




STATE OF HAWAII  
DEPARTMENT OF EDUCATION

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OFFICE OF THE SUPERINTENDENT

November 22, 2019

TO: Mr. Daniel E. Orodener  
Executive Officer, Land Use Commission  
Department of Business, Economic Development and Tourism

FROM: Dr. Christina M. Kishimoto  
Superintendent 

SUBJECT: **2019 Annual Report for LUC Docket No. A11-794**  
**State of Hawaii, Department of Education**  
**Kihei, Maui, Hawaii, Maui Tax Map Key No.: 2-2-02:81**

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LAND USE  
STATE OF HAWAII

Pursuant to the Condition No. 22 in the Decision and Order in the above referenced docket, Hawaii State Department of Education (HIDOE) is pleased to provide this annual progress report to the State Land Use Commission (LUC), the State Office of Planning, and the County of Maui Planning Department (MPD) 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:

LUC approved HIDOE's petition to reclassify approximately 77.2 acres of land at Kihei, Maui, Hawaii from the State Land Use Agricultural District to the State Land Use Urban District for the Kihei High School by order dated July 29, 2013. This letter is HIDOE's sixth annual progress report in this case. The Decision and Order sets forth twenty-five (25) conditions of approval regarding the reclassification.

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 the County of Maui, Ordinance No. 4135, effective June 27, 2014.

This report will reference LUC Phase I for design and construction for enrollment up to 800 students and LUC Phase II for design and construction for enrollment past 800 students and up to 1650 students. To facilitate the coordination of future construction projects, the irrigation wells work, which was needed to determine the viability of well water use, was made part of a predesign construction contract. Subsequent projects start with Phase 1, for on-site and off-site infrastructure, and continue sequentially (see attached).

The project for Kihei High School, New School, Irrigation Wells (Predesign Construction), HIDOE Job No. Q00017-06 is complete. Two irrigation wells have been completed, tested and are used for construction needs and irrigation use. Permanent pumping equipment will be installed as part of the

HIDOE Kihei High School, New School – Phase 2 project with the construction of the initial buildings phase.

The project bid closing date for Kihei High School, New School - Phase 1 - Infrastructure, HIDOE Job No. Q55000-16 was June 27, 2016. This project includes a perimeter chain link fence 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. A paved driveway will provide safe access/egress from the highway to the school site. The notice to proceed date was May 14, 2018, and jobsite work commenced on June 1, 2018. This project includes archaeological monitoring for all ground disturbances. Construction is scheduled for completion by February 2020. The project is approximately 95 percent complete at the time of this report.

The project bid closing date for Kihei High School, New School - Phase 2, HIDOE Job No. Q55000-17 was June 29, 2019. This project is for initial buildings and support physical education (PE) field and court facilities. The project award has been delayed due to a bid protest. Upon resolution of the bid protest, the project schedule will be updated. The design for this increment requires easements and Use and Occupancy Agreements. This project includes infrastructure work, the administrative building, two classroom house buildings, the cafeteria/library building, and PE facilities for the opening of the school.

Phase 3 of work is intended for the design and construction to complete LUC Phase I in its entirety. The balance of the LUC Phase I work includes the gymnasium, athletic courts, elective classroom buildings, track and field complex, and related support facilities such as parking and access roads and walkways. Phase 3 will design and construct these facilities as available funding will allow. Additional phases of construction may be necessary until all these facilities and improvements are constructed.

The Supplemental Intersection Study dated August 1, 2019, must be reviewed and approved by the Hawaii State Department of Transportation (HIDOT). A separate project will design, construct, and operate a grade separated pedestrian crossing (GSPC). Per LUC Declaratory Order and Certificate of Service (Docket No. DR 19-65) dated April 25, 2019, the school cannot open until a GSPC is in place. Additional funding is needed in the next legislative session for the design and construction funds for the GSPC. The design, in coordination with DOT and MPD will include stakeholder input and must be approved by HIDOT. The date for the opening of the school is dependent on when the GSPC is approved to operate.

