CHAIR GIOVANNI:** Thank you.

14 Commissioners, anything more?

15 I have a question for Ms. Watson. Can you
16 bring her forward and I'd like to swear her in.

17 **DR. WATSON-SPROAT:** Good morning,
18 Commissioners.

19 **CHAIR GIOVANNI:** Good morning. Would you
20 please state your name for the record and I'll swear
21 you in.

22 **DR. WATSON-SPROAT:** My name is Dr. Trisha
23 Kehaulani Watson-Sproat.

24 **CHAIR GIOVANNI:** Ms. Watson, do you agree
25 your testimony today will be the truth?

1 **DR. WATSON-SPROAT:** Yes.

2 **CHAIR GIOVANNI:** Thank you. Yesterday, we
3 got a brief overview that -- of your findings in the
4 CIA you did for this specific property. I wondered
5 if you could take a moment to characterize in your
6 own words the work that you did and the findings
7 from that. And also, if it makes sense to you, to
8 comment by extension of how your findings might
9 extend to the general area of this project,
10 including where the school might be built in the
11 future.

12 **DR. WATSON-SPROAT:** Thank you. That's a
13 great question. So first, as with all our cultural
14 impact assessments, we basically do research into
15 the entire ahupua'a. So if you look at the OHUC, so
16 what used to be the Office of Environmental Quality
17 and Control and is now ERP, Environmental Review
18 Program, that seems right.

19 They put out guidance on conducting CIAs
20 in 1999 at first and then I think they updated, but
21 they stayed the same. And so they do ask that you
22 do a few things. One is you look at the entire
23 geographic extent of the area, which they recommend
24 to the entire ahupua'a.

25 And then they ask for you to look at

1 previous oral histories and then you conduct some
2 additional ethnographic studies. We interviewed two
3 individuals for this: Daryl Fujiwara, who is the
4 President of Maui Council of the Hawaiian Civic
5 Clubs, so he's a practitioner himself and
6 knowledgeable about the area and from the area. And
7 then also, Ikaika Blackburn, who, in addition to
8 being a firefighter, is the lead singer from the
9 group Na Hoa, so he's a haku mele, and he's very
10 familiar with the Hula and Hawaiian community, also
11 from the area.

12 So we did those interviews. We also look
13 at the biological assessments on all the time. So
14 what we do is we look at that to see if those
15 assessments identify natural resources of interest
16 or importance or cultural importance, specifically.
17 So we look at the flora and the fauna. We also look
18 at the water studies, and then we also look at the
19 archeological surveys to see if there are any
20 traditional or historic properties in the area.

21 When we did, we didn't identify anything
22 of particular concern for cultural practitioners. I
23 believe the biological assessment identified Uhaloa,
24 which is a medicinal plant used for la ala pa'al
25 (phonetic), but it is a very common plant. It's

1 found throughout Hawaii. So I do not have
2 particular concerns that any impact to the Uhaloa
3 that would be found in the area would have an
4 adverse impact to traditional and customary
5 practices for anybody who may use Uhaloa in the
6 area.

7 And then I believe there was also the
8 native bat, ope'ape'a. Okay. Thank you.

9 **CHAIR GIOVANNI:** Is that the hoary bat?

10 **DR. WATSON-SPROAT:** Yes, it is. But as I
11 noted in the report, it's protected under state and
12 federal law, and there aren't known common cultural
13 practices. So even if practitioners identified that
14 as being of use, state and federal law prohibits the
15 taking of these animals.

16 So -- and then we also -- I did a site
17 visit of the area and didn't identify anything in
18 particular where I thought it would be actively used
19 for traditional and customary practices. So
20 basically, what we concluded was while absolutely in
21 this area and its larger geographic extent, there
22 are traditional and customary practices that occur,
23 there are nothing -- there are no active traditional
24 practices on the parcel itself.

25 And sort of to your last question because

1 these parcels are in immediate proximity to one
2 another and in fact adjacent, I do believe the
3 findings from the cultural impact assessment and its
4 ka pa akai analysis would very much extend to the
5 neighboring property where the church would like to
6 place the school.

7 **CHAIR GIOVANNI:** Thank you very much.
8 That's exactly the answer I was looking for.

9 Let me ask the Commissioners, any further
10 -- since we have Ms. Watson -- Commissioner Yamane,
11 did you have a question?

12 **COMMISSIONER YAMANE:** (Inaudible.)

13 **CHAIR GIOVANNI:** Oh, okay.

14 Thank you very much.

15 Kuike, did you --

16 **COMMISSIONER KAMAKEA-OHELO:** Mahalo, Dr.
17 Watson, for being available or questions. So in
18 regards to the ope'ape'a, are you aware that if an
19 area's deemed to hold these ope'ape'a as a habitat,
20 that the state law and federal law that disallows
21 the removal of trees in a certain time period?

