

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
DEPARTMENT OF PUBLIC WORKS, )  
CITY AND COUNTY OF HONOLULU )  
For an Amendment to the Special )  
Use Permit Which Establishes a )  
Sanitary Landfill on Approximately )  
60.5 Acres of Land Situate Within )  
the Agricultural District at )  
Waimanalo Gulch, Honouliuli, Ewa, )  
Oahu, Tax Map Key No.: 9-2-03: )  
Portion of Parcel 2 and Portion )  
of Parcel 13 )

DOCKET NO. SP87-362  
DEPARTMENT OF PUBLIC  
WORKS, CITY AND COUNTY  
OF HONOLULU

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LAND USE COMMISSION  
STATE OF HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION AND ORDER

EXHIBIT K070

EXHIBIT D

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The Department of Public Works, City and County of Honolulu (hereinafter the "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "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. Petitioner filed the amendment to Special Permit 87-362/Department of Public Works with the Department of Land Utilization, City and County of Honolulu on June 16, 1989.

EXHIBIT K070

2. On July 26, 1989, the City and County of Honolulu Planning Commission (hereinafter the "Planning Commission") conducted a public hearing on the request. Public testimony was presented by Jane Ross, Chairperson of Neighborhood Board Number 23. The Planning Commission also received a written statement from William W. Paty, Director of the State Department of Land and Natural Resources.

3. On July 26, 1989, the Planning Commission voted to recommend approval with one additional condition. The record of the proceeding on the Special Permit amendment (hereinafter "Amendment") was received by the Commission on August 9, 1989.

Background Information and Proposed Amendment

4. By Decision and Order issued on April 20, 1987, the Commission approved the original special permit for a landfill site for approximately 60.5 acres subject to eight conditions as follows:

"1. That an earth berm shall be installed prior to the commencement of any waste disposal operations.

"2. The landscaping plans which would include plant names, sizes, quantities and location shall be submitted to the Department of Land Utilization for approval and shall be implemented within 90 days of completion of the berm work.

"3. The facility shall be operational between the hours of 7:00 a.m. and 4:30 p.m. daily.

"4. The applicant shall obtain all necessary approvals from the State Department of Health, Department of Transportation, and Board of Water Supply for all on-site and off-site improvements involving access, storm drainage, leachate control, water and wastewater disposal.

"5. The Planning Commission or Director of Land Utilization may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate.

"6. The applicant shall notify the Planning Commission of termination of use for appropriate Planning Commission action or disposition of the permit.

"7. That the project be completed and operating within 3 years of the approval of the special use permit.

"8. That the City and County of Honolulu indemnify and hold harmless the State of Hawaii and all of its agencies and/or employees for any lawsuit or legal action relating to any groundwater contamination or noise, odor pollution relative to the operation of the landfill."

5. Petitioner's Exhibit 3 of the original Special Permit docket reflected an area of approximately 80 plus acres for the landfill site. However, the Planning Commission's approval at that time was for 60.5 acres.

Description of Property

6. The 60.5 acre previously approved landfill site and the proposed expansion area (hereinafter collectively the

"Project Site") is in Waimanalo Gulch adjacent to and on the Makakilo side of the Kahe Electric Power Plant. The site abuts the mauka side of Farrington Highway and is mauka of the proposed Ko Olina Resort (formerly known as the West Beach Resort). The Honokai Hale residential subdivision is approximately one mile east of the Project Site.

7. The proposed 26-acre expansion area, Oahu Tax Map Key Number: 9-2-03: portion of 2, (hereinafter the "Property") is located immediately mauka and contiguous to the existing approved 60.5-acre area.

8. The Project Site is located adjacent to 13 single-family dwellings. These dwellings are located within the Agricultural District situate between the Kahe Power Plant Urban District and the Project Site, mauka of Farrington Highway.

9. The previously approved 60.5-acre area is presently being developed for landfill use.

10. The expansion area is traversed by three electrical transmission lines originating from the Kahe Power Plant.

11. Soils found on the Project Site are classified as Lualualei extremely stony clay 3 to 5% slope (LPE) and Rock Land (rRK).

12. The Project Site is located in an area that receives between 20 and 30 inches of rainfall per year.

Groundwater found below the Project Site is brackish with a salinity range of 250 to 19,000 parts per million chloride content.

13. The Project Site is not classified by the Agricultural Lands of Importance to the State of Hawaii system.

14. No endangered plants and animals were found on the Project Site.

15. The Department of Land and Natural Resources indicates that the landfill project will have no effect on significant historic sites.

16. Petitioner indicates that the Property is owned by the City and County of Honolulu.

17. Access to the Project Site is currently provided by Farrington Highway, a four lane divided highway. Petitioner proposes to improve Farrington Highway by constructing exclusive turning lanes connecting to a 2000 lineal foot access roadway on the Project Site.