The following updates regarding conditions and compliance are based on the conditions set forth in LUC Docket No. A11-794. HIDOE's (referred to below as Petitioner) compliance status follows each stated condition. Note that the use of *italics* in this report means that the text is quoting the conditions of the LUC Docket No. A11-794.

Conditions and Compliance:

1. ***Highway and Road Improvements.*** *Petitioner will work cooperatively with the Department of Transportation (DOT) to reach mutually agreeable solutions. Petitioner shall abide by, complete and/or submit the following:*

- a. *The Traffic Impact Analysis Report (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 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 HIDOT reviewed the revised TIAR and Pedestrian Route Study and determined that the Petitioner has satisfied LUC Condition 1(a) and 1(b) per the HIDOT memo to the Petitioner dated July 18, 2017 submitted with the 2017 report. The Supplemental Intersection Study dated August 1, 2019 is a combined pedestrian and traffic study with a recommended grade separated pedestrian crossing, and per the declaratory ruling by the LUC on April 25, 2019, the Petitioner has submitted a copy of the report to the Department of Public Works (DPW). A GSPC will be available before the new school opens. The operational date of the pedestrian crossing will determine the school year the high school will start instructing students. The Petitioner will continue to work with the HIDOT and engage the county for comments for the design and construction of the pedestrian crossing. The Petitioner will continue work with the HIDOT to satisfy the remaining portion of Condition 1 until the completion of design and construction of LUC Phase I and later prior to occupancy and after completion of LUC Phase II.

- 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:** Petitioner is working with the State of Hawaii Department of Defense, Hawaii Emergency Management Agency to reserve an area for a future siren location at the school.

- 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:** Petitioner prepared archaeological monitoring plans approved by the SHPD for the construction of the two non-potable water wells (Predesign Phase), Phase 1 infrastructure, and Phase 2 initial buildings. The SHPD accepted the archaeological monitoring plan prepared by the Petitioner for all increments of construction. An archaeological monitoring plan will be included in the design of any subsequent increments for the completion of LUC Phase I.

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:** Petitioner will comply. Petitioner has prepared an archaeological monitoring plan for the investigative well work, Phase 1 infrastructure and Phase 2 buildings work, and will include plans for future increments for LUC Phase I and future phases of work at the school.

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

**Compliance:** Petitioner will comply.

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:** Petitioner's design for buildings and site facilities for the new school will comply with this condition.

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

**Compliance:** Petitioner will comply.

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:** Petitioner will comply.

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:** Petitioner will comply.

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:** Petitioner will comply.

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 hour 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:** Petitioner includes storm water and drainage system improvements in the current infrastructure requirements and design of buildings and site facilities for the new school will comply with this condition.

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:** Petitioner includes a solid waste management plan in the current infrastructure requirements that will minimize disposal of rock and soil by grading and storing suitable material on-site to comply with this condition. The design of Phase 2 has incorporated stored material to comply with this condition.

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:** Petitioner includes potable and non-potable water system improvements in the current infrastructure requirements and the design of buildings and site facilities for the new school will comply with this condition. The Petitioner has met with the Maui Department of Water Supply and Department of Wastewater Reclamation Division and has determined improvements necessary to supply the school site with potable and future reclaimed water lines.

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:** Petitioner included the implementation of best management practices to minimize infiltration and runoff from construction and vehicle operations for the investigative well work and

Phase 1 infrastructure and Phase 2 buildings include such practices. Future phases of work will comply with this condition.

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:** Petitioner will comply.

16. ***County Conditions.*** *Petitioner shall work with the County of Maui to the satisfaction of the County of Maui Planning Department during the permitting process, to implement the following improvements to the Kihei High School campus:*

- 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:** Petitioner is working with the MPD and will comply with this condition. 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 various county agencies and the Petitioner received verbal approval that the project is meeting county requirements/expectations. The Petitioner will continue working with the MPD to ensure that the project continues to comply with this requirement. The Petitioner is copied on correspondence between the design team and the MPD to verify progress on this condition.

