

ORDINANCE NO. 4135

BILL NO. 39 (2014)



A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-2-002:081, FOR THE PROPOSED KIHEI HIGH SCHOOL


BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.31 and 19.510, Maui County Code, a change in zoning from Agricultural District to P-1 Public/Quasi-Public District (Conditional Zoning) is hereby granted for that certain parcel of land situated at Kihei, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 2-2-002:081, comprising approximately 77.182 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Land Zoning Map No. L-5119, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof; and

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning granted by this ordinance is subject to the conditions set forth in Exhibit "B", attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

S:\CLERICAL\IWN\ORD\CIZ\22002081.ciz with cond Kihei High School.doc

Exhibit 1

DESCRIPTION

KIHEI HIGH SCHOOL CONSOLIDATION
LOT 1

Being portions of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56), Royal Patent 4388, Land Commission Award 8452, Apana 19 to A. Keohokalole, and Grant 9325, Apana 1 to Haleakala Ranch Company situated at Kaonoulu, Koheo 1 & 2, Waiohuli, Makawao, Kihei, Island and County of Maui, State of Hawaii.

Beginning at a 1/2-inch pipe at the Northwest corner of this lot and the Easterly side of Piilani Highway [Federal Aid Project No. RF-031-1(5)], the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

12,012.21 feet North

21,807.61 feet West

and running by azimuths measured clockwise from True South:

1. 256° 48' 615.00 feet along Lot 1-A-2 of the Kaonoulu Ranch-Water Tank Subdivision (Subdivision File No. 2.3124), being also the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, (Certificate of Boundaries No. 56) to a 1/2-inch pipe;
2. Thence along same on a curve to the right with a radius of 1,000.00 feet, the chord azimuth and distance being:
265° 18' 295.62 feet to a PK nail;
3. 273° 48' 1330.50 feet along same to a 1/2-inch pipe;
4. 0° 00' 1712.42 feet along Lot 1-A-2 of the Kaonoulu Ranch-Water Tank Subdivision (Subdivision File No. 2.3124), and Lot 2-B of the Anawio Subdivision (Subdivision File No. 2.3129), being also the remainders of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56), Royal Patent 4388, Land Commission Award 8452, Apana 19 to A. Keohokalole and Grant 9325, Apana 1 to Haleakala Ranch Company to a PK nail;
5. 102° 30' 804.53 feet along Lot 2-B of the Anawio Subdivision (Subdivision File No. 2.3129), being also the remainder of Grant 9325, Apana 1 to Haleakala Ranch Company to a 1/2-inch pipe;
6. 86° 30' 200.00 feet along same to a 1/2-inch pipe;

EXHIBIT "A"

EX 1, p. 2

7. 70° 42' 02" 739.62 feet along same to a 1/2-inch pipe;
8. 160° 42' 02" 791.42 feet along the Easterly side of Piilani Highway [Federal Aid Project No. RF-031-1(5)] to a 1/2-inch pipe;
9. 250° 42' 02" 20.00 feet along same to a 1/2-inch pipe;
10. 160° 42' 02" 120.53 feet along same to a 1/2-inch pipe;
11. Thence along same on a curve to the right with a radius of 6,920.19 feet, the chord azimuth and distance being:
161° 23' 31.5" 167.04 feet to a 1/2-inch pipe;
12. Thence along same on a curve to the right with a radius of 6,920.19 feet, the chord azimuth and distance being:
162° 24' 54" 80.05 feet to a 1/2-inch pipe;
13. Thence along same on a curve to the right with a radius of 6,920.19 feet, the chord azimuth and distance being:
162° 47' 07.5" 9.43 feet to a 1/2-inch pipe;
14. 72° 49' 28" 15.00 feet along same to a 1/2-inch pipe;
15. Thence along same on a curve to the right with a radius of 6,935.19 feet, the chord azimuth and distance being:
164° 48' 44" 481.11 feet to a 1/2-inch pipe;
16. 166° 48' 151.65 feet along same to the point of beginning and containing an area of 77.182 Acres.

Vehicle access will not be permitted into and from Piilani Highway, Federal Aid Project No. [RF-031-1(5)] over and across courses 8, 9, 10, 11, 13, 14, 15 and 16 of the above described Lot 1.

Vehicle access will be permitted into and from Piilani Highway, Federal Aid Project No. [RF-031-1(5)] over and across 12 of the above described Lot 1.

This work was prepared by me
or under my supervision.



RONALD M. FUKUMOTO ENGINEERING, INC.

A handwritten signature in black ink that reads "M Silva".

Michael E. Silva
Licensed Professional Land Surveyor
Certificate Number 12960
License Expires 4/30/2014

1721 Wili Pa Loop, Suite 203
Waifuku, Hawaii 96793
July 5, 2013

GR7002

EXHIBIT "B"

CONDITIONS OF ZONING

1. That the State Department of Education (DOE) shall submit to the Department of Public Works for review and comment any Traffic Impact Analysis Reports, pedestrian route studies and/or any related reports or studies at the same time they are submitted to the State Department of Transportation.
2. That, within six months of the DOE's initiation of the design process for Phase 1 of the Kihei High School or the State's execution of a contract with a designer-builder for the school, whichever occurs earlier, the DOE and/or its designer-builder, as appropriate, shall begin to work with the County of Maui Department of Planning on the design of the following improvements to the Kihei High School campus, which shall subsequently be implemented to the satisfaction of the Department of Planning during the permitting process in accordance with Condition Number 16 of the Decision and Order by the State Land Use Commission granting the DOE's Petition for a Land Use District Boundary Amendment (Land Use Commission Docket No. A11-794):
 - a. Pedestrian and bicycle access to and from the school campus to connect to current and future pedestrian and bicycle networks in the vicinity of the campus;
 - b. Bicycle-friendly improvements on the school campus and, if requested by the County of Maui Department of Transportation, an area for public transit access to the school campus;
 - c. Overflow parking and lighting to accommodate special events to be held on the school campus;
 - d. Consideration of best practices in Crime Prevention through Environmental Design (CPTED) elements in campus design; and
 - e. To the extent not inconsistent with the provision of a drainage detention basin, overflow parking and CPTED design elements, a landscaped buffer on the campus fronting Pi'ilani Highway.
3. That the DOE shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions of zoning and the State Land Use Commission conditions, commencing within one year of the effective date of the ordinance. This reporting requirement shall cease upon the completion of construction of Phases 1 and 2 of the project.

4. 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 All-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.

RECORDED AS FILED
STATE OF HAWAII

BUREAU OF CONVEYANCES

Doc A - 52730454
DATE - TIME : June 09, 2014 8:02 AM

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail (X) Pickup () : To:
Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Total Number of Pages: 9

Affects Tax Map Key (Maui). (2)2-2-002:081

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 14 day of May 2014, by the State of Hawaii, through the Board of Land and Natural Resources, whose principal place of business is located in Honolulu, Oahu, Hawaii, and whose mailing address is 1151 Punchbowl Street, Honolulu, Hawaii, 96813, hereinafter referred to as "DECLARANT", and who is the owner of that certain parcel located at Kihei, Maui, Hawai'i, comprised of approximately 77.182 acres and identified for real property tax purposes by Tax Map Key No. (2) 2-2-002:081, hereinafter referred to as "PARCEL" (or "PROPERTY").