22 **DR. WATSON-SPROAT:** Mm-hmm.

23 **COMMISSIONER KAMAKEA-OHELO:** Okay. And is
24 that reflected in your CIA?

25 **DR. WATSON-SPROAT:** I would have to check.

1 Can I check?

2 **COMMISSIONER KAMAKEA-OHELO:** Please do.

3 **DR. WATSON-SPROAT:** I do think -- I can't
4 remember if I specifically said about the time
5 period, but I do believe I do reference that BMPs
6 are recommended, so I do believe those BMPs would
7 incorporate the BMPs that were from the biological
8 assessment, which would say that you could not
9 conduct activities that would affect their habitat.
10 So that's typically how we handle that is we
11 recommend the adherence to the BMPs, which I believe
12 in this case would include no construction during
13 any pupping season where there would be concern
14 about impacting their habitat.

15 **COMMISSIONER KAMAKEA-OHELO:** I have one
16 follow-up question. In your research and in your
17 expertise, do you believe that the gathering of food
18 is a traditional and customary practice and right
19 for Native Hawaiians?

20 **DR. WATSON-SPROAT:** Oh, absolutely.

21 **COMMISSIONER KAMAKEA-OHELO:** Okay. So my
22 follow-up question to that is -- I'm trying to
23 figure out how to frame this. Have you had the
24 opportunity or have you considered, in reviewing
25 hunters and gatherers from the area, they may rely

1 on the petition area to gather food such as the axis
2 deer for sustenance?

3 **DR. WATSON-SPROAT:** We often do interview
4 either fishermen or hunters, I believe, and other
5 CIAs I've done from all -- we've done exactly that.
6 And again, I think from what we got, and I do
7 believe Ikaika also hunts. I don't believe Daryl
8 does. Daryl's family has a farm in the immediate
9 area, so I do think that addresses the food
10 gathering and the practices around food and
11 cultivation.

12 And again, I don't believe this project in
13 particular would adversely affect hunting, but I do
14 absolutely think hunting -- it -- I mean, also
15 contemporaneous hunting, so pig hunting with knives
16 or even rifles, although I don't believe hunting
17 with rifles is allowed in this area, is absolutely a
18 right.

19 **COMMISSIONER KAMAKEA-OHELO:** Mahalo nui.
20 Chair, that is all.

21 **CHAIR GIOVANNI:** Thank you, Commissioner.
22 Commissioners, anything additional for Ms.
23 Watson?

24 I want to thank you again, but thanks for
25 coming forward and making the time to be with us

1 today.

2 **DR. WATSON-SPROAT:** It's always a pleasure
3 to come before you folks.

4 **CHAIR GIOVANNI:** I'm sure it is.

5 Okay.

6 **COMMISSIONER YAMANE:** Mr. Chair, are we
7 still on the --

8 **CHAIR GIOVANNI:** We're still on the
9 Petitioner. So Commissioner Yamane?

10 **COMMISSIONER YAMANE:** Thank you, Mr.
11 Chair.

12 Mr. Ueoka, so yesterday -- I do want to
13 belabor a point on the TIAR updates, but your -- I
14 know you're hoping that the Land Use will kind of
15 like look at that TIAR requirement differently.
16 Could you kind of refresh our memories because that
17 was yesterday, kind of what you're looking for from
18 the TIAR requirement?

19 **MR. UEOKA:** Thank you, Commissioner. Our
20 hope was that the Commission would support something
21 to the effect of to relieve both parties, but
22 Waikapu Development Venture had a more recent TIAR
23 done, and based on the fact that the condition 5
24 references State impacts and correcting State
25 impacts to the highway -- State highway system, that

1 there could be some kind of amendment to allow clear
2 statement that condition 5 does not apply to Waikapu
3 Development Venture as State DOT has opined and
4 confirmed that the project will not be based on the
5 2018 TIAR done by WDV, that it will not affect State
6 highways.

7 And naturally, as part of the subdivision
8 process, the County will see to it that the County
9 road standards are met and everything, but that's
10 part of the subdivision process. But that was our
11 hope, to clarify. Thank you.

12 **COMMISSIONER YAMANE:** Thanks. And then
13 you also mentioned about the cost and how that would
14 possibly be a no-go. Could you kind of elaborate on
15 that again?

16 **MR. UEOKA:** Jeff Ueoka. So I believe
17 Emmanuel Lutheran said, you know, if they were to
18 find out that it would cost hundreds of thousands
19 and -- naturally, our -- our hope is that because
20 the State DOT has already opined on ours, it wasn't
21 as much of a concern for us. That's why we did not
22 bring it up as a -- you know, a set-out go/no-go
23 thing, but naturally, we get told, oh, you owe \$5
24 million in State highway traffic improvements, it
25 would probably be a no-go for an affordable housing

1 project, but it hasn't ever looked that way, so we
2 did not bring that up.

