

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
DEPARTMENT OF PUBLIC WORKS,)
COUNTY OF MAUI)
)
For an Special Permit to Establish)
a Sanitary Landfill on Approxi-)
mately 34 Acres of Land Situate)
Within the Agricultural District)
at Kaumalapau, Lanai, Lahaina,)
County of Maui, Tax Map Key Number:)
4-9-02: Portion of 1)
_____)

DOCKET NO. SP88-368
DEPARTMENT OF PUBLIC
WORKS, COUNTY OF MAUI

OCT 3 2 37 PM '88
LAND USE COMMISSION
STATE OF HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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DEPARTMENT OF PUBLIC WORKS,)	
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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

The Department of Public Works, County of Maui, (hereinafter "Petitioner"), initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Title 15, Chapter 15, Subchapter 12 of the Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"). The Land Use Commission (hereinafter "Commission") having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. The special permit (Permit) application was filed by Petitioner with the Planning Department, County of Maui on

January 15, 1988. A public hearing was conducted by the Lanai Advisory Committee to the Maui Planning Commission on March 31, 1988. During the hearing, public testimony was presented by Martha Evans.

2. On March 31, 1988, the Lanai Advisory Committee recommended approval of the Permit with eleven conditions.

3. On July 5, 1988, the Maui Planning Commission approved the Lanai Advisory Committee's recommendation with one additional condition for a total of twelve conditions.

4. On July 26, 1988, the record of the proceeding on the Permit was received by the Land Use Commission.

Description of Property

5. The proposed landfill site is in Kaumalapau Gulch, Island of Lanai, Lahaina, County of Maui and is identified as Tax Map Key: 4-9-02: portion of 1 (Property).

6. The Property is located approximately one-half mile west of Lanai Airport and approximately 1,200 feet south of Kaumalapau Highway.

7. Elevation of the Property ranges from 800 feet to 1,110 feet above sea level. Existing slopes are gently sloping.

8. The U.S. Department of Agriculture identifies soils on the Property as Molokai silty clay loam which has moderate permeability.

9. Average annual rainfall for the area is approximately 20 inches.

10. Winds consists of northeast trades more than 50 percent of the time while southerly winds occur approximately 16 percent of the time.

11. Access to the Property is available from a pineapple plantation road which connects with Kaunalapau Highway.

12. The Property is owned by Castle & Cooke, Inc. The landowner has authorized Petitioner to apply for the Permit for a sanitary landfill.

13. Two archaeological field reconnaissance surveys found eight sites including firepits, rock mounds, rock alignments, a curved wall, and a terrace. The archaeological report indicated that relevant information was gathered and that site preservation was not necessary.

14. No endangered animal or plant species were found on the Property.

15. The existing landfill is located in the adjacent Kalamaiki Gulch north of the Property. The landfill was established under Land Use Commission Special Permit Docket No. 66-36/Maui County approved on October 29, 1966.

Description of Proposed Use

16. Petitioner is requesting the Permit to allow the establishment of a sanitary landfill including a leachate collection pipe, perimeter fencing, diversion drainage ditches, irrigation system for fire protection and an internal roadway

on approximately 34 acres of land situate within the State Land Use Agricultural District.

17. Petitioner states the proposed landfill will replace the existing landfill which is currently near capacity.

The proposed landfill is projected to have a life of 30 years and will be developed in two fifteen-year phases with the first phase consisting of approximately 16 acres.

18. Petitioner proposes that soil for cover of disposal cells will come from on-site excavation. Petitioner indicates the proposed borrow site located three and one-half miles to the northeast will not be used for soil cover at this time.

19. Petitioner proposes to install a series of irrigation lines to control dust or fires and irrigate wiliwili trees along the Property's perimeter. In addition, a drainage culvert will be installed to direct runoff along the bottom of the gulch and diversion ditches constructed to intercept and route runoff water around the Property.

20. Petitioner's proposed additional improvements include perimeter fencing, litter barrier, information signs and access road improvements.

21. Petitioner indicates the proposed landfill will operate from 8:00 a.m. to 3:00 p.m. Monday through Friday.

22. Petitioner states that the existing landfill will be closed and that a replacement landfill is an economical means of disposal.