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawai'i, hereinafter referred to as "Council", is considering the establishment of zoning for the Parcel, comprised of approximately 77.182 acres, which is more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No. L-5119, which is on file in the Office of the County Clerk of the County of Maui; and

1
EXHIBIT
EX. 1, p. 7

WHEREAS, the Council recommends through its Land Use Committee, Committee Report No. 14-61, that said establishment of zoning be approved for passage on first reading subject to certain conditions, pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code, relating to conditional zoning;

2. That until written release by the County of Maui, the Parcel, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions which shall be effective as to and shall run with the land as to the Parcel, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawai'i, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign; that the acquisition of any right, title or interest in or with respect to the Parcel by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities; and that upon any transfer of any right, title or interest in or with respect to the Parcel the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform all of the covenants, conditions and restrictions of this Declaration;

3. That this Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the Declarant notifies the appropriate County Department that any of said covenants, conditions and restrictions are satisfied by the Declarant, and the appropriate County Department verifies the satisfaction and provides a written release of the covenant, condition or restriction;

4. That the term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the "Declarant", the Declarant's heirs, devisees, executors, administrators, personal representatives, successors, and assigns;

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of P-1 Public/Quasi-Public District zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawai'i;

6. That the Declarant agrees to develop said Parcel in conformance with the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance;

7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use;

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County, the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in said land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

(Balance of this page is intentionally left blank - signature page follows:)

IN WITNESS WHEREOF, the undersigned has executed this UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING effective as of the day and year first above written.

DECLARANT:

Board OF LAND AND NATURAL RESOURCES

By  _____

William J. Aila, Jr.
Its Chairperson

APPROVED AS TO FORM:

 _____

Linda L.W. Chow
Land/Transportation Division
Deputy Attorney General

APPROVED AS TO FORM AND LEGALITY:

 _____

MICHAEL J. HOPPER

Deputy Corporation Counsel
County of Maui

DESCRIPTION

KIHEI HIGH SCHOOL CONSOLIDATION
LOT 1

Being portions of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56), Royal Patent 4388, Land Commission Award 8452, Apana 19 to A. Keohokalole, and Grant 9325, Apana 1 to Haleakala Ranch Company situated at Kaonoulu, Koheo 1 & 2, Waiohuli, Makawao, Kihei, Island and County of Maui, State of Hawaii.

Beginning at a 1/2-inch pipe at the Northwest corner of this lot and the Easterly side of Pillani Highway [Federal Aid Project No. RF-031-1(5)], the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

12,012.21 feet North

21,807.61 feet West

and running by azimuths measured clockwise from True South:

1. 256° 48' 615.00 feet along Lot 1-A-2 of the Kaonoulu Ranch-Water Tank Subdivision (Subdivision File No. 2,3124), being also the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, (Certificate of Boundaries No. 56) to a 1/2-inch pipe;
2. Thence along same on a curve to the right with a radius of 1,000.00 feet, the chord azimuth and distance being:
265° 18' 295.62 feet to a PK nail;
3. 273° 48' 1330.50 feet along same to a 1/2-inch pipe;
4. 0° 00' 1712.42 feet along Lot 1-A-2 of the Kaonoulu Ranch-Water Tank Subdivision (Subdivision File No. 2,3124), and Lot 2-B of the Anawio Subdivision (Subdivision File No. 2,3129), being also the remainders of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56), Royal Patent 4388, Land Commission Award 8452, Apana 19 to A. Keohokalole and Grant 9325, Apana 1 to Haleakala Ranch Company to a PK nail;
5. 102° 30' 804.53 feet along Lot 2-B of the Anawio Subdivision (Subdivision File No. 2,3129), being also the remainder of Grant 9325, Apana 1 to Haleakala Ranch Company to a 1/2-inch pipe;
6. 86° 30' 200.00 feet along same to a 1/2-inch pipe;

7. 70° 42' 02" 739.62 feet along same to a 1/2-inch pipe;
8. 160° 42' 02" 791.42 feet along the Easterly side of Pillani Highway
[Federal Aid Project No. RP-031-1(5)] to a 1/2-inch
pipe;
9. 250° 42' 02" 20.00 feet along same to a 1/2-inch pipe;
10. 160° 42' 02" 120.53 feet along same to a 1/2-inch pipe;
11. Thence along same on a curve to the right with a radius of 6,920.19 feet, the chord
azimuth and distance being:
161° 23' 31.5" 167.04 feet to a 1/2-inch pipe;
12. Thence along same on a curve to the right with a radius of 6,920.19 feet, the chord
azimuth and distance being:
162° 24' 54" 80.05 feet to a 1/2-inch pipe;
13. Thence along same on a curve to the right with a radius of 6,920.19 feet, the chord
azimuth and distance being:
162° 47' 07.5" 9.43 feet to a 1/2-inch pipe;
14. 72° 49' 28" 15.00 feet along same to a 1/2-inch pipe;
15. Thence along same on a curve to the right with a radius of 6,935.19 feet, the chord
azimuth and distance being:
164° 48' 44" 481.11 feet to a 1/2-inch pipe;
16. 166° 48' 151.65 feet along same to the point of beginning and
containing an area of 77.182 Acres.

Vehicle access will not be permitted into and from Pillani Highway, Federal Aid Project No. [RP-031-1(5)] over and across courses 8, 9, 10, 11, 13, 14, 15 and 16 of the above described Lot 1.

Vehicle access will be permitted into and from Pillani Highway, Federal Aid Project No. [RP-031-1(5)] over and across 12 of the above described Lot 1.

This work was prepared by me
or under my supervision.



RONALD M. FUKUMOTO ENGINEERING, INC.

A handwritten signature in black ink that reads "M. Silva".

Michael E. Silva
Licensed Professional Land Surveyor
Certificate Number 12960
License Expires 4/30/2014

1721 Wili Pa Loop, Suite 203
Wailuku, Hawaii 96793
July 5, 2013

OR7002

CONDITIONS OF ZONING

1. That the State Department of Education (DOE) shall submit to the Department of Public Works for review and comment any Traffic Impact Analysis Reports, pedestrian route studies and/or any related reports or studies at the same time they are submitted to the State Department of Transportation.
2. That, within six months of the DOE's initiation of the design process for Phase 1 of the Kihei High School or the State's execution of a contract with a designer-builder for the school, whichever occurs earlier, the DOE and/or its designer-builder, as appropriate, shall begin to work with the County of Maui Department of Planning on the design of the following improvements to the Kihei High School campus, which shall subsequently be implemented to the satisfaction of the Department of Planning during the permitting process in accordance with Condition Number 16 of the Decision and Order by the State Land Use Commission granting the DOE's Petition for a Land Use District Boundary Amendment (Land Use Commission Docket No. A11-794):
 - a. Pedestrian and bicycle access to and from the school campus to connect to current and future pedestrian and bicycle networks in the vicinity of the campus;
 - b. Bicycle-friendly improvements on the school campus and, if requested by the County of Maui Department of Transportation, an area for public transit access to the school campus;
 - c. Overflow parking and lighting to accommodate special events to be held on the school campus;
 - d. Consideration of best practices in Crime Prevention through Environmental Design (CPTED) elements in campus design; and
 - e. To the extent not inconsistent with the provision of a drainage detention basin, overflow parking and CPTED design elements, a landscaped buffer on the campus fronting Pi'ilani Highway.
3. That the DOE shall provide annual compliance reports to the Department of Planning and the Maui County Council on the status of the project and progress in complying with the conditions of zoning and the State Land Use Commission conditions, commencing within one year of the effective date of the ordinance. This reporting requirement shall cease upon the completion of construction of Phases 1 and 2 of the project.

