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DEPARTMENT OF EDUCATION
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OFFICE OF THE
COUNTY COUNCIL

OFFICE OF THE SUPERINTENDENT

October 20, 2021

Ms. Michele Chouteau McLean
Director, County of Maui Planning Department
250 South High Street
Wailuku, Hawaii 96793-7109

Ms. Alice L. Lee
Council Chair, Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Re: 2021 Annual Report for Ordinance No. 4135 Conditions of Zoning
Kihei High School, Hawaii State Department of Education
Kihei, Maui, Hawaii, Maui Tax Map Key (2) 2-2-002:081

Dear Mesdames McLean and Lee:

Pursuant to Condition #3 of the Conditions of Zoning (Conditions of Zoning), Exhibit "B" of 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 (2) 2-2-002:081, for the Proposed Kihei High School (Maui Ordinance No. 4135), the Hawaii State Department of Education (DOE) is pleased to provide this annual progress report to the County of Maui Planning Department (MPD) and the Maui County Council (MCC) 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:

Effective June 27, 2014, conditional zoning for approximately 77.2 acres of land at Kihei, Maui, Hawaii was changed from Agricultural to P-1, Public/Quasi-Public for Kihei High School as granted by Ordinance No. 4135. Maui Ordinance 4135 set forth four (4) conditions of approval.

This report will reference State Land Use Commission (LUC) Phase I, which is the design and construction for enrollment up to 800 students, and LUC Phase II, which is the design and construction for enrollment from 801 up to 1,650 students. The DOE also refers to phases of development and construction of the Kihei High School as "New School" phases which bear Arabic instead of roman numerals.

To facilitate the coordination of future construction phases, two irrigation wells were made part of a predesign phase, New School, Irrigation Wells, DOE Job No. Q00017-06. The wells have been completed, tested and one is used for construction needs and irrigation. Permanent pumping

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equipment is being installed as part of New School – Phase 2 for the construction of the initial buildings.

The New School - Phase 1 – Infrastructure. DOE Job No. Q55000-16 has been completed. In this phase, a perimeter chain link fence was constructed for the project site; on-site mass grading, erosion controls, and partial off-site and on-site underground utility infrastructure, including storm water, potable water, fire protection water, reclaimed irrigation water, sewer, power, telecommunication, and data work were completed. A paved driveway that provides access/egress from the highway to the school site was installed. The job site work commenced on June 1, 2018, the final inspection was held on January 6, 2020, and the work was accepted in November. This phase included archaeological monitoring for all ground disturbances.

The bid closing date for the New School – Phase 2, DOE Job No. Q55000-17 was June 29, 2018. This phase is for initial buildings and support facilities such as physical education (PE) field and court facilities. The phase was delayed due to bid protests, which were resolved, and the contract was awarded on April 29, 2020. The job site work commenced on October 12, 2020, and construction completion is anticipated in July 2022. This phase includes infrastructure work, the administrative building, two classroom house buildings, the cafeteria/library building, and PE facilities for the opening of the school.

The bid closing date for the New School - Phase 3, DOE Job No. Q55208-18 for elective classrooms was June 26, 2020, and the phase has been delayed due to bid protests. A resolution must be reached before the contract can be awarded. Construction was anticipated to start in January of 2022, but this date may be impacted by the bid protest.

The balance of the school facilities planned for LUC Phase I work includes the gymnasium, athletic courts, music building, track and field complex, and related support facilities such as parking and access roads and walkways. A future New School phase will involve the design and construction of facilities as available funding will allow. Additional phases of construction may be necessary until these facilities and improvements are completed.

Per the LUC Declaratory Order (Docket No. DR 19-65) dated April 25, 2019, the school cannot open until a grade-separated pedestrian crossing (GSPC) is in place. However, the Declaratory Order also states that the DOE is required to get approval from the Hawaii State Department of Transportation (HIDOT) of its Pedestrian and Traffic Plans. The HIDOT does not approve the construction of any GSPC.

A supplemental intersection study titled “Kihei High School – Multimodal Operations Alternatives Evaluation of the Kulanihakoī Street/Piilani Highway Intersection” dated August 1, 2019, was reviewed and approved by the HIDOT. In concurrence therewith, the HIDOT has recommended and proposed a roundabout with an at-grade pedestrian crossing and does not recommend either an overpass or underpass.

