



STATE OF HAWAII
 LAND USE COMMISSION
 Meeting held on November 7, 2024
 Commencing at 10:00 a.m.
 Held at
 Leiopapa A Kamehameha
 State Office Tower Room 405
 235 S. Beretania Street, Room 405
 Honolulu, Hawaii 96813

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES
October 9-10, 2024
- III. TENTATIVE MEETING SCHEDULE
- IV. SP21-412 MAHI SOLAR (O'AHU)
Adoption of Findings of Facts, Conclusions of Law, and Decision and Order for SP21-412 (SUP No. 2020/SUP-7) application to modify. The Subject area is approximately 620 acres in the Agricultural District, identified as TMK Nos. (1) 9-2-001:020 (por.), (1) 9-2-004:003 (por.) And 010 (por.).
- V. INFORMATION BRIEFING: OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT ("OPSD"), STATE OF HAWAII
Informational briefing from OPSD overviewing its Responsibility for land use planning, Sustainability development, coastal zone Management, geographic information systems ("GIS"), environmental documentation and Special Projects.
- VI. ADJOURNMENT

BEFORE:



NAEGELI
DEPOSITION & TRIAL

(800) 528 - 3335

NAEGELIUSA.COM

Nationwide

COURT REPORTING

LEGAL VIDEOGRAPHY

REMOTE DEPOSITIONS

TRIAL PRESENTATION

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS



(800) 528-3335

NAEGELI
DEPOSITION & TRIAL
Established 1980

NAEGELIUSA.COM

PARTICIPANTS

LUC Commissioners:

DAN GIOVANNI (Via Zoom)

KU'IKE KAMAKEA-O'HELO (Via Zoom)

MEL KAHELE

MICHAEL YAMANE

BRUCE U'U (Via Zoom)

KEN HAYASHIDA

MYLES MIYASATO

BRIAN LEE

NANCY CARR SMITH

LUC Staff:

DANIEL ORODENKER, EXECUTIVE OFFICER

SCOTT DERRICKSON, CHIEF PLANNER

ARNOLD WONG, LAND USE DEVELOPMENT COORDINATOR

MARTINA SEGURA, PLANNER

ARIANA KWAN, CHIEF CLERK

MIRANDA STEED, ESQUIRE, DEPUTY ATTORNEY GENERAL (Via
Zoom)

Appearing on behalf of Mahi Solar, LLC:

RANDALL SAKUMOTO, ESQUIRE

PARTICIPANTS CONTINUED

Appearing on behalf of City & County of Honolulu,
Department of Planning and Permitting:
JOHN DUBIEL, ESQUIRE, DEPUTY CORPORATION COUNSEL

Appearing on behalf of Office of Planning and
Sustainable Development:
KATIA BALASSIANO, PLANNING PROGRAM ADMINISTRATOR

BRANDON SOO, PLANNER

Attendance for OPSD Presentation:

MARY ALICE EVANS, DIRECTOR

KATIA BALASSIANO, PLANNING PROGRAM ADMINISTRATOR

DANIELLE BASS, SUSTAINABILITY COORDINATOR

CHRISTOPHER LIU, PLANNING PROGRAM MANAGER

DEBRA MENDES, PLANNER

AARON SETOGAWA, PLANNER

BRANDON SOO, PLANNER

TOM EISEN, PLANNER

1 CHAIRMAN GIOVANNI: We'll begin. Aloha
2 mai kakou, good morning, everyone. This is the
3 November 7th, 2024 Land Use Commission meeting.
4 This is a hybrid meeting, which means that some of
5 our participants are in person and some are
6 participating via Zoom. It is physically located at
7 the Leiopapa A Kamehameha State Office Tower, at 235
8 South Beretania Street, Room 405 in Honolulu,
9 Hawaii, 96813. And this meeting is open to the
10 public. All court reporting transcriptions are
11 being done from this Zoom meeting and a recording of
12 the Zoom meeting. All meeting participants,
13 attention. I would like to stress the importance of
14 speaking slowly, clearly, and directly into your
15 microphone.

16 Before speaking each time, please state
17 your name and identify yourself for the record.
18 This is a hybrid meeting, and please be aware that
19 all meeting participants are being recorded on a
20 digital record by Zoom, which will be posted on
21 YouTube and also be used for court reporting
22 purposes. Your continued participation is your
23 implied consent to be part of the public record of
24 this event, and if you do not wish to be part of the
25 public record, you should exit the meeting at this

1 time. Also, please note that due to matters
2 entirely outside of our control, occasional
3 disruptions to connectivity may occur for one or
4 more members of the meeting at any given time. If
5 such disruptions occur, please be patient as we try
6 to restore the audiovisual signals to effectively
7 conduct our business today.

8 Please note that the Q&A feature on Zoom
9 will only be monitored for signing up or public
10 testimony. All other communications will not be
11 addressed or part of the meeting record.
12 Communications can be mailed to our office at
13 dbedt.luc.web@hawaii.gov. Let me say again that
14 since I am participating via Zoom, I may not be able
15 to identify a participant who wishes to be called
16 upon. So I've asked for the assistance of Ms. Kwan
17 to identify such persons when they want to speak.
18 And Ms. Kwan, let me implore you to interrupt me at
19 your option whenever that occurs. I'll be taking
20 breaks from time to time, nominally five minutes
21 every hour. Today we have a hard stop at 12:30
22 because several Commissioners need to depart, so
23 we'll have to proceed on an expedited basis, and we
24 will not be taking a lunch break.

25 My name is Dan Giovanni, and I have the

1 pleasure to serve as the LUC Chair, and we currently
2 have nine seated Commissioners, all of which are
3 participating today. Michael Yamane from Kauai is
4 in attendance. Commissioner U'U from Maui is
5 joining by Zoom. Commissioners Carr Smith and
6 Miyasato from Hawaii Island are in person.
7 Commissioner Mel Kahele and Brian Lee from Oahu are
8 in person. Commissioner Kamakea-'Ohelo is joining
9 by Zoom, and Commissioner Hayashida is joining by
10 in-person. Also in attendance today are the LUC
11 Executive Officer Daniel Orondenker, Chief Planner,
12 Scott Derrickson, Staff Planner, Martina Segura, and
13 Chief Clerk, Ariana Kwan, all of which are in
14 attendance in person. And joining us by Zoom is
15 Deputy Attorney General Miranda Steed. Again, court
16 reporting transcriptions are being done from this
17 Zoom recording. Our next order of business is
18 approval of Minutes from the meeting of October 9
19 and 10, 2024. Ms. Kwan, has there been any written
20 testimony submitted on the Minutes?

21 MS. KWAN: No, Mr. Chair.

22 CHAIRMAN GIOVANNI: Are there any members
23 of the public who wish to sign up to testify on the
24 Minutes? Excuse me, Ms. Kwan?

25 MS. KWAN: No written testimony and no

1 oral testimony on the Minutes.

2 CHAIRMAN GIOVANNI: Thank you very much.
3 Commissioners, are there any corrections or comments
4 on the Minutes? If not, is there a motion to adopt
5 the Minutes from October 9 and 10, 2024?

6 MS. KWAN: Commissioner Myles Miyasato
7 raised his hand.

8 CHAIRMAN GIOVANNI: Mr. Miyasato?

9 COMMISSIONER MIYASATO: Yeah, I'll be
10 recusing myself from October 9th and 10th Minutes.
11 I was not present.

12 CHAIRMAN GIOVANNI: Very well. Any other
13 corrections or comments? Do I have a motion to
14 adopt the Minutes from October 9th?

15 COMMISSIONER YAMANE: Chair.

16 CHAIRMAN GIOVANNI: Who's that?

17 COMMISSIONER YAMANE: Commissioner Yamane,
18 move to approve and adopt the Minutes.

19 CHAIRMAN GIOVANNI: So moved, Commissioner
20 Yamane. Second?

21 COMMISSIONER KAMAKEA-'OHELO: Second.

22 MR. GIOVANI: Mr. Kamakea-'Ohelo, second.
23 All in favor of adoption of the Minutes, since this
24 is the first vote of the day, we will do it by roll
25 call. So may I call upon, excuse me, Executive

1 Officer, take a roll call vote on this motion?

2 MR. ORODENKER: Thank you, Mister -- am I
3 on?

4 MS. KWAN: I think so.

5 MR. ORODENKER: Thanks, Mr. Chair. The
6 motion is to approve the Minutes. Commissioner
7 Yamane.

8 COMMISSIONER YAMANE: Aye.

9 MR. ORODENKER: Commissioner Kamakea-'Ohelo.
10

11 COMMISSIONER KAMAKEA-'OHELO: Aye.

12 MR. ORODENKER: Commissioner Carr Smith.

13 MR. CARR SMITH: Aye.

14 MR ORODENKER: Commissioner Hayashida.

15 COMMISSIONER HAYASHIDA: Aye.

16 MR. ORODENKER: Commissioner Kahele.

17 COMMISSIONER KAHELE: Aye.

18 MR. ORODENKER: Commissioner Lee.

19 COMMISSIONER LEE: Aye.

20 MR. ORODENKER: Commissioner Miyasato is
21 excused. Commissioner U'U.

22 COMMISSIONER U'U: Aye.

23 MR. ORODENKER: And Chair Giovanni.

24 CHAIRMAN GIOVANNI: Aye. Thank you.

25 MR. ORODENKER: Passes unanimously.

1 CHAIRMAN GIOVANNI: Thank you. Mr.
2 Orodenker, will you now present a tentative meeting
3 schedule going forward?

4 COMMISSIONER MIYASATO: Chair, so I'd like
5 to go into our Executive Session to consult with our
6 legal counsel on questions and issues pertaining to
7 the Board's powers, duties and privileges,
8 communities, and liabilities.

9 CHAIRMAN GIOVANNI: Who is making this
10 request?

11 COMMISSIONER MIYASATO: Commissioner
12 Miyasato.

13 CHAIRMAN GIOVANNI: Mr. Miyasato, so is
14 that in a form of a motion to go in Executive
15 session?

16 COMMISSIONER MIYASATO: Yes.

17 CHAIRMAN GIOVANNI: Do I have a second to
18 that motion?

19 COMMISSIONER LEE: This is Commissioner
20 Lee. I'll second the motion.

21 MR. GIOAVANNI: Mr. Miyasato, could you --
22 do you want to speak to your motion?

23 COMMISSIONER MIYASATO: Yeah, I'd like to
24 get some clarification on policies and duties before
25 we do the calendar. Depending on the decision by

1 the AG, I'd like to add something to the Agenda.

2 CHAIRMAN GIOVANNI: Very well.

3 MR. MIYASTO: To the calendar.

4 CHAIRMAN GIOVANNI: Understood. All in
5 favor of going into Executive Session, signify by
6 saying aye.

7 ALL BOARD MEMBERS: Aye.

8 CHAIRMAN GIOVANNI: Any opposed? No
9 opposed? Pardon me?

10 MS. KWAN: Chair Giovanni, we're going to
11 need a recess because this is a hybrid meeting. I
12 didn't prepare an Executive Session Zoom to separate
13 the public from the Commission. So I'm going to
14 need five to ten minutes to set that up before you
15 guys can start Executive Session. So can we recess?

16 CHAIRMAN GIOVANNI: So we will recess and
17 when we come back, can we go directly into Executive
18 Session or do I, Ms. Kwan, do you need to manipulate
19 it in such a way that we need to restart in full
20 session?

21 MS. KWAN: I think that's an AG question.

22 UNIDENTIFIED SPEAKER: Can you just tell
23 the Mahi guys to log off?

24 MS. KWAN: Well, no, but there's public.

25 MS. STEED: Ariana, this is Miranda so.

1 MS. KWAN: Yeah, there's public on Zoom.

2 MS. STEED: Yeah, no, I understand. Are
3 you going to set up a separate Zoom or are you
4 setting up a breakout room within this Zoom call?

5 MS. KWAN: So we use webinar that doesn't
6 have breakout rooms. So I need to send a separate
7 Zoom link and so everyone in the public will stay in
8 this Zoom and then I'll jump the Commissioners on a
9 private Zoom so they could go in Executive Session.

10 MS. STEED: Okay.

11 MR. MIYASATO: Or we could switch the
12 order of the Agenda.

13 MS. KWAN: Okay. Hold on Chair.
14 Commissioner Miyasato has another suggestion.

15 COMMISSIONER MIYASATO: Chair, could we
16 instead withdraw the motion and take the Agenda out
17 of order and do Mahi Solar?

18 CHAIRMAN GIOVANNI: So your Executive
19 Session, you want to have it before we hear the
20 schedule. Is that correct?

21 MR. MIYASTAO: Yes.

22 CHAIRMAN GIOVANNI: And yeah, so Ms. Kwan,
23 if we do that, could you work in parallel to set up
24 that separate Zoom while we're dealing with Mahi
25 Solar?

1 MS. KWAN: Sure.

2 CHAIRMAN GIOVANNI: Okay. I think that's
3 a great suggestion, Commissioner Miyasato. So I'm
4 going to defer action on the approved motion to go
5 into Exec Session until after we complete the Agenda
6 item on Mahi solar. So with -- this Agenda item,
7 I'm going to move directly into Agenda item.

8 COMMISSIONER CARR SMITH: Chair Giovanni?

9 CHAIRMAN GIOVANNI: Who's that?

10 COMMISSIONER CARR SMITH: Chair Giovanni,
11 I apologize for interrupting. It's Nancy Carr
12 Smith. I just wanted, can I ask a clarifying
13 question, please? You said that some Commissioners
14 have to leave at 12:30. Can you tell us who is
15 leaving and how many people that is?

16 CHAIRMAN GIOVANNI: I'm not sure. I've
17 been told that there are flights for Commissioners
18 and they have to leave at 12:30. I'm not sure which
19 ones they are.

20 COMMISSIONER CARR SMITH: Martina?

21 MS. SEGURA: I think all Commissioners
22 with flights have scheduled departure early.

23 COMMISSIONER CARR SMITH: Okay. Mine's
24 not 'til three something.

25 MS. SEGURA: Are you guys early? What's

1 -- what's the reasoning for that?

2 COMMISSIONER CARR SMITH: We hardly have
3 any meetings and we're having a meeting and we're
4 cutting it short. I just wanted some clarification
5 about that if somebody could clarify, please.

6 MR. ORODENKER: Ms. Carr, this is Dan
7 Orodenker. This meeting was not expected to last
8 very long because the adoption of the Order should
9 go fairly quickly and there is a timeframe that we
10 gave to the Office of Planning and Sustainable
11 Development for their presentation. As those were
12 the only two items on the Agenda, so we figured --
13 we assumed that mid-afternoon would be sufficient
14 time for the Commissioners to hear everything that
15 was on the Agenda this evening.

16 CHAIRMAN GIOVANNI: Yes, this is the
17 Chair. Let me also add that it has been customary
18 in my experience that we try to accommodate
19 individual commissioner's schedules when they have
20 to leave early. That's been a long-standing
21 protocol that I'm familiar with. So when advised
22 that some commissioners were leaving early or were
23 leaving by 12:30 as a hard stop, then I -- I decided
24 no lunch. We'll have a hard stop at that time.

25 COMMISSIONER CARR SMITH: Martina, are you

1 looking at the schedule?

2 MS. SEGURA: Yeah. I have scheduled
3 departures at 3:45 at the latest. I don't know any
4 personal Commissioners that have to leave early.
5 That was disclosed to the Chair but there are
6 several departures on my list at 3:45.

7 COMMISSIONER CARR SMITH: That's 3:45 for?

8 MS. SEGURA: Yamane, Carr Smith and 3:15
9 for Miyasato.

10 COMMISSIONER CARR SMITH: Okay. So Carr
11 Smith again, just asking for clarification who needs
12 to leave the room at 12:30, if you don't mind.

13 MR. ORODENKER: Unfortunately, I think we
14 need Ariana for that. She handles those logistics.

15 CHAIRMAN GIOVANNI: So time is of the
16 essence. Let's get to the fourth order of business
17 and Miss -- Commissioner Carr Smith, we'll get that
18 information to you if the Commissioners wish to
19 individually disclose it to you as we proceed. I am
20 available.

21 COMMISSIONER KAMAKEA-'OHELO: Chair, this is
22 Ku'ike.

23 CHAIRMAN GIOVANNI: Yes, Ku'ike.

24 COMMISSIONER KAMAKEA-'OHELO: I just want to say
25 for the record that because of the new rules and

1 hybrid meetings and Zooms, that I am in fact here in
2 my office alone by myself and there's no one else
3 attending with me.

4 CHAIRMAN GIOVANNI: Thank you very much.
5 Okay. I'm going to proceed to the fourth order of
6 business, which is an Agenda item. We're taking it
7 out of order. It's the Adoption of Findings of
8 Fact, Conclusions of Law and Decision and Order on
9 SP21-412, an Application to Modify. At this time, I
10 like the parties to identify themselves, beginning
11 with the Petitioner.

12 MR. SAKUMOTO: Thank you, Mr. Chair.
13 Randall Sakumoto, on behalf of Petitioner Mahi
14 Solar.

15 CHAIRMAN GIOVANNI: Thank you. City and
16 County Honolulu.

17 MR. DUBIEL: Good morning, Chair, Board.
18 John Dubiel, Deputy Corporation Counsel for the City
19 and County of Honolulu.

