

Resolution

No. 22-222

URGING THE GOVERNOR OF THE STATE OF
HAWAII AND OTHER STATE OFFICIALS TO
SUPPORT THE COMMUNITY AND THE STATE
LAND USE COMMISSION'S CONDITION OF
SAFETY BEFORE KŪLANIHĀKO'I HIGH
SCHOOL OPENS

WHEREAS, on August 18, 2022, the Hawai'i State Board of Education approved Kūlanihāko'i High School as the official name of the new campus in Kihei, Maui; and

WHEREAS, the new school is designed for 1,600 students and scheduled to open in January 2023; and

WHEREAS, Kūlanihāko'i High School is under construction and has ninth graders at a temporary site at Lokelani Intermediate School until the next phase of construction is completed at the end of 2022; and

WHEREAS, the Department of Education plans to add one grade level each school year through 12th grade; and

WHEREAS, the State Land Use Commission ("LUC") is responsible for preserving and protecting Hawai'i's lands and encouraging those uses to which lands are best suited; and

WHEREAS, in obtaining land use entitlements for the development of Kūlanihāko'i High School, the State Department of Education promised the LUC 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 community has long supported a grade-separated crossing for the safety of the students walking along the busy Piilani Highway; and

WHEREAS, the LUC approved a District Boundary Amendment for the new school on July 29, 2013, in Docket A11-794, with 25 conditions, including Condition 1(b), which reads in part:

Resolution No. 22-222

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 a Change in Zoning for the new school 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, the Council's Land Use Committee received assurances from representatives of the State that an overpass or underpass would be provided in accordance with the Land Use Commission's condition; 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:

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 1; 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 belowground pedestrian crossing prior to the opening of Phase 1, to allow pedestrians to cross Piilani Highway to access the school.; and

Resolution No. 22-222

WHEREAS, on February 4, 2019, the Council adopted Resolution 19-20, “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”; and

WHEREAS, in response to Resolution 19-20, the County of Maui petitioned the LUC to issue a Declaratory Ruling reiterating and affirming the requirement for a pedestrian overpass or underpass to allow safe access to the new school; and

WHEREAS, the Land Use Commission held a hearing and approved the County’s petition on April 3, 2019; and

WHEREAS, on April 25, 2019, the LUC distributed the Decision and Order reiterating and affirming the condition to require the completion of an overpass or underpass prior to the opening of the school; and

WHEREAS, despite the legal requirements established by both the County and the LUC, the State Department of Education continues to be defiant and resist the completion of an overpass or underpass prior to the opening of the school, as seen in its motion to amend Docket A11-794, filed on August 20, 2020—just 16 months after the LUC reiterated and affirmed the condition for an overpass or underpass; and

WHEREAS, in its motion to amend, which is pending before the LUC, the State Department of Education contends that the State Department of Transportation “rejects the building of an overpass or underpass,” despite the legal requirements; now, therefore,

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

1. That it urges the Governor of the State of Hawai‘i, and other State officials to implement the community’s, the Council’s, and the State Land Use Commission’s condition of safety before the opening of Kūlanihāko‘i High School;
2. That State District Boundary Amendment Docket A11-794 and County of Maui Ordinance 4135 both legally condition the construction of the new school on an “above or below ground pedestrian crossing” to ensure safety; and

Resolution No. 22-222

3. That certified copies of this Resolution be transmitted to the Honorable David Y. Ige, Governor, State of Hawai'i; the Honorable Josh Green, Lieutenant Governor, State of Hawai'i; Holly T. Shikada, Attorney General, State of Hawai'i; Keith Hayashi, Superintendent of Education, State of Hawai'i; Desiree Sides, Interim Superintendent, Baldwin-Kekaulike-Kūlanihāko'i-Maui Complex Area, Department of Education, State of Hawai'i; Bruce Voss, Chairperson, Board of Education, State of Hawai'i; Christine "Kili" Namau'u, Maui County Member, Board of Education, State of Hawai'i; Dan Giovanni, Chair, Land Use Commission, State of Hawai'i; Nancy Cabral, First Vice Chair, Land Use Commission, State of Hawai'i; Lee Ohigashi, Second Vice Chair, Land Use Commission, State of Hawai'i; Ed Sniffen, Deputy Director for Highways, Department of Transportation, State of Hawai'i; the Honorable Scott K. Saiki, Speaker of the House, State of Hawai'i; the Honorable Ronald K. Kouchi, President, State Senate, State of Hawai'i; the Honorable Rosalyn H. Baker, State Senator, State of Hawai'i; the Honorable Tina Wildberger, State Representative, State of Hawai'i; Michele Chouteau McLean, AICP, Planning Director; Moana Lutey, Corporation Counsel, County of Maui; and the Honorable Michael P. Victorino, Mayor, County of Maui.

INTRODUCED BY:

Kelly T. King

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