3 But yeah, that's our hope is that we can
4 even avoid the cost of updating the TIAR. I have my
5 traffic engineer here, so I hope I'm not offending
6 him too much.

7 **COMMISSIONER YAMANE:** Thank you, Mr.
8 Chair. No more questions.

9 **CHAIR GIOVANNI:** Thank you, Mr. Yamane.
10 Commissioner Ohigashi?

11 **COMMISSIONER OHIGASHI:** Just a follow-up,
12 then. If the State is not requiring anything, it
13 would seem not necessary to modify as to your
14 client's project.

15 **MR. UEOKA:** Thank you. Jeff Ueoka. The
16 issue is, though, that we're required -- well, I'm
17 going to say it doesn't apply to us, but it could be
18 read that we are required to update the TIAR. We're
19 hoping to avoid even that expense as, you know, the
20 State's looked at it, State DOT has looked at it
21 twice and said not -- and also, just for the
22 complete avoidance of doubt, I think it would make
23 my client sleep a little easier at night. Thank
24 you.

25 **CHAIR GIOVANNI:** So if there's an updated

1 TIAR, what's your understanding, in accordance with
2 condition 5, when that would need to occur for your
3 project?

4 **MR. UEOKA:** Jeff Ueoka. I would argue
5 when we open a school, so in theory, would be never,
6 but if it were interpreted to mean that we must
7 comply with the ELC, it's an overall for both
8 parties, even after bifurcation. In theory, when
9 ELC open -- the way it's worded right now, when ELC
10 opened the school and like within three months, in
11 theory, Waikapu Development Venture would need to
12 update the TIAR and follow those processes, which
13 would be -- if all goes well, they would probably be
14 very strange because the developer would likely be
15 out of the picture at that point.

16 **CHAIR GIOVANNI:** So I'm trying to fill in
17 the blanks with what you just said, and it might be
18 instructive to use a hypothetical just for a
19 timeline. So if -- and you can fill in the blanks
20 in this hypothetical. But as you interpret
21 condition 5 as currently written, and let's assume
22 that you complete the development by your proposed
23 extended date of 2027, and that the school is not
24 built until 2030 and opened. Just assume that.

25 When would the updated TIAR occur for the

1 -- your development? And when would the mitigations
2 that are recommended by that TIAR have to occur?
3 And you can do a worst-case scenario if you want.

4 **MR. UEOKA:** Thank you. Jeff Ueoka. So if
5 the school were to open in 2030, the way the
6 condition is -- well, of course, we would argue we
7 never would trigger because we're separate and
8 condition 5 doesn't specifically apply -- but if it
9 were --

10 **CHAIR GIOVANNI:** But as this condition is
11 currently written, it applies to both of you.

12 **MR. UEOKA:** Okay. Yeah. If it's
13 interpreted that way, 2030, I would argue when the
14 school opens, we'd get three months of that, around
15 three months. Waikapu Development Venture, which
16 would probably be already out of the picture, would
17 be caused to update the TIAR and have discussion
18 with State DOT to figure out what would be necessary
19 to mitigate the traffic impacts from Waikapu
20 Development Venture and reach some sort of
21 understanding on construction or contribution to a
22 project at that time.

23 **CHAIR GIOVANNI:** Which theoretically could
24 occur five years or more after your project is
25 completed?

1 **MR. UEOKA:** Jeff Ueoka. Well, we're
2 hoping ELC moves forward quickly, but yes, you are
3 correct.

4 **CHAIR GIOVANNI:** Just under this --

5 **MR. UEOKA:** Under this hypothetical, yes,
6 sir.

7 **CHAIR GIOVANNI:** Okay. Thank you.
8 Commissioners, anything further for Mr.
9 Ueoka? Okay.

10 County, may we have your remarks and
11 presentation on this matter?

12 **MR. HOPPER:** Thank you, Chair and Members
13 of the Commission. The County of Maui did file a
14 position statement in support of the requested
15 motion. The motion covers the extension of time as
16 well as recognition of the representation
17 modification of the project from the six duplex
18 units to twelve single-family units. So the County
19 has provided in its response its position on those
20 items. It believes that there is good cause shown
21 to allow for the time extension.

22 You know, before -- before the fires,
23 there was a housing crisis and there was -- there
24 was even an emergency proclamation from the Governor
25 on housing. And subsequent to that, after the

1 fires, there's an even, I think, more pressing need
2 for housing. And so for a project that was sort of
3 already in the pipeline, the County believes that
4 it's important to -- to continue forward with this
5 particular project because of -- it -- it's further
6 along than maybe a project from scratch.

7 There are bumps in the road, but through -
8 - through the County funding process and through the
9 continued development, the County's hopeful that
10 this project does end up being developed and that
11 these critically needed units are provided.