20 CHAIRMAN GIOVANNI: Thank you very much.
21 And for OPSD.

22 MS. BALASSIANO: Good morning, Katia
23 Balassiano with the Office of Planning and
24 Sustainable Development.

25 CHAIRMAN GIOVANNI: Thank you, Katia. I'd

1 now like to review the reimbursement policy with Mr.
2 Sakumoto. Mr. Sakumoto, have you reviewed H.A.R.
3 15-15-45.1 regarding the reimbursement of hearing
4 expenses.

5 MR. SAKUMOTO: Yes, I have, Chair.

6 CHAIRMAN GIOVANNI: Are they acceptable to
7 you?

8 MR. SAKUMOTO: Yes, they are.

9 CHAIRMAN GIOVANNI: Thank you. Now we'd
10 like to ask the Commissioners about disclosure of
11 any potential conflicts of interests. So in
12 accordance with H.R.S. 84-14, Commissioners are not
13 allowed to take any official action affecting a
14 business in which they or a member of their family
15 has a financial interest. They must therefore
16 recuse themselves from this matter if there is any
17 benefit, monetary, or otherwise, to themselves or to
18 family members. Also in accordance with this legal,
19 ethical standards, Commissioners should disclose any
20 relationship, business, social, or otherwise that
21 they may have with the Petitioner or its
22 representatives or any other parties to this
23 proceeding that may not give rise to the allegation
24 of bias -- that may give rise to the allegation of
25 bias or impropriety. Let me state that when we

1 heard the Mahi Solar previously, there were
2 disclosures made and to my mind those do not need to
3 be repeated at this time because they're still in
4 effect. So do any Commissioners have any new
5 conflicts of interest or disclosures they wish to
6 make at this time?

7 COMMISSIONER MIYASATO: Chairman.
8 Commissioner Miyasato, I'll disclose that I was not
9 present so I'll be recusing myself from this vote.

10 CHAIRMAN GIOVANNI: Thank you,
11 Commissioner. Any other disclosures or statements
12 of conflict?

13 COMMISSIONER HAYASHIDA: Commissioner
14 Hayashida, Chair. Also, I wasn't here, so I'm going
15 to be abstaining from making a motion.

16 CHAIRMAN GIOVANNI: Okay. Very well.
17 Thanks. Thank you both for clarifying that. So
18 we'll proceed. Let me briefly explain the
19 procedure. First, I'll call upon the written, for
20 written public testimony that has been submitted in
21 this matter. Next, I will call for members of the
22 public who wish to provide oral testimony on this
23 matter. After completion of this public testimony
24 portion of the proceedings, the Chair would like to
25 ask the parties if they have any comments on

1 adoption of the Order. At the conclusion of the
2 party's comments and the Commissioners' questions,
3 the public will again be granted the opportunity to
4 provide public testimony in the same manner set
5 forth previously. Finally, the Commission will
6 conduct its deliberations. Please be informed that
7 relevant records and documents pertaining to this
8 matter can be accessed for review on the LUC website
9 at <https://luc.hawaii.gov/SP21-412>. I'll now ask
10 for public testimony if Ms. Kwan is back in the
11 room. Ms. Kwan, are you there?

12 MS. KWAN: I just got back, Chair.

13 CHAIRMAN GIOVANNI: Welcome back. Nice to
14 hear your voice. Has there been any written
15 testimony submitted on this matter? This is the
16 Mahi Solar adoption Order.

17 MS. KWAN: Yes, Chair. We received two
18 written testimonies on the adoption of Order and
19 both have been posted to the website.

20 CHAIRMAN GIOVANNI: Thank you very much.
21 Are there any members of the public who have wished
22 to testify on this matter?

23 MS. KWAN: Seeing none in the room, Chair.
24 We're checking the Zoom right now and seeing none in
25 the Q&A feature.

1 CHAIRMAN GIOVANNI: Very well. We'll
2 proceed to the presentations. Mr. Sakumoto, do you
3 have any comments you would like to make before we
4 deliberate on adoption of the Order?

5 MR. SAKUMOTO: The only comment I have,
6 Chair, is I wanted to thank you for the opportunity
7 to take a look at the draft D&O before today. I
8 did, overall I thought it was well done, very
9 thorough. I did have a few minor suggested edits.
10 They're primarily, you know, typos and defined
11 terms, very non-substantive type of edits. I did
12 submit a redlined version of the D&O to your Staff
13 and not sure if you had a chance to look at it but
14 other than those very minor edits, I had no other
15 comments and I have no presentation.

16 CHAIRMAN GIOVANNI: Thank you, Mr.
17 Sakumoto. If you wouldn't mind, could you, just for
18 the record, verbalize those suggested comments
19 because I'll ask the Commissioners if they'd like to
20 take a motion to adopt them.

21 MR. SAKUMOTO: Okay. There are quite a
22 few. I don't know whether you want me to summarize
23 them or just pick out examples. It may take a
24 while. I did go page by page line by line. So I
25 don't know how much time you want to allocate to

1 this exercise.

2 CHAIRMAN GIOVANNI: Well, I want to do it
3 perfectly. So let's take them one by one and do it
4 as fast as you can.

5 MR. SAKUMOTO: Okay. Very well. On page
6 two of the D&O in the second paragraph, the --
7 actually, would it help if I showed this on the
8 Zoom? I could share screen and just put the
9 document on the screen. That may actually help.

10 CHAIRMAN GIOVANNI: Yes, let's do that.

11 MR. SAKUMOTO: Okay. Thank you very much.
12 All right. Are you able to see this?

13 CHAIRMAN GIOVANNI: Yes.

14 MR. SAKUMOTO: Great. So I had no
15 comments on the cover page. And this first comment
16 was to just add the reference to LUC 2021 Decision
17 and Order. I think this is important. There were
18 two Decision and Orders in 2021 and this is a
19 defined term. As you can see, it's defined up here.
20 I deleted the reference to TMK because it was not
21 used in the document after this point. I reduced, I
22 changed parties with a capital P to lower P, since
23 it's not a defined term, as far as I could tell.
24 Corrected the reference to 2024 Application to
25 Modify, which is the defined term used above.

1 Again, referenced LUC 2021 Decision and Order.
2 There, you know, as I said before, there was a
3 Decision and Order by the Planning Commission in
4 2021 and the LUC in 2021. And then there's a 2024
5 Application to Modify. So I tried to be consistent
6 throughout the document. This was a defined term
7 that was used here, 2024 Application to Amend. As I
8 mentioned earlier, the term that was created was
9 2024 Application to Modify. Again, I tried to be
10 consistent with that. Also in Section 2, LUCs, I
11 changed to LUC 2021 Decision and Order. Again,
12 solely for the purpose of consistency. This is, I
13 guess these are Section 3 on page six. Again,
14 inserted 2024 instead of 2023. This was the correct
15 year that the DPP's Director's Report was issued.
16 It was just this year. Section 4, just correcting a
17 typo here by deleting the word the. Again,
18 consistency with defined terms, 2024 Application to
19 Modify. This is Section 5 on page six, created the
20 defined term PUC because it is used later in the
21 document. Further down the page, the reference
22 again to LUC 2021 Decision and Order. I added 2021.
23 On page seven, item seven, I think the reference is
24 to HECO and not the HECO. So I deleted the word
25 the. I tried to be consistent. I know that the

1 Petitioner could be referred to as Applicant or
2 Petitioner. I generally tried to be consistent by
3 using -- referring to Mahi Solar as the Petitioner.
4 So hence the change in paragraph seven. Also on
5 page seven, Section 9 inserted the word the before
6 Petitioner, very minor changes. On page eight,
7 Section 11, lowercase t in the LUC received. And I
8 think the proper spelling is courtesy copy here.
9 And then referenced the Commission here as LUC. I
10 think the draft, you know, says the Land Use
11 Commission is referred to as either the Commission
12 or the LUC. I found LUC to be a preferable
13 reference because there were two Commissions
14 technically involved, the Planning Commission of the
15 City and County and the State Land Use Commission.
16 And I found it less confusing to refer to the State
17 Land Use Commission as LUC. So I use that reference
18 here. Section 12, again, just a typo, lower case r
19 for the word receive. The term Office of Planning
20 and Sustainable Development was previously defined
21 as OPSD, so I made that change here. Again, changed
22 Land Use Commission to LUC. On page -- also page
23 eight, Section 14, same change, Land Use Commission
24 changed to LUC. Top of page nine, Section 14, same
25 change. Two times, State Land Use Commission

1 changed to LUC and Land Use Commission changed to
2 LUC. Section 15, same change made twice. Section
3 16, same change made twice, 17, the first line, same
4 change, Land Use Commission changed to LUC. In the
5 middle of Section 17, the term project is a defined
6 term with a capital P, so I changed it from
7 lowercase p to capital P. Again, more further down,
8 changed the reference from Applicant to Petitioner.
9 Further down, the reference to Department of
10 Planning and Permitting was previously defined as
11 DPP, so I changed the reference simply to DPP. And
12 again, Office of Planning and Sustainable
13 Development is simply OPSD. The Section 18 at the
14 bottom of page nine, just a typo, changed parties to
15 lowercase p. Again, Section 19 on the top of page
16 10, changed Applicant to Petitioner, same change
17 made to paragraph 21. The -- I didn't see the need
18 to define Office of Planning and Sustainable
19 Development again since it was defined above. So I
20 deleted the parenthetical. Again, references to
21 Land Use Commission is LUC and Department of
22 Planning and Permitting is DPP in Section 22. And
23 down at the bottom of page 10 and the top of page
24 11, I think the reference to the Planning Commission
25 was previously defined as City and County of

1 Honolulu Planning Commission, so I didn't see the
2 need to repeat it here. Section, I guess this is,
3 22B, Romaniote 1, there was a defined term, SEF, for
4 solar energy facilities. I did not see this term
5 used again in the document. so I thought it would
6 be appropriate to delete. The reference to the Mahi
7 Solar project is simply the Project. So I changed
8 it to just the Project. And further down, paragraph
9 23, this is just consistency again for referencing
10 the LUC 2021 Decision and Order. This is the
11 defined term that's been used. Going down to page
12 12, Section 24, the reference to DPP was previously
13 defined, so I deleted the text that defined it
14 again. Similarly, second line of paragraph 24
15 changed Land Use Commission to LUC. Same change
16 made to the first line of paragraph 25. In
17 paragraph 26, again, the Mahi Solar project is
18 simply the Project in this document. Paragraph 27,
19 condition four of the LUC 2021 Decision and Order.
20 Simple change made for consistency of reference.
21 Same change made in the second line LUC 2021
22 Decision and Order. Down at the bottom, as I said,
23 the Land Use Commission was previously defined as
24 the LUC, so I changed the reference there. Going to
25 page 13, Section 28, capitalize the word Project

1 because that's a defined term. So this is maybe not
2 a simple typo or mechanical. I did revise this to
3 say the Petitioner describes establishment of the
4 Project as the completion of the Project and
5 commencement of general commercial operation. So I
6 think that's what was said in the record. I, you
7 know, this reference to commencement of, I think was
8 important for accuracy purposes. The Paragraph 29
9 --

10 CHAIRMAN GIOVANNI: Mr. Sakumoto, let me
11 just --

12 MR. SAKUMOTO: Yes.

13 CHAIRMAN GIOVANNI: -- yeah, I just wanted
14 to make a clarifying comment on that last one.
15 General commercial operation is a specific term in
16 the -- used by HECO in its PPA so that's why we use
17 that term in our discussion. So I just want to make
18 that clarification.

19 MR. SAKUMOTO: Okay. Thank you, Chair. I
20 think the question that -- that basically triggered
21 this response was, when does the Petitioner consider
22 the establishment of the Project to occur?

23 CHAIRMAN GIOVANNI: Yeah.

24 MR. SAKUMOTO: So they're trying to
25 pinpoint a moment in time as to when that occurs.

1 Because, you know, we're given a deadline to
2 establish the Project. So the question is, when
3 have you exactly done it? And --

4 CHAIRMAN GIOVANNI: Yeah, general
5 commercial operation is a defined moment in time in
6 the PPA. So I think in the -- your suggestion makes
7 it even clearer. I don't have a problem with it,
8 but I think it was fine already.

9 MR. SAKUMOTO: Okay. Going down to
10 paragraph 29, again, Hawaiian Electric Company was
11 previously defined in the document as HECO, so there
12 was no need to put it again. I deleted this
13 reference to RFP because there was no other
14 reference to RFP in the document, so we didn't need
15 to create the defined term. So this is another
16 maybe less, more substantive change. It says here,
17 at the time of the hearing, the Project had been
18 selected by HECO in their request for proposal.
19 However, the Interconnection Requirement Study,
20 which is previously defined as IRS, still needed to
21 be completed. And once the IRS is completed,
22 Petitioner will then continue negotiations with HECO
23 to determine pricing and the following, and
24 following the finalization of cost, the PPA, which
25 was previously defined, will need to be finalized

1 and approved. And so I cleaned up this paragraph in
2 accordance with the way I understood the testimony
3 at the hearing.

4 CHAIRMAN GIOVANNI: So the way you've
5 cleaned it up is consistent with my understanding as
6 well.

7 MR. SAKUMOTO: Okay. Thank you. Moving
8 on to paragraph 30, PPA was defined as Par Purchase
9 Agreement. So I used the defined term. Project was
10 defined with a capital P, so I capitalized the term.
11 Paragraph 31, I think, was in response to a question
12 regarding how much of the petition area did, does
13 the Petitioner intend to farm? And the D&O draft
14 said Petitioner intends to farm all acres of land
15 aside from areas limited for safety reasons. I
16 think that was probably accurate. I thought it
17 would help to clarify all acres of land within the
18 petition area --

19 CHAIRMAN GIOVANNI: That's fine.

20 MR. SAKUMOTO: -- so that there's no
21 implication that we're going to try to farm areas
22 outside the petition area. Moving on to page 14,
23 Section 35. The way it was drafted, Petitioner and
24 Project area has water. I think what -- the
25 appropriate way to phrase this is Petitioner stated

1 that the petition area has water. Available through
2 Kunia Water Association and Fat Law Farms to provide
3 water to the farmers within the petition area as
4 opposed to on the property. Portions of, again, I
5 replaced property with petition area just to be
6 specific, have irrigation installed and other
7 portions will require trucking the water to the
8 farmers. I just thought that this was actually
9 clearer, that it doesn't say where the waters will
10 be trucked to. I think it is trucked to the
11 farmers. So and then on this paragraph 36, I was
12 told that there should be a hyphen between single
13 and access. This was a comment my client made. And
14 then the phrase, adjustments will be made to the
15 distance and wideness of it was not troughs but
16 rows, referring to the rows of the panels. In
17 paragraph 37, the Project and the, again,
18 Interconnection Requirement Study has been already
19 defined as IRS. So I changed as to say the Project
20 and the IRS contemplate inclusion of a new HECO
21 switching station with a double circuit 138 KV
22 extension. This word extension was missing to tie
23 into the Kahe-Waiiau with a hyphen transmission line.
24 It was written initially as to tie into the Kahe-Waiiau
25 power line so --

1 CHAIRMAN GIOVANNI: Yeah, that's good.

2 MR. SAKUMOTO: Okay. Paragraph 38, there
3 was a reference here to price of megawatt hour
4 increased from the stage two former bid from the low
5 100s. I think it meant the low one hundred dollars
6 because the reference to around \$105 to \$110. So I
7 just put in the dollar symbol here just to clarify.

8 CHAIRMAN GIOVANNI: So it was dollars per
9 megawatt.

10 MR. SAKUMOTO: Okay. That -- that change
11 would be --

12 CHAIRMAN GIOVANNI: Additional.

13 MR. SAKUMOTO: Yeah.

14 CHAIRMAN GIOVANNI: So can you agree to
15 suggest that as part of your corrections to change
16 that to be dollars per megawatt?

17 MR. SAKUMOTO: Yes.

18 CHAIRMAN GIOVANNI: Thank you.

19 MR. SAKUMOTO: And paragraph 39, I think
20 the appropriate statement here, the original draft
21 said the Internal Revenue Service, it should be
22 Interconnection Requirement Study, IRS, as I
23 mentioned, is conducting the facility study and
24 system impact study. I clarify this to say HECO is
25 conducting the IRS, which is true. The IRS

1 examines, among other things, the Project's effects
2 on HECO's grid and engineering of interconnection
3 facilities and equipment. Therefore, the IRS must
4 be completed prior to the completion of the PPA. I
5 believe this is the more accurate statement
6 regarding the relevance of the IRS to the PPA.

7 CHAIRMAN GIOVANNI: I agree.

8 MR. SAKUMOTO: Okay. Paragraph 40 and 41,
9 the same change to from Applicant to Petitioner.
10 And this is the bottom of paragraph 42 on the top of
11 page 16. It references the vote. There being a
12 vote total, I changed this to say there being a vote
13 of seven ayes, zero nays, and two excused, and the
14 motion passed. And then the conclusions of law
15 section starting on page 16, the term SUP was
16 defined here in Section 2, so I tried to be
17 consistent and use it from this point forward to use
18 SUP instead of special use permit or special permit.
19 And here I changed this from for areas greater than
20 to for land with an area greater than. I think this
21 is what the rules actually say, the LUC rules. This
22 is conclusion of law number five at the top of page
23 17. I changed Applicant's applications to
24 Petitioner. And this phrase now reads, because the
25 Petitioner seeks a SUP for the land, which is

1 greater than 15 acres. Just a clarification change.
2 Section 9 on page 18, and Section 11, again, just
3 changed Applicant to Petitioner. That change is not
4 critical, but I was just trying to make it easier to
5 read so that there are fewer defined terms being
6 used. Decision and Order starting on page 20,
7 again, changed Applicant to Petitioner and did not
8 define DPP again because it was already defined, did
9 not define OPSD again because it was already
10 defined. Again, Applicant to Petitioner. This is
11 actually, yeah, basically just a consistency change.
12 And then the last change, I just tried to make this
13 consistent with the formatting of the D&Os that I'm
14 familiar with where it reads done at Honolulu,
15 Hawaii, this blank day of November 2024. That's --
16 that's it.