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:** Petitioner will comply. Preliminary predesign work has been undertaken to identify means of energy conservation and power production on site. Petitioner will include energy conservation, sustainable design and environmental stewardship measures and qualify for HI-CHPS Verified designation. Petitioner is working to make this a net-zero campus by full build out to enrollment of 1650 students.



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.*

**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. Phase 1 infrastructure work (started construction June 2018) and Phase 2 building construction (which had a bid closing date of June 29, 2018) will provide the backbone infrastructure for LUC Phases I and II.

19. **Order to Show Cause.** *If Petitioner fails to complete construction of the proposed backbone infrastructure as described above on the Petition Area then the Commission may, on its own motion or at the request of any party or other interested person, issue an Order to Show Cause requiring Petitioner to appear before the Commission to explain why the Petition Area should not revert to its previous Agricultural District classification or be changed to a more appropriate classification.*

**Compliance:** Based on the compliance response to LUC Condition 18, Petitioner intends to meet the infrastructure deadline.

20. **Compliance with Representations to the Commission.** *Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.*

**Compliance:** Petitioner continues to design and develop the Petition Area in substantial compliance with the representations made 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 sixth annual report submitted in compliance with this condition.



23. ***Release of Conditions Imposed by the Commission.*** *Petitioner shall seek from the Commission full or partial release of these conditions as to all or any portion of the Petition Area upon assurance acceptable to the Commission of satisfaction of these conditions.*

**Compliance:** When requesting the release of a condition, the Petitioner will file the appropriate motions upon formal acknowledgment from the proper agencies of their satisfaction.

24. ***Statement of Imposition of Conditions.*** *Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed by the Commission in the reclassification of the Petition Area, and (b) file a copy of such recorded statement with the Commission.*

**Compliance:** Petitioner has recorded the Statement of Impositions of Conditions by Land Use Commission dated October 2, 2013 with the Bureau of Conveyances of the State of Hawaii as Document No. A-50230674.

25. ***Recording of Conditions.*** *Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawaii Administrative Rules.*

**Compliance:** Petitioner has recorded the Declaration of Conditions dated December 3, 2014 with the Bureau of Conveyances of the State of Hawaii as Document No. A-54500615. A copy was hand delivered to your office on December 4, 2014.

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

CMK:gn  
Attachment

- c: Leo R. Asuncion, Jr., Director, Office of Planning, DBEDT  
William Spence, Director, MPD  
Christine Shaw, Interim Assistant Superintendent, Office of Facilities and Operations  
Ryan W. Roylo, Deputy Attorney General, Education Division  
John C.H. Chung, Public Works Administrator, Facilities Development Branch

Kihei High School Project Coordination Table

Enrollment	For design enrollment of 800 students					For design enrollment of 1,650 students		
LUC Phase	LUC Phase I					LUC Phase II		
HIDOE Phase	Preconstruction	Phase 1	Phase 2	Phase 3	Phase 4	TBD	TBD	TBD
Title	Irrigation Wells	Phase 1 - Infrastructure	Phase 2	Phase 3	Phase 4 - Grade Separated Pedestrian Crossing	TBD	TBD	TBD
Description	Install irrigations wells and related work	Grading and offsite and onsite infrastructure and grading	Initial Buildings: administration, two classroom houses, cafeteria/library, PE locker rooms and playfield and court and related improvements	Additional Buildings: electives classrooms, gymnasium, courts, track/field, student activities center (per available funding, work may require additional phases of construction by HIDOE)	Grade separated crossing as required by LUC conditional requirements	Work for LUC Phase II projects will be incremental as growing enrollment requires additional facilities which totaled will include two additional classroom houses, athletic locker rooms, ball fields, practice field, and related improvements		