EXHIBIT "2"

4. 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.

WE HEREBY CERTIFY that the foregoing BILL NO. 39 (2014)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 20th day of June, 2014, by the following vote:

Gladys C. BAISA Chair	Robert CARROLL Vice-Chair	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Aye	Aye	Aye	Aye	Excused	Aye	Aye	Excused	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 20th day of June, 2014.

DATED AT WAILUKU, MAUI, HAWAII, this 20th day of June, 2014.

RECEIVED
2014 JUN 26 PM 4:14
OFFICE OF THE MAYOR

GLADYS C. BAISA, CHAIR
Council of the County of Maui

JOSIAH K. NISHITA, DEPUTY COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 27 DAY OF June, 2014.

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4135 of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on May 27, 2014.
Effective date of Ordinance June 27, 2014

RECEIVED
2014 JUN 27 AM 9:47
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4135, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

EX-1 ip-16



RECEIVED

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

20 APR -2 P12:49

OFFICE OF SCHOOL FACILITIES AND SUPPORT SERVICES

COUNTY OF MAUI
DEPT OF PLANNING
ADMINISTRATION

March 23, 2020

Ms. Michele Chouteau McLean
Director, Department of Planning
County of Maui
2200 Main Street, One Main Plaza, Suite 315
Kahului, Hawaii 96793

Re: Pedestrian Overpass
Kihei High School
New School - Phase 2
DOE Job No: Q55000-17
Tax Map Key: (2) 2-2-002: 081

County Of Maui
Planning Department

	FTI	COMMENTS	SEE ME	ASSIGN	FILE	DRAFT RESPONSE
DIRECTOR <i>PDF</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DEPUTY DIRECTOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CURRENT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ZAED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LONG RANGE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DEPT SECRETARY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Due Date: _____
By: _____ Date: _____

Dear Ms. McLean:

The Hawaii State Department of Education (HIDOE) is committed to moving forward with the design of the pedestrian overpass. As a result, the design of the pedestrian overpass has already been started. The balance of the design work will be funded by a legislative add-on appropriation. Please see the attached project timeline for the anticipated pedestrian overpass work as well as the remaining primary school structures.

As a result, the HIDOE is requesting approval of Permit Application No. T20181483 (Building A), T20181517 (Building B), T20181556 (Building C), T20181654 (Building D), and T20181655 (Building H).

Your early and favorable approval will be greatly appreciated. Should you have any questions, please contact Janna Mihara, Project Coordinator for the Facilities Development Branch, Project Management Section at (808) 784-5120 or via e-mail at janna.mihara@k12.hi.us.

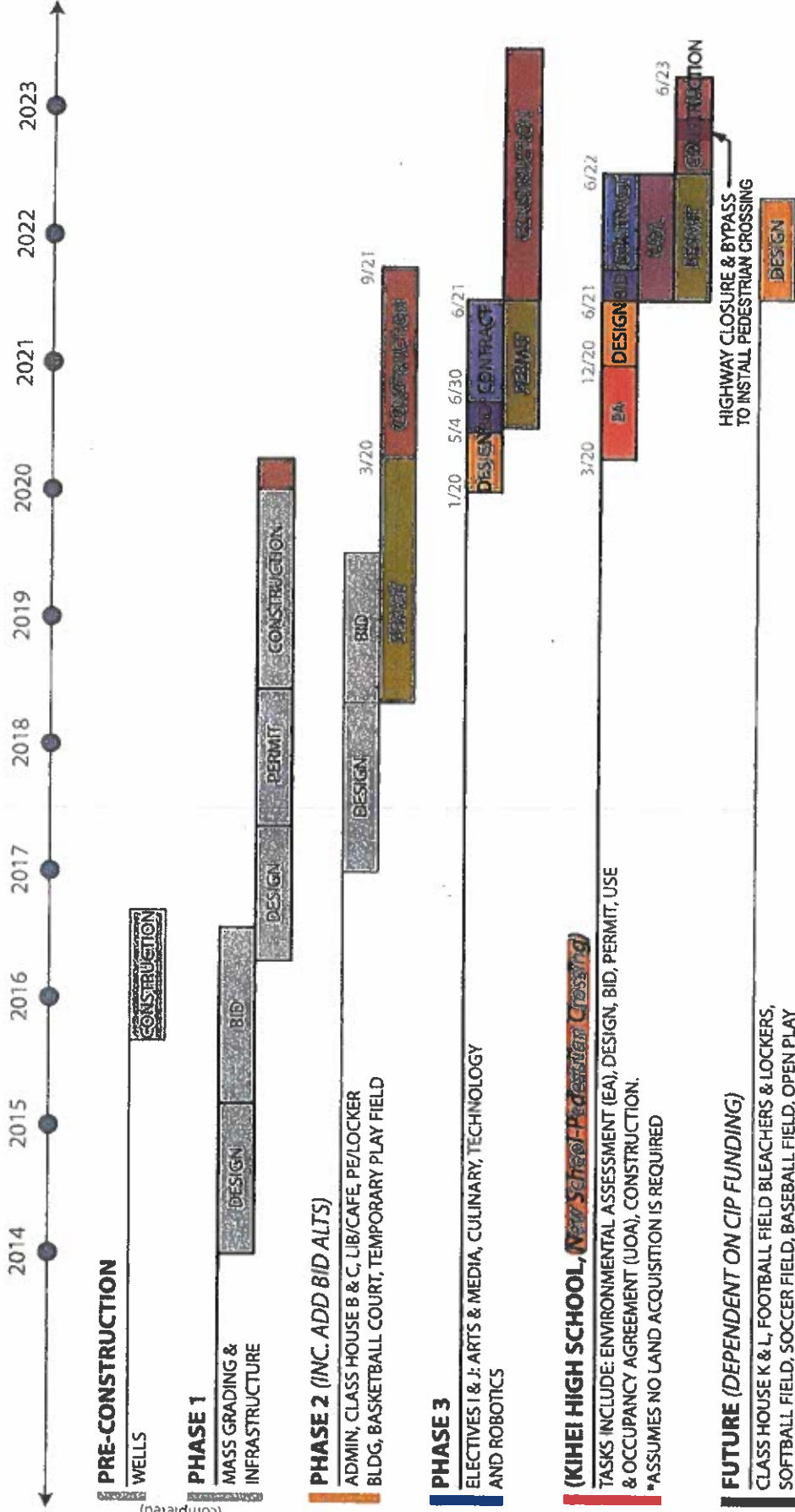
Sincerely,

Tracy Okumura
Executive Assistant

TO:lm
Attachment: Project Timeline

c: Renee Segundo, Planning Department, Zoning Administration & Enforcement Division,
Land Use & Building Plans Examiner
Janna Mihara, Project Management Section