17 CHAIRMAN GIOVANNI: Thank you very much,
18 Mr. Sakumoto. I appreciate you going through with a
19 fine-tooth comb, and I think it makes for a better
20 product, and I appreciate the diligence on that. I
21 agree that more than 95 percent of your comments
22 were clean up, and a couple were relevant and
23 appreciated, but we'll have -- we'll deliberate on
24 whether we'll adopt them all or not at the end. So
25 Commissioners, do you have any questions for the

1 Petitioner at this time? Ms. Kwan, is anybody
2 raising their hand?

3 MS. KWAN: No, Mr. Chair.

4 CHAIRMAN GIOVANNI: Okay. Great. Then
5 we'll proceed with the County. Do you have any
6 comments you'd like to make before we deliberate an
7 adoption of the Order?

8 MR. DUBIEL: Yes, Chair. I'd like to
9 recommend that we adopt the Mr. Sakumoto's revised
10 Order instead of the original Order but besides that
11 no comments. Thank you and again this is John
12 Dubiel for the county.

13 CHAIRMAN GIOVANNI: Thank you Mr. Dubiel.
14 Commissioners any questions or comments to the
15 County? Okay. We'll proceed with OPSD. Do you
16 have any comments you'd like to make before we
17 deliberate on adoption of the Order

18 MS. BALASSIANO: Katia Balassiano for
19 OPSD. No comments, agree with the County, all of
20 those recommendations for change were reasonable and
21 appropriate. We would recommend adoption. Thank
22 you.

23 CHAIRMAN GIOVANNI: So Katia, I think I
24 need to swear you in for your testimony. So do you
25 -- do you -- please state your name and affiliation

1 for the record.

2 MS. BALASSIANO: Katia Balassiano, Office
3 of Planning and Sustainable Development.

4 CHAIRMAN GIOVANNI: So we'll do this
5 backwards. Do you swear that the comments you just
6 made were the truth?

7 MS. BALASSIANO: Yes, I do.

8 CHAIRMAN GIOVANNI: Thank you very much.
9 Commissioners, any comments on the OPSD?

10 MS. KWAN: Seeing none, Chair.

11 CHAIRMAN GIOVANNI: Thank you very much.
12 At this time, I'd like to give the public a second
13 opportunity if they're in attendance or have signed
14 up to give public testimony. Ms. Kwan, is there
15 anyone there?

16 MS. KWAN: Currently, no one is in the Q&A
17 feature indicating they want to provide testimony.

18 CHAIRMAN GIOVANNI: Thank you very much.
19 So we'll now deliberate. The Commission will
20 consider adoption of the Order. Commissioners
21 before you, for your consideration, deliberation and
22 adoption are the proposed findings of fact,
23 conclusions of law, and decisions and orders
24 prepared by Staff as instructed on the last meeting.
25 We've also had a suggestion by the Petitioner to

1 revise on a point-by-point basis this Order. So the
2 Chair will entertain a motion to adopt it as was or
3 adopt it, including the -- one or all of the
4 suggested changes that were made by Mr. Sakumoto and
5 supported by the County and the State.

6 COMMISSIONER LEE: Chair, this is Chair
7 Lee.

8 CHAIRMAN GIOVANNI: Chair Lee, please
9 proceed. I mean, Commissioner.

10 COMMISSIONER LEE: I will make a motion to
11 incorporate the revisions suggested by Mr. Sakumoto
12 and adopt the findings of facts, conclusions of law,
13 and decision and order for SP21-412, SUP No.
14 2020/SUP-7's draft Application to Modify.

15 CHAIRMAN GIOVANNI: Thank you very much,
16 Commissioner Lee. Do I have a second to that
17 motion?

18 COMMISSIONER YAMANE: This is Commissioner
19 Yamane. I have a question for Staff before we go
20 through the motion. Is that okay?

21 CHAIRMAN GIOVANNI: Yes, please do that.
22 Go ahead.

23 COMMISSIONER YAMANE: I guess I just
24 wanted to ask Staff, are we okay with the red line
25 adoption of changes whoever drafted?

1 MR. ORODENKER: Yes, Commissioner Yamane,
2 we reviewed Sakumoto's submittal and we don't have
3 any problem with the corrections he's made.

4 COMMISSIONER YAMANE: Okay. Then I just
5 had one clarifying point for the record that on
6 number 38, Chair you recommended it was \$105 to \$110
7 per megawatt. As stated on the price of megawatt
8 hour, it's per megawatt hour. So just wanted to
9 make that clarification for Mr. Sakumoto, if he's
10 okay with that.

11 MR. SAKUMOTO: Yes, that change is fine.
12 And if you want me to submit another revised draft
13 with that change, I can do that, but otherwise I'll
14 defer to your Staff to make that edit. Either way
15 is fine.

16 CHAIRMAN GIOVANNI: So if the motion
17 passes, we will include in the motion to make that
18 change. You will not need to submit an additional
19 copy.

20 MR. SAKUMOTO: Thank you, Chair.

21 CHAIRMAN GIOVANNI: So Commissioner
22 Yamane, did you second the motion?

23 COMMISSIONER YAMANE: No I just had
24 questions for the Staff. Thank you, Chair.

25 CHAIRMAN GIOVANNI: So I'm still looking

1 for a second to the motion made by Commissioner Lee.
2 Commissioner U'U?

3 COMMISSIONER U'U: I'll second the motion.

4 CHAIRMAN GIOVANNI: Who was speaking?

5 COMMISSIONER CARR SMITH: Sorry. Go
6 ahead. Mr. U'U.

7 CHAIRMAN GIOVANNI: So I heard a second --

8 COMMISSIONER U'U: I'll second the motion.

9 CHAIRMAN GIOVANNI: Thank you,
10 Commissioner U'U. Commissioner Carr Smith, did you
11 want to comment at this time?

12 COMMISSIONER CARR SMITH: No, thank you.
13 I was just, I was attempting to second. Thank you.

14 CHAIRMAN GIOVANNI: Oh, okay. Okay. I
15 couldn't tell from here. Thank you. Okay. So
16 Commissioner Lee, did you want to add any further
17 comment to your motion?

18 COMMISSIONER LEE: No, Chair. Thank you.

19 CHAIRMAN GIOVANNI: Commissioner U'U, did
20 you have any further comment?

21 COMMISSIONER U'U: None at this time,
22 Chair.

23 CHAIRMAN GIOVANNI: Okay. Other
24 Commissioners, any comments you'd like to make in
25 support or in opposition to this motion? The Chair

1 has no further comments except to thank again Mr.
2 Sakumoto for his diligence. And so the motion is to
3 adopt the Order as drafted and as suggested
4 amendments made in writing by Mr. Sakumoto and also
5 including the further verbal corrections to add
6 megawatts past the numerical values and I think it
7 was in item 30. So that being the case, Mr.
8 Orodenger, will you take a roll call vote.

9 MR. ORODENKER: Thank you, Mr. Chair. The
10 motion is as stated by the Chair. Commissioner Lee.

11 COMMISSIONER LEE: Aye.

12 MR. ORODENKER: Commissioner U'U.

13 COMMISSIONER U'U: Aye.

14 MR. ORODENKER: Commissioner Yamane.

15 COMMISSIONER YAMANE: Aye.

16 MR. ORODENKER: Commissioner Kamakea-'Ohelo.

17
18 COMMISSIONER KAMAKEA-'OHELO: Aye.

19 MR. ORODENKER: Commissioner Kahele.

20 COMMISSIONER KAHELE: Aye.

21 MR. ORODENKER: Commissioner Carr Smith.

22 COMMISSIONER CARR SMITH: Aye.

23 MR. ORODENKER: Commissioner Hayashida and
24 Miyasato abstained. Chair Giovanni.

25 CHAIRMAN GIOVANNI: Aye.

1 MR. ORODENKER: Thank you, Mr. Chair. The
2 motion passes with seven affirmative votes.

3 CHAIRMAN GIOVANNI: Thank you very much.
4 So we'll now proceed back to our former item. Ms.
5 Kwan, are we prepared? Have you issued a new Zoom
6 link for Commissioners? Should we vote in
7 affirmative to go into Executive Session?

8 MS. KWAN: Yes, Mr. Chair, a Zoom link
9 should have been emailed to all the commissioners
10 that are on the Zoom and we have a separate link as
11 well. So everyone needs to log out of this Zoom and
12 log into the others, the Executive Session Zoom.

13 CHAIRMAN GIOVANNI: So please clarify for
14 the record who you mean by everyone.

15 MS. KWAN: Only Commissioners and only you
16 received the links. The public did not receive a
17 copy of the Executive Session link.

18 CHAIRMAN GIOVANNI: How about Deputy --

19 MS. KWAN: Oh yes and Miranda Steed has a
20 copy of the link as well.

21 CHAIRMAN GIOVANNI: And the Executive
22 Officer?

23 MS. KWAN: Well, he's in the main room.
24 So that's up to the Commission if they want him in
25 the room or if he has to exit Executive Session. I

1 don't know if that was clarified yet.

2 CHAIRMAN GIOVANNI: So I do not know the
3 specific substance of the request. So I am inviting
4 the Executive Officer to join us. And if it turns
5 out that we want to ask him to leave, we'll ask him
6 to leave.

7 MS. KWAN: Okay. Would you like LUC Staff
8 in Executive Session as well or would you like us to
9 exit the room?

10 CHAIRMAN GIOVANNI: Exit the room except
11 for Executive Officer.

12 MS. KWAN: Understood.

13 CHAIRMAN GIOVANNI: So let me thank Mr.
14 Sakumoto and others who were in the -- had been in
15 the room. I think we're concluded with your
16 business. And then OPSD and County, we invite you
17 to return after Executive Session and we'll start
18 your briefing.

19 MS. BALASSIANO: Understood. Thank you.

20 CHAIRMAN GIOVANNI: Okay. I'm going to --
21 we need to sign -- for those of us that are on Zoom
22 already, we need to sign off that Zoom and then on
23 to the other one, correct?

24 MS. KWAN: Yes, please exit this Zoom
25 link. Everyone in their email, all Commissioners and

1 AG should have received a separate Zoom link that
2 says LUC Executive Session. If you did not, please
3 call me immediately so I can resend it to you. And
4 we're going to log out of this one in the room, so
5 that way we can log into the main one and all the
6 public will stay on this current Zoom link.

7 CHAIRMAN GIOVANNI: Then when Exec Session
8 is over, we'll go back to this one?

9 MS. KWAN: Correct. So you'll log out of
10 the Executive Session link and you'll log back into
11 the meeting link, which I can resend if that helps
12 Commissioners with a smoother flow.

13 CHAIRMAN GIOVANNI: Okay. Thank you. So
14 we will take a recess and go into Exec Session.

15 (WHEREUPON, a recess was taken.)

16 CHAIRMAN GIOVANNI: Okay. I'm going to
17 call this meeting back into session. I had earlier
18 said that we were shooting for a 12:30 p.m.
19 adjournment. I'm going to push that until 1:30
20 p.m., Pacific Hawaii time adjournment, which is
21 about an hour and 40 minutes from now by my clock.
22 Hopefully that gives us enough time to complete our
23 business today. We were in Executive Session. Let
24 me briefly state for the record that the purpose of
25 that session was so that the Commissioners could

1 confer with our Attorney General on the specific
2 question of agendizing items for business before the
3 LUC, consistent with Sunshine Law and the process by
4 which that can and should occur going forward, as
5 well as a discussion on how it has been handled in
6 the past. And that was the purpose of the session.
7 Ms. Steed, do you think that adequately covers what
8 we talked about in session?

9 MS. STEED: Yep, that's good.

10 CHAIRMAN GIOVANNI: Thank you so much.
11 Okay. Let us now turn back to an earlier agenda
12 item, which we put off, which is for the Executive
13 Officer to present the tentative meeting schedule.

14 MR. ORODENKER: Thank you, Mr. Chair.
15 There are no further meetings scheduled for November
16 or December. In January, we have a meeting on the
17 23rd, which will be our quarterly update and also to
18 discuss the bill submitted to the Legislature or the
19 bills in the Legislature that are of concern. And
20 then on February 9th, we have -- we'll be on Maui
21 for SP 97-390 to add or remove the IAL designation.
22 And on 20th, we will also be on Maui to hear a
23 motion by A&B Properties on A07-772 and also to hear
24 an Emanuel Lutheran status report on A07-773. And
25 that is as far as we have anything agendized.

1 COMMISSIONER LEE: Chair, this is
2 Commissioner Lee. I want to ask a question of the
3 Executive Officer.

4 CHAIRMAN GIOVANNI: Please proceed,
5 Commissioner Lee.

6 COMMISSIONER LEE: Yeah, you know, I think
7 I would like to see more reports sooner because it's
8 November now, and it sounds like we're not going to
9 have a meeting until February. The Legislative
10 Session starts in mid-January. And I know there's
11 been discussions going on about proposed Legislation
12 and policy, and why aren't we meeting sooner,
13 because there's so many important issues to schedule
14 something like a Legislative update sooner before
15 the bill -- the bill submittal deadline or even
16 before they're even submitted for consideration.
17 Shouldn't we be seeing that sooner?

18 MR. ORODENKE: Well, Commissioner Lee, we
19 don't have anything. We're not submitting anything.
20 We have nothing. We don't even know at this point
21 what the Governor's package is going to look like.
22 And we probably won't know for several more weeks.
23 We do have a meeting scheduled early in January to
24 discuss the Legislative matters. And that is
25 because that's when most of the bills get submitted.

1 But we didn't, we don't have anything planned to
2 discuss with the Commission because we don't have
3 anything and we don't know what the Administration
4 is going to submit.

5 COMMISSIONER LEE: Thank you. But I know,
6 I know that you're part of policy meetings and
7 discussions with other agencies. There's that YIMBY
8 law where you're a part of that working group to
9 discuss legislation. I mean, I'd like to be updated
10 on what the latest thinking is on that. Isn't that
11 something that you feel like we should be reported
12 to on? Scott, when is the next YIMBY meeting?

13 MR. DERRICKSON: (Inaudible.)

14 MS. KWAN: Scott, you need a mic.

15 MR. DERRICKSON: This is Scott Derrickson,
16 Land Use Commission. I've been attending several of
17 the meetings of the YIMBY meetings, the group. We've
18 only had two meetings that I can remember. The next
19 meeting hasn't been scheduled yet. We're waiting to
20 hear on that. What exactly would you like to know?

21 COMMISSIONER LEE: Yeah, you know, I know
22 there's been two meetings and there's been
23 substantive stuff discussed, like increasing the
24 acreage for DBAs for the counties, affordable
25 housing stuff. There's at least four or five items

1 I'm aware of that have been discussed by the YIMBY
2 group, and I think we should know about that,
3 especially if we're going to be, you know, part of
4 the solution and you would want to know what the
5 will of the Board is and not just from the Executive
6 Officer. So that's why it would be good if we got a
7 report on these four or five major policies that are
8 being discussed. That's what I'm asking. I don't
9 think we have to wait until the end after it's
10 already done for us to express our opinion and what
11 we think the direction should be.

12 MR. ORODENKER: Commissioner Lee, we do
13 have, I just recently received a day or two ago, I
14 don't know whether you'd qualify it as an agenda or
15 issues to be discussed that we can forward on to the
16 Commission, but that's all it is. It's just issues
17 to be discussed. I mean, we don't have anything
18 definitive yet, but I'm more than happy to share
19 that with the Commissioners.

20 MR. DERRICKSON: I'd be happy to ask folks
21 who are coordinating the YIMBY fights, the YIMBY
22 meetings group for any information that they have
23 together, summary meeting notes, things like that.

24 COMMISSIONER LEE: Yeah, I just find it
25 kind of disappointing that this is now November, and

1 we're going to not, we should be having a meeting
2 next month to get that, not wait until February when
3 it's too late. Maybe the Legislature would like to
4 know how this Board feels. There's three new
5 members on it. We're a big part. Some people think
6 we're the problem. Some people think LUC is the
7 problem, you know? And so I don't think we should
8 not have an opinion. I don't think it should be
9 just the Executive Officer's opinion. And I just
10 think that we should have a meeting prior to all
11 this being cemented.

12 MR. ORODENKER: I mean, we have currently
13 have a meeting scheduled for mid-January, but we can
14 schedule a meeting earlier than that. December is
15 problematic, but January, early January is open
16 currently. There is no, I mean, I just -- I don't
17 know how to respond to that because usually we don't
18 get that information on what's going to be submitted
19 or what's being proposed until the last minute.

20 COMMISSIONER LEE: Thank you. I know
21 you're involved in discussions about policy and
22 everything and you do, you're invited to meetings,
23 you're part of that YIMBY law.

