



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The	)	DOCKET NO. SP97-390
COUNTY OF MAUI DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT	)	ORDER DISMISSING THE OFFICE OF
To Obtain A Fourth Amendment To Land	)	PLANNING'S MOTION FOR
Use Commission Special Permit To (1)	)	RECONSIDERATION OF THE
Extend The Time For The Special Permit To	)	FINDINGS OF FACT, CONCLUSIONS
October 31, 2028, For The Central Maui	)	OF LAW, AND DECISION AND ORDER
Landfill; (2) Delete Approximately 16.841	)	APPROVING WITH MODIFICATIONS
Acres Of Land From The Special Permit; And	)	THE RECOMMENDATION OF THE
(3) Include Approximately 39.573 Acres Of	)	COUNTY OF MAUI PLANNING
Land Within The Special Permit For The	)	COMMISSION TO APPROVE A
Development Of Recycling And Diversion	)	FOURTH AMENDMENT TO THE
Facilities	)	LAND USE COMMISSION SPECIAL
-----	)	PERMIT AND CERTIFICATE OF
	)	SERVICE

ORDER DISMISSING THE OFFICE OF PLANNING'S MOTION FOR RECONSIDERATION OF
THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
APPROVING WITH MODIFICATIONS THE RECOMMENDATION OF THE COUNTY OF
MAUI PLANNING COMMISSION TO APPROVE A FOURTH AMENDMENT TO THE LAND
USE COMMISSION SPECIAL 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, Hawaii.

October 5, 2020 by

Executive Officer



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Use Commission Special Permit To (1))	OF LAW, AND DECISION AND ORDER
Extend The Time For The Special Permit To)	APPROVING WITH MODIFICATIONS
October 31, 2028, For The Central Maui)	THE RECOMMENDATION OF THE
Landfill; (2) Delete Approximately 16.841)	COUNTY OF MAUI PLANNING
Acres Of Land From The Special Permit; And)	COMMISSION TO APPROVE A
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ORDER DISMISSING THE OFFICE OF PLANNING'S MOTION FOR RECONSIDERATION OF
THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
APPROVING WITH MODIFICATIONS THE RECOMMENDATION OF THE COUNTY OF
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COUNTY OF MAUI DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT)	ORDER DISMISSING THE OFFICE
To Obtain A Fourth Amendment To	)	OF PLANNING'S MOTION FOR
Land Use Commission Special Permit To	)	RECONSIDERATION OF THE
(1) Extend The Time For The Special	)	FINDINGS OF FACT,
Permit To October 31, 2028, For The	)	CONCLUSIONS OF LAW, AND
Central Maui Landfill; (2) Delete	)	DECISION AND ORDER
Approximately 16.841 Acres Of Land	)	APPROVING WITH
From The Special Permit; And (3) Include	)	MODIFICATIONS THE
Approximately 39.573 Acres Of Land	)	RECOMMENDATION OF THE
Within The Special Permit For The	)	COUNTY OF MAUI PLANNING
Development Of Recycling And	)	COMMISSION TO APPROVE A
Diversion Facilities	)	FOURTH AMENDMENT TO THE
-----)	LAND USE COMMISSION SPECIAL
)	PERMIT

ORDER DISMISSING THE OFFICE OF PLANNING'S MOTION FOR
RECONSIDERATION OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
DECISION AND ORDER APPROVING WITH MODIFICATIONS THE
RECOMMENDATION OF THE COUNTY OF MAUI PLANNING COMMISSION TO
APPROVE A FOURTH AMENDMENT TO THE LAND USE COMMISSION SPECIAL
	)	PERMIT

On August 31, 2020, the State of Hawai'i Office of Planning ("OP") filed a
Motion for Reconsideration of the Findings of Fact, Conclusions of Law, and Decision

Docket No. SP97-390 County of Maui Department of Environmental Management
Order Dismissing The Office Of Planning's Motion For Reconsideration Of The Findings Of Fact,
Conclusions Of Law, And Decision And Order Approving With Modifications The
Recommendation Of The County Of Maui Planning Commission To Approve A Fourth Amendment To
The Land Use Commission Special Permit

and Order Approving with Modifications the Recommendation of the County of Maui Planning Commission to Approve a Fourth Amendment to the Land Use Commission Special Permit ("Motion for Reconsideration"), pursuant to Hawai'i Administrative Rules ("HAR") § 15-15-84.

In its Motion for Reconsideration, OP requested that the State of Hawai'i Land Use Commission ("LUC") reconsider Condition No. 23 of the Findings of Fact, Conclusions of Law, and Decision and Order Approving with Modifications the Recommendation of the County of Maui Planning Commission to Approve a Fourth Amendment to the Land Use Commission Special Permit ("Decision and Order") filed August 13, 2020, to clarify whether the County of Maui Department of Environmental Management ("Applicant") is required to seek a district boundary amendment with the LUC for the approximately 22 acres of Important Agricultural Lands as currently stated in Condition No. 23, or for the entire special permit area of approximately 95.659 acres, or some other specific acreage of the special permit area. OP also stated that its preference is to request that the LUC delete Condition No. 23 altogether to re-establish that as a general policy, a special permit is a more appropriate mechanism than a district boundary amendment for the permitting of a landfill in the State Land Use Agricultural District.

On September 17, 2020, the Applicant filed a Joinder to OP's Motion for Reconsideration.

The LUC considered OP's Motion for Reconsideration at its meeting on September 24, 2020, using the Zoom Webinar Virtual Meeting platform. Dawn Apuna, Esq., appeared on behalf of OP. Richelle M. Thomson, Esq.; Eric Nakagawa; and Elaine Baker appeared on behalf of the Applicant. Michael Hopper, Esq.; Jordan Hart; and Kurt Wollenhaupt appeared on behalf of the County of Maui Department of Planning ("DP").