The HIDOT has cited a Texas Transportation Institute report which concludes that virtually no pedestrian would use a grade-separated crossing that extends their path of travel by more than 25 percent. The at-grade pedestrian roundabout crossing will be about 130 feet. An overpass would be about 235 feet (+80%) to 760 feet (+500%) for stair and ramped crossings, respectively, and the Waipuilani Gulch is about 1,200 feet (+900% in one direction) from the New School entrance road with a steep grade to overcome.

As referenced above, throughout the planning and design, three possibilities for GSPC have been suggested: an overpass or an underpass beneath Piilani Highway along either Kulanihakoi Gulch or Waipuilani Gulch. Since it will take significantly longer to cross using an overpass compared to at-grade pedestrians would avoid using it. An underpass at Kulanihakoi Gulch is not recommended due to security issues and concerns for pedestrian safety in the event of a storm. The HIDOT's assessment of the potential underpass at Waipuilani Gulch determined that it cannot be safely and practically designed since the cost to build it in compliance with Federal flood zone requirements would be \$30 million or more. For the conditions at Kihei High School, the HIDOT determined that a direct route incorporating a roundabout will be the safest, accessible option compared to an overpass or underpass as the main pedestrian access route to the school campus.

On August 20, 2020, the DOE filed a Motion to Amend the LUC's Findings of Fact, Conclusions of Law and Decision and Order Filed July 29, 2013, to eliminate the GSPC requirement. Hearings were held on September 10, 2020 and November 4, 2020. In response to a written request from the LUC dated November 10, 2020, the DOE submitted an Update Regarding its Motion and the matter has not yet been decided. A hearing on the matter will be continued in October 2021.

In response to the LUC concern that the DOE did not engage the community in the plans for the development of Kihei High School, the DOE has conducted online meetings for the Kihei community on October 27, 2020, and January 12, 2021, to present the HIDOT traffic/pedestrian route recommendations and respond to questions and comments about the school design. The DOE has also followed up by posting project updates on its website.

The following updates regarding conditions and compliance are based on the conditions set forth in Maui Ordinance No 4135. The DOE's compliance status follows each stated condition. Note that the use of *italics* in this report means that the text is quoting the conditions of Maui Ordinance No. 4135, which uses the acronym "DOE".

Conditions and Compliance

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.*

Compliance: The DOE has complied with this condition. The HIDOT approved the revised Traffic Impact Analysis Reports and Pedestrian Route Study on July 18, 2017. Per the recent Declaratory Order, the DOE completed the Supplemental Intersection Study dated August 1, 2019, a combined pedestrian and traffic study with a recommended grade-separated pedestrian crossing, and it was submitted to the HIDOT. A copy of the report was also submitted to the County of Maui Department of Public Works (DPW). Future updates will be submitted to the DPW.

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 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 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 Piilani Highway.*

Compliance: The project design team has been in contact with the MPD. A review meeting was held on April 15, 2019, with Jeffrey Dack, County Planner, and four Community Police Officers of the Maui Police Department for elements b. through d. above and confirmation that elements a. and e. were meeting county requirements/expectations. Elements a. and e. are affected by the roundabout. The DOE's project team will provide updates to the MPD to ensure that the project continues to meet the county's requirements.

3. *That 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.*

Mesdames McLean and Lee
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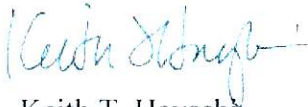
Compliance: This letter is the seventh annual report to the MPD and MCC. The DOE understands the condition is referring to LUC Phases I and II.

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 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: For the status of compliance with LUC conditions, see the attached report to the LUC dated July 26, 2021.

Should you have any questions, please call Gaylyn Nakatsuka, Architect with the Facilities Development Branch, Planning Section, at (808) 784-5088 or contact via email at gaylyn.nakatsuka@k12.hi.us.

Sincerely,



Keith T. Hayashi
Interim Superintendent

KTH:gn
Attachment

- c: Randall M. Tanaka, Assistant Superintendent, Office of Facilities and Operations
Ryan W. Roylo, Deputy Attorney General, Education Division
Mary Alice Evans, Director, Office of Planning and Sustainable Development, Department of Business Economic Development and Tourism
Edward S. Ige, Facilities Director, Facilities Development Branch