KIHEI HIGH SCHOOL: PROJECT TIMELINE



(completed)

IX.2 p.2



MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

April 3, 2020

Ms. Janna Mihara, Project Coordinator
Facilities Development Branch
Hawaii State Department of Education
P.O. Box 2360
Honolulu, Hawaii 96804

Dear Ms. Mihara,

**SUBJECT: PEDESTRIAN OVERPASS, KIHEI HIGH SCHOOL
NEW SCHOOL – PHASE 2, DOE JOB NO: Q55000-17
TMK: 2-2-002: 081**

Thank you for your letter dated March 23, 2020, asking the Department of Planning (Department) to approve several building permit applications for the new Kihei High School.

Your letter states that "HIDOE is committed to moving forward with the design of the pedestrian overpass" and provides a project timeline for the overpass and the remaining school structures. However, the specific language of the conditions of approval of the project by the State Land Use Commission and the Maui County Council call for the overpass (or underpass) to be constructed not just designed. For the Department to find compliance with these conditions, the overpass (or underpass) must be completed and useable before or at the same time that the school buildings are ready for occupancy.

If you can provide us with a letter that documents your commitment to constructing the overpass (or underpass) and having it ready for use before or when the buildings are ready for occupancy, then we can conditionally approve the building permits. Please note that we will withhold approval of any Certificate of Occupancy until the overpass (or underpass) is constructed and useable.

Exhibit 3

Ms. Janna Mihara, Project Manager
April 3, 2020
Page 2

We note that the project timeline includes an Environmental Assessment (EA) for the overpass (or underpass); we believe that this may not be needed since this component was a condition of approval after the environmental review process was completed. However, if an EA will assist – through its analysis of alternatives – with obtaining community input and providing disclosure of the issues related to both an overpass and an underpass, then such a process would be worthwhile. In other words, we believe that the South Maui community strongly supports an underpass rather than an overpass, and an EA would be a valuable mechanism for you to consider both options.

Please feel free to contact me if you have any questions.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

MCM:atw

xc: Mayor Michael P. Victorino (pdf)
Don Couch, Executive Assistant (pdf)
Councilmember Kelly King (pdf)
Daniel Orodenker, LUC Executive Director (pdf)
Jeffrey Dack, Supervising Planner (pdf)
Renee Segundo, Building Plans Examiner (pdf)

S:\ALL\Michele\DOE Kihei HS 01.docx

EX. 3, P. 2

201695

DAVID Y. IGE
GOVERNOR



DR. CHRISTINA M. KISHIMOTO
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF FACILITIES AND OPERATIONS

April 14, 2020

Ms. Michele Chouteau McLean
Director, Department of Planning
County of Maui
2200 Main Street, Suite 315
Wailuku, Hawaii 96793

Re: Pedestrian Overpass
Kihei High School
New School – Phase 2
HIDOE Job No: Q55000-17
Tax Map Key: (2) 2-2-002: 081

Dear Ms. McLean:

This is in response to your letter dated April 3, 2020, requesting the Hawaii State Department of Education (HIDOE) provide a letter that documents our commitment to constructing the pedestrian overpass.

The HIDOE is committed to the design and construction of the pedestrian overpass and will insure that it is ready for use when the high school opens for students. As indicated in our previous letter dated March 23, 2020, the design of the pedestrian overpass has already been started.

As a result, the HIDOE is requesting approval of Permit Application No. T20181483 (Building A), T20181517 (Building B), T20181556 (Building C), T20181654 (Building D), and T20181655 (Building H).

Your early and favorable approval will be greatly appreciated.

Should you have any questions, please contact Janna Mihara, Project Coordinator for the Facilities Development Branch, Project Management Section, at (808) 784-5120 or via email at janna.mihara@k12.hi.us.

Sincerely,

Tracy Okumura
Executive Assistant

TO:jm

c: Renee Segundo, Planning Department, Zoning Administration & Enforcement Division
Office of Facilities and Operations
Facilities Development Branch

Exhibit 4

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

RECEIVED

County Of Maui
Planning Department
DIRECTOR PD
DEPUTY DIRECTOR
CURRENT
ZAED
LONG RANGE
DEPT. SECRETARY

FILE	COMMENTS	SEE ME	ASSIGN	FILE	DRAFT RESPONSE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Due Date: _____
By: _____ Date: _____

Michele McLean - Re: Fwd: Kihei High School Pedestrian Overpass

From: Renee Segundo
To: Michele McLean
Date: 4/20/2020 1:26 PM
Subject: Re: Fwd: Kihei High School Pedestrian Overpass
Cc: Russ Higa; Rulan Waikiki

Hi Michelle,

So you want to approve the building permit applications based on the response letter dated 4/14/2020?

I will look at my file when I go into the office tomorrow. Hopefully this is the last item to sign. I can't remember. :)

Mahalo, Renee

>>> Michele McLean 4/20/2020 1:22 PM >>>
Hi Renee,

It's fine with me for you to sign-off on the BPs that are noted in the letter. Please put a note or flag in kiva that COs are not to be signed-off until the overpass is constructed and useable.

Please let me know when you've signed-off.

Mahalo,
Michele.

>>> <planningxrx315@mauicounty.gov> 4/21/2020 1:18 PM >>>

Please open the attached document. It was sent to you using a Xerox multifunction printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location:
Device Name: XRX9C934E9D1755

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

Exhibit S

Michele McLean - Re: Kihei High School building permits

From: Janna Mihara <janna.mihara@k12.hi.us>
To: Michele McLean <Michele.McLean@co.maui.hi.us>
Date: 4/21/2020 3:42 PM
Subject: Re: Kihei High School building permits

Hi Michele,

Thank you and I appreciate the feedback. I inherited this job this past December since the previous Project Coordinator (Bob Purdie) retired and I am still trying to understand the history behind the decisions that were made.

Have a great week,
 Janna Mihara

Project Coordinator

Hawaii Department of Education

Office of Facilities and Operations

Facilities Development Branch, Project Management Section

3633 Waiialae Avenue, B201

Honolulu, HI 96816

Phone: (808) 784-5060

Fax: (808) 784-4660

On Tue, Apr 21, 2020 at 3:22 PM Michele McLean <Michele.McL.ean@co.maui.hi.us> wrote:

Hi again Janna,

We can assess the situation when the time comes. To be frank, DOE does not have a good track record on this matter.

The community clearly wants an underpass, yet DOE is pursuing an overpass. The County and LUC conditions of approval call for either an overpass or underpass, but DOE tried to get around the requirement by having DOT say it wasn't warranted. It falls on the Planning Department to ensure that the County and LUC conditions are met, so we had to go back to the LUC to get this clarified.