12 We heard from Deputy Housing Director
13 Samaulu Mataafi yesterday on -- on the -- the
14 position of the Department of Housing and Human
15 Concerns, and he gave you the background on the
16 County funding aspect of this, so you can see that -
17 - that not only the Planning Department but the
18 County, the County Council, the County
19 Administration believe this is an important project
20 to go forward.

21 And certainly, the basis for the
22 extension, COVID hitting, this is certainly not the
23 only project that is having, you know, challenges
24 with -- with -- in that timeframe that deal with
25 financing of the project and -- and the, you know,

1 challenges that I'm sure all of you are aware of in
2 developing projects in -- in Maui County.

3 So using a project that has already gone
4 through -- through the process modifying it, we
5 think, is a -- is something that -- that has merit,
6 and the County supports these requests and
7 modifications to the decision and order and has
8 filed its position statement along those lines.

9 We have Planner Ann Cua and Tara Furakawa
10 here in case there's additional questions, but we
11 think we did cover the county's position in its
12 position statement and throughout our discussion
13 yesterday, and we appreciate that being added to the
14 record today because I think it clarifies our
15 position.

16 So we don't have anything else to add at
17 this point, and if there's questions, we'd be happy
18 to answer them.

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

20 So one sec. So Commissioners, any
21 questions for the County?

22 Commissioner Ohigashi?

23 **COMMISSIONER OHIGASHI:** In regard to the
24 changes made in the plan, the development plan, did
25 the County -- my understanding is it's included as

1 part of the 201H project, is that right?

2 **MR. HOPPER:** it -- it will be. There will
3 need to be an amendment to the 201H project as a
4 condition of prior -- condition precedent to receipt
5 of the funds. So there's going to have to be an
6 amendment granted by the County Council to the 201H
7 along the same lines as this motion.

8 **COMMISSIONER OHIGASHI:** And the second
9 thing is that has the County Housing Department, can
10 you represent whether the Housing Department has
11 reviewed and approved of those changes?

12 **MR. HOPPER:** I'm not sure if they've --
13 where that is. Perhaps, the petitioner has specific
14 information on what's been received and what's --
15 what's been reviewed. I'm certain the County
16 Council hasn't approved it yet, so that's a
17 significant step. And I don't see any reason that
18 the Housing Department would object to those changes
19 because it was certainly aware of the changes in
20 this motion as well -- you know, as well as the fact
21 that there will be modifications, and those
22 modifications are required condition precedent to
23 providing the funds.

24 **COMMISSIONER OHIGASHI:** But the County's
25 position is that they support those changes, right?

1 **MR. HOPPER:** Yes.

2 **COMMISSIONER OHIGASHI:** And so I'm just --
3 do you guys get all approvals for that?

4 **MR. HOPPER:** Yeah, I don't want to
5 misrepresent that they've received the revised 201H
6 yet and have taken a position on it, but yes,
7 clearly, the Department supports the changes and
8 would be supporting them in front of the County
9 Council.

10 **COMMISSIONER OHIGASHI:** I just wanted to
11 clarify.

12 **MR. HOPPER:** And then just Ms. Cua wanted
13 me to note the housing -- Department of Housing and
14 Human Concerns did review the County's position
15 statement for consistency and supports the position.

16 **CHAIR GIOVANNI:** So I had a follow-up on
17 Mr. -- Commissioner Ohigashi's questions to the
18 Petitioner regarding the reasonableness of the
19 delays that have occurred. Can you comment upon --
20 I think you heard the answer that was given -- the
21 circumstances that have led us to the point that
22 they did not meet the original deadline and the
23 reasons for that? Can you comment from the County's
24 perspective about the reasonableness of the -- as
25 expressed by the Petitioner?

1 **MR. HOPPER:** I think we would generally
2 agree. I mean, you did have COVID-19. You also
3 have the general baseline that it's very difficult
4 to develop -- it's a challenge to develop affordable
5 housing in -- I think in this state and in the
6 county.

7 I think you had asked earlier about sort
8 of the typical development timeline for an
9 affordable project, and the typicals, at least in a
10 lot of cases, become sort of atypical. There has to
11 be sort of unique ways to -- to bring a lot of these
12 projects to fruition, so I would say that this is
13 not the only project that's -- that's having these
14 issues where the County has to look at, you know,
15 potential support or other means of financing.

16 We've had other projects come before you
17 in Maui that look -- had to look for, you know,
18 modifications or sort of unique ways for
19 infrastructure and other issues, so we do think in
20 this case the -- the delays have been reasonable,
21 and I -- we do think it's worth it to allow this
22 extension for the developer to come in and bring the
23 project to fruition and get the units, hopefully,
24 built.

