

DANNY A. MATEO
County Clerk



PC-29
JOSIAH K. NISHITA
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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July 24, 2015

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OFFICE OF THE
COUNTY COUNCIL

Honorable Don Couch, Chair
Planning Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Couch:

Respectfully transmitted is a copy of GENERAL COMMUNICATION NO. 15-7, from Kathryn S. Matayoshi, Superintendent, State of Hawaii, Department of Education, that was referred to your Committee by the Council of the County of Maui at its meeting of July 24, 2015.

Respectfully,

A handwritten signature in black ink that reads "Danny A. Mateo". The signature is written in a cursive style with a large, sweeping flourish at the end.

DANNY A. MATEO
County Clerk

/jym

Enclosure

cc: Director of Council Services

DAVID Y. IGE
GOVERNOR

KATHRYN S. MATAYOSHI
SUPERINTENDENT



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STATE OF HAWAII

OFFICE OF THE DEPARTMENT OF EDUCATION
COUNTY CLERK

P.O. BOX 2360
HONOLULU, HAWAII 96804



OFFICE OF THE SUPERINTENDENT

June 30, 2015

Mr. William Spence
Director, County of Maui Planning Department
250 South High Street
Wailuku, Hawaii 96793-7109

Mr. Mike White
Council Chair, Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Re: 2015 Annual Report for Ordinance No. 4135 Conditions of Zoning
Kihei High School, Department of Education
Kihei, Maui, Hawaii, Maui Tax Map Key (2) 2-2-002:081

Dear Gentlemen:

Pursuant to Condition No. 3 in Ordinance No. 4135 Conditions of Zoning, State of Hawaii, the Department of Education (DOE) is pleased to provide this first annual progress report to the County of Maui Planning Department and the Maui County Council concerning the current status of compliance with the conditions of approval. An electronic pdf file copy of this annual report will be transmitted by email to your department.

Project Status:

Conditional zoning for approximately 77.2 acres of land at Kihei, Maui, Hawaii from Agricultural to P-1, Public/Quasi-Public for the Kihei High School was granted by Ordinance No. 4135, effective June 27, 2014. This letter is DOE's first annual progress report in this case. The Conditions of Zoning sets forth four (4) conditions of approval regarding the Change in Zoning.

The project is continuing with obtaining planning phase land entitlement approvals and predesign coordination.

Conditions and Compliance:

1. The DOE shall submit to the Department of Public Works for review and comment any Traffic Impact Analysis Reports (TIAR), pedestrian route studies and/or any related reports or studies at the same time they are submitted to the State Department of Transportation (DOT).

Compliance: The revised TIAR and draft Pedestrian Route Study were submitted to DOT and Maui County Department of Public Works in November 2014. The DOE is coordinating with DOT for review and approval of both documents.

GENERAL COMMUNICATION NO. 15-7

2. 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 No. 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 Maui County 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 Piilani Highway.

Compliance: Design contract has not been executed. No action has been taken to date.

3. The DOE shall provide annual compliance reports to the Department of Planning and 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.

Compliance: This letter is the first annual report submitted in compliance with this condition.

4. 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 Docket A11-749), 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.

Compliance: Status of compliance with Land Use Commission conditions is provided below.

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 Hawaii 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 Hawaii 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 Kulanihako'i Street and Piilani 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 Piilani 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 associated transportation improvements prior to the issuance of a certificate of occupancy.

- d. Petitioner shall install paved shoulders along Piilani Highway fronting the high school, and provide accommodations for bicycles to the mutual agreement of Petitioner and DOT.*
- e. Petitioner shall plan, design, and construct all other improvements required to mitigate project generated or related transportation impacts, in accordance with the revised TIAR for Phase I of the Project, or any of the updated TIARs, and as approved by the DOT.*
- f. Petitioner shall address traffic noise levels along Piilani Highway with noise compatible sound abatement measures to comply with DOT's noise policy.*

Compliance: The revised TIAR and draft Pedestrian Route Study were submitted to DOT and Maui County Department of Public Works in November 2014. DOE is coordinating with DOT for review and approval of both documents.

- 2. Civil Defense: Petitioner shall permit the State of Hawaii Department of Defense, Office of Civil Defense or County of Maui Civil Defense Agency to construct and maintain a solar-powered civil defense warning siren at a mutually agreeable location on the Petition Area.*

Compliance: No action has been taken to date.

- 3. Archaeological Inventory Survey and Historic Preservation Mitigation Plan. Petitioner shall prepare, submit to, and obtain approval from the State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (SHPD) of an archaeological monitoring plan to protect historic sites in the general vicinity of the Petition Area prior to commencement of any ground altering activities. The plan shall be implemented, with a report of monitoring activities submitted to the SHPD upon completion of work.*

Compliance: DOE intends to have archaeological monitoring plan prepared for approval by the Historic Preservation Division prior to construction. No plan has been prepared to date. SHPD accepted the archaeological monitoring plan prepared by the DOE for the development of two non-potable water wells as part of the predesign phase of the project.

- 4. Unidentified Finds. In the event any previously unidentified human skeletal remains or archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, or loi walls are identified during construction activities, Petitioner shall cease work in the immediate vicinity of the find. Petitioner shall immediately notify SHPD, and comply with requirements of Chapter 6E, HRS, and applicable regulations. All construction activity in the vicinity of the find shall cease until SHPD has determined the significance of the find, and has issued an archaeological*

clearance that appropriate mitigation measures have been implemented in order for subsequent work to proceed.

Compliance: No action has been taken to date.