When the time comes, please get in touch with me, and my Department will assess the progress on the overpass (or underpass) at that time. If it appears to be on schedule and that DOE has proceeded in good faith, then we may sign-off on Temporary COs to allow you to move-in and set-up.

Hope you understand.....

Aloha,
 Michele.

>>> Janna Mihara <janna.mihara@k12.hi.us> 4/21/2020 2:05 PM >>>

Aloha Michele,

Exhibit 6

Great news. The DOE appreciates your department's support for this project.

In regards to your comment on the certificate of occupancy, we would greatly appreciate it if you would consider signing-off on the certificate of occupancy at least 6 months prior to the completion and use of the pedestrian overpass to prevent any delays in opening the school. When we have started new schools in the past, the Administration (including key cafeteria, library, and teaching staff) have typically asked for 5-6 months to move in and set-up operations prior to officially opening the school and accepting students. I have attached a list of some of the kinds of tasks the school needs to work on once they move into the school facility, but prior to opening.

Thanks,
Janna Mihara
Project Coordinator
Hawaii Department of Education
Office of Facilities and Operations
Facilities Development Branch, Project Management Section
3633 Waialae Avenue, B201
Honolulu, HI 96816
Phone: [\(808\) 784-5060](tel:(808)784-5060)
Fax: [\(808\) 784-4660](tel:(808)784-4660)

On Tue, Apr 21, 2020 at 10:48 AM Michele McLean <Michele.McLean@co.maui.hi.us> wrote:
Aloha Janna,

We received your April 14, 2020 letter that confirms DOE will construct the pedestrian overpass so that it is usable when the Kihei High School will open.

With that commitment, we will sign-off on the building permits for Buildings A, B, C, D and H.

Please note that we will withhold signing-off on Certificates of Occupancy until the overpass can be used.

Please let me know if you have any questions or need additional information.

Mahalo,
Michele.

Michele Chouteau McLean, AICP, Planning Director
County of Maui
One Main Plaza, Suite 315
2200 Main Street
Wailuku, Hawaii 96793
Office: [808/270-7735](tel:808/270-7735)
Fax: [808/270-7634](tel:808/270-7634)

This email was scanned by the Cisco IronPort Email Security System contracted by the Hawaii Dept of

Exhibit 6, p. 2

Education. If you receive suspicious/phish email, forward a copy to phishing-report@k12.hi.us. This helps us monitor suspicious/phish email getting thru. You will not receive a response, but rest assured the information received will help to build additional protection.

This is a staff email account managed by Hawaii Department Of Education School District. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

This is a staff email account managed by Hawaii Department Of Education School District. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

Ex. 6, p. 3

Michele McLean - RE: [EXTERNAL] FYI - statement

From: "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov>
To: Michele McLean <Michele.McLean@co.maui.hi.us>
Date: 2/4/2021 4:21 PM
Subject: RE: [EXTERNAL] FYI - statement

Hi Michele!

I do. Randy from DOE or Stuart from AG was forwarded this message and will be working with you on this. Ill ping Randy to get back to you.

Mahalo,

Ed

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Thursday, February 4, 2021 4:15 PM
To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
Subject: RE: [EXTERNAL] FYI - statement

Aloha Ed,

Remember this discussion?

Now that DOE has filed its responses to the LUC's questions, at some point the LUC will hear their motion again. The idea is for that to go smoothly, by revising the condition to call on us to work together "in good faith" to see if an underpass at Waipuiani Gulch is feasible. That narrows it down quite a bit.

Here is a clean version of the latest iteration:

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:

b. Petitioner shall complete a pedestrian route study for Phase I of the Project which includes ingress and egress of pedestrians through defined locations(s) approved by DOT and shall analyze compliance with the proposed warrants in FHWA/RD84/082 (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.~~ Petitioner shall cause to be constructed a roundabout with at-grade pedestrian crossings and raised crosswalks as appropriate at the intersection of Piilani Highway and Kulanihako Street, 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. While Phase I, as depicted in the Phasing Plan dated October 6, 2020 and attached as Petitioner's Exhibit 10, and the roundabout at the intersection of Piilani Highway and Kulanihako Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County.

Exhibit 7

to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing, specifically an underpass at Waipuilani Gulch. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible, then Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.

If this still works for you, can you see if DOE will concur? Then we can work on a stipulated amended motion. I don't know how OP will feel about, but I'll check in with them if/after DOE agrees.

Mahalo,
Michele.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/12/2020 9:30 AM >>>
Thanks Michele,

Aloha,

Ed

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Thursday, November 12, 2020 9:23 AM
To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
Subject: RE: [EXTERNAL] FYI - statement

No worries. The LUC won't schedule this again until they get answers to their questions. The attached was just sent out, so as soon as DOE responds, they can schedule again.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/11/2020 9:38 PM >>>
Aloha Michele,

My apologies. I have been stuck with our annual AASHTO conference this week. I have 3 presentations to give and am moderating two groups. Ill be sure to get back to you by noon tomorrow.

Mahalo,

Ed

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Monday, November 9, 2020 9:23 AM
To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
Subject: RE: [EXTERNAL] FYI - statement

Happy Monday!

EX. 7, P. 2

I consulted with the KCA and made a couple of tweaks, which I think will be fine with you and DOE -- doesn't change the substance. New language is in highlighted text.

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:

b. Petitioner shall complete a pedestrian route study for Phase I of the Project which includes ingress and egress of pedestrians through defined locations(s) approved by DOT and shall analyze compliance with the proposed warrants in FHWA/RD84/082 (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.~~ **Petitioner shall cause to be constructed a roundabout with at-grade pedestrian crossings and raised crosswalks as appropriate at the intersection of Piilani Highway and Kulanihako'i Street**, 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. While Phase I, as depicted in the Phasing Plan dated October 6, 2020 and attached as Petitioner's Exhibit 10, and the roundabout at the intersection of Piilani Highway and Kulanihako'i Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing, specifically an underpass at Waipuilani Gulch. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible, then Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.

Any word from DOE?

Aloha,
Michele.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/5/2020 10:12 AM >>>
Excellent. Sending to DOE now.

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Thursday, November 5, 2020 10:12 AM
To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
Subject: RE: [EXTERNAL] FYI - statement

Perfect.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/5/2020 10:10 AM >>>
Perfect. Lets let everyone know the coordination drop dead is next Monday to ensure we can be timely. So first cut requests for edits or additions should be in by tomorrow.

Sound okay?

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Thursday, November 5, 2020 9:42 AM

Ex. 7, p. 3

To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
 Subject: Re: [EXTERNAL] FYI - statement

I'm guessing they will schedule again on November 18, based on the calendar they reviewed at the beginning of the meeting. So we should aim to get a letter to them early next week. Wednesday is a holiday :) so if we can get DOE and KCA feedback by Monday, that could work.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/5/2020 9:35 AM >>>
 Excellent. When shall we target finalizing this?

