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MAR 18 2009  
STATE OF HAWAII  
LAND USE COMMISSION

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A08-780  
)  
DEPARTMENT OF ENVIRONMENTAL )  
SERVICES, CITY & COUNTY OF HONOLULU )  
)  
To Amend the Agricultural Land Use District )  
Boundary into the Urban Land Use District for )  
Approximately 200.622 Acres of Land )  
District to the Urban Land Use District, )  
at Waimanalo Gulch, Hono'uli'uli, Ewa, O'ahu, )  
Tax Map Key Nos: (1) 9-2-003:072 and 073 )  
\_\_\_\_\_ )

**POSITION STATEMENT OF THE OFFICE OF PLANNING**  
**FOR DENIAL OF THE PETITION**

The Office of Planning recommends that the Petition be denied because it does not comply with the standards for urban district boundaries under section 15-15-18, Hawaii Administrative Rules ("HAR").

**Petitioner's Proposed Use of the Property**

The Petitioner is proposing to permanently reclassify approximately 200.622 acres from the Agricultural to the Urban State Land Use District for the purpose of expanding the existing 107.5 acre sanitary landfill to 200.022 acres which will have an estimated useful life of an additional fifteen years.

The existing 107.5-acre landfill is permitted under Special Use Permit No. SP87-362 until November 1, 2009, or until it reaches its permitted capacity, whichever occurs first. The additional 92.5 acres of the Petition area are proposed for the lateral expansion of the landfill, including approximately 37 acres of additional landfill cells, roads and infrastructure and the balance for stockpiling of cover material and aggregate, the minimum 100-foot buffer inside the perimeter of the property and related landfill associated purposes. The 92.5-acre portion of the 200.622-acre Petition area will extend the life of the landfill for approximately fifteen years. The Petitioner has submitted an application for a Special Use Permit to the Planning Commission. If granted, the district boundary amendment will be unnecessary.

The Petitioner has not represented what urban uses will exist in the Petition area after the landfill has reached its capacity and is closed. It suggests without committing that the area may be kept as an open park, a use consistent with its current Agricultural classification.

Because of settling and other stability issues, significant engineering challenges exist if the former landfill area was used for structures. Two hundred acres of remediation at an indeterminate cost will be needed if the former landfill area is to have a typical urban use. Furthermore, methane, hydrogen, and other volatile gases build up under the ground and need to be monitored, vented, and controlled, and the cap on the landfill must be secured and maintained to prevent the introduction of oxygen into the underground environment. Therefore, open public access to a former landfill site create security issues, both for the protection of the public in case the post-closure systems fail as well as for the post-closure systems themselves which could be subjected to either purposeful vandalism or inadvertent damage. For these reasons, the City and County will likely find that future urban uses in the former landfill area will be problematic.

### **General Information**

The Petitioner, Department of Environmental Services, City and County of Honolulu, is the fee simple owner of the petition area. The Petition states that the Petitioner has instituted two different processes to expand the Waimanalo Gulch landfill. The first is through the current district boundary amendment proceeding. The second is through a special permit process which is currently before the City Planning Commission. On page 1, paragraph 3, the Petition states, "The boundary amendment petition and the SUP application are being filed concurrently because both the boundary amendment and the SUP processes may be used to permit the desired Landfill expansion. . . . As noted, depending on the timing of the approval processes, one of the two petitions may be withdrawn." These statements are an admission that future urban uses are not the subject or focus of this petition.

### **Description of the Property**

The petition area is located in Waimanalo Gulch, Hono'uli'uli, Ewa, Oahu. The property consists of approximately 200.622 acres, which includes two parcels: TMK (1) 9-2-003:072 (Parcel 72), 82.555 acres; and (1) 9-2-003:073 (Parcel 73) 118.067 acres. Waimanalo Gulch is a narrow steeply sloped V-shaped gulch in the southwest toe of the Waianae Range. Elevation varies from about 70 feet at the base of the valley to 990 feet at the head of the valley. The property is adjacent to Hawaiian Electric Company's Kahe Point Power Plant to the northwest, the planned Makaiwa Hills residential development to the southeast and single family homes in the Kai Lani subdivision and the Ko Olina Beach Club across Farrington Highway to the south. The Zoning Map for Makaiwa Hills, Exhibit A, Ordinance 08-26, indicates that Makaiwa Hills

will be developed with wide buffer from the landfill expansion area; however, the Low-Density Apartment (A-1) area is adjacent to the current section of the landfill with a much more narrow buffer.

## **KEY ISSUES IDENTIFIED BY THE OFFICE OF PLANNING**

### **Topography**

The soil in the proposed 92.5-acre expansion area consists of Rock Land (rRK) composed of basalt and androsite and Stony Steep Land (rSY). Blue basalt comprises the majority of the valley walls in the 107.5-acre lower portion of the petition area. This lower portion is currently permitted as a landfill and has been excavated using blasting to broaden and deepen the gulch in order to increase its capacity to hold more waste. The Petitioner plans to continue blasting and further excavating the proposed expansion area as well.

