

DEPARTMENT OF PLANNING
 COUNTY OF MAUI
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**BEFORE THE LAND USE COMMISSION
 OF THE STATE OF HAWAII**

In the Matter of the Petition of:)	Docket No. A11-794
)	
DEPARTMENT OF EDUCATION,)	DEPARTMENT OF PLANNING, COUNTY
STATE OF HAWAII,)	OF MAUI'S POSITION STATEMENT ON
)	THE DEPARTMENT OF EDUCATION,
To Amend the Agricultural Land Use)	STATE OF HAWAII'S MOTION TO AMEND
District Boundaries into the Urban Land)	THE LAND USE COMMISSION'S FINDINGS
Use District for Approximately 77.2 acres)	OF FACT, CONCLUSIONS OF LAW AND
of land at Kihei, Maui, Hawai'i, Maui Tax)	DECISION AND ORDER FILED JULY 29, 2013;
Map Key Nos. 2-2-02: 81 and 83)	CERTIFICATE OF SERVICE
)	

**THE DEPARTMENT OF PLANNING, COUNTY OF MAUI'S POSITION STATEMENT ON THE
 STATE DEPARTMENT OF EDUCATION'S MOTION TO AMEND**

The State of Hawaii Department of Education (DOE) obtained a State Land Use District Boundary Amendment (DBA) from Agricultural to Urban for the subject 77.2-acre parcel in order to develop the new Kihei High School. The State Land Use Commission (LUC) granted the DBA by its Findings of Fact, Conclusions of Law, and Decision and Order (D&O) filed on July 29, 2013.

After the D&O's adoption, DOE obtained an accompanying community plan amendment and change in zoning to Public/Quasi-Public via Ordinance Nos. 4134 and 4135, respectively, which took effect on June 27, 2014.

Ordinance No. 4135 included several conditions of zoning. Condition no. 4 states "That all of the conditions imposed by the State Land Use Commission in its Decision and Order filed July 29, 2013, granting the Land Use District Boundary Amendment for the property (Land Use Commission

Docket A11-794), except for Conditions 16, 19, 20, 23, 24, and 25, shall be incorporated by reference herein and made a part hereof as conditions of zoning.” Rather than restate the D&O conditions, the Maui County Council chose to impose them as zoning conditions by reference. It is the Department’s position that any amendment to the D&O conditions that are also zoning conditions could potentially create an inconsistency with the zoning conditions, since the zoning conditions include the D&O conditions as originally adopted, unless and until the zoning conditions are similarly amended.

The Petitioner seeks to amend D&O condition 1b, which requires three actions: (1) that a pedestrian route study and analysis be completed before Phase I of the project is designed, (2) that an above or below ground pedestrian crossing be constructed (*e.g.*, an overpass or underpass, also known as a grade-separated pedestrian crossing or GSPC) before the opening of Phase I, and (3) that other mitigation recommended by the study and analysis be implemented to the satisfaction of the State Department of Transportation (DOT) before the opening of Phase I. Per Ordinance No. 4135, this is also a zoning condition.

By memo dated July 18, 2017, DOT informed DOE that it had reviewed the Traffic Impact Analysis Report and Pedestrian Route Study/Grade-Separated Pedestrian Crossing (GSPC) Study prepared for the Kihei High School project, and that DOT believed that a GSPC was not warranted for Phase I. This caused community outcry, and ultimately resulted in the County of Maui Department of Planning (Department) requesting a declaratory ruling from the LUC to assist the Department in its administration and enforcement of D&O condition no. 1b which, in the Department’s opinion, required the GSPC regardless of study warrants. The LUC issued its Declaratory Order on April 25, 2019, stating that the GSPC would be required before the opening of Phase I.

The Department believes that the discussion of a GSPC to date was based on the

assumption that the intersection of Piilani Highway and Kulanihako'i Street, which provides the only vehicular access to the Kihei High School site, would be signalized.

Now, DOT now proposes to construct a roundabout at this intersection.

The Department is aware that some in the Kihei community, including the Kihei Community Association (KCA), strongly support a roundabout at this intersection. Earlier this year, KCA wrote to DOT about this issue, as it was believed at that time that DOE maintained that the intersection would be signalized (see KCA's letter, Exhibit 1). KCA stated that a roundabout would be the only safe traffic mitigation for this location, and greatly appreciated DOT's efforts to construct a roundabout instead of traffic signals.

The Department also supports a roundabout at this intersection, and at many others. It has informally discussed a "roundabouts first" policy with the Department of Public Works to avoid future signalization and three- or four-way stops. It is well known that roundabouts present fewer opportunities for vehicle and pedestrian conflicts, slow traffic and increase safety.

However, the Department does not take a position on releasing the requirement for the GSPC prior to Phase I, as it has not received input on this concept from the South Maui community. With any application for development, the Department relies on relevant government agencies to comment on technical studies, and seeks community input on potential impacts. While DOT is one of two primary government agencies on whom the Department relies for comment on transportation safety, DOT had previously opined that a GSPC was not warranted at Phase I, which led to DOE removing the GSPC from its plan and resulted in community outcry and the aforementioned Declaratory Order. In other words, while the Department defers to DOT's transportation safety expertise and their contention that the GSPC is not warranted at Phase I with a roundabout, the Department nonetheless cannot support the release of the GSPC requirement if it is not supported by the community whose children will attend the school. As of the date of this filing, the Department

has not heard from the South Maui community on the Petitioner's request and, pursuant to HAR 15-15-94(b), cannot conclude that good cause has been shown to amend this condition. Until this input is obtained, the Department cannot take a position on the release of the GSPC requirement.

Conclusion

The County of Maui Department of Planning supports the construction of a roundabout at the intersection of Piilani Highway and Kulanihako'i Street fronting the Kihei High School site but takes no position on the release of the requirement that an overpass or underpass be constructed prior to the opening of Phase I of the high school. The Department reserves its right to comment further at a later time.

DATED: Wailuku, Hawaii, August 28, 2020.



MICHELE MCLEAN, AICP
Planning Director
Department of Planning



Kihei Community Association
"e mālama pono"...dedicated to protecting,
sustaining and enhancing our 'āina, kai and 'ohana

June 8, 2020

jade.butay@hawaii.gov
edwin.h.sniffen@hawaii.gov

Re: Roundabout on Pi'ilani Hwy. and Kulanihakoi St., Kihei

Aloha Directors Butay and Deputy Director Sniffen,

We hope you remain well in these trying times.

The Kihei Community Association (KCA) thanks you for your stated support for a roundabout on the Pi'ilani Highway at the Kulanihakoi St intersection in North Kihei. Your support matches that of both our Maui County and State elected representatives. It also aligns with the common knowledge that a roundabout is the only safe traffic mitigation technique we can provide at this dangerous intersection.

Though we are all in agreement, we are baffled to learn that the State Department of Education (DOE) is still stating this will be a signal light controlled intersection. See CIP document.

It has been our understanding that DOT is the controlling agency in transportation, not the DOE. While this intersection will of course have a major impact on the school when open, usage goes way beyond that every day and always for our residents and visitors.

Would you please let us know how you view this apparent discrepancy, and how you will move forward to correct the inconsistency? KCA is very willing to assist where needed for the safety of our entire community.

Mahalo,

Mike Moran, President
Kihei Community Association

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EXHIBIT 1

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_____)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document filed on August 28, 2020 was served via U.S. mail upon the following at:

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DEPARTMENT OF EDUCATION,
STATE OF HAWAII

DATED: Wailuku, Hawaii, August 28, 2020.



MICHELE MCLEAN, AICP
Planning Director
Department of Planning