Get [Outlook for iOS](#)

From: Michele McLean <Michele.McLean@co.maui.hi.us>
 Sent: Thursday, November 5, 2020 9:31:33 AM
 To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
 Subject: RE: [EXTERNAL] FYI - statement

Sure. Here is the entire thing, as proposed by Petitioner DOE with my proposed edit. Their proposal includes the ~~striketrough~~ text for deletions and **bold** text for additions. My additions are underlined:

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:

b. Petitioner shall complete a pedestrian route study for Phase I of the Project which includes ingress and egress of pedestrians through defined locations(s) approved by DOT and shall analyze compliance with the proposed warrants in FHWA/RD84/082 (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.~~ **Petitioner shall cause to be constructed a roundabout with at-grade pedestrian crossings and raised crosswalks as appropriate at the intersection of Piilani Highway and Kulanihako Street**, 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. While Phase I and the roundabout at the intersection of Piilani Highway and Kulanihako Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible, then Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/5/2020 9:22 AM >>>

I can run it by DOE. Would you mind sending me the clean version for coordination purposes?

Mahalo,

Ed

EX. 7, P. 4

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Thursday, November 5, 2020 8:59 AM
To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
Subject: Re: [EXTERNAL] FYI - statement

Great! I'll run it by our counsel and the Kihei Community Association; I think they'll both be agreeable.

Do you want to run it by DOE, or should I?

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/4/2020 5:08 PM >>>

I'm all for working on the underpass feasibility and implementation immediately provided the condition is removed from school opening.

Thank you Michele! Really solid solution.

Aloha,

Ed

Get [Outlook](#) for iOS

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Wednesday, November 4, 2020 4:07:56 PM
To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>
Subject: RE: [EXTERNAL] FYI - statement

Mahalo for the feedback. We are not far apart at all. The phrase "before the opening of Phase I" was intended to relate to the "good faith effort" and not the construction of the gspc itself. It can be moved or even deleted.

FYI, the language below was to be added to what's already in the motion, which includes "**Petitioner shall cause to be constructed a roundabout with at-grade pedestrian crossings and raised crosswalks as appropriate at the intersection of Piilani Highway and Kulanihakoi Street**, 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."

The language I proposed isn't to have the underpass built prior to the school opening; it is only to work together "in good faith" toward that goal while the school and roundabout are being built. We report our efforts to the LUC twice a year. If it's not feasible, we inform the LUC and then you're back to doing a re-evaluation before Phase II as DOE proposed.

But we need to work together on this before Phase I opens, not farther along. If an underpass is possible, then there is currently no condition proposed on who/how it gets built, which I think is fine. We can cross (or go under!) that bridge when we get there. It will be a huge accomplishment if we can figure out how to make it happen.

Revised language, deleting the phrase "before the opening of Phase I" in one instance and relocating it in another:

Ex. 7, p. 5

While Phase I and the roundabout at the intersection of Piilani Highway and Kulanihako'i Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing prior to the opening of Phase I. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible prior to the opening of Phase I, then **Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.**

Is that better?

Aloha,
Michele.

[Click to add a signature](#)

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/4/2020 3:24 PM >>>

Thanks Michele,

I don't support the condition of having a grade separation prior to the opening of the school. There is no guarantee that the underpass will be workable, and if there is a potential for the school to be constructed and not allowed to open, I will recommend to DOE and the governor that the project be ended at the mass grading phase. Then the project that builds the campus be moved down in priority until the DOE works out the requirements with the community.

In my opinion, the conditions should be amended to require a roundabout be built prior to opening of the school. DOE work with DOT, the county and community on the feasibility of a grade separation immediately to determine if it is technically possible and affordable. Grade separation must either be justified as infeasible based on the cooperative with the county and the community or must be built prior to opening of phase 2.

The reason for my position is 2 fold. 1) the roundabout is, based on studies and observations, the safe option that provides the community the mobility that is necessary for all users. 2) The state should not be in a position where there could be a campus built but not allowed to open for any term. If that is the risk, the project should not be built until all parties agree. If that happens, there is no telling when the funding will become available again.

Aloha,

Ed

From: Michele McLean <Michele.McLean@co.maui.hi.us>

Sent: Wednesday, November 4, 2020 2:35 PM

To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>

Subject: RE: [EXTERNAL] FYI - statement

Mahalo.

EX. 7, p 6

Hopefully you'll feel the same about the proposed condition. The ~~striketrough language~~ was proposed to be deleted by DOE, the underlined language is my proposed addition, and the **bold language** was already proposed to be added by DOE in the motion:

~~Petitioner shall cause to be constructed, or ensure that there is an available above or below ground pedestrian crossing.~~ While Phase I and the roundabout at the intersection of Piilani Highway and Kulanihako'i Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing before the opening of Phase I. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission that the construction of a grade-separated pedestrian crossing is not technically or financially feasible prior to the opening of Phase I, then **Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.**

The idea is that we really try to see if we can pull off the underpass. If we can't, e.g., if the County ultimately says its property can't be used, then we are back to DOE's motion and leave it to be considered at Phase II. Let's not take it off the table now, but acknowledge that we might not be able to make it happen.

Lemme know what you think.

>>> "Sniffen, Edwin H" <edwin.h.sniffen@hawaii.gov> 11/4/2020 1:33 PM >>>

It was perfect Michele. Thank you!

From: Michele McLean <Michele.McLean@co.maui.hi.us>

Sent: Wednesday, November 4, 2020 12:13 PM

To: Sniffen, Edwin H <edwin.h.sniffen@hawaii.gov>

Subject: [EXTERNAL] FYI - statement

Hi Ed,

In fairness, this is what I intend to say when they reconvene.

If any of it is really problematic, please let me know and I may be able to revise. But I think it's consistent with where we left things. I don't want to disclose our conversation or DPW's willingness to discuss the use of the County parcel so I kept it general.

Aloha,
Michele.

Ex. 7, p. 7

Michele McLean - Re: Proposed LUC condition

From: Michele McLean
To: MMMMahalo2000@aol.com
Date: 11/9/2020 9:21 AM
Subject: Re: Proposed LUC condition
Attachments: A11-794-Exhibit-10-2020.10.06_PHASING-PLAN.pdf

Mahalo, Mike!

Here is the re-worded condition that I hope addresses your concerns. I referenced the phasing plan that DOE submitted to clarify what Phase I means, and specified Waipuilani Gulch. Revisions in highlighted text.

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:

b. Petitioner shall complete a pedestrian route study for Phase I of the Project which includes ingress and egress of pedestrians through defined locations(s) approved by DOT and shall analyze compliance with the proposed warrants in FHWA/RD84/082 (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.~~ **Petitioner shall cause to be constructed a roundabout with at-grade pedestrian crossings and raised crosswalks as appropriate at the intersection of Piilani Highway and Kulanihako'i Street**, 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. While Phase I, as depicted in the Phasing Plan dated October 6, 2020 and attached as Petitioner's Exhibit 10, and the roundabout at the intersection of Piilani Highway and Kulanihako'i Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing, specifically an underpass at Waipuilani Gulch. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible, then Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.

If this seems to work for you, then I'll formally transmit to the LUC. You are not wedded to this, and if you have tweaks or other concerns, please share with me and the LUC as appropriate. I'll copy you on the transmittal, and say that I consulted the KCA on the wording, but won't represent that you are 100% agreeable with it.