State and County Plans and Programs

23. The State Land Use District classification for the Property is Agricultural as reflected on the Commission's Official Map for Lanai.

24. The Lanai Community Plan designates the Property for Agriculture.

25. The Lanai Community Plan policy, in part, discourages approvals of special permits in State Agricultural and Rural Districts unless it accommodates public facility uses such as utility installations, landfills and sewage treatment plants whose location is determined by technical considerations.

26. The Property is not located in the Maui County Special Management Area.

27. The Property is outside of the Department of Health Underground Injection Control line.

Environmental Concerns

28. An Environmental Assessment and Negative Declaration dated January, 1986 was prepared for the project.

Summary of Agency Comments

29. The Department of Land and Natural Resources recommended that a condition be attached which requires archaeological monitoring.

30. The Department of Health expressed concern that the proposed use may be a potential source of ocean pollution during times of heavy rainfall and that the Property lacks soil used for cover in the operation of the landfill.

31. The Departments of Agriculture and Transportation indicated no objections to the proposed landfill.

Conformance With Special Permit Tests

32. Establishment of a new sanitary landfill is not contrary to the objectives sought to be accomplished by Chapter 205, HRS and the Commission Rules. Petitioner believes the proposed project addresses the public health requirements of the residents and visitors of the island.

33. Petitioner's proposed use would not adversely affect the surrounding environment.

Petitioner indicates soil cover will be available on the Property to cover debris. This method of operation will reduce odor levels and scattering of debris as well as allow the venting of produced gases including methane and carbon monoxide, both of which dissipate into the atmosphere.

Petitioner further indicates that leachate contamination is expected to be minimal due to the low rainfall of the area. In addition, Petitioner proposes to install runoff diversion ditches around the landfill site to minimize the possibility of leached materials traveling beyond the site and downstream.

Petitioner believes that any dust generated during construction will have no detrimental impact due to the Property's downwind location and distance from Lanai City.

Petitioner indicates adjacent pineapple production is not anticipated to be affected by the new landfill.

Petitioner also proposes that water for irrigation and fire protection will be provided by a private water system operated by the Lanai Water Company.

34. The proposed use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

35. Unusual conditions, trends and needs have arisen since the district boundaries and rules were established.

Petitioner indicates that due to the constant amount of solid waste generated by this small community, landfill disposal of solid waste is an economical means of disposal.

In addition, Petitioner stated that the island of Lanai is experiencing an increase in construction which will in turn increase the amount of solid waste received by the existing landfill.

36. The land upon which the proposed use is sought is unsuited for the use permitted within the district.

The operation of the landfill will occur in a gulch area that is not used for agriculture production. As such, no reduction of overall agriculture production will occur.

Planning Commission Recommendations

37. On July 5, 1988, the Maui Planning Commission voted to recommend approval of the subject Permit for the establishment of the sanitary landfill subject to the following conditions:

- "1. That construction of the sanitary landfill shall be initiated within eighteen (18) months of the approval of this permit.
- "2. That appropriate monitoring of the quality of water to be discharged into Kaumalapau Gulch from drainage basins shall be undertaken to assure that toxic wastes are not part of the discharge.
- "3. That in the preparation of the sanitary landfill, the landfill floor shall be further compacted and be made relatively impervious to water in order to contain leachates. Proper disposal methods of leachates shall be installed within the landfill.
- "4. If historic remains are encountered, the developer must stop work in the immediate area and allow the archaeological monitor adequate time to gather sufficient information to evaluate the remains' significance and to then contact the County of Maui's Planning Department and the State's Historic Sites Section to determine appropriate mitigation measures, if needed. This mitigation plan must then be carried out before construction continues in the immediate area. Finally a copy of the archaeological report on the monitoring should be submitted to the State's Historic Sites Section for filing.
- "5. That appropriate internal vehicle circulation patterns shall be designed so as to not cause confusion and congestion within the sanitary landfill.
- "6. That appropriate rules shall be established to prohibit scavenging within the sanitary landfill.
- "7. That appropriate measures to control excessive dust generation shall be implemented.
- "8. That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.
- "9. That warning signs shall be clearly posted near all entry points of the landfill.
- "10. That full compliance with any other applicable governmental requirements shall be met.