24 MR. ORODENKER: So that is the only group
25 that we're a part of. We haven't -- we don't -- I

1 mean, the only other thing that's happened so far is
2 that there was a meeting to discuss a proposed bill
3 by OPSD, which we were invited to attend. And we
4 took no position on it. But other than that,
5 nothing has occurred.

6 COMMISSIONER LEE: Okay. I'd like to have
7 a meeting in December if that's possible. When we
8 sign up for this Board, we commit to four days a
9 week, four days a month that we're going to be
10 available. And you've even testified that we spend
11 30 percent of our time as Commissioners on LUC
12 business. But, you know, it just sounds like
13 affordable housing and other issues like that are a
14 major issue. And yet we're not even meeting. You
15 know, we're -- we're -- we're not in the -- in the
16 -- in the discussion at all. And we're not even
17 aware of what the discussion is. And so I think
18 that if we're going to be effective, we need to meet
19 a lot more than every three months. And so I'd like
20 to see a meeting in December to get some of these
21 updates so that we can share our input.

22 CHAIRMAN GIOVANNI: So let me break that
23 down into two parts. Part one would be what is the
24 problem? This is directed to the Executive Officer.
25 What is the issue or problems in scheduling a

1 meeting in December?

2 MR. ORODENKER: There's a lot of vacation
3 that's being taken by Staff. There's a lot of
4 vacation being taken by Commissioners. December
5 meetings are problematic as a result of that. We
6 can try, but I don't know how many, what kind of a
7 quorum we'll get and whether we have Staff to cover
8 it.

9 CHAIRMAN GIOVANNI: Okay. So why don't
10 you, let me ask that you research that immediately
11 following this meeting and look for an opportunity
12 for a meeting in December and look for an
13 opportunity for a meeting in early January as soon
14 as the holidays are over. One or both. And just
15 see what might be viable and possible to accomplish.
16 The second -- the second part of my question is to
17 everyone. So again, this grows from our discussion
18 in Executive Session on process. If any
19 Commissioners want to articulate a specific agenda
20 item for a December or January meeting, the sooner
21 you do that, the better because it takes about three
22 weeks to get it articulated, consistent with
23 Sunshine Law, get it drafted accordingly, get it
24 approved by the AG and get it published in due time
25 for the public. So let me throw out that opening to

1 Commissioners. I don't want to hear just complaints
2 about what we're not hearing. I want to hear
3 specifically what you want to hear in as much detail
4 as you can do and then we'll try to get that on an
5 agenda in January or December, earlier than the
6 meeting of January 23rd. The other thing which you
7 did not mention and I had an expectation is that we
8 would be getting a -- this Commission would be
9 getting a preview and an opportunity to comment on
10 the forthcoming budget. So what's the timing of
11 that budget process and whether or not this
12 Commission could get an opportunity to participate
13 in that?

14 MR. ORODENKER: I don't know, I don't have
15 that calendar up in front of me, but I believe that
16 our budgets are going to, well, we don't even have
17 the adjustments from B&F yet. I'm not sure when
18 we'll have a budget that will be submitted. I will
19 caution that when the budgets are preliminary, we're
20 asked to keep them confidential because the Governor
21 has not made decisions yet on those budgets. I
22 mean, if there is some line item in particular that
23 a Commissioner wants to see added or subtracted, we
24 can -- we can present that as the program, but final
25 budget is usually not, we don't determine that. The

1 B&F finalizes the budget. We make our
2 recommendations, but we don't -- we don't finalize
3 it.

4 CHAIRMAN GIOVANNI: Yeah, so do you see a
5 problem based on your understanding of the process
6 with sharing and your recommendations and seeking
7 Commission concurrence or further comment on the
8 recommendations?

9 MR. ORODENKER: I think timing is the
10 issue. We'll have to go back and check what the
11 process is, what the process timing is and when
12 submittals are required. But I can tell you that at
13 this point in time, that our budget is the same as
14 it was last year and that the only increases are
15 collective bargaining increases. We're not making
16 any other changes to our budget whatsoever. We're
17 not asking for any other changes to our budget.

18 CHAIRMAN GIOVANNI: Yeah, I think the --
19 there's a variety of desires and opinions among the
20 sitting Commissioners. Some, my expectation, or
21 this is my characterization based on my
22 understanding, it varies from I have no interest to
23 participate in the budget process, you just take
24 care of it to like, I want to have absolute input
25 for everybody to consider on a line by line basis in

1 the budget and everything in between. But to date,
2 we've not, in history, the Commissioners themselves
3 have not directly participated in the preparation or
4 recommendations for the budget. In prior Commission
5 hearings, we've actually discussed with Staff in
6 public the desire for this Commission to have a
7 better involvement. We've also had an understanding
8 and expectations that the DBEDT would be issuing
9 further guidance on a -- on a more consistent
10 budgeting process among all the Boards and
11 Commissions with which it's affiliated, but I've not
12 received anything on that. So what I'm asking for
13 today is clarification on the budget timing and
14 process and whether or not if there's a role that we
15 can play as a Commission, which might be small or
16 large, whatever it turns out to be, that we get that
17 agenda'd in a time that is consistent with when
18 that information is needed by DBEDT.

19 MR. ORODENKER: Okay. We will -- we will
20 attempt to schedule a meeting to discuss that issue
21 in December. And we'll have to see what kind of a
22 quorum we can get.

23 CHAIRMAN GIOVANNI: Okay. That's all we
24 ask at this time. Thanks, Dan.

25 COMMISSIONER LEE: Chair, this is

1 Commissioner Lee. Nobody asked me if I was
2 available or as far as I know, anyone else, you
3 know, in December or late November or January. And
4 if we're going to have a meeting on Legislative
5 stuff in December, if possible, then we should also
6 add the budget discussion as well. That can be done
7 in Executive Session. And, you know, it would be
8 good to see for -- for -- to refresh our memories
9 last year's budget as well as the draft for next
10 year's budget. You say there's nothing, but, you
11 know, I'd rather see and not see what the budget's
12 going to be. So if that can be done in December,
13 that would be great.

14 COMMISSIONER U'U: Question.

15 CHAIRMAN GIOVANNI: Mr. U'u.

16 COMMISSIONER U'U: I just wanted to kind
17 of share my mana'o about the YIMBY meetings, which
18 we just learned about. So I would like to know, I
19 want to be proactive in understanding what's
20 happening instead of finding out after. I think
21 part of my -- I'm frustrated. Part of my learning
22 curve is like when we did the CWRM MOU, MOA, I kind
23 of found out after the fact. And I kind of like, I
24 was confused as to why it wasn't presented to us
25 prior. So when I hear about YIMBY meetings and who's

1 involved and what's involved and what would be the
2 hopeful outcome. And when we hear our Director
3 said, we took no position on it. And my question
4 is, when he said we, I like to know, is it the
5 Director or is it the LUC? Because that's what I
6 just heard. We took no position on it. And then I
7 like what you're saying, Chair, that give us -- give
8 -- we give you and articulate our email into what
9 we're asking. And it goes back to if I don't know
10 what's going on, how can I ask? Or how can I
11 articulate the ask if I guess the Director or the
12 Staff is having meetings with or YIMBY meetings that
13 might have on potential outcome that we would want
14 to participate in, meaning the body. So I want to
15 kind of ask him, who has the authority to say, oh we
16 took no position? Is it the Director or is it the
17 Commission? Because unlike, again, the MOA or the
18 MOU, I had no idea until later. And I was like kind
19 of taken aback by it. Like does the body have say
20 or does it just have say when it lands on us? So I
21 would like to be proactive on some of the approaches
22 and not reactive. So who has that authority? Like
23 we took no position on it. And I'm not saying it
24 was good or bad. Could have been minor. Could have
25 been -- could have been major. Could have been

1 minor. Could have been, you know, who has that say?
2 Because I didn't have an opportunity to say, we take
3 no position on it. Just curious. Who has it? Who
4 has the wherewithal to say, yay or nay? Is it the
5 body or is it our Director? That's the
6 clarification I probably need. Chair, by the way, I
7 think you're doing pretty good up there right now.

8 MR. ORODENKER: Commissioner U'u, if I can
9 answer that question. First of all, it's very
10 difficult sometimes to get these things in front of
11 the Commission for a decision because we get a
12 request by the Director, for instance, to come and
13 discuss something and we only have a week notice or
14 a couple of days' notice sometimes. When I said we
15 took no position, it's exactly that, because I had
16 not consulted with the Commission, we took no
17 position from previous meetings.

18 COMMISSIONER U'U: And that is something
19 I'll be concerned about, because what if we wanted
20 to take a position? And I know it might be
21 difficult, is what you used, difficult, but it is
22 difficult for me to make the meeting, hence me on
23 Zoom, right? I did say define difficult, and I'm
24 not saying it's easy. I'm not saying that. But I'm
25 saying in a time of a housing crisis, we're

1 representing people who live in the islands. That's
2 difficult. There's degrees of difficulties, yeah?
3 How I look at it, yeah. So your difficult might be
4 different than other difficult. My difficult might
5 be different. But I think we deserve an opportunity
6 to hear what's being presented out there. So maybe
7 we can chime in on what we should or should not do.

8 MR. ORODENKER: When I say difficult, I
9 mean we don't have time to agendize a meeting.

10 COMMISSIONER U'U: Well we've got to
11 figure something out, my friend. That's all I'm
12 saying, because when I hear, we took no position on
13 it, it gives offense to me because I never had the
14 opportunity to weigh the outcome. So we, I don't
15 know if it's late, but and again, so if we can take
16 the meetings because we have time and discuss the
17 issues, being we have the time. I would love to be
18 part of the discussion.

19 COMMISSIONER LEE: Chair, this is
20 Commissioner Lee. You know, I think maybe it should
21 be clarified that instead of saying the -- we take
22 no position, it should be that the issue was not
23 addressed yet by the -- the LUC Commissioners. I
24 think that's a little bit more clear and accurate.
25 Because, you know, there's -- there's going to be

1 issues coming up like the counties want more than 15
2 acres to do DBEDTs. Now, I know that's a
3 controversial question, but, you know, maybe -- we
4 have new Commissioners. Maybe people feel
5 differently. Maybe now people recognize that
6 there's a problem. And, you know, things like that
7 evolve. And, you know, that affects the budget too.
8 If the problem is that we don't have enough staff,
9 and we tell the Governor's office or the Legislature
10 that, well, we'd like to build more housing, but we
11 don't have one or two more staff at the LUC. I
12 think if that's the real problem, then they're going
13 to figure something out. But they don't know that
14 that may or may not be the problem. So I think we
15 should have a standing agenda item recurring, that
16 we have Legislative updates at every meeting so that
17 we don't run into Sunshine issues, that, oh, well,
18 we didn't agendize that for the next meeting. And
19 you know, the Executive Officer can work with the
20 Deputy AG to put enough detail so that it meets the
21 requirements for Sunshine. But to have that
22 direction that we need Legislative updates on a
23 recurring basis to be, you know, crafted in more
24 fine detail as you come up to that meeting. But to
25 just not put anything, I think, is just being

1 derelict.

2 MS. KWAN: Chair, this is Ariana. May I
3 speak?

4 CHAIRMAN GIOVANNI: Please, Ariana.

5 MS. KWAN: To be respectful of OPSD's
6 time, I would suggest, I will email all the
7 Commissioners for quorum for December and January.
8 I did email for December previously, but it was all
9 the way in August, so it's been a while. But I will
10 quorum for January because I haven't done that yet.
11 And then I will email all the Commissioners asking
12 what agenda item you want brought on the agenda for
13 that future meeting and then we'll move from there.
14 Does that sound fair? Can we move --

15 CHAIRMAN GIOVANNI: Yeah, I think that's a
16 reasonable approach. Let me say that, you know, I
17 have informed of the Commissioners that I welcome
18 all requests for agendizing items on our meeting for
19 our meetings and I will, you know, we need about
20 three weeks to process those requests and get them
21 on the agenda. So we just have to be respectful of
22 the time that's required, and they have to be
23 articulated in enough specifics that we give the
24 public the opportunity to decide to participate in
25 the process or not in a meaningful way. So yes, I

1 welcome your suggestions, and I would like to move
2 on now. Is there anything further on the -- I don't
3 want to cut it off if there's something particularly
4 relevant to the schedule. So Commissioners, one
5 last time I know we need to move to OPSD. Do you
6 have anything on the -- on the -- do you have
7 anything further on the, or Staff, anything further
8 on the calendar?

9 MR. ORODENKER: Chair, I would like to say
10 that I take offense to the use of the word derelict.
11 This Commission has not had any interest in
12 legislation previously. The responsibility for
13 policies is with OPSD. It is not with us. We are a
14 regulatory body. Up until this year, we have, the
15 Commissioners have not had any interest in
16 legislation, and so that -- it was never brought
17 forward before. I, you know, there are, this is a
18 change in Commission. I will recognize that.
19 However, I think Staff needs time to adapt to what
20 the Commissioners' desires are and accusing us of
21 being derelict is improper.

22 CHAIRMAN GIOVANNI: Thank you for that
23 clarifying position, Mr. Orodenker. So noted.

24 COMMISSIONER LEE: Chair, this is
25 Commissioner Lee. I don't think that we should

1 assume that just because we never did stuff before,
2 that we shouldn't even think about doing it in the
3 future. I think that's why we're in this problem.

4 CHAIRMAN GIOVANNI: You know, you guys are
5 talking -- you guys are talking past each other now
6 and it's not productive. You're just throwing
7 mischaracterizations at each other and I'd just like
8 to bring that to an end and I like to move on with
9 the business of today. So unless you've got
10 something specific to say, specific, not about each
11 other, but about the calendar, we're going to move
12 on to OPSD. Hearing none, let me turn it over to
13 Mary Alice.

14 MS. EVANS: Thank you, Chair and Members.
15 I'm Mary Alice Evans. The -- oh. Oh, thank you
16 very much, Ariana.

17 MS. KWAN: Yes, sorry.

18 MS. EVANKS: No -- no, I appreciate it.
19 And by the way, we're here as long as you want to
20 have us here. We are prepared to stay and answer as
21 many questions as you might have. So time is not an
22 issue for us, but thank you, Ariana, for being so
23 thoughtful. For most of you, this may be a new
24 presentation, but I think for the Chair, we did do a
25 briefing of the Commission in July 2022. And it's

1 our pleasure to be here and to provide you with an
2 overview of the Office of Planning and Sustainable
3 Development. And then the second phase of our
4 presentation. Yes. Can all of you hear me? I
5 should have checked.

6 CHAIRMAN GIOVANNI: Yeah, you're good.
7 Keep going.

8 MS. EVANS: Okay. We're going to do this
9 in two phases. The first will be a quick overview
10 of all of the programs that comprise the Office of
11 Planning and Sustainable Development. And that's
12 why we have all of our program leads here for you to
13 ask questions. And we're going to go through that
14 and then introduce each of the program leads so that
15 you have an opportunity to hear from them as well.
16 The second phase of our presentation will be
17 specifically on LUC matters that the Office of
18 Planning and Sustainable Development provides
19 support to. And that one will be much more
20 detailed, I think. And again, we encourage any
21 questions you might have. So, Ariana, do I tell you
22 when I want to change?

23 MS. KWAN: Yes.

24 MS. EVANS: Okay.

25 CHAIRMAN GIOVANNI: So Ms. Evans, would

1 you prefer that the Commissioners pose their
2 questions as we go or wait till the end?

3 MS. EVANS: I think pose the questions as
4 you go.

5 CHAIRMAN GIOVANNI: Okay. That's good.

6 MS. EVANS: All right.

7 CHAIRMAN GIOVANNI: Thank you.

8 MS. EVANS: Okay. So Office of Planning
9 and Sustainable Development has eight, no eight,
10 yes, eight statutes that we have to comply with.
11 And we're letting you see these so you can see the
12 range of statutory obligations that our staff, a
13 fairly small staff, but definitely bigger than the
14 Land Use Commission staff, has to comply with. The
15 Board of Geographic Names, the Land Use Commission
16 statute, our Coastal Zone Management, statute, our
17 enabling statute, 225M, the Hawaii Climate Change
18 Mitigation and Adaptation Initiative, which is -- we
19 are the co-chair of with DLNR, the Hawaii State
20 Planning Act, which last session, the legislators
21 passed and the Governor enacted a bill to do an
22 update of that statute. And so we're -- we haven't
23 started yet, but that's something that we would be
24 happy to brief the Commission on if you request it.
25 And then we also have the Chapter 341 and 343 for

1 the Environmental Advisory Council and Environmental
2 Impact Statement law, which is a new program for us,
3 and we'll go into that. Next slide. Quick
4 organizational overview that I want you to be sure
5 and note that that line between the Land Use
6 Commission and OPSD is a dotted line. You have
7 policy autonomy and you don't report to us. The
8 Legislature incorporated, attached the Land Use
9 Commission to the Office of Planning and Sustainable
10 Development to support the Land Use Commission, but
11 to provide that policy autonomy. You also have
12 fiscal autonomy. That means your budget does not
13 flow up through the Office of Planning. It goes
14 directly to DBEDT. And we have taken a step recently
15 to strengthen that for you so that you have an even
16 clearer fiscal autonomy. And then as you can see,
17 the other projects or programs that are in the
18 Office of Planning and Sustainable Development,
19 starting to your left are Coastal Zone Management
20 Program, which has a Marine and Coastal Zone
21 Advisory Council -- Advocacy Council, our
22 Environmental Review Program, which is the former
23 Office of Environmental Quality Control. It used to
24 be in the Department of Health and is now with us.
25 And they have the Environmental Advisory Council.