25 **CHAIR GIOVANNI:** So building on that --

1 this situation that has occurred and the matter
2 that's before us today, we've all experienced what
3 it takes to -- what we're all going through
4 procedurally and to get this extension done. And my
5 point is we don't want to have to go do this again.

6 So I'm asking -- I think I'm going back to
7 the Petitioner, but I appreciate the County's
8 perspective on this as well. So your proposed
9 extension time, you going to get it done in time? I
10 mean, I'd hate to think that you need another year
11 or two at the end of it, and I -- and now we're
12 going to have to go through all this again in three
13 years.

14 **MR. UEOKA:** Jeff Ueoka. Our hope is to
15 commit it if the Commission would be gracious enough
16 to grant us another year or two. We would take
17 that. We didn't want to ask for too much, of
18 course. This was our realistic timeline, but --

19 **CHAIR GIOVANNI:** I think that's my
20 question. Is it realistic, or is it -- are you --
21 you know, do you have anybody here from the
22 engineering, design, planning, construction part of
23 your team?

24 **MR. UEOKA:** I have -- I have our project
25 manager here, but just to state, the unknown is

1 always -- you know approvals. The government-owned
2 agency approvals, we've been fighting with the
3 waterline for two years. We just -- if everything
4 goes well, we will finish in time. If you guys are
5 okay giving us until 2028, 2029, we'll take it. And
6 just so you understand, no one's interested in
7 dragging this out any longer.

8 **CHAIR GIOVANNI:** I understand.

9 **MR. UEOKA:** The money's on the board with
10 the County. It's going to -- you know --

11 **CHAIR GIOVANNI:** That's a big one.

12 **MR. UEOKA:** Once you take out the
13 construction loan, you're paying interest. No
14 one's trying to drag this out, but --

15 **CHAIR GIOVANNI:** So let's talk about the
16 waterline permit. So in your current assumed
17 project timeline, when do you expect to get that?

18 **MR. UEOKA:** The waterline's done. It just
19 needs to get accepted by the County. We're thinking
20 that will happen by the end of the month. That's
21 one of the last two triggers for our two-lot
22 subdivision. We started constructing the waterline
23 in August of 2022. We finished it less than a year
24 later in July. And we're in October, and it still
25 has not been accepted by the County.

1 **CHAIR GIOVANNI:** So you assume it will be
2 done in a month. But if it's done in a year and a
3 month, do you need another year beyond 2027?

4 **MR. UEOKA:** Well, we'll need a lot of
5 things if it's done in another year, but yeah. We
6 would need more time. It would delay us.

7 **CHAIR GIOVANNI:** Unfortunately, yeah.

8 **MR. UEOKA:** Yeah.

9 **CHAIR GIOVANNI:** Okay.

10 **MR. UEOKA:** Same as -- same as the 80-lot
11 subdivision, we're anticipating it will take about a
12 year. We're hoping to get the construction
13 approvals and all of that and be able to get
14 building permits done concurrently, but we need to
15 work on that --

16 **CHAIR GIOVANNI:** Yeah.

17 **MR. UEOKA:** Yeah.

18 **CHAIR GIOVANNI:** It's a big task.

19 Commissioners, I'm prepared to take a
20 break unless anybody else has a question to the
21 County at this time. Okay. It's 10:43. Let's take
22 seven minutes and be back at 10:50.

23 **(Recess taken from 10:43 to 10:53 a.m.)**

24 **CHAIR GIOVANNI:** Okay. Back on the record
25 at 10:53.

1 Commissioners, where we left off were
2 questions for the County. Are there any final
3 questions for the County?

4 **COMMISSIONER OHIGASHI:** Mr. Chairman.

5 **CHAIR GIOVANNI:** Commissioner Ohigashi?

6 **COMMISSIONER OHIGASHI:** Mr. Hopper, we've
7 been hearing about a lot of how the fires have
8 affected our -- the operations of the County
9 government and how it may have involved intensive
10 use of personnel from County government. I -- I am
11 -- I am trying to follow up on the Petitioner's
12 request that they would take additional time, if
13 necessary.

14 Do you believe that the -- the
15 circumstances as they are now with the County
16 government being quite overwhelmed by -- I would
17 assume then quite busy on many different types of
18 projects related to the fire, would that form a
19 basis -- would you agree that that may form a basis
20 for giving additional time to complete this project?

21 **MR. HOPPER:** Yes, the Department would be
22 supportive of additional time along those lines.

23 **COMMISSIONER OHIGASHI:** Thank you.

24 No further questions.

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

1 Thank you, Mr. Hopper.

2 Let's proceed to the State. Mr. Yee?

3 **MR. YEE:** Thank you. The Office of
4 Planning and Sustainable Development is supportive
5 of the project and the motion. Let me just discuss
6 three things that came up during -- during the
7 hearing today. Moving backwards first, OPSD has no
8 objection to an extension of an additional two
9 years.

