



LAND USE COMMISSION
STATE OF HAWAII

2018 MAY 16 A 8:34

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of The)	DOCKET NO. SP08-402
)	
DEPARTMENT OF ENVIRONMENTAL)	ORDER ADOPTING THE
MANAGEMENT, COUNTY OF MAUI)	RECOMMENDATION OF THE
)	COUNTY OF MAUI PLANNING
For A Special Use Permit For An)	COMMISSION TO APPROVE A
Approximately 14.615-Acre Portion Of The)	TIME EXTENSION REQUEST
Existing 29.05-Acre Hāna Landfill And An)	TO THE STATE SPECIAL USE
Approximately 5.39-Acre Encroachment)	PERMIT; AND CERTIFICATE
Area Situated Within The State Land Use)	OF SERVICE
Agricultural District At Hāna, Maui,)	
Hawai'i, Tax Map Key: 1-3-06: Por. 7 And)	
Por. 12)	
_____)	

ORDER ADOPTING THE RECOMMENDATION OF THE COUNTY OF MAUI
PLANNING COMMISSION TO APPROVE A TIME EXTENSION REQUEST
TO THE STATE SPECIAL USE PERMIT

AND

CERTIFICATE OF SERVICE

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawai'i

_____ 5/ 16 / 18 by _____

Executive Officer



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ORDER ADOPTING THE RECOMMENDATION OF THE COUNTY OF MAUI
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TO THE STATE SPECIAL USE PERMIT

On April 12, 2018, the County of Maui Department of Planning (“DP”) filed the decision of the County of Maui Planning Commission’s (“Planning Commission”) proceeding on the 30-year time extension request of the Department of Environmental Management, County of Maui (“Applicant”), to the existing State special use permit for the Hāna Landfill with the State of Hawai`i Land Use Commission (“LUC”), pursuant to Hawai`i Administrative Rules (“HAR”) §15-15-95(b). On April 19

and 23, 2018, the DP filed the remaining portions of the record of the proceeding with the LUC.

On May 9, 2018, the LUC met at the Maui Arts & Cultural Center, Alexa Higashi Meeting Room, in Kahului, Maui, Hawai`i, to consider the recommendation of the Planning Commission to approve the Applicant's time extension request. At the meeting, Elaine Baker and Bob Schmidt appeared on behalf of the Applicant. Michael Hopper, Esq., and Paul Fasi were also present at the meeting on behalf of the DP, and Dawn Takeuchi-Apuna, Esq., and Tomas Oberding were present on behalf of the State of Hawai`i Office of Planning.

Among the matters discussed at the meeting were the ongoing operations at the Hāna Landfill; the applicability of the Hawai`i Revised Statutes chapter 343 environmental review process relative to the time extension request; the Applicant's compliance with the existing conditions; and the future plans of the landfill, including alternative sites for a landfill. Thereafter, a motion was made and seconded to (1) adopt the recommendation of the Planning Commission to approve the Applicant's 30-year time extension request; (2) amend the language of the existing conditions of the State special use permit to be consistent with the recommendation of the Planning Commission to delete all references to the County special use permit; and (3) authorize the Chairperson to sign the Order in this matter on behalf of the LUC.

Following discussion, a vote was taken on the motion. There being a vote tally of 6 ayes, 1 nay, and 1 excused,¹ the motion carried.

ORDER

The LUC, having duly considered the arguments presented by the Applicant and the record in this proceeding, and a motion having been made and seconded at a meeting held on May 9, 2018, in Kahului, Maui, Hawai`i, and the motion having received the affirmative votes required by HAR §15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that the recommendation of the Planning Commission to approve the Applicant's 30-year time extension request be ADOPTED, subject to the following amendments to Condition Numbers 1, 2, 3, and 6:

1. That the State Land Use Commission Special Use Permit shall be valid until February 28, 2048, subject to further extensions by the Land Use Commission as required upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The Maui Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.
2. That the conditions of this State Land Use Commission Special Use Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawai`i Revised Statutes. Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation and providing the permit holder no more than sixty (60) days to cure the violation. If the permit holder fails to cure the violation within sixty (60) days of said notice, the appropriate enforcement agency shall issue an order which

¹ There are currently eight sitting commissioners on the LUC. The one remaining seat is vacant.

may require one or more of the following: that the violative activity cease; that the violative development be removed; that a civil fine be paid not to exceed One Thousand Dollars (\$1,000.00) per violation; and that a civil fine not to exceed Five Thousand Dollars (\$5,000.00) shall be issued if violation not cured within six (6) months of the issuance of the order. The order shall become final thirty (30) days after the date of its mailing or hand-delivery, unless written request for a hearing is mailed or delivered to the Department of Planning ("Department") within said thirty (30) days. Upon receipt of a request for a hearing, the Department shall specify a time and place for the permit holder to appear and be heard. The hearing shall be conducted by the Planning Director or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

3. That the subject State Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Land Use Commission. The appropriate Planning Commission shall make a recommendation to the Land Use Commission as necessary. However, in the event that a contested case hearing preceded issuance of said State Land Use Commission Special Use Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

6. That the Applicant shall develop the property in substantial compliance with the representations made to the Land Use Commission in obtaining the State Land Use Commission Special Use Permit. Failure to so develop the Property may result in the revocation of the permit.

All other conditions to the Findings of Fact, Conclusions of Law, and

Decision and Order Approving the Recommendation of the County of Maui Planning Commission to Approve the State Special Use Permit Application filed on August 27, 2009, shall remain in full force and effect.

ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 16th, day of May, 2018, per motion on May 9, 2018.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII



Deputy Attorney General

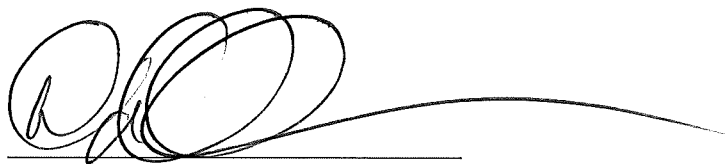
By


ARNOLD WONG

Filed and effective on:

Chairperson and Commissioner

Certified by:



DANIEL ORODENKER

Executive Officer

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Hawai`i, Tax Map Key: 1-3-06: Por. 7 And)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER ADOPTING THE
RECOMMENDATION OF THE COUNTY OF MAUI PLANNING
COMMISSION TO APPROVE A TIME EXTENSION REQUEST TO THE STATE
SPECIAL USE PERMIT was served upon the following by either hand delivery
or depositing the same in the U. S. Postal Service by regular or certified mail as
noted:

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Honolulu, Hawaii, 5/26/2018.



DANIEL ORODENKER
Executive Officer