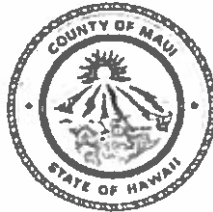


MICHAEL P. VICTORINO  
Mayor  
MICHELE CHOUTEAU MCLEAN, AICP  
Director  
JORDAN E. HART  
Deputy Director



**DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793**

July 3, 2019

Mr. Daniel Orodener  
Executive Director  
State of Hawaii Land Use Commission  
Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359

Dear Mr. Orodener,

**SUBJECT: STATE SPECIAL PERMITS FOR PARCELS GREATER  
THAN 15 ACRES**

The Maui Planning Commission (MPC) has recently heard applications for State Special Permits relating to *portions* of parcels in the state Agricultural District. We would appreciate having your input on how the Department of Planning (Department) should process these applications.

It is clear that if an entire parcel is 15 acres or less, the MPC has final approval authority of the State Special Permit. It is not as clear, however, if the entire parcel is greater than 15 acres but the applicant proposes to use only a portion that is 15 acres or less.

In one recent situation, the subject parcel was approximately 24 acres, and the applicant proposed to use two separate areas that together totaled less than five acres for two dwellings to be used for short-term rental. In another, the subject parcel was more than 25 acres, and the applicant proposed to use two of the three condominiumized units that together totaled 14.8 acres for church purposes; this was further complicated by the exclusion of the 0.7-acre access roadway that would put the total over 15 acres if it were included in the total area.

Does the Land Use Commission (LUC) recognize or look favorably upon portions of parcels being granted State Special Permits by the MPC without forwarding to the LUC for approval? Section 205-6(d), Hawaii Revised Statutes, references "special permits for land the area of which is greater than fifteen acres..." which suggests that this may be acceptable. On the other hand, it is difficult to argue that a use allowed by a State Special Permit will remain on an arbitrary portion of a parcel and not migrate to the unpermitted portion.

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It is our understanding that State Special Permits for parcels greater than 15 acres would be first reviewed by the MPC. If the MPC denies the permit, then the process is finished. If the MPC approves the permit, then it is transmitted to the LUC for approval (or denial); the LUC can also impose additional conditions. The LUC proceeding would not be considered a contested case or evidentiary hearing; other than public testimony, the LUC would make its decision based on the MPC's record.

Your input and guidance on this matter would be greatly appreciated.

Sincerely,



MICHELE MCLEAN, AICP  
Planning Director

xc: David Galazin, Deputy Corporation Counsel  
Jordan Hart, Deputy Director  
Clayton Yoshida, Planning Program Administrator

MM:atw

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