10 Second, I know Commissioner Ohigashi also
11 asked regarding a fuller record on why an extension
12 is appropriate. I do know that the Commission faces
13 a lot of petitioners who come in and they got ten
14 years. They come back after nine and a half years
15 and say, I want another ten. And so you may be
16 somewhat sensitive to that issue.

17 Let me just, for the record, flesh this
18 out. I think it's been discussed but let me -- let
19 me articulate that. The approval for this
20 particular project was actually 2019 when the
21 affordable housing component came before the
22 Commission. There was the unexpected and
23 intervening effect, event of COVID in 2020, just one
24 year later, with many significant impacts, but
25 including economic impacts, which, among other

1 things, contributed to the economic infeasibility of
2 the project. That is, the project could not have
3 occurred.

4 When COVID eventually ended, the project
5 needed more money and therefore turned to the
6 County. The County money, of course, took some time
7 to obtain and in fact is only in the budget for
8 2024. Consequently, an additional time to complete
9 this is both excusable because it was not due to any
10 negligence in the planning of the Petitioner and
11 because it involved a number of events outside of
12 their control.

13 I will also note that this is 100 percent
14 affordable housing project; therefore, the need of
15 it is significant. And that the additional time
16 being requested is very reasonable, even including
17 the additional two years.

18 You briefly asked about the TIAR. I'm not
19 going to get into all of the aspects of it. Let me
20 just note that traffic impact analysis report, as a
21 general subject matter, is always very important to
22 the Office of Planning and Sustainable Development.
23 It is entirely possible that the -- this particular
24 condition should be changed, but we have not had an
25 opportunity to look at it.

1 It was only raised -- it was not raised in
2 the motion. It was only raised yesterday. And in
3 fact, we only got a proposed motion this morning.
4 So we simply have not had time to look it. And even
5 though -- even if we agree that something should be
6 changed, we need more time to look at what should
7 that change be to make sure that whatever is done is
8 done correctly.

9 We have not been able to consult with the
10 Department of Transportation or with any of the
11 other planners in our office. So while we're open
12 to further discussion and in fact this could be part
13 of the additional issues that will arise with
14 Emmanuel Lutheran and their need to come back before
15 you and we could perhaps combine it with that.

16 In addition to the fact that it's -- we
17 also don't think it's necessary to be dealt with at
18 this time, it does not affect the motion today or
19 their movement forward. We think -- we respectfully
20 would ask that this matter be -- not be addressed by
21 the Commission today. But this does not detract at
22 all from our very strong support for this motion and
23 the project. I'm happy to answer any questions.

24 **CHAIR GIOVANNI:** I just got a quick one
25 and then I'll turn it to the -- so the condition

1 regarding the TIAR, you're basically taking the
2 position that if it's to be changed, today's not the
3 day to change it? We should do that down the road?

4 **MR. YEE:** Correct.

5 **CHAIR GIOVANNI:** There's a related coming
6 from yesterday about the bifurcation of conditions
7 in general, and we -- this Commission, where it sits
8 today is that all conditions apply to both parties,
9 the church, and the development. So it appears to
10 me that this matter of the conditions and who
11 applies to where will have to come back before this
12 Commission at some point anyway. Is that the
13 appropriate time, in your mind, to deal with the
14 TIAR issue?

15 **MR. YEE:** Yes. And I think I would add
16 into that the fact Emmanuel Lutheran will have to
17 look at what they're proposing, make changes and
18 possibly other changes to the conditions --

19 **CHAIR GIOVANNI:** Yeah.

20 **MR. YEE:** -- so since it's not, in our
21 view, time-sensitive today, it would be great if we
22 could deal with all of these issues with all of the
23 conditions all at once.

24 **CHAIR GIOVANNI:** Thank you.

25 Commissioners, any questions for the

1 State?

2 I've got a general question, and I may
3 involve again Mr. Ueoka, but it's more a comment
4 than a question, but I would invite comments from
5 all three parties.

6 So if you refer back to our prior hearing
7 on the status -- the prior status report, concern
8 was expressed by the Commission when you were moving
9 from the duplexes to the 100 percent single-family
10 housing and particularly because you eliminated the
11 park, and you eliminated greenspace. And the
12 question that was raised, I think it's in the record
13 such as: Are we going in the wrong direction by
14 eliminating greenspace in terms of its impact on
15 climate change? What can we do to preserve the
16 greenspace?

17 What you showed us yesterday in your
18 PowerPoint was despite the fact that the park was
19 eliminated because there was a consequential
20 increase in the yard sizes of the individual homes
21 and you did all the analyses, but the net increase
22 in greenspace was occurring even though you were
23 going from duplexes to single-family houses.

24 So I'd like you to comment, just to
25 confirm my understanding or change my understanding,

1 that despite the fact you've gone to 100 percent
2 single-family houses, the impact on the climate, for
3 which this body has to pay attention to, is actually
4 net positive.