"11. That an archaeological monitor shall be present during any grubbing operations.

"12. That the closure of the existing landfill shall be initiated within thirty (30) days from the date of the opening of the subject landfill project."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes, and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect and encourage development of land in the state for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that the Special Permit Docket Number 88-368/Department of Public Works, County of Maui to allow the establishment of a sanitary landfill including a leachate collection pipe, perimeter fencing, diversion drainage ditches, irrigation system and an internal roadway, on approximately 34 acres, situate within the State Land Use Agricultural District at Kaumalapau Gulch, Lanai, Lahaina, County of Maui, Tax Map Key Number: 4-9-02: Portion of 1, and approximately identified on Exhibit A attached hereto and incorporated by reference herein be approved subject to the following conditions:

1. That construction of the sanitary landfill shall be initiated within eighteen (18) months of the approval of this permit.

2. That appropriate monitoring of the quality of water to be discharged into Kaumalapau Gulch from drainage basins shall be undertaken to assure that toxic wastes are not part of the discharge.

3. That in the preparation of the sanitary landfill, the landfill floor shall be further compacted and be made relatively impervious to water in order to contain leachates. Proper disposal methods of leachates shall be installed within the landfill.

4. If historic remains are encountered, the developer must stop work in the immediate area and allow the archaeological monitor adequate time to gather sufficient information to evaluate the remains' significance and to then contact the County of Maui's Planning Department and the State's Historic Sites Section to determine appropriate mitigation measures, if needed. This mitigation plan must then be carried out before construction continues in the immediate area. Finally a copy of the archaeological report on the monitoring should be submitted to the State's Historic Sites Section for filing.

5. That appropriate internal vehicle circulation patterns shall be designed so as to not cause confusion and congestion within the sanitary landfill.

6. That appropriate rules shall be established to prohibit scavenging within the sanitary landfill.

7. That appropriate measures to control excessive dust generation shall be implemented.

8. That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.

9. That warning signs shall be clearly posted near all entry points of the landfill.

10. That full compliance with any other applicable governmental requirements shall be met.

11. That an archaeological monitor shall be present during any grubbing operations.

12. That the closure of the existing landfill shall be initiated within thirty (30) days from the date of the opening of the subject landfill project.

DOCKET NO. SP88-368 - DEPARTMENT OF PUBLIC WORKS, COUNTY OF MAUI

Done at Honolulu, Hawaii, this 3rd day of October 1988,
per motions on August 16, 1988 and September 30, 1988.

LAND USE COMMISSION
STATE OF HAWAII

By Lawrence F. Chun
LAWRENCE F. CHUN
Vice Chairman and Commissioner

By Toru Suzuki
TORU SUZUKI
Commissioner

By Teofilo Phil Tacbian
TEOFILO PHIL TACBIAN
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE
Commissioner

By Allen K. Hoe
ALLEN K. HOE
Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE
Commissioner