#### Description of Proposed Amendment to Special Permit

18. The current request is to modify the existing Special Permit by including approximately 26.0 acres of land inadvertently left out of the original Special Permit for a total Special Permit area of 86.5 acres.

19. Petitioner proposes this addition in order to allow enough land area for the proposed administration building, weighing station, drainage structures and access roads.

State and County Plans and Programs

20. The Property is located in the State Agricultural District as designated on State Land Use District Boundary Map O-6 Ewa, Hawaii.

21. The City and County of Honolulu Ewa Development Plan designates the Property as Agriculture. Zoning is AG-2 General Agriculture. The current zoning allows the use of the Property for sanitary landfill.

22. The Property is not located within the Special Management Area.

Environmental Concerns

23. Environmental concerns such as the possible contamination of offshore waters from leachates generated at the Project Site; visual, noise, dust, odor and traffic impacts on surrounding existing and proposed communities were addressed in the Environmental Impact Statement accepted by the Department of Land Utilization on October 17, 1985 and submitted with the original Special Permit application.

Agency Comments

24. The State Department of Health indicates in its June 29, 1989 letter (Petitioner's Exhibit E) that the Petitioner will need to amend its original Solid Waste Management Permit to reflect the modification.

25. The Department of Land and Natural Resources had no objections to the proposed 26-acre addition.

26. The Hawaiian Electric Company, Inc. (HECO) indicates in its July 12, 1989 letter, the following:

"During construction, adequate safety precaution must be taken to prevent construction equipment from contacting our overhead facilities. In order to work under our lines, the following conditions must be agreed to:

"Hawaiian Electric reserves the right to review and approve any proposed construction work within our easement area.

"No buildings or structures are to be erected within the easement area.

"The minimum clearance from the lowest conductor to ground shall be as specified by General Order No. 6.

"No grading work will be allowed within a 20-foot radius of any poles, structures or anchors without Hawaiian Electric's approval.

"Vehicular access will be required to each easement area for maintenance and for future construction.

"In addition, the City and contractor must provide us with a Hold Harmless Agreement before any work is done under our overhead lines."

Conformance With Special Permit Tests

27. In support of the proposed amendment to the Special Permit, the Department of Land Utilization (DLU) provided, in part, the following:

"The request to modify the State Special Use Permit to increase the Waimanalo Gulch Sanitary Landfill site by 26.0±



acres meets the State Land Use Agriculture District's "Five Tests to be applied."

"The effects of the proposed modification were adequately reviewed during the original State Special Use Permit process and during the preparation of the Environmental Impact Statement. The modification will not adversely impact on the surrounding properties if conditions of approval required by the SLUC approve (Attachment C, Docket No. SP87-362) and 86/SUP-5 remain in effect and are implemented."

Planning Commission Recommendation

28. On August 3, 1989, the Planning Commission recommended that the modification of the existing State Special Use Permit for the Waimanalo Gulch Landfill be approved subject to all conditions of the original permit as well as to an additional condition requiring coordination between the Department of Public Works and the Hawaiian Electric Company during the construction and operation of the landfill.

CONCLUSIONS OF LAW

The proposed Amendment is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes and the proposed expansion is not contrary to the objectives to be accomplished by the State Land Use Law to preserve, protect and encourage the development of lands 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 an Amendment to Special Permit Docket Number 87-362 to expand the existing approved area by approximately 26 acres situate within the State Land Use Agricultural District at Waimanalo Gulch, Honouliuli, Ewa, Oahu, Tax Map Key Number: 9-2-03: portion of parcel 2, and approximately identified on Exhibit A attached hereto and incorporated by reference herein be approved subject to the following eight conditions of the original Special Permit and the additional condition as recommended by the Planning Commission:

1. That an earth berm shall be installed prior to the commencement of any waste disposal operations.
2. The landscaping plans which would include plant names, sizes, quantities and location shall be submitted to the Department of Land Utilization for approval and shall be implemented within 90 days of completion of the berm work.
3. The facility shall be operational between the hours of 7:00 a.m. and 4:30 p.m. daily.
4. The applicant shall obtain all necessary approvals from the State Department of Health, Department of Transportation, and Board of Water Supply for all on-site and off-site improvements involving access, storm drainage, leachate control, water and wastewater disposal.
5. The Planning Commission or Director of Land Utilization may at any time impose additional conditions when

it becomes apparent that a modification is necessary and appropriate.

6. The applicant shall notify the Planning Commission of termination of use for appropriate Planning Commission action or disposition of the permit.

7. That the project be completed and operating within 3 years of the approval of the special use permit.

8. That the City and County of Honolulu indemnify and hold harmless the State of Hawaii and all of its agencies and/or employees for any lawsuit or legal action relating to any groundwater contamination, noise, or odor pollution relative to the operation of the landfill.

9. Petitioner shall coordinate construction and operation of the landfill with the Hawaiian Electric Company.