5 **MR. UEOKA:** Jeff Ueoka. Yes. There's the
6 deletion of a park but also deletion of the road.
7 And yards or lots increased. Yard -- houses stayed
8 the same. Yards increased. So yes, the overall
9 effect is an increase of greenspace in the plan.
10 Thank you.

11 **CHAIR GIOVANNI:** It should be net -- minor
12 but net positive for the climate.

13 **MR. UEOKA:** Yes. It's a small -- yeah.

14 **CHAIR GIOVANNI:** Okay.

15 Any comment by any State or County on that
16 representation?

17 **MR. HOPPER:** No, Chair.

18 **MR. YEE:** Nothing from OPSD.

19 **CHAIR GIOVANNI:** Commissioners, anything
20 further for the State? We're good?

21 Okay. Thank you, Mr. Yee.

22 Petitioner, rebuttal, final comments or
23 evidence you'd like to present?

24 **MR. UEOKA:** Jeff Ueoka. No thank you, I
25 guess. Look forward to coming back on the

1 bifurcation of the conditions. Thank you.

2 **CHAIR GIOVANNI:** We'll see you for that,
3 yeah, and maybe for a future extension. We don't
4 know yet.

5 Okay. We're going to give the public --

6 **COMMISSIONER OHIGASHI:** One question.

7 **CHAIR GIOVANNI:** Okay. Commissioner
8 Ohigashi?

9 **COMMISSIONER OHIGASHI:** Would you object
10 to an additional time of two years to complete the
11 project?

12 **MR. UEOKA:** Jeff Ueoka. No, sir. We
13 would appreciate it. Thank you.

14 **CHAIR GIOVANNI:** Time for a second call
15 for public testimony, if any.

16 Ms. Kwan, are there any members of the
17 public that wish to testify on the motion before us
18 now?

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

20 **CHAIR GIOVANNI:** Thank you.

21 So Commissioners, any further discussion
22 or questions for the parties? Okay.

23 Commissioners, the Chair will entertain --
24 we're going into deliberations, and the Chair will
25 entertain a motion regarding how the Commission

1 should proceed with this matter. Commissioners,
2 what is your pleasure?

3 **COMMISSIONER OHIGASHI:** Mr. Chair.

4 **CHAIR GIOVANNI:** Yes, Commissioner
5 Ohigashi?

6 **COMMISSIONER OHIGASHI:** I move to approve
7 Petitioner's motion for extension of time to
8 complete the project from 9/7/24 to 9/7/29 and the
9 notification of the -- of HRS 201H, Waikapu
10 Affordable Housing Project, filed on June 6, 2023,
11 as described by Petitioner today, including their
12 updated description of the 201H project which shall
13 constitute their representation for the purposes of
14 condition 1, the D&O condition.

15 **CHAIR GIOVANNI:** Commissioner Yamane?

16 **COMMISSIONER YAMANE:** I second the
17 motions, Chair.

18 **CHAIR GIOVANNI:** Thank you. So at this
19 point, I ask that the movant to speak in support of
20 his motion.

21 **COMMISSIONER OHIGASHI:** I believe that
22 there is sufficient good cause to -- for the
23 extension to complete the project. Rather than
24 going through it, I like Commissioner's Yee's
25 rendition of what had occurred as well as the

1 Petitioner's rendition of what has occurred that led
2 us to this point.

3 And I believe that those are all not
4 intentional nor negligent in the application. Good
5 cause does exist in this case. I'm asking that it
6 be extended two years, based upon the fact that --
7 of the fire and the incredible burden that's put on
8 the County of Maui to react to those fires. And
9 everything needs to be pushed -- done to push this
10 project forward, so additional time is necessary.

11 I find that it won't -- I believe that it
12 won't delay the project. As the Petitioner has
13 indicated, they're going to be paying interest on
14 their construction loan. And given the fact that
15 these are not -- my understanding, not (inaudible)
16 developers from -- from -- and are locally based,
17 that that is incentive enough for them to complete
18 the project as soon as possible.

19 Finally, that we accept the -- I guess,
20 the submittals of the description of the project for
21 the purposes of condition 1.

22 **CHAIR GIOVANNI:** Thank you, Commissioner
23 Ohigashi.

24 Commissioners, any further comment from
25 anyone in support or just in general on the motion?

1 Commissioner Yamane?

2 **COMMISSIONER YAMANE:** I also will be
3 supporting this motion. I believe the Petitioner
4 has supplied us very updated status reports. I'm
5 very happy for them. Thank you very much.

6 I also believe that the extension is
7 reasonable due to events that occurred, and I'm
8 hoping that the next time we see you, you're going
9 to give us good news. This is affordable housing,
10 and it's very important to the State of Hawaii.

