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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

January 25, 2019

RECEIVED
2019 JAN 25 AM 9:45
OFFICE OF THE
COUNTY CLERK

Mr. Josiah K. Nishita, County Clerk
Office of the County Clerk
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Nishita:

SUBJECT: **PETITIONING THE LAND USE COMMISSION
TO REITERATE THE REQUIREMENT FOR AN
OVERPASS OR UNDERPASS FOR KIHEI HIGH
SCHOOL** (PAF 19-007)

May I request the attached proposed resolution, entitled "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," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in cursive script that reads "Kelly T. King".

KELLY T. KING
Council Chair

paf:dmr:19-007e

Enclosure

COUNTY COMMUNICATION NO. 19-55

Resolution

No. _____

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

WHEREAS, in obtaining land use entitlements for the development of the proposed Kihei High School, the State Department of Education promised the State Land Use Commission 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 Land Use Commission approved the corresponding District Boundary Amendment on July 29, 2013, in Docket A11-794, with 25 conditions, including Condition 1(b), which reads in part:

Petitioner shall cause to be constructed, or ensure that there is an available above or below ground pedestrian crossing 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 the corresponding Change in Zoning by the enactment of Ordinance 4315 (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, on October 30, 2013, the Council's Land Use Committee received assurances from representatives of the State that an overpass or underpass would be provided pursuant to the Land Use Commission's conditions; 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:

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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 I; 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 below-ground pedestrian crossing prior to the opening of Phase I, to allow pedestrians to cross Piilani Highway to access the school.; and

WHEREAS, the Land Use Commission is planning to have a public hearing during the week of February 11, 2019, to review the State's compliance with Condition 1(b); and

WHEREAS, to ensure compliance with both Condition 1(b) and the conditions of Ordinance 4315, it would be beneficial for the Land Use Commission to issue a Declaratory Ruling to reiterate and affirm the requirement of a pedestrian overpass or underpass for Kihei High School; now, therefore,

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

1. That it requests 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;
2. That it authorizes the Council Chair, with the representation of the Department of the Corporation Counsel and on the Council's behalf, to submit to the Land Use Commission a

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Petition for a Declaratory Ruling reiterating and affirming the requirement for a pedestrian overpass or underpass to allow safe access to Kihei High School;

3. That it requests the Mayor also submit to the Land Use Commission a Petition for a Declaratory Ruling reiterating and affirming the requirement for a pedestrian overpass or underpass to allow safe access to Kihei High School; and
4. That certified copies of this resolution be transmitted to Mayor Michael P. Victorino, Acting Corporation Counsel Patrick K. Wong, Acting Planning Director Michele McLean, State Senator Rosalyn Baker, and State Representative Tina Wildberger.

APPROVED AS TO FORM AND LEGALITY

Deputy Corporation Counsel
County of Maui

paf:dmr:19-007d