At the meeting, OP summarized why Condition No. 23 to the Decision and Order should be amended, or preferably deleted altogether.

Following discussion, a motion was made and seconded to dismiss OP's Motion for Reconsideration for lack of jurisdiction due to the untimeliness of its filing pursuant to HAR § 15-15-84(a). At this time, the LUC heard from the DP and the Applicant on OP's Motion for Reconsideration.

There being a vote tally of 8 ayes and 0 nays, the motion passed.¹

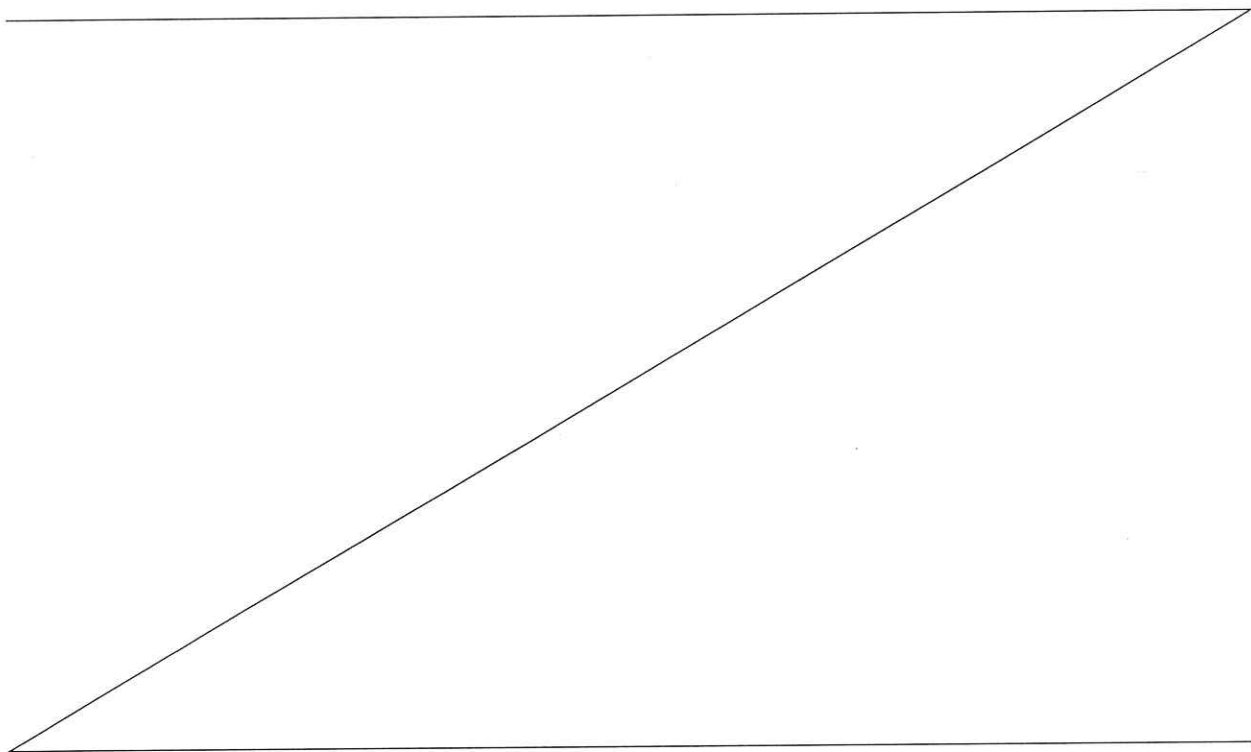
ORDER

The LUC, having duly considered the oral and written arguments of OP, the DP, and the Applicant in the proceeding, and a motion having been made and

¹ There are eight sitting commissioners presently on the LUC. The ninth seat is currently vacant. Docket No. SP97-390 County of Maui Department of Environmental Management Order Dismissing The Office Of Planning's Motion For Reconsideration Of The Findings Of Fact, Conclusions Of Law, And Decision And Order Approving With Modifications The Recommendation Of The County Of Maui Planning Commission To Approve A Fourth Amendment To The Land Use Commission Special Permit

seconded at its meeting on September 24, 2020, using the Zoom Webinar Virtual Meeting platform, and the motion having received the affirmative votes required by HAR § 15-15-13, and there being good cause for the motion,

HEREBY ORDERS that OP's Motion for Reconsideration be DISMISSED for lack of jurisdiction due to the untimeliness of its filing pursuant to HAR § 15-15-84(a).



ADOPTION OF ORDER

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

Done at Honolulu, Hawai'i, this 5th day of October, 2020, per motion on September 24, 2020.

LAND USE COMMISSION

APPROVED AS TO FORM



Deputy Attorney General

STATE OF HAWAII

By



JONATHAN LIKEKE SCHEUER

Chairperson and Commissioner

Filed and effective on:

10/ 5 /2020

Certified by:



DANIEL ORODENKER

Executive Officer



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Within The Special Permit For The)	
Development Of Recycling And)	
Diversion Facilities)	
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CERTIFICATE OF SERVICE

I hereby certify that a copy of ORDER DISMISSING THE OFFICE OF PLANNING'S MOTION FOR RECONSIDERATION OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER APPROVING WITH MODIFICATIONS THE RECOMMENDATION OF THE COUNTY OF MAUI PLANNING COMMISSION TO APPROVE A FOURTH AMENDMENT TO THE LAND USE COMMISSION SPECIAL 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, 10/ 5 /2020.



DANIEL ORODENKER
Executive Officer