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'12 OCT 31 P1:02

October 30, 2012

Calvert G. Chipchase

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CITY & COUNTY OF HONOLULU

Ms. Gayle Pingree, Chair
Planning Commission
Department of Planning and Permitting
City & County of Honolulu
650 S. King Street, 7th Floor
Honolulu, Hawai'i 96813

Re: File No. 2008/SUP-2

Dear Chair Pingree:

The parties to the two proceedings concerning the above-referenced matter have received the Land Use Commission's Order Remanding County Special Use Permit File No. 2008/SUP-2 to the City and County of Honolulu Planning Commission. The parties hereby jointly request a status conference before the Planning Commission to discuss this Order.

Very truly yours,



Calvert G. Chipchase
for

CADES SCHUTTE
A Limited Liability Law Partnership

Enclosure

cc: Richard Wurdemann
Dana Viola
Ian Sandison

C S

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'12 OCT 31 P1:02



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

STATE OF HAWAII
LAND USE COMMISSION
OCT - 8 P 12:45

In The Matter Of The Application Of The)	DOCKET NO. SP09-403
)	
DEPARTMENT OF ENVIRONMENTAL)	ORDER REMANDING COUNTY
SERVICES, CITY AND COUNTY OF)	SPECIAL USE PERMIT FILE NO.
HONOLULU)	2008/SUP-2 TO THE CITY AND
)	COUNTY OF HONOLULU
For A New Special Use Permit To)	PLANNING COMMISSION;
Supersede Existing Special Use Permit To)	AND CERTIFICATE OF SERVICE
Allow A 92.5-Acre Expansion And Time)	
Extension For Waimānalo Gulch Sanitary)	
Landfill, Waimānalo Gulch, O`ahu,)	
Hawai`i, Tax Map Key: 9-2-03: 72 And 73)	
_____)	

ORDER REMANDING COUNTY SPECIAL USE PERMIT FILE NO. 2008/SUP-2 TO
THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION

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, Hawai`i.

October 8, 2012 by

Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

2012 OCT -8 P 12:41

LAND USE COMMISSION
STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. SP09-403
)
DEPARTMENT OF ENVIRONMENTAL) ORDER REMANDING COUNTY
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HONOLULU) 2008/SUP-2 TO THE CITY AND
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For A New Special Use Permit To) PLANNING COMMISSION;
Supersede Existing Special Use Permit To) AND CERTIFICATE OF SERVICE
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ORDER REMANDING COUNTY SPECIAL USE PERMIT FILE NO. 2008/SUP-2 TO
THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION

AND

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BEFORE THE LAND USE COMMISSION
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LAND USE COMMISSION
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2012 OCT - 8 P 12:41

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Hawai`i, Tax Map Key: 9-2-03: 72 And 73)	
_____)	

ORDER REMANDING COUNTY SPECIAL USE PERMIT FILE NO. 2008/SUP-2
TO THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION

On September 14, 2012, the State Land Use Commission ("LUC") met in Ko `Olina, O`ahu, Hawai`i, to continue discussion and deliberation on the procedural issues arising from Civil No. 09-1-2719-11.¹ Dana Viola, Esq., and

¹ On July 5, 2012, the LUC commenced its proceedings on this matter. During its presentation, the Department of Environmental Services, City and County of Honolulu ("Applicant"), orally moved for an additional two weeks for the parties to file written briefs with the LUC to more fully address the procedural issues. The LUC granted the Applicant's oral motion and ordered the parties to file the written briefs with the LUC by the close of business on July 19, 2012. The State Office of Planning ("OP") and Schnitzer Steel Hawai`i Corp. ("Schnitzer"), an intervenor in the Applicant's pending application before the City and County of Honolulu Planning Commission ("Planning Commission") to modify the LUC's Order Adopting The City And Docket No. SP09-403 Department Of Environmental Services, City And County Of Honolulu 1 Order Remanding County Special Use Permit File No. 2008/SUP-2 To The City And County Of Honolulu Planning Commission

Brian Black, Esq., appeared on behalf of the Applicant. Calvert G. Chipchase, Esq., appeared on behalf of Intervenor the Ko 'Olina Community Association ("KOCA") and Maile Shimabukuro ("Shimabukuro"). Richard Wurdeman, Esq., appeared on behalf of Intervenor Colleen Hanabusa ("Hanabusa"). Don Kitaoka, Esq., was also present on behalf of the City and County of Honolulu Department of Planning and Permitting as were Bryan C. Yee, Esq., and Rodney Funakoshi on behalf of OP.

