



LAND USE COMMISSION
STATE OF HAWAII

2020 OCT 27 P 2:33

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

ORDER GRANTING LAND USE COMMISSION STAFF'S REQUEST TO ISSUE AN ERRATA TO 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.
Date 10/27 /2020

BY _____
DANIEL ORODENKER



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

ORDER GRANTING LAND USE COMMISSION STAFF'S REQUEST TO ISSUE AN
ERRATA TO 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

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Diversion Facilities)	LAND USE COMMISSION SPECIAL
-----)	PERMIT

ORDER GRANTING LAND USE COMMISSION STAFF'S REQUEST TO ISSUE AN ERRATA TO 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

At its meeting on October 8, 2020, using the Zoom Webinar

Virtual Meeting platform, the State of Hawai'i Land Use Commission ("LUC") considered the request of the LUC staff to issue an errata to 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 on August 13, 2020, in the subject docket to correct the number of acres subject to Condition No. 23 and related findings of fact.

Richelle M. Thomson, Esq.; Eric Nakagawa; and Elaine Baker appeared on behalf of the County of Maui Department of Environmental Management ("Applicant"). Jordan Hart appeared on behalf of the County of Maui Department of Planning ("DP"). Dawn Apuna, Esq., appeared on behalf of the State of Hawai'i Office of Planning ("OP").

As part of the LUC staff's request, Executive Officer Daniel E. Orodenerker provided the corrected language of Condition No. 23 and Findings of Fact Nos. 12, 135, 138 of the Decision and Order filed August 13, 2020, as follows (deleted language stricken; additional language underscored):

Condition No. 23 (p. 58)

23. That the Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately ~~22 acres of IAL~~ 95.659

acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

Finding of Fact No. 12 (pp. 6-7)

12. After additional discussion, the LUC entered into deliberations on the matter. Thereafter, a motion was made and seconded to approve the Applicant's Fourth Amendment Request, subject to the 18 conditions recommended by the Planning Commission and the two conditions proposed by the Applicant. Amendments to this motion were subsequently made and seconded to include (a) an additional condition to read as follows:

- The Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately ~~22 acres~~ of IAL 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

and (b) the two conditions recommended by OP. Following discussion, a vote was taken on this amended motion. There being a vote tally of 5 ayes and 3 nays, the amended motion passed.³

Finding of Fact No. 135 (p. 43)

135. The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately ~~22 acres of IAL~~ 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

³There are eight sitting commissioners presently on the LUC. The ninth seat is currently vacant.

Finding of Fact No. 138 (p. 46, last paragraph)

138. The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately ~~22 acres of IAL~~ 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

Thereafter, the Applicant, DP, and OP provided comments on the LUC staff's request.¹

Following discussion, a motion was made and seconded to grant the LUC staff's request to issue an errata to the Decision and Order filed August 13, 2020, and to authorize the LUC Chair to sign this Order on behalf of the LUC. There being a vote tally of 7 ayes, 1 excused, and 0 nays, the motion passed.

ORDER

The LUC, having duly considered the LUC staff's request, the written and oral arguments of the Applicant, DP, and OP in the proceeding, and a motion having been made and seconded at its meeting on October 8, 2020, using the Zoom Webinar Virtual Meeting platform, and the motion having received the affirmative votes required by Hawai'i Administrative Rules § 15-15-13, and there being good cause for the motion,

¹ Both OP and the Applicant filed written comments on the LUC's staff request on October 6, 2020, and October 7, 2020, respectively.

HEREBY ORDERS that the LUC staff's request to issue an errata to the Decision and Order filed August 13, 2020, be GRANTED.

Accordingly, Condition No. 23 (p. 58) and Findings of Fact Nos. 12 (pp. 6-7), 135 (p. 43), and 138 (p. 46, last paragraph) of the Decision and Order filed August 13, 2020, shall be replaced by the corresponding condition and findings of fact identified on Exhibit "A" attached hereto and incorporated by reference herein.

IT IS FURTHER ORDERED that the LUC Chair shall sign the Order in this matter on behalf of the LUC.

ADOPTION OF ORDER

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

Done at Honolulu, Hawai'i, this 27th day of October, 2020, per motion on October 8, 2020.

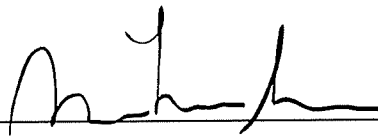
LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII



Deputy Attorney General

By  _____

JONATHAN LIKEKE SCHEUER
Chairperson and Commissioner

Filed and effective on:

October 27, 2020

Certified by:



DANIEL ORODENKER
Executive Officer

Condition No. 23 (p. 58)

23. That the Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

Finding of Fact No. 12 (pp. 6-7)

12. After additional discussion, the LUC entered into deliberations on the matter. Thereafter, a motion was made and seconded to approve the Applicant's Fourth Amendment Request, subject to the 18 conditions recommended by the Planning Commission and the two conditions proposed by the Applicant. Amendments to this motion were subsequently made and seconded to include (a) an additional condition to read as follows:

- The Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

and (b) the two conditions recommended by OP. Following discussion, a vote was taken on this amended motion. There being a vote tally of 5 ayes and 3 nays, the amended motion passed.³

³ There are eight sitting commissioners presently on the LUC. The ninth seat is currently vacant.

Exhibit "A"

Finding of Fact No. 135 (p. 43)

135. The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

Finding of Fact No. 138 (p. 46, last paragraph)

138.

The Applicant will commence the process to seek a district boundary amendment with the LUC for the approximately 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.



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Approximately 16.841 Acres Of Land)
From The Special Permit; And (3) Include)
Approximately 39.573 Acres Of Land)
Within The Special Permit For The)
Development Of Recycling And)
Diversion Facilities)
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I hereby certify that a copy of ORDER GRANTING LAND USE COMMISSION STAFF'S REQUEST TO ISSUE AN ERRATA TO 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; EXHIBIT "A" 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, 10/27/2020.



DANIEL ORODENKER
Executive Officer