Mahalo,
Michele.

>>> Mike Moran <mmmmahalo2000@aol.com> 11/8/2020 12:22 PM >>>
OK Michele. We herded the cats this afternoon for one more shot. Here is our input

Agree no additional

EX. 7, p. 8

We believe it is best to speedily this location--- just to narrow down the study/design to focus on the best candidate. Throw out the red herrings (confusion) of an overpass and underpass at Kaonoulu gulch. Waipuilani is the most logical for many reasons, and it was specifically suggested in the EIS, Dan Burden study, etc. It has direct access to KHS and would benefit community to access to Tech park, Charter school, etc. GFBI development (public/private collaboration) - also makes sense as a corridor connecting to future NSCR (county collaboration). The other option is Kaonoulu gulch underpass which is much smaller opening, heavier water flows, more hidden, does not have easy access, makai side access is entered from private property, mauka side is not immediately adjacent to KHS, would require easement across ranch land to get to KHS.

Yes unified agreement is a must, We do not trust DOE.

Yes good to use commissioner's language

One more general point. We are reluctant to use the term phases because over the years DOE makes it difficult or impossible to pin down just what they include. While phase 1 seems to be defined & pau, but afterwards vague & confusing
So rather than set commitments or deadlines by phase 2, use specific actions, like classes begin; school year/term commences open to students, etc

Aloha
Mike

-----Original Message-----

From: Mike Moran <mmmmahalo2000@aol.com>
To: Michele McLean@co.maui.hi.us <Michele.McLean@co.maui.hi.us>
Sent: Fri, Nov 6, 2020 6:19 pm
Subject: Re: Proposed LUC condition

Hi Michele, This is helpful to us, as these raw comments are not vetted.
Your very 1st one is right on there is no additional
We are trying to power thru the weekend, but for many of us this has been a very challenging week I can't promise but we are trying to buck up each other to have something together by Monday
Mahalo
Mike

-----Original Message-----

From: Michele McLean <Michele.McLean@co.maui.hi.us>
To: MMMMahalo2000@aol.com
Sent: Fri, Nov 6, 2020 2:27 pm
Subject: Re: Proposed LUC condition

Mahalo, Mike!

Here are my comments, added to yours:

(add additional) - there is not an existing gspc, so I don't know why we would say "additional" when there will be only one.

(do we need to state where?) I suppose we could say Waipuilani Gulch but if there ends up being another option, we wouldn't want to preclude considering other locations. If you would prefer for this to be specified, I will add it.

EX. 7, p. 9

(in whose opinion? Back to the question of who determines what a life is worth?) This is an important point -- we would all have to agree -- the County, DOE and KCA. If we don't, then the LUC will act accordingly. Only if we all agree will DOE be off the hook until the next warrant study.

(Back in hands of DOE to say it's not necessary, appropriate or financially feasible) Yes. That is what they are asking for now, without having to come to the table and give a good faith effort in working with the County and KCA. This is the language that Commissioner Giovanni used, so I think it's valuable to use it.

I am happy to continue the dialog through the weekend, and hope to get your final input sometime on Monday. If we don't fully agree, then I can still submit the language to the LUC per their request, and we can continue to work and modify it at the next meeting, which I think will be on November 18.

Aloha,
Michele.

>>> Mike Moran <mmmmahalo2000@aol.com> 11/6/2020 1:08 PM >>>
SORRY I went to look up something & somehow Menehunes sent this b 4 finished.
So continuing we see a term like "financially feasible," and see how d.oes DOE interpret that based on past performance

Anyhow if you have to move quickly maybe tighten up our draft input to be incorporated or allow us some more time

Mahalo

Mike

-----Original Message-----

From: Mike Moran <mmmmahalo2000@aol.com>
To: Michele.McLean@co.maui.hi.us <Michele.McLean@co.maui.hi.us>
Sent: Fri, Nov 6, 2020 12:57 pm
Subject: Re: Proposed LUC condition

Hi Michele,
As we are rolling into the afternoon, it has become clear no way can can have a comprehensive offering today

Here is some input we have at this point:

"Project. While Phase I and the roundabout at the intersection of Piilani Highway and Kulanihakoi Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an **(add additional)** available grade-separated pedestrian crossing. **(do we need to state where?)**

Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible, **(in whose opinion? Back to the question of who determines what a life is worth?)** then Petitioner shall conduct an assessment and reevaluation of the necessity,

Ex: 7, p 10

appropriateness, and utility of a grade-separated pedestrian crossing *prior to the start of the construction of Phase II of the project.* (Back in hands of DOE to say it's not necessary, appropriate or financially feasible)

Also as we see a term like

-----Original Message-----

From: Mike Moran <mmmmahalo2000@aol.com>
 To: Michele.McLean@co.maui.hi.us <Michele.McLean@co.maui.hi.us>
 Sent: Thu, Nov 5, 2020 4:05 pm
 Subject: Re: Proposed LUC condition

Mahalo Michele,

Yes I am sharing this with a few key well informed directors at KCA & will do our best to be back to you by Friday afternoon. I believe most of us are concerned with community welfare and safety and are looking for the most reasonable way to achieve it. Your aid is most appreciated
 Aloha,

Mike

-----Original Message-----

From: Michele McLean <Michele.McLean@co.maui.hi.us>
 To: MMMMahalo2000@aol.com
 Sent: Thu, Nov 5, 2020 10:29 am
 Subject: Proposed LUC condition

Aloha Mike,

Thanks for joining yesterday's LUC meeting about Kihei High School.

As you heard, I would like to "force" DOT and DOE to the table with the Kihei community and the County/Planning Department to see if the underpass is truly feasible. My feel from DOT is that they can't build it because it won't meet their specs, but they won't stand in the way if we find another way to make it happen, so that's encouraging.

The LUC asked me for proposed language. I got DOT's okay for the following, and they are running it by DOE. The idea is that we all have to work together, and provide twice-yearly reports to the LUC on our progress. If ultimately we all agree that an underpass won't work (which I think is unlikely), then it reverts to what DOE has been asking: that another warrant study is done prior to Phase II. But if it is doable, then the LUC is informed, and they can revise conditions (or we can request that they do so) to make it happen. The timing of that may be tricky, but if we can decide on a plan early on, then I think we can get it done prior to Phase I opening. (I am ever the optimist.)

Because the condition shouldn't be so vague as to include the "Kihei community," I am suggesting that the KCA be specifically named. I hope that's okay with you.

