

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of:

STATE OF HAWAII, DEPARTMENT OF
EDUCATION

To Amend the Agricultural Land Use District
Boundaries into the Urban Land Use District
for Approximately 77.2 acres of land at Kihei,
Maui, Hawaii, Maui Tax Map Key Nos. 2-2-
02: 81 and 83.

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) DOCKET NO. A11-794
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) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) DECISION AND ORDER; AND
) CERTIFICATE OF SERVICE
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LAND USE COMMISSION
STATE OF HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

STATE OF HAWAII, DEPARTMENT OF EDUCATION ("Petitioner"), filed a petition for land use district boundary amendment on December 20, 2011, and an amended petition for land use district boundary amendment (collectively "Petition") on February 7, 2013, pursuant to Chapter 205, Hawaii Revised Statutes ("HRS"), and Chapter 15-15, Hawaii Administrative Rules ("HAR"), to amend the State Land Use District boundary to reclassify approximately 77.2 acres of land at Kihei, Maui, Hawaii, identified as Maui Tax Map Key Nos. 2-2-02: 81 and 83 ("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District for the development and construction of Kihei High School, a public high school ("Project").

The Land Use Commission of the State of Hawaii ("Commission"), having heard and examined the testimony, evidence and arguments of counsel presented during the hearings, along with the pleadings filed herein, and the stipulated findings of fact, conclusions of law and decision and order filed by Petitioner, agreed to by the Department of Planning, County of Maui

5. Article XI, Section 3, of the Hawai'i Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

6. Article XI, Section 7, of the Hawai'i Constitution states that the State has an obligation to protect the use of Hawai'i's water resources for the benefit of its people. Kihei High School will not adversely affect the Kama'ole Aquifer System.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 77.2 acres of land situated at Kihei, Island of Maui, State of Hawai'i, identified as Maui Tax Map Key Nos: 2-2-02: 81 and 83 and shown approximately on Exhibit "A," attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State Land Use District boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. **Highway and Road Improvements.** Petitioner will work cooperatively with DOT to reach mutually agreeable solutions. Petitioner shall abide by, complete and/or submit the following:

- a. The TIAR shall be revised and accepted by DOT prior to Petitioner executing a contract for the design of Phase I of the Project. The TIAR shall be structured to show assumptions about, traffic impacts of, and mitigations for both Phase I of the Project only and also the full build out of the Project. Petitioner shall submit three updated TIARs for the Project: the first one full year after opening of Phase I of the Project, the second with DOT approval prior to the issuance of any certificate of occupancy for Phase II of the Project, and the third with DOT approval one full year after full build out of Phase II of the Project. Should there be delays over three years between preparation of the updated TIAR one full year after opening of Phase I and the scheduled issuance of the certificate of occupancy for Phase II or any potential later Phasing, Petitioner shall submit an additional updated TIAR at DOT's request. All requirements and criteria for the TIAR and updated TIARs shall be agreed and approved by DOT. All project generated traffic shall be mitigated at Petitioner's expense as recommended or required in any of the TIARs approved by DOT. Petitioner shall submit copies of all TIARs and TIAR updates to the State of Hawai'i DOT for review and approval, and to the County of Maui Department of Public Works for review and comment.
- b. Petitioner shall complete a pedestrian route study for Phase I of the Project which includes ingress and egress of pedestrians through defined location(s) approved by DOT and shall analyze compliance with the proposed warrants in FHWA/RD-84/082 (July 1984) to the satisfaction of DOT. The pedestrian route study and analysis shall be completed and approved prior to Petitioner executing a contract for the design of Phase I of the Project. 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 prior to opening Phase I of the Project. Petitioner shall submit three updated pedestrian route studies and analyses for the Project: the first one full year after opening of Phase I of the Project, the second with DOT approval prior to the issuance of any certificate of occupancy for Phase II of the Project, and the third with DOT approval one full year after full build out of Phase II of the Project. Should there be delays over three years between preparation of the updated pedestrian route study one full year after opening Phase I and the scheduled issuance of the certificate of occupancy for Phase II or any potential later Phasing, Petitioner shall submit an additional updated pedestrian route study at DOT's request. Petitioner shall implement such mitigation or improvements as may be required or recommended by the updated studies and analyses to the satisfaction of DOT. Petitioner shall submit copies of the studies and analyses to the State of Hawai'i DOT for review and approval, and to the County of Maui Department of Public Works for review and comment.

- c. Petitioner shall make transportation improvements relating to the direct impacts at the intersection of Kūlanihāko'i Street and Pi'ilani Highway acceptable to DOT and as set forth in the current and revised TIAR for Phase I of the Project, including full funding of improvements and dedication of land prior to the issuance of a certificate of occupancy for Phase I of the Project. The access road to the high school shall be perpendicular to Pi'ilani Highway for a minimum distance of 200 feet. For improvements as required or recommended in an updated TIARs for any other Phase of the Project, Petitioner shall provide all required transportation improvements to support the planned enrollment of the school, and complete all