1 The Geospatial Information Systems Program, which is
2 a statewide program that oversees 1,000 users of GIS
3 licenses in the state. And it also supports the
4 Hawaii Board of Geographic Names. the Land Use
5 Commission Division, excuse me, and the TOD,
6 Transitory and Development Program, which also
7 supports the TOD Council, for which is a partnership
8 program with the Hawaii Housing, Finance, and
9 Development Corporation. And then another dotted
10 line is the Hawaii Climate Change Mitigation and
11 Adaptation Commission. Dawn Chang and I are the co-
12 chairs at this current time. And other programs are
13 Special Plants Branch, which is currently working on
14 disaster, economic disaster recovery for Maui
15 wildfires and COVID using federal funds and is also
16 where we our comprehensive economic development
17 strategy is updated every five years and is working
18 on an economic development district designation from
19 the U.S. Department of Commerce to enable us to --
20 the state and non-profits to apply for more federal
21 grants for economic development. I think the point
22 I'd like to make is that the Office of Planning and
23 the Hawaii State Planning Act are broader than land
24 use. They encompass social justice, natural
25 resource protection, native Hawaiian entitlements,

1 and a prosperous and stable economy and housing. So
2 let's move to the next slide, Ariana. So these are
3 the Boards and Commissions that we support, and
4 you've already had an overview of that in the
5 statutes and the organization. Moving forward,
6 Ariana. Let's start with Coastal Zone Management.
7 We have with us today our new Coastal Zone
8 Management manager, Chris Liu. Chris, you want to
9 give a brief overview of this slide.

10 MR. LIU: It's red, so it's easier to look
11 at. Okay. Aloha everyone. My name is Chris Liu.
12 I'm, as Mary Alice said, the new program manager for
13 the CZM program. With me is Deb Mendes in case
14 questions beyond me come up. Our -- when we say
15 coastal zone, our -- and Hawaii, it's very unique
16 because the entire state is within what's called the
17 coastal zone. So that's all lands of the state and
18 then all the way down to the shoreline and then
19 extending from the shoreline into the state's marine
20 waters up to the U.S. territorial waters. So it's
21 Mauka to Makai, a lot of effects upland, you know,
22 factor into what goes into the ocean. So a few
23 things that we're focusing on right now is the
24 implementation phase of our 2020 Ocean Resources
25 Management Plan. That's this nice book here. We

1 have copies if anyone wants hard copies. It's also
2 available online. And the three kind of main
3 priorities that we're looking at right now is
4 coastal hazards, land-based pollution, and marine
5 ecosystems, which you see up there. And we've
6 listed a few of the projects that are ongoing right
7 now to help support those focus areas. As we move
8 forward into the future, we're going to continue to
9 look at adaptation strategies, specifically related
10 to climate change and sea level rise. And we're
11 going to continue to serve as our, we serve as the
12 kind of the lead agency to assist and support the
13 counties that are implementing and enforcing the
14 rules of the special management area, so the SMA for
15 those of you that are specific with those areas,
16 familiar with those areas. Deb, anything on other
17 key highlights?

18 MS. MENDES: Yeah. We are the
19 coordinating agency for the Marine and Coastal
20 Advocacy Council, as Mary Alice had mentioned, and
21 we are also the avenue for the BIL funding for
22 habitat restoration and climate resilience projects.

23 MR. LIU: And then I guess we also provide
24 comments for environmental assessments and
25 environmental impact statements. And so that gets

1 factored into decisions that are made. And we're
2 available for questions. Thank you.

3 MS. EVANS: Thank you so much. I'd like
4 to note this is our largest program. It's actually
5 the one that's been with the Office of Planning and
6 Sustainable Development the longest. It was created
7 back in the 70s prior to the establishment of the
8 Office of State Planning in 1987. It moved over
9 from the old Department of Planning and Economic
10 Development a year after the establishment of the
11 Office of State Planning. And it's almost 100
12 percent federally funded, but not quite. And so
13 very important for us because it works with all four
14 counties and their planning departments. And we
15 helped fund their special management area planners.
16 So, we have a partnership relationship with all four
17 counties that we nurture and work with, plus all the
18 state agencies that are involved in these ocean
19 resource management planned priorities. If you're
20 ready, we'll move on to the Environmental Review
21 Program. Tom Eisen is here. Tom has been with the
22 Environmental Review Program and with the Coastal
23 Zone Management Program for many years, and he'll
24 review this slide.

25 MR. EISEN: Yes, hello, everyone. Tom

1 Eisen here. I'm the planner with the Environmental
2 Review Program and I'm currently with the program
3 formerly known as OEQC, as was mentioned, the Office
4 of Environmental Quality Control, before we were
5 statutorily transferred into DBEDT's Office Planning
6 and Sustainable Development in 2021. So we're still
7 getting, we fit well and we're still figuring that
8 out. We're an independent, a small independent
9 agency and our program is smaller now than it was.
10 So we're trying to do a lot. But our main purpose
11 is to facilitate Hawaii's environmental review
12 process pursuant to Chapter 343. A lot of people
13 know of the process by the acronym HEPA. It's kind
14 of a short code for it. It doesn't actually stand
15 for anything, but it has reference to NEPA, the
16 national program, which is similar to it. Similar,
17 but different, definitely different.

18 So some priorities of what we do,
19 certainly publishing the Environmental Notice,
20 that's twice a month on the 8th and 23rd of every
21 month. Rain or shine, holidays, weekends. It's
22 published to announce the availability of new BAs
23 and EISs and associated agency determinations.

24 We maintain an online library of thousands
25 of EAs and EISs dating back to the 1970s. We

1 provide guidance and support to a range of
2 stakeholders in the process. Certainly agencies
3 such as the LUC and definitely with the staff of
4 many agencies, certainly the Staff of LUC.
5 Applicants, consultants, legislators, special
6 interest groups, the public, there's a lot of people
7 that participate in the environmental review
8 process. Public participation, that's a big part of
9 it, and that's maybe our main role in the process.
10 As an office, an entity, we don't have oversight
11 over any given projects going through the process,
12 but we try to facilitate public involvement, and we
13 help anyone who needs to understand how the process
14 works. It's a very process-oriented thing and we go
15 into a lot of nuance and details of the process.
16 Maybe we can save for another time as necessary. I
17 can go for hours about that.

18 We also provide staff support to the
19 Environmental Advisory Council, a body, maybe
20 similar to you, although advisory. And so that's a
21 big part of what we do. I guess I can get into some
22 of the content. I don't want to spend too much time
23 because there's a whole lot of other programs that
24 need to talk about.

25 Maybe the biggest thing to take home from

1 the environmental process is a disclosure process.
2 It's not a regulatory process. It's triggered by
3 the need for an approval. So it's essentially, it's
4 a disclosure process embedded within an approval or
5 regulatory process. So there's some potential
6 confusion and complexities about that. I can
7 provide a lot of detail. That's what we often
8 provide guidance to the agencies going through it,
9 just how to differentiate the 343 part from the
10 bigger permit approval that they're going through.

11 Not every proposed action goes through
12 this HEPA process. You need to trigger to, for the
13 process to apply, the triggers are statutorily
14 defined in Chapter 343. There's a range of them. I
15 won't go into all of them, but for the Land Use
16 Commission, probably the most relevant trigger is
17 the proposed reclassification of conservation
18 district lands. That's established as a trigger.
19 And so that probably is the one that would be the
20 most relevant. There's a few other ones.

21 Certainly the most common trigger across
22 all the process is the proposed use of state or
23 county lands or funds. That captures most actions
24 by most agencies. But as far as private, there's a
25 lot of private actions on private lands that do not

1 trigger the HEPA process. But if you're proposing
2 reclassification of conservation district lands or
3 the use of them, those are two. A critical aspect
4 of the disclosure process is that proposed
5 mitigation measures that might get described in an
6 EA or an EIS are not inherently enforceable. It's
7 just disclosure document. It says these are some
8 things that can mitigate the action. For those to
9 be enforceable, they would need to be out of this
10 permit conditions to the actual permit that follows
11 the process. So that's an important takeaway
12 message.

13 And there's always some agency, not OPSD,
14 that is in charge of the process when some applicant
15 is -- that's triggered at the process. There's
16 always some agency, and it's possible that in the
17 case of the Land Use Commission, a different agency
18 may already have essentially managed the HEPA
19 process for that action, depending on what permits
20 and approvals are necessary. And the rules and
21 statute clarify that once proposed action goes
22 through the process one time, and then everybody
23 else honors the results of that process. So if an
24 EA has already been prepared for an action because
25 some other agency was in charge, then that is -- the

1 requirements have been met. So it's -- there may be
2 ideas of how an agency wants to address it, but
3 there's a lot of rules and process that need to be
4 followed. There's three major levels of review. An
5 environmental assessment is probably the most well-
6 known. Environmental impact statements when the
7 idea that there's likely to be a significant impact
8 by the proposed action. And then it's possible for
9 an agency to exempt an action from the (inaudible)
10 requirement of preparing an environmental
11 assessment. Those -- there's a number of agency
12 determinations that need to be made during the
13 process, and those are legally challengeable. So
14 you want to get them right. Yeah, I could go on but
15 that's a good place to end right there. Thank you.

16 MS. EVANS: Program, and that is the Land
17 Use Division. I'm going to ask Katia Balassiano,
18 who you are very familiar with, to summarize this
19 slide.

20 MS. BALASSIANO: Good afternoon, folks.
21 Katia Balassiano. I'm joined today by Aaron
22 Setogawa and Brandon Soo of the Land Use Division.
23 There are four other folks who are part of the Land
24 Use Division. You usually see me at meetings along
25 with our Attorney General, Alison Kato. So we

1 provide assistance at the Land Use Commission
2 meetings. We're a required party. We'll get into
3 that a little later. However, what we also do is
4 provide comments on just about every special permit
5 that the counties process, every zoning decision
6 they make, every district boundary amendment they
7 process. So we get a lot of these requests and
8 usually respond in writing to them with, you know,
9 what the law is or what the state's interests and
10 opinions are. We had also shared with you the fact
11 that we're working on a soil study and had
12 summarized some of the findings for you. We look to
13 protecting ag lands and reducing regulatory barriers
14 and making best use of the state lands in the urban
15 district near bus and rail. We are very much
16 interested in supporting housing opportunities for
17 local families. Later, I will speak in greater
18 detail about the Housing and Urban Development Pro
19 Housing Award that we had received a number of
20 months ago. And we have also back in 2022 completed
21 the state land use review of districts study that is
22 the basis for legislation and also policy. If we
23 could go to the next slide, please. Within the land
24 use division, there is also the transit-oriented
25 development branch. We recently hired Seiji Ogawa to

1 be the program manager of that branch. Brandon Soo
2 is conducting -- is the lead on the East Kapolei
3 Infrastructure Master Plan. We've hired Jacobs to
4 take a look at the state properties around the three
5 rail stations in East Kapolei. We received money
6 from the Legislature to look at that. So those are
7 all urban lands. And the question is how to provide
8 infrastructure in a timely manner and coordinate the
9 needs of our sister state agencies. So that's a big
10 project that we've got going on right now. And you
11 will regularly hear -- you spoke this morning about
12 YIMBY. One of the biggest things that stands in the
13 way of housing production is infrastructure. So
14 with the TOD branch, we spend time looking at how to
15 best fund and finance the necessary infrastructure,
16 especially along rail and bus mobility hubs on the
17 other islands. We're hoping to update the state's
18 strategic plan for TOD in the next coming years and,
19 you know, regularly just work to think about how
20 best to use primarily the state's land to create
21 compact, mixed-use developments in places where
22 people can, you know, walk to work, use transit,
23 live in a more dense manner, keep the country
24 country, and promote infill development where it
25 should be and where it can be best serviced. Next

1 slide.

2 MS. EVANS: Oh any questions for Katia?

3 COMMISSIONER MIYASATO: I have a really quick
4 question. Are you receiving additional funding for
5 all your studies and is the Legislature supporting
6 your studies?

7 MS. EVANS: When there's a bill that asks
8 us to do something that's beyond our Staff, yes, we
9 ask for funds. And sometimes we get them and
10 sometimes we don't. But we understand that when we
11 may need vendor help to take on a fairly complex,
12 you know, project that we're going to need to ask
13 for additional funds. Thank you, Commissioner.

14 COMMISSIONER MIYASATO: Okay. And I just
15 noticed that there were several bills last session
16 pertaining to housing studies, like SB 140 and stuff
17 was getting all the way through. So I was just
18 curious if you did actually receive some additional
19 funding.

20 MS. EVANS: Well, I think we should
21 probably say a little bit more about the pro-housing
22 grant that the Office of Planning and Sustainable
23 Development received from the U.S. Department of
24 Housing and Urban Development. This is a program
25 that Senator Brian Schatz ponchoed it in. The U.S.

1 Senate passed and it was signed into law. And there
2 were 21 awardees throughout the country, and Hawaii
3 was one of them. And we are charged with finding
4 ways to finance infrastructure that will lead to
5 housing, that will unlock housing, and also looking
6 at the regulatory barriers to housing. This is a
7 six-year grant, so we may not have reports for you,
8 you know, immediately, but if the Commission wants
9 to get reports on our progress there, we'd be very
10 happy to provide that.

11 COMMISSIONER MIYASATO: Okay. Thank you.

12 MS. EVANS: Our next --

13 COMMISSIONER U'U: Can I ask a question?

14 CHAIRMAN GIOVANNI: Yeah, a couple of
15 people. I got a question myself. Who was that just
16 asked for a question?

17 COMMISSIONER U'U: That was me.

18 CHAIRMAN GIOVANNI: All right. Yeah, go
19 ahead.

20 COMMISSIONER U'U: Yeah, I would love to
21 keep abreast of that pro-housing plan and whether it
22 be finding the finance for infrastructure or finding
23 the banner -- the barriers that hinder housing. I
24 definitely want to keep us -- keep us posted. I
25 love it.

1 MS. EVANS: Will do, Commissioner.

2 CHAIRMAN GIOVANNI: Yeah, that's pretty
3 much what I was going to ask for too, you know, in
4 terms of regulatory barriers and or the former,
5 which is kind of my pet peeve looking at barriers to
6 housing, which is the infrastructure requirements.
7 So is there anything you, I know you're early in the
8 study work, but it's not a topic that's new. It's
9 been around for a while. Can you add anything or
10 any of your members of your panel there, add
11 anything in terms of the barriers to housing that,
12 from a planning perspective, from a whatever
13 perspective you want to put, that tie directly to
14 the -- to this state's approach, policy, whatever
15 for the requirements for infrastructure being put on
16 the backs of developers.

17 MS. EVANS: I'm going to ask Katia to
18 comment because she was involved in writing the
19 grant and setting out the scope of work for this
20 project.

21 MS. BALASSIANO: The basis of the grant
22 was a study that we completed in 2022 involving TOD
23 infrastructure, funding and financing, and I can
24 send a link to the Executive Officer who could share
25 that with you folks. That has resulted in several

1 pieces of legislation involving conveyance taxes,
2 GET, taxing from financing, and several
3 recommendations for counties to better fund and
4 finance infrastructure. So the pro-housing
5 application came out of that study. We don't get
6 enough money from the Legislature, so we are now
7 pursuing grants to help subsidize what needs to be
8 done. And so we're going to be hiring probably two
9 staff people. As Mary Alice said, it's a grant for
10 six years. We've recently applied for a second
11 round of grant funding, so that will be another six
12 years. And the staff will specifically be tasked to
13 working with counties to identify how best to
14 streamline regulations that results in the -- in the
15 production of primarily affordable housing. And
16 again, our primary focus is, honestly, infill around
17 either rail stations or near bus mobility hubs on
18 the other islands. However, we understand that
19 there's a need for a diverse amount of housing,
20 island-wide, and the staff will be able to do that.
21 We're also funding three specific projects. One
22 involves wastewater in Lihue. Another one involves
23 Kahiki Terraces in Maui, how to best redevelop that
24 property for more housing on that site for HPHA.
25 And the third one involves HHFDC and Kamakana

1 Villages on the Big Island and how we could best
2 assist with pushing their infrastructure needs ahead
3 so that we can see finally build out of that
4 property.

5 CHAIRMAN GIOVANNI: So thank you, Katia.
6 Let me give you a follow-up question. Do you sense
7 that there's any political will in this state to
8 deal with property taxes to raise funds for counties
9 so that they could actually develop some of the
10 needed infrastructure for new development as opposed
11 to putting it all on the developers' back? Or are
12 you purely looking at trying to optimize the
13 existing process without more money coming into the
14 process through property taxes?

15 MS. BALASSIANO: Optimizing the existing
16 process is the most affordable way to go. I don't
17 think that people are interested in raising taxes,
18 but there may be an opportunity to restructure how
19 taxes are collected so that there may be ways to
20 fund other things. We are definitely supportive of
21 existing capital improvement program processes and
22 working with counties to anticipate infrastructure
23 needs. There was one other piece to that question.