11 Thank you, Mr. Chair.

12 **CHAIR GIOVANNI:** Thank you.

13 Commissioners?

14 **MS. KWAN:** Chair.

15 **CHAIR GIOVANNI:** Where are we?

16 Commissioner Carr Smith?

17 **COMMISSIONER CARR SMITH:** Just commenting
18 that I support the motion and the project. Thank
19 you.

20 **CHAIR GIOVANNI:** Thank you.

21 Any others? Commissioner Lee?

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

23 Nobody likes delays, but I think with this situation
24 it is justified. It's almost impossible to build
25 affordable housing, so I think I'd be okay with

1 giving them a little bit more leeway. Thank you.

2 **CHAIR GIOVANNI:** Thank you.

3 So the Chair also will vigorously support
4 this motion. And as it's presented by Commissioner
5 Ohigashi, I think it's a very important project.
6 I'm very appreciative of the community coming
7 forward in support of it. I'd heard no negative
8 comment whatsoever about the project.

9 I think the delays are understandable,
10 regrettable but understandable, and I would support
11 the additional time you need because I think you're
12 going to need it, despite how motivated you are.

13 I also concur with Commissioner Yamane in
14 terms of the progress that you've made just in the
15 few months since we last saw you before the
16 Commission, and that's what we were looking for as a
17 Commissioner, although sometimes you might think
18 that way.

19 As Mr. Yee has said, this Commission gets
20 frustrated with these large affordable housing
21 projects with, you know, very optimistic timelines
22 that go nowhere. There's literally thousands and
23 thousands of approved projects across the state that
24 are just sitting in limbo.

25 But the circumstances you're dealing with

1 and -- let me just comment that, you know, it would
2 have been easy to abandon this project when it
3 didn't pencil out at the end of COVID. And let me
4 commend the County and the County Council for
5 recognizing the importance of this project to the
6 community and finding a way to find \$10.65 million,
7 because that GAP funding or you wouldn't be here
8 today.

9 So thank you to the County and the County
10 residents and the support of your Council for
11 amending the budget, and the County Administration
12 for making this potential a reality. So I will be,
13 like I say, in support of the motion.

14 Commissioner Atta?

15 **COMMISSIONER ATTA:** Yeah. I just wanted
16 to reiterate the fact that in all this things that I
17 went through, that you still looking at the climate
18 change and the fact that they had more greenspace
19 and less car, that that really is a good idea,
20 actually. Thank you for that. I'll be supporting.

21 **CHAIR GIOVANNI:** Thank you.

22 Any final comments?

23 Mr. Orodenger, please take a roll call
24 vote.

25 **MR. ORODENKER:** Thank you, Mr. Chair.

1 The motion is to approve Petitioner WDV's
2 motion for extension of time to complete project
3 from 9/7/24 to 9/7/29 and notification of amendment
4 to HRS 201H, Waikapu Affordable Housing Project,
5 filed on June 6th, 2023, and as described by
6 Petitioner today, including their updated
7 description of the 201H project, which will
8 constitute their representation for purposes of
9 condition 1.

10 Commissioner Ohigashi?

11 **COMMISSIONER OHIGASHI:** Yes.

12 **MR. ORODENKER:** Commissioner Yamane?

13 **COMMISSIONER YAMANE:** Aye.

14 **MR. ORODENKER:** Commissioner Okuda is
15 excused.

16 Commissioner Lee?

17 **COMMISSIONER LEE:** Aye.

18 **MR. ORODENKER:** Commissioner Kamakea-
19 Ohelo?

20 **COMMISSIONER KAMAKEA-OHELO:** Aye.

21 **MR. ORODENKER:** Commissioner Kahele?

22 **COMMISSIONER KAHELE:** Yes.

23 **MR. ORODENKER:** Commissioner Carr Smith?

24 **COMMISSIONER CARR SMITH:** Aye.

25 **MR. ORODENKER:** Commissioner Atta?

1 **COMMISSIONER ATTA:** Yes.

2 **MR. ORODENKER:** Chair Giovanni?

3 **CHAIR GIOVANNI:** Aye.

4 **MR. ORODENKER:** Thank you, Mr. Chair. The
5 motion passes unanimously with eight votes.

6 **CHAIR GIOVANNI:** Great.

7 Go to work.

8 So this concludes our meeting --

9 **COMMISSIONER OHIGASHI:** You know this --
10 Mr. Yee, that you (inaudible).

11 **CHAIR GIOVANNI:** We'll deal with Mr. Yee
12 inclusive of these proceedings.

13 Okay. This concludes our meeting.

14 There's no further business -- is there any further
15 business to discuss, anyone?

16 If not, I declare this meeting adjourned,.
17 Thank you for your time.

18 **(Meeting adjourned at 11:11 a.m.)**

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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 3rd day of November, 2023.



Jodi Dean