Here is the entire condition that is in question, as proposed by Petitioner DOE with my proposed edit. Their proposal includes the ~~strikethrough~~ text for deletions and **bold** text for additions. My additions are underlined:

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:
 - b. Petitioner shall complete a pedestrian route study for Phase I of the Project which includes ingress and egress of pedestrians through defined locations(s) approved by DOT and shall analyze compliance with the proposed warrants in FHWA/RD84/082 (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~~

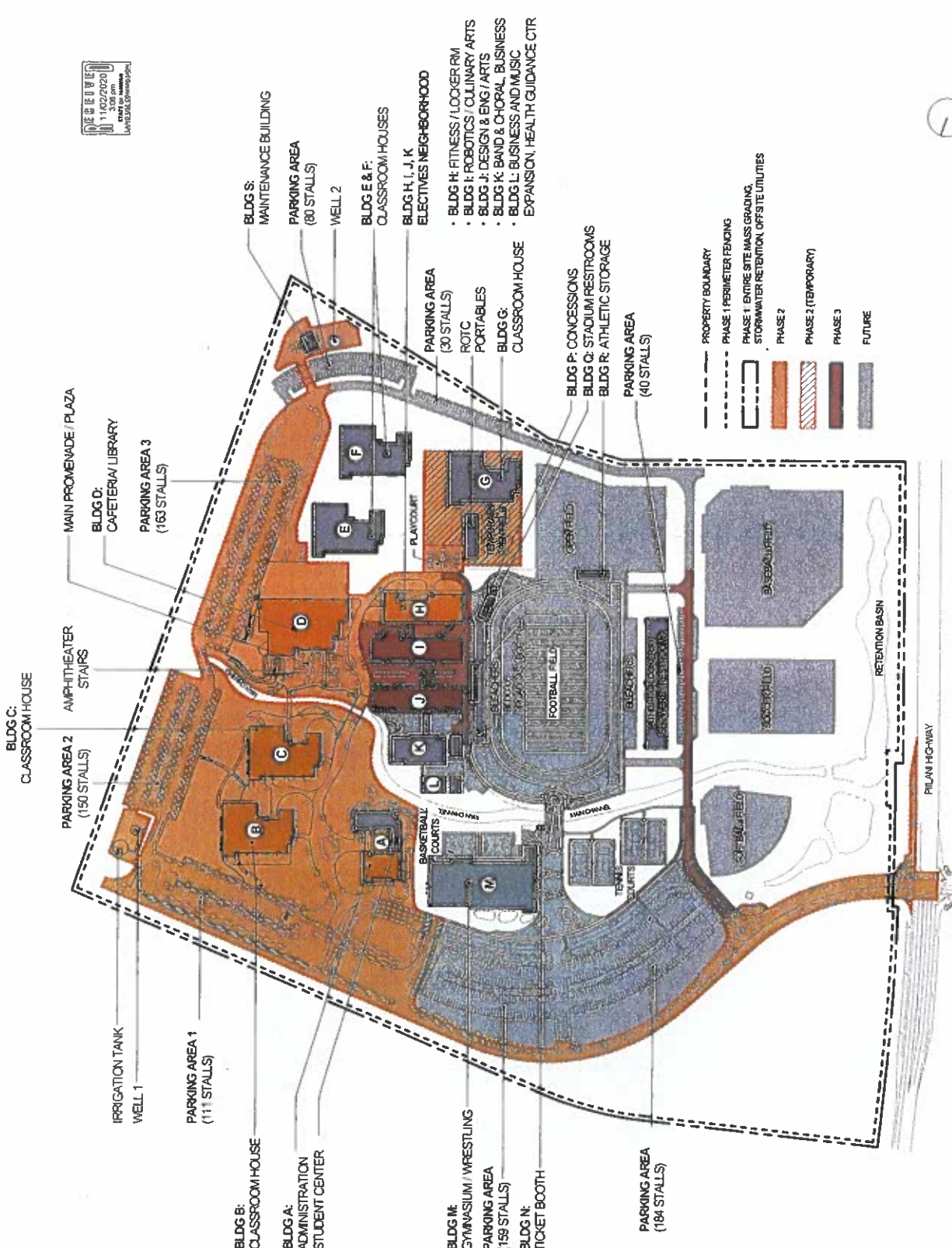
EX-7, p. 11

~~below-ground pedestrian crossing.~~ **Petitioner shall cause to be constructed a roundabout with at-grade pedestrian crossings and raised crosswalks as appropriate at the intersection of Piilani Highway and Kulanihakoi Street, 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. While Phase I and the roundabout at the intersection of Piilani Highway and Kulanihakoi Street are being designed and constructed, Petitioner shall work in good faith with DOT, the Kihei Community Association and the County, to cause to be constructed or ensure that there is an available grade-separated pedestrian crossing. Petitioner shall report the results of this good faith effort to the Commission on a bi-annual basis. If Petitioner, the Kihei Community Association and the County concur and so inform the Commission, prior to the opening of Phase I, that the construction of a grade-separated pedestrian crossing is not technically or financially feasible, then Petitioner shall conduct an assessment and reevaluation of the necessity, appropriateness, and utility of a grade-separated pedestrian crossing prior to the start of the construction of Phase II of the project.**

I know this is a lot to take in, but if you can give me your feedback by the end of the day tomorrow, then we'll know if we are heading in the right direction. Please also feel free to consult with other KCA board members and leaders on this issue.

Mahalo,
Michele.

EX. 7, p. 12



BLDG C:
CLASSROOM HOUSE

AMPHITHEATER
STAIRS

BLDG D:
CAFETERIA / LIBRARY

PARKING AREA 3
(163 STALLS)

BLDG B:
CLASSROOM HOUSE

BLDG A:
ADMINISTRATION
STUDENT CENTER

BLDG M:
GYMNASIUM / WRESTLING

PARKING AREA
(159 STALLS)

BLDG N:
TICKET BOOTH

PARKING AREA
(184 STALLS)

MAIN PROMENADE / PLAZA

PARKING AREA 2
(150 STALLS)

BLDG S:
MAINTENANCE BUILDING

PARKING AREA
(80 STALLS)

WELL 2

BLDG E & F:
CLASSROOM HOUSES

BLDG H, I, J, K
ELECTIVES NEIGHBORHOOD

- BLDG H: FITNESS / LOCKER RM
- BLDG I: ROBOTICS / CULINARY ARTS
- BLDG J: DESIGN & ENG / ARTS
- BLDG K: BAND & CHORAL BUSINESS
- BLDG L: BUSINESS AND MUSIC EXPANSION, HEALTH GUIDANCE CTR

PARKING AREA
(30 STALLS)

ROTC
PORTABLES

BLDG G:
CLASSROOM HOUSE

BLDG P: CONCESSIONS

BLDG Q: STADIUM RESTROOMS

BLDG R: ATHLETIC STORAGE

PARKING AREA
(40 STALLS)

- PROPERTY BOUNDARY
- - - PHASE 1 PERIMETER FENCING
- ▭ PHASE 1: ENTIRE SITE MASS GRADING, STORMWATER RETENTION OFFSITE UTILITIES
- ▭ PHASE 2
- ▨ PHASE 2 (TEMPORARY)
- ▭ PHASE 3
- ▭ FUTURE

PILANI HIGHWAY

RETENTION BASIN

OPEN FIELD

BASEBALL FIELD

SOCCER FIELD

FOOTBALL FIELD

BASEBALL FIELD

SOCCER FIELD

FOOTBALL FIELD



G70

PHASING PLAN

KIHEL HIGH SCHOOL, NEW SCHOOL

10.06.2020

EXHIBIT 10

Ex. 7, p. 13