24 MR. GIOVANNI: No, I think you covered
25 it. I mean, my basic issue is that the

1 infrastructure requirements for a new multi-unit
2 development is putting numbers -- I'm hearing
3 \$250,000 to \$300,000 per unit cost just for the
4 infrastructure that's required up front, which is
5 now driving that to an unaffordable level for a lot
6 of our fellow people in Hawaii. And until we solve
7 that problem, I don't think we're going to get very
8 far. That's just my opinion.

9 MS. BALASSIANO: Chair, there was one
10 other piece to your question, and that involved the
11 degree to which developers have to pay for their own
12 infrastructure for projects. And I believe the
13 sentiment is moving in the direction of municipal
14 and state and regional solutions, such that it's not
15 the burden of each individual property owner or
16 developer to have to fund all of the infrastructure
17 that's necessary, especially when that
18 infrastructure benefits probably a larger area. So
19 I do think things are moving in that direction, and
20 our East Kapolei infrastructure master plan effort
21 is an example of how the Legislature is looking at a
22 regional solution.

23 CHAIRMAN GIOVANNI: Agreed with that
24 approach but you've still got to fund it, and that
25 comes from property taxes, and I don't see the

1 political will yet. So hopefully we'll see it.

2 MS. EVANS: Thank you, Chair. Can we move
3 on to our next program?

4 CHAIRMAN GIOVANNI: Yes, please. Sorry.

5 MS. EVANS: Okay. The next program is our
6 Geospatial Information Systems, and I don't believe
7 Art's here. Art Buto is the lead of that. This is
8 an amazing program. It's supports data-driven
9 decision-making by entities all across the state.
10 Because when you can visualize data in layers in map
11 form, you can often see patterns that if you just
12 looked at the table, you wouldn't necessarily see
13 them or it might take longer. So we've been
14 encouraging state planners and asset managers and
15 everyone else to use geospatial mapping tools, and
16 this program supports that. So it's an amazing
17 program that's been around for a while, but it's
18 keeping up with the changing ways of looking at data
19 to make good decisions. Let's see, have I missed
20 anything? Any questions on our Geospatial
21 Information Systems Program? Not seeing any, Chair,
22 I'd like to move forward then to the Special Plans
23 Branch. Do we have a representative? We don't. So
24 if you look at the slide, this branch has been
25 around since 1987, but, you know, sometimes it's

1 small, like as many as two people, and sometimes a
2 little larger. Right now, it is 100 percent
3 federally funded, and it has been working on the
4 Hawaii Economic Recovery and Resilience Project
5 using a big grant from the federal government to
6 provide a plan for economic recovery from the COVID
7 pandemic and then the Maui wildfires emergency. We
8 have submitted almost all of the required documents
9 for the Economic Development District designation by
10 the U.S. Department of Commerce. That will open up
11 eligibility for government agencies that would
12 include county agencies and state and nonprofits to
13 pursue funding for economic development programs.
14 And let's see what we'll -- we're also working on
15 one that I think may help with infrastructure,
16 Commissioners, and that is the Military and
17 Community Relations Office, also known as MACRO.
18 This is a federally funded project from out of the
19 Office of Local Defense Community Cooperation, which
20 is part of the federal DOD, Department of Defense.
21 And the goal there is our role of this office is to
22 create a repeatable planning process to identify
23 infrastructure projects that will benefit both our
24 military installations and, more importantly, for
25 us, their adjacent communities. So when we can

1 identify those projects, then we can ask DOD for
2 funding, not state funding, but federal funding.
3 And that will help, I think, fill in some gaps where
4 we need infrastructure. I think now we're ready for
5 our Statewide Sustainability Branch. Danielle Bass
6 is our state sustainability coordinator, and she
7 will describe the program.

8 MS. BASS: Aloha, good afternoon. Again,
9 my name is Danielle, and as the administrator of the
10 Statewide Sustainability Branch, our primary purpose
11 and roles and responsibilities are to evaluate and
12 recommend legislative, regulatory and policy changes
13 to the Governor, the Legislature, the government
14 agencies, private entities, non-governmental
15 entities, and counties to encourage actions that
16 best sustain, protect, and enhance Hawaii's
17 environment, economy, and community for the long-
18 term benefits of its people. Our current
19 priorities, we are, of course, we are mandated to
20 coordinate the Hawaii 2050 Sustainability Plan,
21 which was amended in 2019 and published in 2021 as
22 the State Climate and Sustainability Plan. So this
23 is found in the Hawaii State Planning Act. We are
24 also required to coordinate statewide climate and
25 sustainability statutory goals. So those are the 26

1 mandates and targets that are scattered throughout
2 all of the HRS. And we work with departments and
3 agencies in terms of their progress to meeting the
4 statutory goals, excuse me, targets. We also
5 provide planning and actionable policy
6 recommendations and assistance regarding climate
7 change and sustainability to state, county, private,
8 NGO entities. That is described again in OPSD's
9 statutes. And our top priority is to expand staff
10 capacity to strengthen statewide climate and
11 sustainability engagement policy development and
12 climate adaptation efforts. This is because at this
13 time, while the Statewide Sustainability Branch was
14 created in 2020 via Act 45, prior to OPSD's merger,
15 if you will, the state hasn't been funding the State
16 Sustainability Branch to perform its climate and
17 sustainability requirements and mandates. So right
18 now at this point, I am the only staff person for
19 this branch, regardless of the large statewide
20 mandates. And I have worked very diligently with
21 all of our departments and agencies to help them
22 along, but acknowledging that it is only a one
23 staff entity. That being said, for future
24 priorities, definitely it is a major goal to create
25 a statewide administered dashboard to determine how

1 the state of Hawaii is in achieving the
2 sustainability and climate targets that are mandated
3 within HRS, as well as to also develop Hawaii's
4 first statewide climate adaptation and resilience
5 plan. This is a major recommendation that we heard
6 from the public, in terms of our listening sessions
7 to create the Hawaii 2050 Sustainability Plan as the
8 climate plan is that we actually need an adaptation
9 strategy, which is inclusive, you know, in inland
10 areas that pertain to all climate risks. So this is
11 what we have been recommending. I believe it may be
12 in the admin package. I think -- if there aren't
13 any questions we can proceed.

14 MS. EVANS: Any questions for Danielle?
15 We'll move on.

16 UNIDENTIFIED SPEAKER: There's one.

17 CHAIRMAN GIOVANNI: Ms. Evans, have we
18 gone quiet for some reason or is it -- what's going
19 on?

20 MS. EVANS: My fault. Sorry, Chair, I
21 forgot to push the button on the -- can you hear me
22 now?

23 CHAIRMAN GIOVANNI: I hear you now. Thank
24 you.

25 MS. EVANS: I was just explaining that we

1 have a small component of three admin staff that
2 support these six programs. And one of them, Dan
3 Yashima, our Accountant Four, does support the Land
4 Use Commission staff when, you know, there's a
5 fiscal transaction that needs to be processed. And
6 now, unless you want a break, we're ready to start
7 the second phase of our presentation, which is to
8 focus in specifically on how we support the Land Use
9 Commission. Commissioner --

10 CHAIRMAN GIOVANNI: Please proceed, yeah.
11 I think if Commissioners need to make a bio break,
12 they'll do that on their own. Please proceed.

13 MS. KWAN: Commissioner Carr Smith has a
14 comment.

15 CHAIRMAN GIOVANNI: Please, Commissioner
16 Carr Smith, yeah.

17 COMMISSIONER CARR SMITH: Thank you. You
18 just said something about when there's a fiscal
19 transaction with the LUC. Can you give us an
20 example of what that is?

21 MS. EVANS: Not specifically for the Land
22 Use Commission, but our Accountant Four is our
23 primary point of contact with the DBEDT
24 administrative services officer, which oversees the
25 DBEDT fiscal officer, the DBEDT budget analyst, and

1 our DBEDT also, I think, has several account clerks.
2 So it's -- in a, you know, for attached agencies to
3 a department, you know, we have a central hub in the
4 department that handles all of our fiscal
5 transactions and works directly with the budget and
6 finance and DAGs on those various fiscal
7 transactions. So our point of contact for that is
8 our Accountant Four. Commissioner Miyasato.

9 COMMISSIONER MIYASATO: Yeah, thank you.
10 You know, I've been kind of hearing some chatter
11 going around, and so I was just curious if OPSD had
12 a position, but I believe the Senate is tossing
13 around the idea as you brought up infill and
14 housing. They're tossing around the idea of
15 proposing to, I guess, somehow change the
16 regulations or requirements and talking about tiny
17 homes. Does OPSD have a position?

18 MS. EVANS: We support increasing housing
19 for our local families in any way that we can. But
20 specifically tiny homes, I don't think we have
21 looked at that. You know, that one, we support
22 Governor Green's kauhale proposals where he has
23 established kauhales for homeless populations,
24 different types with different needs. That was an
25 --

1 UNIDENTIFIED SPEAKER: Katia would like to
2 answer.

3 MS. EVANS: Go ahead Katia.

4 MS. BALASSIANO: We're going to be looking
5 at that thing through the pro-housing grant. We are
6 definitely in support of accessory dwelling units
7 and all of the counties already allow accessory
8 dwelling units but what we would like to add to that
9 is the development of blueprints that property
10 owners can use. So off the shelf approved
11 blueprints that have been already approved by the
12 building departments of the various counties in
13 order to save a little bit of money for the property
14 owners and expedite the development of these ADUs or
15 accessory dwelling units. It's kind of like a tiny
16 home.

17 MS. EVANS: Any other questions,
18 Commissioner, before we go on to our next bit?

19 CHAIRMAN GIOVANNI: Please proceed. Make
20 sure the mic's turned on.

21 MS. EVANS: Sorry. Yes, it's on now.
22 Thank you, Chair. So we're going to go ahead and do
23 now into the areas where the Commission, we support
24 the Commission and we present material to you. And
25 in summary, those are going to be district boundary

1 amendments, including status reviews, important
2 agricultural lands, special permits and declaratory
3 orders, frequent issues. Thank you, Ariana. And
4 future matters of interest. And I think if you're,
5 we will get to in that future matter of interest,
6 some of the legislation that we have proposed but
7 has not been decided upon by the Administration. So
8 on the budget schedule, we've been told by DBEDT that
9 B&F has not made their recommendations on the budget
10 items that we've requested yet, but that they expect
11 that there will be an appeal process, so budget and
12 finance recommends no, which is very frequent on our
13 budget request. Then our Director, Jimmy Tokioka,
14 will have an opportunity to appeal some of those
15 turn downs. That's a usual part of the process in
16 November, probably by maybe starting on November
17 15th. And so this would be usually focusing on new
18 items. So what Dan Orodener was describing to you
19 is what's called the base budget. It's the budget
20 that's already been passed in years, been included
21 in years past. And so therefore, generally those
22 are not subject to the same kind of scrutiny and
23 negative recommendations and then appeals. The
24 budget is usually finalized around December 1st by
25 the Governor because it is by law has to be sent to

1 the Legislature on December 15th. So that is the
2 usual annual cycle. It doesn't, but as I, as Dan
3 said, we haven't gotten the actual information yet.
4 It'll flow from B&F down to our department, DBEDT,
5 and then it'll flow to the programs. Okay. We're
6 going to start with district boundary amendments,
7 and I'm going to ask Katia to talk to a little more
8 on that.

9 MS. BALASSIANO: I have a mic over here.
10 Thank you.

11 MS. EVANS: It's not on.

12 MS. KWAN: I think it is on. These are
13 the old broken mics. Forgive me.

14 MS. BALASSIANO: Red means go. Sorry.
15 Okay. So OPSD is a mandatory formal party to DBEDT
16 hearings and you see the testimony that we submit
17 for your review prior to the meetings and we discuss
18 it during the meetings. So what happens to create
19 that testimony, I'm just going to describe a little
20 kind of what happens behind the scenes. So when we
21 get the application from the LUC Staff, we take a
22 look at it. If we have questions about the
23 application, we will contact the Petitioner
24 directly. Sometimes we will meet with the
25 Petitioner, get additional clarification as

1 necessary. We may meet with the county to
2 understand, you know, the county's perspective and
3 needs and issues. We will also ask our sister
4 agencies for comments. So we send them the
5 materials. We give them a deadline by which we're
6 looking for comments. They will submit comments to
7 us, or if they don't, we'll harass them until they
8 do. And sometimes they don't. And so sometimes we
9 need to come to the Commission and we have to just
10 honestly say, we tried to get comments and we
11 didn't. But we're the ones who collect the
12 comments. And if there's a need to reconcile
13 competing interests, we will try to do that with the
14 agencies. And if we cannot do that, it may be that
15 a particular agency will come to you directly at a
16 meeting to state what their position is. But
17 otherwise, I believe that one of the reasons why
18 OPSD is responsible for collecting this information
19 is so that the state speaks with one voice. And
20 OPSD is that single entity to represent the state's
21 interests before the LUC. So one item that had come
22 up a little while ago involving CWRM and the
23 notion of an MOU. After that meeting, we
24 understood, we heard the concerns, and we went to
25 CWRM to understand what their needs were. And

1 it's DLNR is a large organization. So it takes a
2 while, as we understood it, for our request for
3 comments to trickle down to CWRM. So we spoke
4 with the leadership of CWRM, we spoke with the
5 leadership of DLNR and received approval so that
6 now, as a result of these matters, we're going to be
7 sending our request for comments to both DLNR and
8 CWRM simultaneously. CWRM will still draft
9 their response and send it up through the DLNR
10 channels so that from a policy perspective, you
11 know, CWRM and DLNR speak with one voice. So we
12 are able to try to find solutions that, you know,
13 respect the processes of our sister agencies, but
14 also try to get from them the comments that we're
15 looking for. So we will then conduct our own
16 analysis and evaluation, going sometimes to the
17 source documents so that we can draft and submit
18 state's position and testimony. Internally, we have
19 usually planners who take the lead on drafting that
20 material. We have today both Aaron and Brandon who
21 do a lot of that work. It comes up through me. I
22 send it to Mary Alice. Our AG reviews the testimony
23 so that what you're getting is a fairly polished
24 document at the end of the day.

25 CHAIRMAN GIOVANNI: Katia, let me thank

1 you for expanding on that last point. That's
2 progress as I see it and much appreciated for
3 addressing a real issue in the process. And let me
4 say that editorially, that water issues are
5 paramount these days when it comes to district
6 boundary amendments, considerations of IAL lands,
7 special permits. Fortunately, the LUC hasn't had to
8 deal with much of that in recent times such that the
9 problems we've had relative to water have not come
10 before us. But getting our house in order so that
11 we can accurately and promptly characterize the
12 water issues is really important. So thank you for
13 putting attention on that.

14 MS. BALASSIANO: You're welcome.

15 COMMISSIONER CARR SMITH: I had a comment.

16 MS. BALASSIANO: Sorry. Next slide.

17 Thank you.

18 COMMISSIONER CARR SMITH: Katia, I just
19 wanted to applaud you for being proactive and
20 finding a solution for the issue that some thought
21 an MOU was required for and you just talked to the
22 people and made it happen. And thank you for doing
23 that.

24 MS. BALASSIANO: You're welcome. ``So
25 moving on to the next slide. So number seven, yeah,

1 there, so OPSD will consider whether there's a
2 factual basis in the record to demonstrate a nexus
3 between state interest and the condition. So, you
4 know, we ask, is there a relationship, you know,
5 between what is being requested and what is being
6 mitigated? So conditions are definitely intended to
7 mitigate impacts. So, for example, you know, if
8 there is a large development in front of you and
9 they are going, anticipating, you know, X number of
10 units and therefore Y number of children, then we
11 have to ask ourselves, does DOE, Department of
12 Education, need one or two classrooms, or do they
13 need an entire school? So there's a proportional
14 matter as well. So not only is there a
15 relationship, you know, there's a housing
16 development, there are going to be children,
17 therefore it's appropriate probably to ask for
18 assistance with the creation of a school. But then
19 we look at it from a proportional perspective and
20 ask whether a whole school is necessary or is it
21 just a number of classrooms. So that's the kind of
22 work that we do behind the scenes. Next slide,
23 please. At the meeting, you will see we identify
24 and present state documents and witnesses. We'll
25 cross-examine witnesses, present arguments and

1 recommendations, answer some questions. In the two
2 years that I've been here, I have not seen, a
3 district boundary amendment. So, you know, this is
4 what we do, but we haven't had to do that recently.
5 Over the past two years, it's been primarily
6 responding to status reports, special permits, those
7 kinds of things. And then when it comes to a
8 Decision and Order, if there's an agreement, then we
9 will review the D&O. And as you saw this morning,
10 we will, you know, usually agree or if there's, if
11 we're not in agreement, we'll let you know, or if it
12 comes to it, we'll draft the D&O and that way you
13 have two options to look at. Occasionally, we'll
14 have conversations with Petitioners behind the
15 scenes and we will stipulate if there is, if we can
16 find a place of agreement, we'll submit those
17 stipulations to you. You can accept them, you can
18 reject them, but they show that we've done some work
19 behind the scenes to try to find common ground.
20 Next slide, please. In regards to post-hearing
21 motions, we show up in front of you in regards to
22 any motion to amend a petition, motion to consider,
23 and order to show cause. These motions typically
24 follow the DBEDT process, but they're more focused to
25 that particular issue that's raised. Occasionally,

1 we're going to ask extensions from you because there
2 are seven-day deadlines in the Admin rules, and in
3 certain instances, we need to reach out to our
4 sister agencies to get comments, in which case we'll
5 often, you know, ask for an extension. As I said, a
6 lot of the requests that have come before you are in
7 response to status reviews, annual reports that the
8 LUC receives, and we will go through all of the
9 annual reports. If there is an issue, we will bring
10 it to the Applicant or Petitioner's attention, or we
11 might bring it to your attention. You have already
12 been reaching out to property owners, developers,
13 when there are annual reports that you've got
14 questions about. When you send letters to these
15 property owners and asking them to appear before
16 you, we will usually just look at those items that
17 you've called out. However, we've also seen how
18 sometimes the questions from Commissioners, you
19 know, goes beyond those items that your Staff have
20 identified. So now we're getting a little bit more
21 into the habit of being prepared to look at the
22 entire petition. But, you know, that's kind of
23 changed with, you know, how the Commission kind of -
24 - the questions that you raise. So we're learning
25 as we listen to you and need to adjust our ways. So

1 now we're going to talk about important ag land
2 designations. So this, too, has not come before you
3 within the past two years. But there is a process
4 for that, and I'm going to ask Brandon Soo of the
5 Land Use Division to talk with you about how that
6 goes.

