

COUNTY SPECIAL USE PERMIT

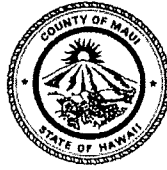
APPENDIX

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CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

November 28, 2008

CERTIFIED MAIL - #7006 2760 0000 7127 4494

Ms. Erin Mukai
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Ms. Mukai:

SUBJECT: COUNTY SPECIAL USE PERMIT AND LAND USE COMMISSION SPECIAL PERMIT FOR THE CENTRAL MAUI LANDFILL AT TMK'S: 3-8-003:004, 020 (POR), & 025 (POR), PUUNENE, MAUI, HAWAII; (SUP1 960009) (CUP 2008/0003) (SP 97-390)

At its regular meeting on October 28, 2008, the Maui Planning Commission (Commission) reviewed the above requests and after due deliberation and receipt of testimony and exhibits, hereby orders approval of the County Special Use Permit, subject to the following conditions:

1. That the County Special Use Permit shall be valid until October 31, 2028, subject to extension by the Commission upon a timely request for extension filed at least ninety (90) days prior to its expiration. The Commission may require a public hearing on the time extension.
2. That the County Special Use Permit shall not be transferred without the prior written approval of the Commission.
3. That full compliance with all applicable governmental requirements shall be rendered.
4. That the applicant shall submit to the Department of Planning (Department) five (5) copies of a detailed report addressing its compliance with the conditions established with the subject County Special Use Permit. Said compliance report shall be submitted with a time-extension request or request to amend the County Special Use Permit

5. That the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the County Special Use Permit. Failure to so develop the property may result in the revocation of the permit.
6. That the Applicant shall begin construction of the landfill expansion within six (6) months from issuance of the Land Use Commission's decision and order on the amendment. Construction shall include any improvements necessary to operate the landfill pursuant to all applicable laws and regulations.
7. That the Applicant shall take appropriate mitigative measures to minimize erosion, and prevent cement products, oil, fuel, and other toxic substances associated with the use of heavy machinery from spilling or leaching into the ground.
8. That the Applicant shall comply with Department of Health Ambient Air Quality Standards, Hawaii Administrative Rules, Title 11, Chapter 59 and Air Pollution Control, HAR 11-60.
9. That the Applicant shall comply with the EPA's New Source Performance Standards.
10. That the Applicant shall immediately stop work and contact the State Historic Preservation Division, Department of Land and Natural Resources should any previously unidentified archaeological resources such as artifacts, shells, bone, charcoal deposits, human burial, rock or coral alignments, pavings or wall be encountered during development of the Special Permit area.
11. That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.
12. That the Applicant shall utilize non-potable water, to the extent possible, for grading, dust control, and irrigation of the landfill.
13. That the Applicant shall ensure that windblown debris around the perimeter of the landfill, particularly within areas visible from the public right-of-way, are removed in a timely manner.
14. That full compliance with the requirements of the State's Department of Health for sanitary landfill operations shall be rendered.
15. That the Applicant shall clarify the entire acreage that is the subject of LUC Docket No. SP97-390 with the Maui Planning Commission and the

LUC by filing an aerial photographic map with overlay and a site map clearly depicting the proper acreage of SP97-390.

16. That to the extent practicable, leachate generated at the landfill shall be returned to the landfill.

Further, the Commission adopted the enclosed Report and Recommendation prepared by the Department for the October 28, 2008, meeting as its Findings of Fact, Conclusions of Law, and Decision and Order. Parties to proceedings before the Commission may obtain judicial review of decision and orders issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes.

Additionally, the Commission voted to recommend to the State Land Use Commission approval of the Second Amendment to the Land Use Commission Special Permit subject to the following conditions:

1. That the State Land Use Commission Special Permit shall be valid until October 31, 2028, subject to further time extensions by the Land Use Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate 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 Permit shall be enforced pursuant to Section 205-12 and 205-13, Hawaii 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 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 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 AND NO/100 DOLLARS (\$1,000.00) per violation; that a civil fine not to exceed FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) shall be issued if violation not cured within six 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 within said thirty (30) days. Upon receipt of a request for a hearing, the Planning Director 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 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. However, in the event that a contested case hearing preceded issuance of said State Land Use Commission Special 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.
4. That full compliance with all applicable governmental requirements shall be rendered.
5. 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 Permit. Failure to develop the Property may result in the revocation of the permit.
6. That the Applicant shall begin construction of the landfill expansion within six months from issuance of the Land Use Commission's decision and order on the amendment. Construction shall include any improvements necessary to operate the landfill pursuant to all applicable laws and regulations.
7. That the Applicant shall take appropriate mitigative measures to minimize erosion, and prevent cement products, oil, fuel, and other toxic substances associated with the use of heavy machinery from spilling or leaching into the ground.
8. That the Applicant shall comply with Department of Health Ambient Air Quality Standards, Hawaii Administrative Rules, Title 11, Chapter 59 and Air Pollution Control, HAR 11-60.
9. That the Applicant shall comply with the EPA's New Source Performance Standards.
10. That the Applicant shall immediately stop work and contact the State Historic Preservation Division, Department of Land and Natural Resources should any previously unidentified archaeological resources such as artifacts, shells, bone, charcoal deposits, human burial, rock or coral alignments, pavings or wall be encountered during development of the Special Permit area.
11. That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.

12. That the Applicant shall timely provide without any prior notice, annual reports to the Land Use Commission and the County of Maui Planning Department in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall also include the capacity remaining in the landfill at the time of submission of the annual report. The annual report shall be submitted in a form prescribed by the Executive Officer of the Land Use Commission.
13. That the Applicant shall utilize non-potable water, to the extent possible, for grading, dust control, and irrigation of the landfill.
14. That the Applicant shall reasonably ensure that windblown debris around the perimeter of the landfill, particularly within areas visible from the public right-of-way, are removed in a timely manner.
15. That full compliance with the requirements of the State's Department of Health for sanitary landfill operations shall be rendered.
16. That the Applicant shall clarify the entire acreage that is the subject of LUC Docket No. SP97-390 with the Maui Planning Commission and the LUC by filing an aerial photographic map with overlay and a site map clearly depicting the proper acreage of SP97-390.
17. That to the extent practicable, leachate generated at the landfill shall be returned to the landfill.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Robyn Loudermilk at robyn.loudermilk@mauicounty.gov or at 270-7180.

Sincerely,



JEFFREY S. HUNT, AICP
Planning Director

Attachment

xc: Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, PE, Planning Program Administrator
Robyn L. Loudermilk Staff Planner
Development Services Administration
Department of Health, Maui District
Project File
General File

JSH:RLL:bg

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