The petition states that the expansion project will change the topography of the site and that the final design will be modified based on maintaining the stability of all cut slopes. If a mistake is made; however, the continuous blasting and excavation could present significant structural problems in the future.

### **Drainage**

The State Department of Health (DOH) Notice of Violation (NOV), January 31, 2006, indicates that leachate from the landfill's drainage control system (three separate sumps serving the ash monofill site, Cell E-1 and Cell 4B) has had to be pumped and transmitted to the Waianae STP. An excessive accumulation of leachate at the base of the landfill retained by an

impermeable liner can contribute to soil instability and the danger of landslides within the landfill area. Water-saturated fill at the base of the landfill when combined with the proposed continuous blasting and excavation raise questions of instability. Petitioner must be able to demonstrate how it will guarantee that the nearby residents will not be impacted.

### **Hazardous Substances**

The presence of asbestos in the current landfill due to inadequate monitoring of waste accepted for deposition raises the concern that leachate from storm events could be contaminated. In addition, a question of whether mercury switches from older cars might have been included in Automobile Shredder Residue sent to the landfill by the City and County's auto recycling contractor has also been raised, although not yet definitively proven.

### **Adverse Effects on Adjacent Residential Communities**

Currently, there exists two A-1, Low-Density Apartment, residential communities across Farrington Highway from the entrance to the landfill. On September 29, 2008, 1,781 acres were re-zoned from AG-1, Restricted Agriculture, and AG-2, General Agriculture, to R-20, R-10, R-7.5, and R-5, Residential Districts, A-1, Low Density Apartment, AMX-1, Low Density Apartment Mixed Use, AMX-2, Medium Density Apartment Mixed Use, BMX-3, Community Business District with a 60-foot height limit, and P-2, Preservation District, within close proximity to the current WGSL and the area proposed for expansion. The Unilateral Agreement between the C&C and Makaiwa Hills, LLC, requires a day care center (Condition 3) to be included in the new mixed use community. Condition 5 requires disclosure, "...of all of the

potential noise, odor, dust, and adverse effect from ... Waimanalo Gulch landfill operation." Reclassification to the State Urban District would eliminate the opportunity for adjacent residents to testify on the impact of these adverse effects to the Planning Commission and the LUC.

### **Cultural/Historic Resources**

An archaeological inventory study and cultural impact assessment discovered important archaeological sites within the petition area. During the course of the archaeological inventory, three stone uprights were discovered along the ridge on the Kahe Gulch side of the proposed expansion area. The Petitioner is still working to provide appropriate treatment of the upright monoliths and must comply with Chapter 6E, HRS. Cultural consultants agreed that the stones have cultural significance and should be left in place if possible.

### **Environmental, Recreational and Scenic Resources**

View planes would be impacted by the proposed expansion since the elevation of the site rises towards the back of the gulch to a height of 990 feet. The Petitioner proposes to mitigate the impacts with landscaping and restoration upon closure of the landfill. However, the Petitioner does not address how this issue will be handled while the landfill is in operation.

### **Conformance with County Plans**

The proposed reclassification is not in conformance with County Plans. Although the current Ewa Development Plan identifies the area for a landfill, it does not identify the area as appropriate for urban reclassification.

Both the current Ewa Development Plan and the draft Ewa Development Plan place the Petition Area within the "Agricultural and Preservation Area" on the Urban Land Use Map and within the "Preservation Area" on the Phasing and Open Space Maps. The future preservation uses for the Petition Area are inconsistent with the requested State Urban reclassification.

The property is zoned Ag-2, General Agricultural District, which allows waste disposal and processing as a Conditional Use Permit – Major. Accordingly, the current State Agricultural District can accommodate, with an approved SUP, both the current landfill use and the future use as an Agricultural and Preservation Area identified in the draft Ewa Development Plan. Consequently, the request for reclassification is not consistent with the Ewa Development Plan.

### **Conformance with the State Plan**

The proposed reclassification is not consistent with the following objectives, and policies of the Hawaii State Plan:

*Section 226-15 Objectives and Policies in Facility Systems – Solid and Liquid Wastes.*

*(b)(2) Promote re-use and recycling to reduce solid and liquid wastes and employ a conservation ethic.*

*(b)(3) Promote research to develop more efficient and economical treatment and disposal of solid and liquid wastes.*

Unlike a district boundary amendment, a special permit must be reviewed and renewed every five years. The requirement for a periodic review will maintain the pressure on the City and County of Honolulu to continually improve its diversion and recycling programs. A district boundary amendment will eliminate any future reviews and reduce the pressures to improve. A district boundary amendment is, therefore inconsistent with the Hawaii State Plan.

### **Conformance with State Urban District Standards**

The petition area is currently located in the State Agricultural District, and does not meet all of the standards for determining Urban District Boundaries.