7 MR. SOO: Thank you, Katia. You might be a
8 little familiar from Maui, the situation going on in
9 Maui for IAL, but the IAL, I'll just talk briefly
10 about OPSD's role in IAL petitions. The IAL
11 framework gives LUC responsibility for designating
12 IAL lands. And it establishes two types of IAL
13 petitions. One is landowner initiated, the other is
14 county initiated. For landowner petitions, OPSD is
15 not a mandatory party, but we will submit, usually
16 submit public testimony and appear at the hearing.
17 And these are subject to the declaratory order
18 process, and Aaron will talk about that in the next
19 slide. For county petitions, the counties are
20 required to consult us, OPSD, when creating their
21 maps to ensure that state goals are -- the
22 designation aligns with state goals. And when the
23 petition is before the LUC, OPSD will be made
24 available for consultation. But generally OPSD's
25 role in IAL petitions includes we review the

1 petition and supporting documents. We'll discuss
2 issues with the Petitioner and solicit comments from
3 our sister agencies, mainly Department of
4 Agriculture. And typically, DOA will provide its
5 own public testimony for IAL, and usually will show
6 up. But if they don't, then we'll include that
7 testimony in OPSD's comments. And we conduct our
8 own analysis and evaluation. We evaluate the
9 petition based on the eight criteria established in
10 the HRS 205-44 and HAR. And we'll give particular
11 attention to whether the land is currently used for
12 ag production. It's ALISH and LSB classifications,
13 whether land has sufficient quantities of water and
14 whether IAL designation is consistent with the
15 county's general plan and community development
16 plans. And finally, OPSD will draft and submit our
17 comments to the LUC and appear at LUC hearings.
18 Okay, next slide.

19 MS. EVANS: Aaron Setogawa is going to
20 speak with you about how we handle special permits
21 and declaratory orders.

22 MR. SETOGAWA: Good afternoon,
23 Commissioners. Basically, 205-6A requires that all
24 special permits have to go through OPSD, the LUC,
25 and the Department of Ag for reviewing comment. And

1 all special permits originate at the county level,
2 whether it's less than 15 acres or more. If it's a
3 -- the special permit involves more than 15 acres,
4 it has to be approved both by the county and this
5 body. And if, so when OPSD reviews these
6 applications for special permits, we refer to the
7 eight, I'm sorry, no, the five special permit
8 guidelines that help you to determine whether the
9 use is unusual and reasonable, which should be
10 allowed in a special permit and an otherwise
11 unpermitted use. If we want to be a party to these,
12 because we're not a mandated party, but we can
13 request to be a party at the county level, and that
14 if we wanted to be a party, it has to be at the
15 county level in order for it to carry through to
16 this body. There has also been occasions when the
17 special permit was less than 15 acres, that we felt
18 there was a major state concern that we asked the
19 county to make us parties at the Planning Commission
20 level. For permits, I think you're pretty familiar
21 with most of the -- how the special permits are
22 handled at the LUC level. But we also review
23 special permits less than 15 acres when they go
24 before the county. And some of the things we look
25 at, for example, is we look at the acreage involved.

1 It has to be less than 15 acres. And what we look
2 at is not just the parcel side, but the actual
3 amount of land that's used for the use that's
4 involved. So which in some cases may be less, the
5 parcel may be larger than 15 acres, but the actual
6 use could be, you know, six, seven acres or less
7 than 15. When it comes to things such as bed and
8 breakfast, transient, vacation rentals, or short-
9 term rentals, we look, for example, if it's an
10 existing dwelling or if it's a minor addition, if
11 the Applicant includes a farm plan, which is
12 verified or there's existing agriculture on the
13 site, we generally don't comment on those permits.
14 We leave that to the counties to decide. However, if
15 it involves other commercial uses, for example,
16 weddings, retreats, special events, or if there are
17 multiple dwellings involved, we'll take a closer
18 look at it. We'll probably likely provide some
19 comments. If there are commercial agricultural uses
20 being asked for in the special permit in the
21 agricultural district, we're going to comment
22 depending on the use, the scale, and what impacts we
23 see. If there's a quarry or landfill involved,
24 typically we will comment, especially regarding
25 mitigation measure. And we'll also, of course,

1 assess the use according to the five special permit
2 guidelines. Lastly, many special permits also
3 involve time extensions. In general, we allow the
4 companies to determine if the extension is warranted
5 unless we see additional impact. That's pretty much
6 how we handle special permits in our review. Next.
7 Regarding declaratory orders, again, as Brandon
8 said, OPSD is not a party, but we do provide public
9 testimony. However, if the Commission decides that
10 the case requires a contested case hearing, then
11 under the contested case process, we are allowed to
12 ask to intervene if we so desire. That's pretty
13 much all I have to say unless there's questions.

14 CHAIRMAN GIOVANNI: Turn off the mute.
15 Can't hear anybody.

16 MS. BALASSIANO: Okay. Can you hear me
17 now, Chair?

18 CHAIRMAN GIOVANNI: I do. Yeah, thank
19 you.

20 MS. BALASSIANO: Thank you. Sorry. We're
21 moving on to our frequent issue slide. And this is
22 where we want to share our philosophy. We try to
23 balance the various competing interests, and we're
24 working with that with the Deputy Director of DBEDT,
25 Dane Wicker now, who has an informal working group

1 within the department and involving the Department
2 of Agriculture, on looking at what principles might
3 be appropriate for balancing renewable energy,
4 agriculture, and food production, and housing in the
5 Ag District. Now, this is not any formal proposal
6 to the Land Use Commission. This is an internal
7 working group that the Deputy Director convened.
8 And it doesn't have a clear endpoint at this point,
9 but I think he's looking for guidance and trying to
10 see if there's a consensus that would be helpful to
11 the Land Use Commission in looking at when you get
12 proposals or citing solar energy arrays in the ag
13 district, for instance, when you see district
14 boundary amendments for housing, is that in the
15 right place? Is it in, or is it, you know, should
16 those be located in areas that are not necessarily
17 top priority for agriculture or food production?
18 This is going to be a continuing challenge for
19 Hawaii, that finding that balance, because almost
20 half of the state is in the state ag district, as
21 you're aware. And now that we no longer have
22 plantation agriculture, we have very few farmers,
23 and most of them are small farmers now. Many of
24 them are family farms that use family labor, not --
25 they're not commercial in that general sense,

1 although they may sell to farmers markets or to
2 local grocery stores if they meet the federal food
3 and safety requirements, which are costly and
4 challenging for small farmers. Agriculture, as you
5 know, has a huge challenge now, and it's one that we
6 feel very committed to trying to help support, but
7 we also recognize those competing needs for the ag
8 district lands, some of which are not, some of which
9 are not deemed as priority for agriculture. Some
10 are D&E in some soil systems. Some are other in
11 others. Some of those others are very valuable for
12 certain niche crops. But that's -- that's one of
13 those issues. Tom is no longer here to talk about
14 343, but you heard extensively from him earlier.
15 Basically, the idea is that it's an environmental
16 disclosure process. It's not a regulatory process.
17 There were issues that came up fairly regularly
18 regarding 343 and whether the document, the
19 disclosure document, was stale or not stale. How
20 old was it? Was it needed? What was the status of
21 it? So you will get the Petitioner's perspective on
22 that. But because that program exists within OPSD,
23 we too are experts on that matter. And should any
24 questions come up regarding 343 and satisfaction of
25 those regulations, you are certainly free to ask

1 during Commission meetings regarding that matter.
2 We're now going to speak a little about Ka Pa'akai.
3 It is a matter that we always look for when
4 reviewing a petition and drafting testimony. Aaron?

5 MR SETOGAWA: Thank you. The requirement
6 for a Ka Pa'akai analysis, as you've already know,
7 arose from a Supreme Court decision based on a Land
8 Use Commission case. However, because the -- the
9 issue arises on Article 12, Section 7 of the Hawaii
10 State Constitution, which protects the reasonable
11 exercise of customary and traditional exercise
12 Native Hawaiian rights, we believe it applies to
13 every state and county government body that is
14 making a discretionary, the issue of discretionary
15 approval. And certainly if it's a district boundary
16 amendment or a special permit over 15 acres, you
17 know, the Applicant or Petitioner needs to provide
18 -- may needs to conduct a full scale Ka Pa'akai
19 analysis. It's usually involving a cultural impact
20 analysis. And I think you've seen some of those
21 multi-page reports. I think the tricky point comes
22 in, too, when you deal with special permits less
23 than 15 acres. And so what scale are we looking at?
24 For example, we would look, we will -- with their --
25 a Ka Pa'akai analysis is required no matter what.

1 But the question is at what scale, what level of
2 detail? We look at the size of the project, whether
3 it's just dealing with existing buildings or if
4 there's new construction. And for example, if
5 you're talking about a bed and breakfast in a one
6 bedroom in an existing dwelling, it would be onerous
7 on the landowner to require them to hire a
8 consultant to do a full-scale CIA. So typically
9 what the owner will do because they know they have
10 to fulfill this requirement is they will put
11 together a narrative of whether or not how long
12 they've been there, what they've witnessed, whether
13 or not they've -- they know of any evidence. And
14 typically they'll say that if anyone comes forward,
15 they will, you know, certainly allow the
16 practitioner to access the property. We like to
17 also see at least some consultation with Native
18 Hawaiian organizations in the area, the Aha Moku
19 body or other organizations. So it's more than
20 just, well, my opinion. And that's basically how we
21 look at it.

22 MS. BALASSIANO: Thank you, Aaron. In
23 regards to reconciling competing agency interests, I
24 think you heard me speak a little earlier about
25 that. When we get different recommendations from

1 our sister agencies, we will meet with them to, you
2 know, better understand their needs and try to find
3 solutions that bridge gaps. Sometimes that's
4 possible. Sometimes that's not possible, in which
5 case, if it's not possible, they will come to you at
6 a meeting and share with you their concerns and
7 interests. Mary Alice.

8 MS. EVANS: I think this bullet point
9 speaks to the earlier one about balancing. And that
10 is that we look at, we try to look at OPSD. We look
11 at things from a broader perspective, whether it's
12 because of Hawaii State Plan charges us with looking
13 at the economic impacts, protection of natural
14 resources, social justice issues. And of course,
15 you know, we try to ensure that there's a healthy
16 economy. This is so when we look at land use
17 issues, we're also looking at those other issues and
18 the other impacts they might have. And that leads
19 us to our last bullet point, which I think we could
20 --

21 MS. BALASSIANO: Well, Brandon was going
22 to speak with you a little about that. Brandon
23 comes to us actually from the city and county of
24 Honolulu's Department of Planning and Permitting.
25 And he, in the capacity as planner there, he not

1 only led the updating of a development plan, not the
2 general plan, but one of the development plans on
3 the North Shore, but he also participated in the
4 updating of a number of development plans. So he
5 brings to us that expertise. Brandon?

6 MR. SOO: Oh, thanks, Katia. Yeah, like
7 Katia mentioned, I came from a long-range planning
8 perspective, community planning perspective, and I
9 know how much work goes into these plans. You know,
10 they're often generational and, you know, it
11 includes hours of debating in school cafeterias late
12 at night and real, you know, on the ground community
13 planning work. So we take that into account and one
14 of the frequent issues is how do we allow the
15 counties, these regional communities to implement
16 their own plans, right? Plans that they take
17 ownership in and have spent a long time thinking
18 about. So for that reason, OPSD gives a lot of
19 weight to the general and development plans in our
20 review of land use approvals and just legislation in
21 general.

22 MS. BALASSIANO: Thank you, Brandon. Next
23 and last slide.

24 MS. EVANS: Okay. So thank you for being
25 so patient with us. We would like to go over three

1 areas, and I think one of them, the pro-housing
2 grant, we've actually covered pretty well. And I
3 did mention that we, the Legislature passed a law
4 that requires us to update the Hawaii State Planning
5 Act, Chapter 226. That chapter is an amazing
6 chapter. It includes just about every possible goal
7 that 50 years at least worth of brilliant people
8 have put together. But it is, I find it needs
9 updating. It still reflects back on some of the
10 pineapple and sugar goals of the state. And so over
11 the next two years, we will be, we're going to go
12 out for procurement and hire a vendor and work on as
13 much community engagement as we possibly can with
14 the funds that the Legislature gave us, which was, I
15 think we got \$300,000 to do this over two years.
16 It's not a lot, but I think it'll allow for quite a
17 lot of community engagement. We want to hear from
18 people, different stakeholders, what they think may
19 have changed that needs to be reflected in our
20 Hawaii State Plan. By the way, the Hawaii State
21 Plan, according to the Attorney General, is not a
22 self-enforcing statute. That means that it has
23 competing goals and targets and priorities, such
24 that you couldn't (audio disruption), you know,
25 without -- so that means that if you were concerned

1 about a particular goal in there, and you felt that
2 it wasn't being done, you couldn't use Chapter 226
3 to sue the state and say, you know, you didn't do
4 it. That would take a different type of
5 legislation. So I'd like to, you've got those maps
6 up there. And you heard us say that we did in 2022
7 a review of districts. And so we completed that,
8 submitted it to the Land Use Commission, the
9 Governor and the Legislature, gave them copies of
10 this. And we have drafted a bill that has been
11 submitted through DBEDT for AG's review and will be
12 going to the Governor. And we don't know what the
13 Governor will decide. Governors have until the day
14 of the state of the state, which is usually the
15 Monday after the opening of the Legislature. So,
16 from my experience, governors can come up with ideas
17 for their bill package all the way up until the
18 night before and expect somebody to stay up until
19 two a.m. drafting and then the AG to stay up and
20 locking them up. So we won't have certainty
21 necessarily on whether this bill will be part of the
22 Governor's package. But I wanted to present the
23 concept to you using the maps, so that you have an
24 idea of what we are going to be, if we have an
25 opportunity, the Governor agrees, we're going to be

1 presenting to the Legislature. Now, that doesn't
2 mean the Legislature will agree with us at all. But
3 as you look at the maps of the islands, you'll see
4 those little red areas. Those are the areas for
5 urban growth, future urban growth, that the county's
6 general plans and development plans, which Brandon,
7 you know, shared with you, those red dots have gone
8 through community meetings, what, a whole
9 generation, Brandon?

10 CHAIRMAN GIOVANNI: So, Mary Alice, this
11 is Dan. I just want to interrupt you for a second
12 and give my fellow Commissioners. If any of you
13 need to leave for a flight, don't feel bad. Please
14 leave to make your flight. But Mary Alice, please
15 continue until your logical conclusion and those of
16 us that can stay with you, we'll stay with you.
17 Please proceed.

18 MS. EVANS: Thank you, Chair. So those
19 red dots are the ones that the county's planning
20 commissions and county councils have voted on to
21 accept as part of their general and development
22 plans for future urban growth. And I want you to
23 note that they are mostly either adjacent to or, in
24 some cases, surrounded on three sides by the state
25 urban district. And they are not extensive, which

1 tells you, you know, how conservative planning
2 commissions, communities, and their county councils
3 are in looking at what their needs for future urban
4 growth are on their islands. So a bill that we have
5 submitted for consideration would allow the counties
6 to do district boundary amendments proceedings for
7 these areas and some of them are going to be larger
8 than 15 acres. Although as you look at them, you'll
9 see none of them are very large. And so that, we'll
10 see how that fairs, but this was part of a finding
11 that came out of our district boundary review. And
12 we are hopeful that it will help unlock
13 infrastructure that will unlock housing and
14 additional communities. And the ultimate goal is
15 keeping our local families here, reducing the cost
16 of housing for them, and being able to keep families
17 intact.

18 COMMISSIONER LEE: Mary Alice, this is
19 Commissioner Lee. I have a question. If this bill
20 does become part of the Governor's package and it is
21 presented to the Legislature, do you think they
22 would be interested in what this Commission's
23 position might be on that?

24 MS. EVANS: Very definitely. I think they
25 would. This is, I want to tell you my perspective,

1 though. This is a very conservative approach.
2 Legislators have submitted bills that would have
3 increased the county's ability to do DBEDTs to 25
4 acres, 50 acres. One year it was 100 acres, and
5 none of those bills passed. And I think the reason
6 might be that that didn't tie the counties to a long
7 process of careful review. And it could have
8 allowed a county to put an urban district boundary
9 sort of out in the middle of, you know, the gray
10 areas. This one, I think, because it has behind it,
11 you know, up to 10 years of community input and
12 decision making, I think they may view it, as I do,
13 as a conservative move that will support housing.