By Allen Y. Kajioka
ALLEN Y. KAJIOKA
Commissioner

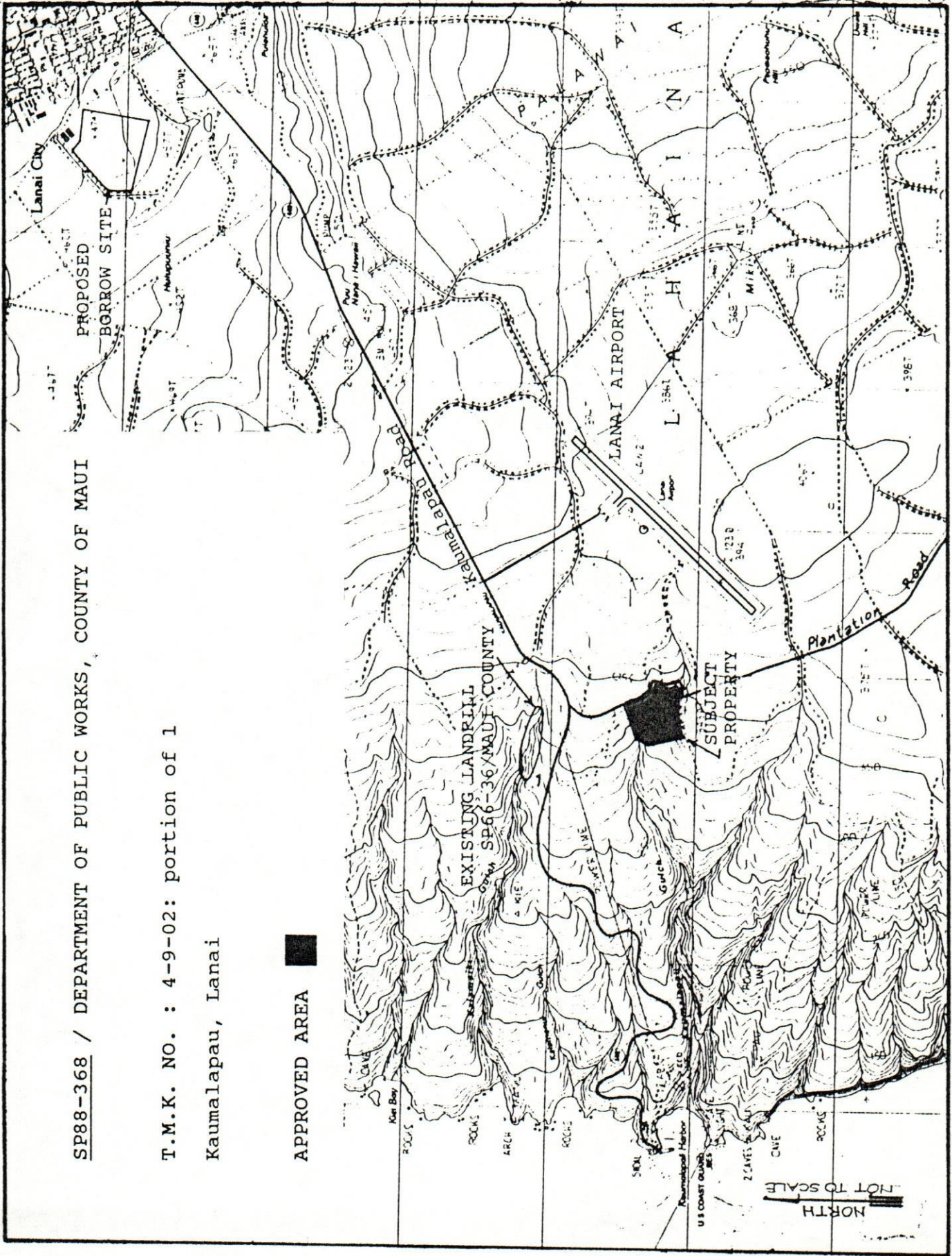
By Sharon R. Himeno
SHARON R. HIMENO
Commissioner

SP88-368 / DEPARTMENT OF PUBLIC WORKS, COUNTY OF MAUI

T.M.K. NO. : 4-9-02: portion of 1

Kaumalapau, Lanai

APPROVED AREA



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. CHRISTOPHER L. HART, Planning Director
County of Maui Planning Department
200 South High Street
Wailuku, Hawaii 96793

CERT. ALVIN FUKUNAGA, Director
Department of Public Works
County of Maui
200 South High Street
Wailuku, Hawaii 96793

DATED: Honolulu, Hawaii, this 3rd day of October 1988.



ESTHER UEDA
Executive Officer

DOCKET NO. SP88-368 - DEPARTMENT OF PUBLIC WORKS, COUNTY OF
MAUI

A copy of the Land Use Commission's Findings of Fact,
Conclusions of Law, and Decision and Order was served upon the
following by regular mail on October 3, 1988.

REAL PROPERTY TAX DIVISION
County of Maui
200 South High Street
Wailuku, Hawaii 96793