5. ***Established Access Rights Protected.*** *Petitioner shall observe any legal access rights of native Hawaiians for legally recognized purposes.*

Compliance: No action has been taken to date.

6. ***Flora and Fauna.*** *Petitioner shall ensure that all exterior lighting fixtures are down-shielded to minimize the harmful effects of lighting on endangered avifauna.*

Compliance: No action has been taken to date.

7. ***Air Quality Monitoring.*** *Petitioner shall participate in an air quality-monitoring program if required by the State of Hawaii Department of Health.*

Compliance: No action has been taken to date.

8. ***Notification of Potential Nuisances.*** *Petitioner shall disclose to all students and parents of the school to be developed on the Petition Area that potential odor, noise and dust pollution may result from agricultural uses on adjacent lands.*

Compliance: No action has been taken to date.

9. ***No Restraint on Farming Operations.*** *Petitioner shall not take any action that would interfere with or restrain farming operations conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.*

Compliance: No action has been taken to date.

10. ***Provisions of the Hawaii Right to Farm Act.*** *Petitioner shall notify all students and parents of the school to be developed on the Petition Area that the Hawaii Right to Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance if there are any lands in the Agricultural District adjacent to the Petition Area.*

Compliance: No action has been taken to date.

11. ***Drainage Improvements.*** *Petitioner shall fund the design, construction and maintenance of storm water and drainage system improvements to prevent increased storm water runoff resulting from the development of the Petition Area from entering Waipuilani Gulch or adversely affecting State highway facilities in compliance with appropriate federal, State, and County laws and rules, based on 24 hours of runoff from a 100-year storm event. To the extent economically and physically feasible, Petitioner shall implement Best Management Practices and incorporate low impact development practices for onsite storm water capture and reuse into site planning and landscape planning for the Petition Area to control water quality and mitigate nonpoint sources of pollution.*

Compliance: No action has been taken to date.

12. Integrated Solid Waste Management Plan. *Petitioner shall cooperate with the State of Hawaii Department of Health and County of Maui Department of Environmental Management to conform to the program goals and objectives of Chapter 342G, HRS, and the County of Maui's approved integrated solid waste management plan in accordance with a schedule and timeframe satisfactory to the State of Hawaii Department of Health. Petitioner shall, in coordination with appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities within the proposed development.*

Compliance: No action has been taken to date.

13. Water Resources Allocation. *Petitioner shall provide adequate potable water storage and transmission facilities and improvements to accommodate the proposed development of the Petition Area to the satisfaction of the County of Maui Department of Water Supply and other appropriate State and County government agencies.*

Compliance: No action has been taken to date.

14. Best Management Practices. *Petitioner shall implement best management practices applicable to the proposed land use in order to minimize infiltration and runoff from construction and vehicle operations to reduce or eliminate soil erosion and ground water pollution, and effect dust control measures during and after the development process in accordance with the State Department of Health guidelines.*

Compliance: No action has been taken to date.

15. Water Conservation Measures. *Petitioner, where feasible, shall implement water conservation measures and best management practices, such as use of water efficient plumbing fixtures and planting of endemic, indigenous, and drought tolerant plants and turf.*

Compliance: No action has been taken to date.

~~**16. County Conditions.**~~

17. Energy Conservation. *Petitioner shall incorporate and implement energy conservation, sustainable design, and environmental stewardship measures in the design and construction of Kihei High School pursuant to the Hawaii – Collaborative for High Performance Schools (HI-CHPS) Criteria in order to qualify for the HI-CHPS Verified designation.*

Compliance: Preliminary pre-design work has been undertaken to identify means of energy conservation and power production on site.

18. Infrastructure Deadline. *Petitioner shall complete construction of the proposed backbone infrastructure, including the primary roadways and access points, internal roadways, and water supply, sewage, electrical infrastructure and buildings for Phase I of Kihei High School within ten (10) years from the date of filing of the Commission's decision and order.*

Mr. William Spence
Mr. Mike White
June 30, 2015
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Compliance: The County of Maui approved a change to the Kihei-Makena Community Plan Land Use Map and a change in zoning for the Petition Area on June 20, 2014.

~~19. Order to Show Cause.~~

~~20. Compliance with Representations to the Commission.~~

21. **Notice of Change to Ownership Interests.** *Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area. This condition shall not require notice of mortgage financing, and shall be satisfied by the giving of notice only, and shall not require approval by the Commission.*

Compliance: Notice will be given to the Commission if any transfers are proposed.

22. **Annual Reports.** *Petitioner shall provide timely and without any prior notice, annual reports to the Commission, the Office of Planning and the Maui County Planning Department in connection with the status of the development proposed for the Petition Area, and Petitioner's progress in complying with the conditions imposed. The annual report shall be submitted in a form prescribed by the executive officer of the Commission. The annual report shall be due prior to or on the anniversary date of the Commission's approval of the Petition.*

Compliance: This letter is the second annual report submitted in compliance with this condition.

~~23. Release of Conditions Imposed by the Commission.~~

~~24. Statement of Imposition of Conditions.~~

~~25. Recording of Conditions.~~

Your acceptance of this annual report is appreciated. If you have any questions, please call Gaylyn Nakatsuka, Architect of the Planning Section, Facilities Development Branch at 377-8301 or via email at gaylyn_nakatsuka@notes.k12.hi.us.

Very truly yours,



Kathryn S. Matayoshi
Superintendent

KSM:jmb

c: Dann Carlson, Assistant Superintendent, Office of School Facilities and Support Services
Facilities Development Branch