14 COMMISSIONER LEE: Yeah, I think this is a
15 really sensitive and creative approach. And I think
16 that we should look into this more and maybe perhaps
17 take a position. But thank you. Thank you for
18 this.

19 MS. EVANS: Commissioner, I'll offer to
20 let your Executive Director know if it becomes part
21 of the Governor's package. Chair, this -- this ends
22 our presentation.

23 MS. BALASSIANO: Mary Alice, there were
24 just a few other bills that were listed here. And
25 just to bring to your attention just very quickly,

1 because I know that we've spent a lot of time here
2 already. We work with your staff to identify the
3 need for the updating and mapping of state land use
4 districts. We're going to be requesting \$200,000, I
5 think it's \$200,000, \$200,000 for, yeah, Brandon,
6 I'm looking in your direction. I can't remember how
7 much it was. But anyway, we're asking for money to
8 update those maps and digitize them. We're also
9 submitting, as we have the year before, changes to
10 205 involving the IAL incentives that would allow
11 farm worker housing in the form of clusters and
12 clarifying who may live in such housing. We're also
13 trying to move ahead with the soils project, phase
14 two. We're asking for money to find a way to take
15 that project ahead. We understand that there are --
16 the soils, the LSB system that we currently use
17 hasn't been updated in a long time. We'd like to
18 link it to the federal system that exists, create a
19 model that can be used while maintaining the LSB
20 system. And we're also asking for money for an
21 integrated land use study that takes a closer look
22 at housing, energy, and agricultural needs. So that
23 is our package of legislation that you may be
24 interested in. We also have three additional bills
25 for infrastructure financing, all three of which we

1 had submitted last year and were not adopted. So
2 that is our package of legislation. We're not sure
3 where it stands in regards to DBEDT and whether DBEDT
4 will be submitting it to the Governor and whether
5 the Governor includes it. But that's where we are
6 today. So thank you.

7 CHAIRMAN GIOVANNI: Thank you.
8 Commissioners questions, comments, concerns.

9 COMMISSIONER KAHELE: May I have a second?
10 I've got a couple of questions.

11 CHAIRMAN GIOVANNI: Mr. Kahele.

12 COMMISSIONER KAHELE: Mel Kahele,
13 Commissioner, yeah. Earlier you mentioned about the
14 kauhale homes. Are you still looking at those homes
15 being built on the west side? And I apologize for
16 the ask. You know me, I'm always out there on the
17 west side trying to help all people, our struggling
18 families living on the beaches, living in the
19 bushes. I believe Mr. U'U brought up about
20 affordable housing trying to keep the native
21 Hawaiians here in Hawaii. We average about 15,000
22 of us native Hawaiians and locals that's leaving
23 here and moving up to the mainland. So going back
24 to the kauhale homes, there is land on the leeward
25 side of the island that we can use to build these

1 homes that's owned by the state. And nobody's
2 making an attempt to try to see what we can do to
3 try to meet with people, our leaders in there, in
4 Waianae, to try to see what we can do to get, you
5 know, get whatever permits we need to build these
6 homes. I know they looked at, I believe, Hawaii
7 Aids Homes. This company that supplies --

8 UNIDENTIFIED SPEAKER: Home Aids.

9 COMMISSIONER KAHELE: -- Home Aids. Thank
10 you. Thank you so much. So I'm not sure what's
11 your role or OPSD's role in trying to see what you
12 can do to meet with Mr. Missouou, our homelessness
13 Czar. Is that a good name for him?

14 MS. EVANS: No.

15 COMMISSIONER KAHELE: Okay. That's what
16 the Governor calls him. So anyway, that's one
17 concern that I have. See what we can do to meet
18 with our leaders on the west side and meet with our
19 representatives and see what we can do to try to
20 build these homes on state owned land in Maili -- in
21 the Maili area. In addition, I had another
22 question. The homes that you're building in this,
23 and the maps that you had, urban growth areas, are
24 we looking at building affordable homes or market
25 value homes? And if it's going to be affordable,

1 what's going to be the qualification, what's going
2 to be the AMI, 30 percent, 80 percent, 100 percent?
3 Our local construction workers were struggling to
4 even qualify for 60 percent. We are seasonal
5 workers. We work when it doesn't rain. Maybe for
6 some other trades, they work indoors. We work when
7 it doesn't rain. We work with the project (audio
8 disruption). So, you know, we struggle out there.
9 We may be lucky to qualify for 60 percent AMI.
10 What's going to be the -- the cost of these urban
11 growth homes that you're looking at building in
12 these -- in -- in these areas over here?

13 MS. EVANS: Well let me talk about the
14 kauhale initiative first. That is Governor Green's
15 initiative. Yeah. And when Governor Green, so I'm
16 a Governor appointee and Governor Green can give the
17 Office of Planning and Sustainable Development
18 direct assignments to help as he did when he named
19 the Office of Planning and Sustainable Development
20 to be one of the four agencies on his removing
21 barriers to housing under his emergency proclamation
22 for first housing and then affordable housing. So
23 when we get an assignment from the Governor's office
24 to support one of his initiatives, we do our very
25 best within our staffing constraints to support

1 that. And I think both Dan and I were in the Ige
2 Administration, were asked to comment on Governor
3 Ige's homeless emergency proclamation. And we
4 expressed our comments, right? We gave them our
5 best wisdom on that. And it has, actually, that
6 initiative has resulted in Twinkle Borge's hanua in
7 Waianae. So, you know, we try to play a positive
8 role when we're asked. On the urban growth, future
9 urban growth areas that the counties have adopted,
10 if the Legislature sees fit to pass something
11 similar to what we're proposing, then it would be up
12 to the counties to use their zoning powers. They
13 all have some affordable requirements that are on --
14 on the developer to usually 20 percent affordable.
15 If a developer wants to do a 51 percent or more
16 affordable, and as you know, as a former member of
17 the Hawaii Housing Finance and Development
18 Corporation, Commissioner Kahele, then there will be
19 state subsidies that can bring that affordable level
20 up to over 50 percent. And that helps a lot, but it
21 also adds some strings to the projects and it takes
22 a special kind of developer to put a financing stack
23 together for one of those. But the counties do
24 support that. And so does our sister state agency,
25 Hawaii Housing Finance and Development Corporation.

1 COMMISSIONER KAHELE: Thank you. I was,
2 you know -- you know, that's my concern. We're
3 always out there in the communities. You know, I
4 got grandkids, grandsons, moved out to the mainland
5 because they couldn't afford to live here. So the
6 highest problem for all of us is housing. So you
7 know that. You've been in the business so many
8 years. So, you know, my -- that's my concern.
9 Everybody's worried about keeping their family
10 members here. We're looking at trying to keep
11 housing costs down. So, and of course, in addition,
12 we're also trying to help the people out there
13 struggling. People out there living in the bushes,
14 living in the beaches. If we can get people out
15 there on the Waianae coast and meet with these
16 leaders from the Waianae Council, I believe you've
17 heard of them. You know, they're very active out
18 there in trying to find land. They may have found a
19 couple locations that's owned by the state. But for
20 some reason, the state came out with some excuse
21 about the infrastructure wasn't there, you know.
22 There's no infrastructure there on the beaches. So
23 people just want to move to a location, so they
24 don't have to get kicked out -- off the beaches
25 every few months. So I just wanted to express my

1 concern. Thank you so much.

2 MS. EVANS: Thank you, Commissioner.

3 CHAIRMAN GIOVANNI: Thank you,
4 Commissioner. Other Commissioners, comments,
5 questions through OPSD. So Mary Alice --

6 COMMISSIONER CARR SMITH: Chair?

7 CHAIRMAN GIOVANNI: Yeah, who's that?

8 COMMISSIONER CARR SMITH: Nancy.

9 CHAIRMAN GIOVANNI: Commissioner Carr
10 Smith.

11 COMMISSIONER CARR SMITH: Thank you. I
12 was just curious about the, the 205-18, that
13 periodic review of districts. Is that part of the
14 last topics that you were talking about?

15 MS. EVANS: Yes.

16 COMMISSIONER CARR SMITH: And your review
17 of the counties and the mapping and all that is that
18 part of that?

19 MS. EVANS: Yes.

20 COMMISSIONER CARR SMITH: Okay. And
21 that's what you work with LUC staff on as well. Is
22 that correct or not?

23 MS. EVANS: No, I don't think we did, but
24 Aaron Setogawa, who's here, was the primary author,
25 and we did get information from the Land Use

1 Commission, of course. So this one, it used to be
2 known as the five-year boundary review. It started
3 out as a -- it started out as a Land Use Commission
4 statutory obligation. And then I think somewhere
5 around 1992, Dan, do you remember, the Legislature
6 switched it to the Office of Planning, which at that
7 point it was five years old. And the Office of
8 Planning, State Planning then, did propose a number
9 of, so the Office of State Planning does have the
10 statutory authority to initiate district boundary
11 amendment petitions. However, we've never had the
12 money to do all the studies and requirements that a
13 petition requires and we still don't. As much as,
14 you know, we might want to see that role be a
15 possibility for the state, if we don't have funds to
16 hire consultants to do all the studies. We just
17 couldn't, we wouldn't be able to do it. I don't
18 want to raise that expectation. I want to lower
19 that one. But we did a number of petitions that
20 didn't in '92, '93, and to the Commission, and some
21 of them were approved. Some of them were moving ag
22 lands to conservation. Some of them were moving a
23 few small parcels, that was the easier lift, was
24 moving ag lands to conservation. So there's some of
25 those that were not, we didn't have the money to put

1 into a formal petition, but the recommendations we
2 have included in this report, bringing them forward.
3 Some of them still may have merit. And then because
4 this is no longer, by the way, when it was a five-
5 year boundary review, we still didn't have the money
6 to do it, so we didn't do it until 2022. We asked
7 the Legislature to change it to a periodic review to
8 reflect our lack of capacity to do this every five
9 years and bless their hearts. They did give us that
10 flexibility. So I don't want you to think that
11 we're going to provide the next five-year update in
12 2027. We're not going to be able to do that, I
13 don't think. But this does give us a lot to work
14 on.

15 COMMISSIONER CARR SMITH: Thank you.

16 CHAIRMAN GIOVANNI: Thank you all. You
17 know I find it kind of strange. I use the word
18 strange, Ms. Evans, that the LUC and to some degree
19 OPSD is criticized as a regulatory barrier to help
20 solve our problems, in particular with housing and
21 others. You know, we're sitting here, it's probably
22 been, I don't know, a year and a half since we've
23 seen a DBEDT or a SUP application or even an IAL
24 application before the LUC. It's hard to be a
25 barrier when you're not even given an opportunity to

1 weigh in on a specific proposal. And I'm trying to
2 kind of figure this out. I mean, what is the
3 perception that you might have in terms of what
4 regulatory barriers that we have or that we present
5 to the general public or to developers when, you
6 know, we really are obligated to honor the
7 constitutional requirements that are involved in
8 Kappa Kai and 343 and other matters before us. So
9 do you have an editorial comment on my concern?

10 MS. EVANS: Of course. I think all of the
11 regulations that the Land Use Commission must comply
12 with, court decisions, legislative laws, were --
13 came from good intentions and community desires.
14 And I think they have accumulated over the decades.
15 I've worked for the state for 50 years, so I've seen
16 a lot of it myself as a planner. And they have
17 accumulated to the point where they're -- they're
18 now all of those good intentions, all of those
19 things that communities and legislators and courts
20 felt were necessary and important for our quality of
21 life are now making it harder to do housing. And I
22 think planners are part of that history. We have
23 also supported those kinds of protective measures.
24 So I think it's on us to look at ourselves and see
25 what role we had, not you -- not you, but us, and

1 see if there are ways that we can still meet some of
2 those important goals and values, but maybe make it
3 less costly and less time consuming to present
4 proposals and get a decision yes or no on them. The
5 other thing, Chair, that I've noticed is that as
6 those regulations have accumulated, the terms and
7 conditions in district boundary amendments have
8 increased to the point you're now about at 33 terms
9 and conditions in your D&Os. Is that about right,
10 Dan, 2031, 30. Something on average, on average.
11 Anyway, that often I think means that there's quite
12 a lot of things that a, even a successful Petitioner
13 has to comply with. And so that's, I think it's, I
14 don't think any, Chair, I don't think this is
15 something that anyone, you know, ever intended to
16 make it harder. I think everything has been done to
17 protect something that we all value. But I think
18 the cumulative effect has just made it harder for
19 housing. And this is not unique to Hawaii. This is
20 something that planners are looking at all across
21 the country and finding that we have played a role
22 in making it harder to produce housing.

23 CHAIRMAN GIOVANNI: I think on that point,
24 that's a great spot to end our discussion. And a
25 very well phrased response to my question, Mary

1 Alice. So thank you very much because I think
2 you've summed it up pretty well. So unless anybody
3 has a final question or Mary Alice, you or your team
4 want to make a final comment, I'm going to bring
5 this to a close. So I'll give you -- everybody a
6 last opportunity.

7 UNIDENTIFIED SPEAKER: Bruce, Commissioner
8 U'U has his hand raised.

9 CHAIRMAN GIOVANNI: Commissioner U'U,
10 please speak.

11 COMMISSIONER U'U: Yeah, I just want to
12 add to that comment. So here on Maui, you know,
13 most, I mean, I guess when the process is long and
14 cumbersome and costly, like for Maui, when a lot of
15 the, we have -- we had two or three builders of
16 housing on Maui, affordable housing. Spencer left.
17 He was the biggest. Even at one time, Hawaiian
18 Homes wasn't received here. And they will go to the
19 areas well less -- I guess more welcoming, I should
20 say. But when I -- when I talk to people and I
21 encourage them to come before LUC, the first thing
22 they say is once they hear that you got to go
23 through the LUC process, they don't want to -- they
24 don't want to even fill out an application. So
25 everyone on Maui was looking for lands that were

1 zoned under the 15 acres and we have run out of
2 those. I call those infill, right? So everybody's
3 scratching around if they wanted to be all housing,
4 they're looking for the property zone ones and again
5 under the acreage of 15 acres. At the same time,
6 they're utilizing a 201H process to make it happen.
7 In other words to -- to find a fast-tracking
8 solution and I always thought that we should have
9 fixed the solution instead of offering a 201H,
10 which bring -- what it does, it exempts the process
11 of what's been created over the course of time. So
12 we have a Band-Aid fix on a bigger issue that we're
13 looking at to hit projections or numbers that kind
14 of take away from its natural course. Hence 201H
15 for Maui, that was 2.96. And I'm just going to let
16 you guys -- I'll end it with this about the
17 regulations. We had 2.96, I think it came out in
18 2002. In nine years, we built eight homes.
19 Sometimes -- sometimes when you get non-experts
20 making the decision of houses and pretend that they
21 do know, like I always say, we got to get the facts
22 to make the best decisions for us. We had non-
23 experts waiting on housing that took Maui back for
24 years. And we're in a spot there's almost no return
25 right now. So I guess what I'm saying is we need

1 smart people who've done it before. I always say
2 this. I'm a carpenter by trade. Ask me about
3 carpenter questions. But if I was to testify and
4 being an expert of an electrician, beware of me
5 being an expert. I'll end it there.

6 CHAIRMAN GIOVANNI: So I've got one
7 electrician problem in my house. You sure you
8 cannot help.

9 COMMISSIONER U'U: I'm positive I'm not
10 your guy. And see, that's the part we know. Like,
11 I know where I can feel in and do good. If I
12 overextend myself, which a lot of people do, that's
13 the problem we get into. But I like to thank OSPD
14 for you guys' efforts in doing this. I really
15 appreciate you guys. I like that you guys looking
16 for, I guess the barriers. You're looking for
17 financing. You're looking for zoning issues. And I
18 would love to help in any way, or this Board would
19 love to help in any way to help you guys attain
20 housing solutions. Aloha.

21 CHAIRMAN GIOVANNI: Aloha. Very good.
22 Commissioner, anything further?

23 MR. CARR SMITH: I have one quick comment,
24 please, Chair.

25 CHAIRMAN GIOVANNI: Yeah, Commissioner

1 Carr Smith.

2 COMMISSIONER CARR SMITH: I wanted to
3 recognize Katia. Katia, I know that you're retiring
4 soon and it's been a pleasure working with you, and
5 I wish you all the best going forward. And we have
6 a little something for you.

7 MS. BALASSIANO: Wow, that's wonderful.
8 That's very happy.

9 CHAIRMAN GIOVANNI: Katia, all the best in
10 your international adventure.

11 MS. BALASSIANO: Yeah, thank you. I'm not
12 really retiring. I'm going to be doing other
13 things, redirecting my energy.

14 CHAIRMAN GIOVANNI: Good luck. Good luck
15 in your adventure. Commissioners, anything further?
16 Hearing none, thanks again, Mary Alice Evans, to you
17 and your team. We appreciate you coming forward and
18 spending time with us today. This meeting is
19 adjourned. Thank you.

20 (WHEREUPON, the meeting was concluded.)

21

22

23

24

25

CERTIFICATE

I, Pamela Ross-Neil, 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 December, 2024.

Pamela Ross Neil

Pamela Ross-Neil