At the meeting, the LUC heard public testimony from Cynthia Rezentes, Beverly Munson, Kirk Fritz, Kamaki Kanahale, Maile Shimabukuro, and Joseph Imaoka, and entered the written testimonies of Greg Nichols, Ken Williams, Sweetie Nelson, and Joy Leilei Shih into the record.²

Following the receipt of public testimony, the parties provided oral argument on the procedural issues and options available to the LUC in this matter.

County Of Honolulu Planning Commission's Findings Of Fact, Conclusions Of Law, And Decision And Order With Modifications ("LUC Order") filed October 22, 2009, were also free to file written briefs with the LUC by the aforementioned date.

² Prior to the receipt of public testimony, Commissioner Nicholas Teves disclosed that his firm, Commercial Electric Inc., had completed two projects for KOCA in 2011, but that he did not have any personal contact in the projects and could make an impartial decision on the matter. Commissioner Ronald Heller disclosed that he represents the Association of Apartment Owners of Beach Villas, a member of KOCA, in litigation against KOCA. There were no objections by the Applicant or Intervenor KOCA and Shimabukuro to the participation of Commissioners Teves and Heller in the proceeding. Intervenor Hanabusa took no position on the matter.

Docket No. SP09-403 Department Of Environmental Services, City And County Of Honolulu 2
Order Remanding County Special Use Permit File No. 2008/SUP-2 To The City And County Of Honolulu Planning Commission