Specifically, the proposed action does not meet the following standards

(HAR §15-15-18):

(1) *It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.*

\* \* \*

(3) *Lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition and other adverse environmental effects.*

\* \* \*

The landfill is a temporary activity, currently allowed by special permit. Once the landfill has been filled to capacity, the petition does not describe the future uses as a city-like concentration of people, structures, urban level of services, or other related land uses. Consequently, the petition cannot meet the first and most important standard for reclassification



into the urban district. Because the landfill use is temporary and future uses are likely to be consistent with the existing agricultural classification, any landfill should be allowed for a temporary period by special permit and not by a permanent change in the petition area's classification.

Indeed, landfills throughout the State are uniformly allowed by special permit. The current petition may be the first and only case in which a district boundary amendment is being requested to allow for a temporary landfill. The unprecedented nature of the request and the uniform and long-held practice of allowing landfills by special permit is evidence that a district boundary amendment is inappropriate for the purpose of allowing temporary landfills.

The landfill expansion would require extensive blasting to deepen and broaden the narrow and steeply sloping sides of the upper portion of Waimanalo Gulch in order to obtain additional landfill cells. Blasting can result in ground and surface vibrations which may result in destabilization of the downslope landfill materials and landslides which may block Farrington Highway, the only roadway in and out of the communities along the Waianae Coast. Blasting may take place one to three days per week until the last cell is excavated. There may also be a potential for vibration damage to structures in the surrounding residential neighborhoods to the south and west of Waimanalo Gulch should the blasting exceed the safe level particle velocities and frequencies of vibration. Can Petitioner guarantee that the blasting will not impact the communities in the area?

The Petitioner will have a financial incentive to design the excavation of the expansion area for the purpose of creating the greatest volume for waste storage in order to extend the life of the landfill

Furthermore, continued blasting can contribute to potential instability of the fill materials beyond the ability of the toe berm constructed at the base of the landfill to contain any landslides. The Petitioner has a history of exceeding permitted grades (State Department of Health Notice of Violation, January 31, 2006) at the current landfill.

In addition, continued excavation of the upper valley walls may cut into the structural integrity of the walls. For all of these reasons, the blasting, excavation and filling activities do not meet the standards of the State Urban District, as described in HAR §15-15-18 (1) and (3).

Finally, the Petitioner has maintained that a landfill such as the Waimanalo Gulch Sanitary Landfill is necessary on Oahu until such time that the solid waste stream is segregated, recycled, converted to ash, vaporized or baled and transported off-island to another location. The denial of this Petition will send a clear message that in an island state with finite land and natural resources, alternate solutions to the steadily growing solid waste stream must be found now, with the cooperation of the Federal, State, and County governments working closely with the business, education, and scientific community.

### **Recommendation**

The landfill is a temporary use allowable under a special permit and future uses are as a practical matter likely to be appropriate for an agricultural classification. The Ewa Development Plan is inconsistent with the requested urban classification. The unprecedented nature of a reclassification request for a temporary landfill is an apparent hedge to the risk that the special permit process may be unsuccessful. No bonafide future urban uses are being proposed. Additionally, alternative solutions to Oahu's solid waste stream have not been fully pursued, and

the success of this petition would further eliminate the motivation to do so. The Office of Planning recommends denial of the Petition.

DATED: Honolulu, Hawaii this 18th day of March, 2009.

OFFICE OF PLANNING  
STATE OF HAWAII

A handwritten signature in black ink, appearing to read "Abbey Seth Mayer", written over a horizontal line.

ABBEY SETH MAYER  
Director  
Office of Planning

Docket No. A08-780  
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service.

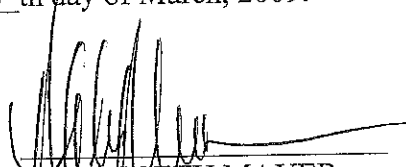
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DATED: Honolulu, Hawaii, this 18 th day of March, 2009.

  
ARBY SETH MAYER  
Director  
Office of Planning

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**ERRATA FOR**  
**POSITION STATEMENT OF THE OFFICE OF PLANNING**  
**FOR DENIAL OF THE PETITION**

On page eight (8) of the Position Statement of the Office of Planning for Denial of the Petition dated March 18, 2009, replace the first sentence with the following: "Unlike a district boundary amendment, a special permit is generally reviewed and renewed periodically."

DATED: Honolulu, Hawaii this 18th day of March, 2009.

OFFICE OF PLANNING  
STATE OF HAWAII



\_\_\_\_\_  
ABBEY SETH MAYER  
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Office of Planning

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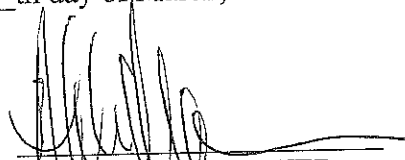
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DATED: Honolulu, Hawaii, this 18<sup>th</sup> day of March, 2009.



ABBEY SENI MAYER  
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