

JOSIAH K. NISHITA
County Clerk



MARGARET C. CLARK
Deputy County Clerk

OFFICE OF THE COUNTY CLERK
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

LAND USE COMMISSION
STATE OF HAWAII

2019 FEB -6 A 8:11

February 1, 2019

State Land Use Commission
State of Hawaii
P.O. Box 2359
Honolulu, HI 96808-2359

Dear Sir:

Transmitted herewith is a certified copy of Resolution No. 19-20,
which was adopted by the Council of the County of Maui, State of Hawaii,
on February 1, 2019.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Nishita", is written over a horizontal line.

JOSIAH K. NISHITA
County Clerk

/lks

Enclosure

Resolution

LAND USE COMMISSION
STATE OF HAWAII

No. 19-20

2019 FEB -6 A 8:11

REQUESTING THE STATE LAND USE
COMMISSION TO ISSUE A DECLARATORY
RULING REITERATING AND AFFIRMING THE
REQUIREMENT FOR A PEDESTRIAN
OVERPASS OR UNDERPASS TO ALLOW SAFE
ACCESS TO KIHEI HIGH SCHOOL

WHEREAS, in obtaining land use entitlements for the development of the proposed Kihei High School, the State Department of Education promised the State Land Use Commission and the Maui County Council that an overpass or underpass would be constructed to provide students with safe pedestrian access across Piilani Highway; and

WHEREAS, the Land Use Commission approved the corresponding District Boundary Amendment on July 29, 2013, in Docket A11-794, with 25 conditions, including Condition 1(b), which reads in part:

Petitioner shall cause to be constructed, or ensure that there is an available above or below ground pedestrian crossing and implement such mitigation or improvements as may be required or recommended by the study and analysis to the satisfaction of DOT ("Department of Transportation") prior to opening Phase I of the Project.; and

WHEREAS, the Council approved the corresponding Change in Zoning by the enactment of Ordinance 4135 (2014), which included the Land Use Commission's Condition 1(b) as a County zoning condition; and

WHEREAS, during a public meeting on the proposed Change in Zoning bill that became Ordinance 4135, on October 30, 2013, the Council's Land Use Committee received assurances from representatives of the State that an overpass or underpass would be provided pursuant to the Land Use Commission's conditions; and

WHEREAS, according to the official minutes of the Land Use Committee meeting on October 30, 2013, a planning consultant representing the State, stated the following:

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The State Land Use District Boundary Amendment, the Land Use Commission found that the site did warrant the criteria to become classified as Urban. There were 26 [sic] conditions placed on the approval. So these are some of the key conditions and as was mentioned before, there was a requirement that the . . . that there be provided a pedestrian overpass or underpass prior to opening of Phase I; and

WHEREAS, Land Use Committee Report 14-61, which recommended passage of the Change in Zoning bill, included the following passage:

The State Land Use Commission ("LUC") incorporated 25 conditions on the State Land Use District Boundary Amendment from Agriculture to Urban. One of the conditions required construction of an above- or below-ground pedestrian crossing prior to the opening of Phase I, to allow pedestrians to cross Piilani Highway to access the school.; and

WHEREAS, the Land Use Commission is tentatively planning to have a public meeting on February 20, 2019, to receive a status update on the project, including the State's compliance with Condition 1(b); and

WHEREAS, to ensure compliance with both Condition 1(b) and the conditions of Ordinance 4135, it would be beneficial for the Land Use Commission to issue a Declaratory Ruling to reiterate and affirm the requirement of a pedestrian overpass or underpass for Kihei High School; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it requests the State Land Use Commission to issue a Declaratory Ruling reiterating and affirming the requirement for a pedestrian overpass or underpass to allow safe access to Kihei High School;
2. That it requests that the Department of Planning, with the representation of the Department of the Corporation Counsel, submit as soon as possible to the Land Use

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Commission a Petition for a Declaratory Ruling reiterating and affirming the requirement for a pedestrian overpass or underpass to allow safe access to Kihei High School; and;

3. That certified copies of this resolution be transmitted to Mayor Michael P. Victorino, Acting Corporation Counsel Patrick K. Wong, Acting Planning Director Michele McLean, State Senator Rosalyn Baker, State Representative Tina Wildberger, and the State Land Use Commission.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a long, horizontal, slightly wavy line extending to the right.

Deputy Corporation Counsel
County of Maui

paf:dmr:19-007d

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 19-20 was adopted by the Council of the County of Maui, State of Hawaii, on the 1st day of February, 2019, by the following vote:

MEMBERS	Kelly T. KING Chair	Koani N. W. RAWLINS-FERNANDEZ Vice-Chair	G. Riki HOKAMA	Natalia A. KAMA	Alice L. LEE	Michael J. MOLINA	Tamara A. M. PALTIN	Shano M. SINENCI	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK