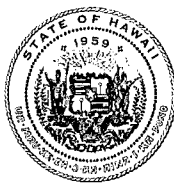


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March 25, 2019

Mr. Daniel E. Orodener
Executive Director
LAND USE COMMISSION
P. O. Box 2359
Honolulu, Hawaii 96804-2359

2019 MAR 25 P 3:10
LAND USE COMMISSION
STATE OF HAWAII

RE: Office of Planning's Comments on State of Hawaii, Department of Education's Petition to Intervene and Motion to Continue Hearing and Deferral of Ruling on Petitioner Department of Planning, County of Maui's Petition to Issue a Declaratory Order filed February 22, 2019, both filed March 20, 2019;
Docket No. DR19-65/New Kihei High School

Dear Mr. Orodener:

In response to the State of Hawaii, Department of Education's (DOE) Petition to Intervene and Motion to Continue Hearing and Deferral of Ruling on Petitioner Department of Planning County of Maui's (County) Petition to Issue a Declaratory Order filed February 22, 2019, both filed by DOE on March 20, 2019, the Office of Planning (OP) offers the following comments.

As a state agency, the landowner and the Petitioner of the original boundary amendment (Docket No. A11-794), DOE has a definite property interest that will be directly and immediately affected in this declaratory ruling proceeding, and that is clearly distinguishable from the general public. Therefore, consistent with Hawaii Administrative Rules §15-15-52, the Land Use Commission (Commission) should grant DOE's intervention.

OP is supportive of the Commission granting a continuance to allow DOE to prepare a motion to amend the subject Condition 1(b) of the Findings of Fact, Conclusions of Law and Decision and Order for Docket No. A11-794. DOE has represented that it accepts the Commission's interpretation of Condition 1(b) that the grade separated pedestrian crossing is required to be completed prior to the opening of Phase I, and now wishes to amend Condition 1(b) consistent with that interpretation and with respect to time deadlines and other details.

Mr. Daniel E. Orodener
March 25, 2019
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DOE's motion to amend should eliminate the need for the declaratory ruling and allow the DOE to move the project forward consistent with the intent of the Commission.

Thank you for your consideration of OP's comments.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Dawn T. Apuna', with a stylized flourish extending to the right.

Dawn T. Apuna
Deputy Attorney General

c: Thomas Kolbe, Esq.
Deputy Corporation Counsel, County of Maui
Ryan Roylo, Esq.
Deputy Attorney General