

LAND USE COMMISSION  
MEETING MINUTES  
June 14, 2013, 08:00 a.m.  
Marriott Courtyard Hotel, Haleakalā Room  
Kahului, Maui, Hawai`i, 96732

COMMISSIONERS PRESENT: Chad McDonald  
Ernest Matsumura  
Kyle Chock  
Lance Inouye  
Nicholas Teves, Jr.  
Sheldon Biga  
Thomas Contrades

COMMISSIONERS EXCUSED: Jaye Napua Makua  
Ronald Heller

STAFF PRESENT: Daniel Orodener, Executive Officer  
Scott Derrickson, Staff Planner  
Sarah Hirakami, Deputy Attorney General  
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

**CALL TO ORDER**

Chair Chock called the meeting to order at 8:00 a.m. and announced that this was the resumption of the hearing on Docket No. A11-794 State of Hawai`i, Dept. of Education- Kīhei High School,(Maui) to Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for Approximately 77.2 acres of land at Kīhei, Maui, Hawai`i, Maui Tax Map key No. 2-2-02:81 and 83.

Chair Chock called for OP to make its presentation.

**OP Presentation**

Mr. Yee called his witnesses to testify.

OP Witnesses

1. Alvin Takeshita- DOT Traffic Engineer

Mr. Takeshita was qualified and admitted as a traffic engineering expert and summarized his written testimony on the proposed docket. Mr. Takeshita described the challenges that the proposed project posed to the DOT and what considerations for mitigating traffic issues still needed to be made. Mr. Takeshita explained why the DOT was requesting a revised TIAR that would include certain reviews of the current TIAR findings and additional studies for other types of traffic improvement features. Mr. Takeshita also described how subsequent updated TIARs should be required to reassess conditions as the area matured; why regional impact fees were deleted from the conditions and how efficiency and security of the local highway system would be impacted by different types of conditions or improvements and what the associated costs involved could be.

#### Questions for Mr. Takeshita

Mr. Yuen requested clarification on signalized intersections on the Pi'ilani Highway. Mr. Takeshita described the conditions that would justify signalized intersections and how the DOT reviewed and approved proposals for them.

Mr. Yuen requested clarification on why the DOT questioned various assumptions made by Petitioner's TIAR and the additional studies and improvements that had been requested or suggested. Mr. Takeshita described DOT's position on Petitioner's TIAR and why the additional studies and improvements were demanded or suggested; and what conditions or situations triggered them.

Mr. Yuen requested clarification on the funding for the proposed over/underpass. Mr. Yee commented that this subject matter may be beyond the scope of Mr. Takeshita's expertise. Mr. Takeshita described how DOT handled funding for maintaining and accepting liability for over/underpass structures; and stated that DOT's expectation was that DOE pay for maintaining any constructed overpass and explained how DOT had agreements to facilitate this practice in place.

Mr. Giroux had no questions.

Mr. Yee requested clarification on how pedestrian traffic would be managed. Mr. Takeshita described how a pedestrian route study could determine the various considerations and mitigation measures that could be used to determine the methods to be used to control pedestrian traffic.

### Commissioner questions for Mr. Takeshita

Commissioner Inouye requested clarification on how other schools within the state handled building and maintaining over/underpasses and how the responsibilities and associated costs for the structures would be handled. Mr. Takeshita described how he perceived costs should be assigned and managed, and how difficult it was to determine impact costs over the course of time.

Commissioner Inouye requested clarification on vehicular access to the Petition Area could occur without a signalized intersection. Mr. Takeshita described how traffic signal warrants needed to be studied to determine whether or not a signal was necessary.

Commissioner Teves requested clarification on what types of situations could qualify as a traffic signal warrant and if the LUC could impose a condition requiring one. Mr. Takeshita provided additional details about the traffic signal warrant standards and described why the DOT would oppose a condition requiring a traffic signal.

Commissioner Biga described why he felt the traffic warrants should be reviewed to ensure that safety concerns and traffic management issues were addressed. Mr. Takeshita acknowledged the importance of safety and described a situation where having a state highway patrol had succeeded in reducing accidents significantly.

Commissioner Inouye requested clarification on what agency was responsible for maintaining intersection traffic signals near schools. Mr. Takeshita stated that the DOT was responsible and described the arrangements that DOT had with the various counties to support and maintain the intersection traffic signal networks around schools in the state.

Commissioner Teves requested clarification on what agency was responsible for maintaining the traffic signals. Mr. Takeshita described the DOT agreements with the various counties to maintain the signals.

Commissioner McDonald asked whether the DOT would be eligible for Federal funds if it built the overpass. Mr. Takeshita shared his opinion of how that decision would be made by the Federal government.

There were no further questions for Mr. Takeshita.

Mr. Yee commented that Mr. Yuen wished to have Mr. Pascua next as a rebuttal witness. Chair Chock called for Mr. Pascua.

### Petitioner Rebuttal Witness Pete Pascua

Mr. Yuen requested clarification on Mr. Pascua's traffic warrant study. Mr. Pascua described how he had arrived at his conclusions and what warrants were satisfied and why; and how his findings agreed and disagreed with Mr. Takeshita's comments and how engineer's judgment applied to the Petition Area's anticipated conditions and traffic signal warrant thresholds. Mr. Pascua also described how his initial study would not significantly change if it were redone.

Mr. Giroux stated that County had no questions.

Mr. Yee requested clarification on how right turn movements were assessed and factored into determining whether or not a traffic signal warrant was valid. Mr. Pascua described the circumstances that he used to test whether or not right turn movements would apply for a warrant and how bus routes factored into his study.

Commissioner Biga asked if information about accident data had been obtained in response to Commissioner Teves' concerns. Mr. Pascua responded that his study area had no incidents and that Mr. Takeshita might have accident data for the larger Pi'ilani Highway route.

There were no further questions for Mr. Pascua.

The Commission went into recess at 9:15 a.m. and reconvened at 9:34 a.m.

### 2. Rodney Funakoshi- OP Planning Program Administrator-Land Use Division

Mr. Funakoshi summarized why OP supported the Petition and described how mitigation of FEIS concerns would be addressed and adopted by Petitioner in the proposed project. Mr. Funakoshi clarified how acceptance of the FEIS did not constitute acceptance of the TIAR and shared how TIAR and other issues would be addressed by OP, DOE and DOT; and what the OP conditions for the decision and order were.

### Questions for Mr. Funakoshi

Mr. Yuen requested clarification on whether or not OP was recommending that the Commission require DOE to construct the overpass for the proposed project. Mr. Funakoshi acknowledged that was the case.

Mr. Yuen requested clarification on whether or not a signal should be installed. Mr. Funakoshi responded that if the traffic signal warrant was met and required one, then it should be installed.

Mr. Yuen requested clarification on whether or not an over/underpass should be installed. Mr. Funakoshi acknowledged that an over/underpass should be installed and that the proposed location of the underpass was a potentially safe locale.

Mr. Giroux requested clarification on what might happen if the overpass condition was included and the DOT did not accept the building of an overpass without a warrant. Mr. Funakoshi responded that he was not sure. Mr. Giroux asked if OP and DOT had conversations about the overpass and warrants for it. Mr. Funakoshi responded that a Federal Highway Study had been done since there had been no guidance on whether or not an overpass was necessary and despite DOT reluctance to require an overpass, it was likely that they would cooperate to have it built.

Mr. Giroux had no further questions and Mr. Yee had no redirect. There were no further questions for Mr. Funakoshi.

Mr. Yee stated that he had no further witnesses.

Mr. Yuen stated that he had one remaining rebuttal witness. Chair Chock called for Petitioner's witness.

### Petitioner Rebuttal Witness

#### 2. Nick Nichols

Mr. Yuen requested clarification about whether or not an overpass over Kapolei Parkway by Kapolei High School existed. Mr. Nichols stated that no overpass was in the area and that signalized intersections were in place, and that more recent schools that needed them had them as traffic features.

Mr. Nichols also shared his reasons why he felt an overpass was necessary and preferred over an underpass.

There were no questions for Mr. Nichols, no redirect and no Commissioner questions.

### Closing Arguments

Mr. Yuen stated that he would reserve his closing arguments till decision making.

Mr. Giroux stated that the County fully supported the construction of the high school and argued why the Petition should be granted, and described how the County would participate in facilitating and reviewing the proposed project.

*(Please refer to LUC Transcript for more details on this matter)*

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Mr. Yee stated that he would reserve his closing arguments till decision making.

Commissioner Inouye asked if Mr. Nichols had been able to get information regarding the timeline of the funding process for the proposed project. Mr. Nichols responded that he was not able to get the information but would follow up on the question.

Chair Chock declared the evidentiary portion of the hearing concluded and directed that the parties draft their individual proposed findings of fact, conclusions of law and decision and order based upon the record in this docket and serve the same upon each other and the Commission; and regardless of whether the parties pursue a partial or fully stipulated order, that each party file its proposal with the Commission and serve copies on the other parties no later than the close of business on June 18, 2013. All responses or objections to the parties' respective proposals shall be filed with the Commission and served upon the other parties no later than noontime on June 25, 2013. Any responses to the objections must be filed with the Commission and served on the other parties no later than noontime on June 25, 2013.

Mr. Yee stated that both OP and County would like to waive the filing of a separate D&O and that a meeting had been scheduled for the Parties on Friday, June 21, 2013 to work on their differences, and that comments and objections would be filed by the June 25, 2013 deadline. Chair Chock approved OP and County's request.

There were no questions regarding the post-hearing procedures.

Chair Chock stated that deliberation and decision-making was tentatively scheduled for June 27, 2013 and adjourned the meeting at 10:15 a.m.