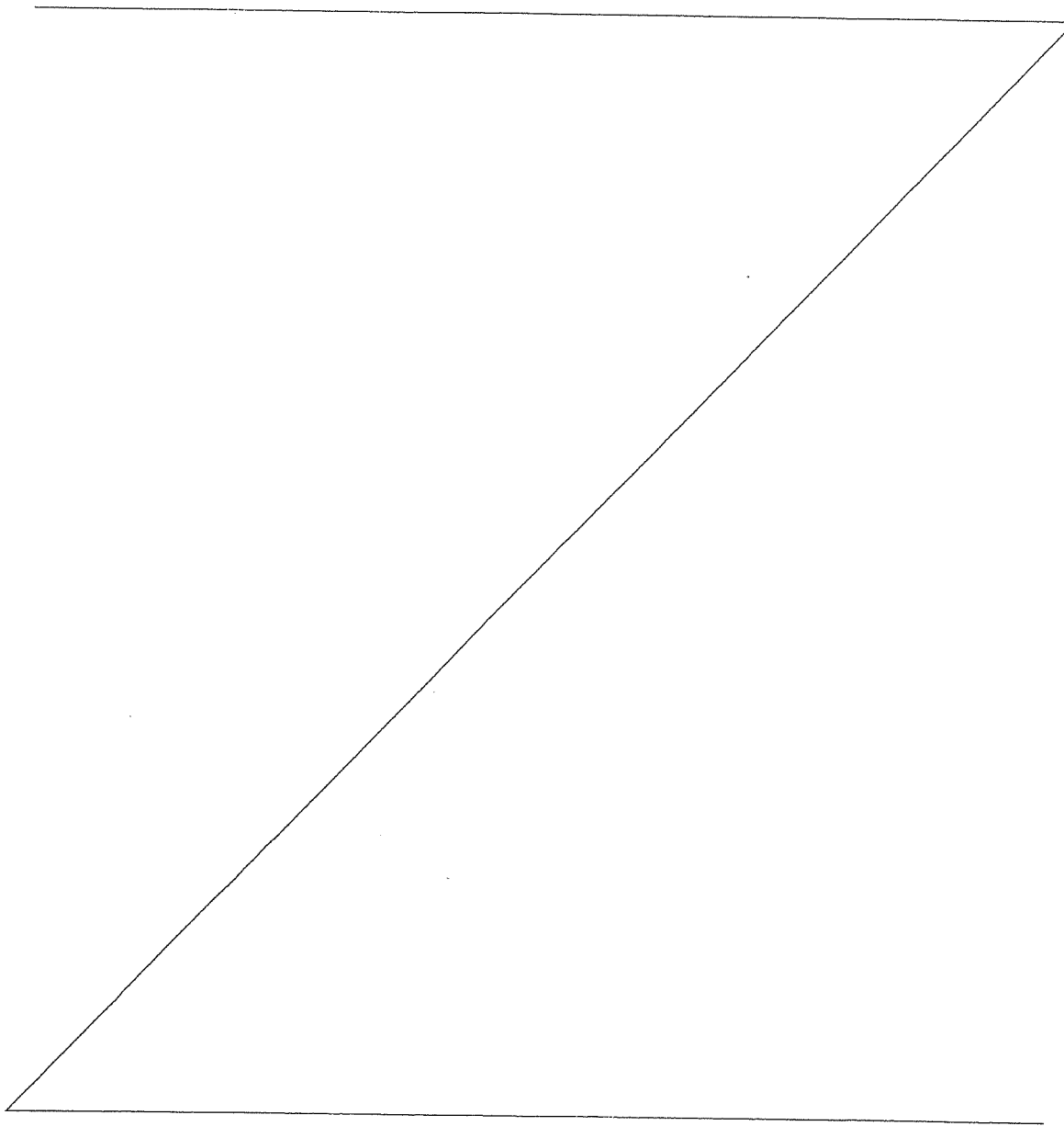
Following discussion, a motion was made and seconded to remand County Special Use Permit File No. 2008/SUP-2 to the Planning Commission for the expressed purpose of consolidating it with the proceeding on the Applicant's pending application to modify the LUC's Order filed October 22, 2009, in order that the Planning Commission may issue and transmit a single, consolidated Findings of Fact, Conclusions of Law, and Decision and Order on the matter to the LUC for further action pursuant to section 205-6, Hawai'i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai'i Administrative Rules ("HAR"). There being a vote of 7 ayes, 0 nays, and 2 excused, the motion carried.

ORDER

The LUC, having duly considered the written and oral arguments presented by the Applicant, Intervenors KOCA, Shimabukuro, and Hanabusa, OP, and Schnitzer, and a motion having been made and seconded at a meeting on September 14, 2012, in Ko 'Olina, O'ahu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that County Special Use Permit File No. 2008/SUP-2 be REMANDED to the Planning Commission for the expressed purpose of consolidating it with the proceeding on the Applicant's pending application to modify the LUC's Order filed October 22, 2009, in order that the

Planning Commission may issue and transmit a single, consolidated Findings of Fact, Conclusions of Law, and Decision and Order on the matter to the LUC for further action pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR.



ADOPTION OF ORDER

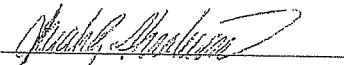
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 8th day of October, 2012. This ORDER may be executed in counterparts. This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu Hawai'i, this 8th day of October, 2012, per motion on September 14, 2012.

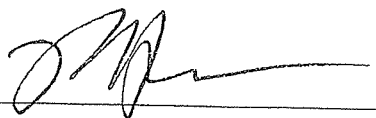
LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII


Deputy Attorney General

By _____
KYLE CHOCK
Chairperson and Commissioner

By  _____
RONALD HELLER
Vice- Chairperson and Commissioner

By _____
CHAD McDONALD
Vice- Chairperson and Commissioner

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Deputy Attorney General

By Kyle Chock
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Chairperson and Commissioner

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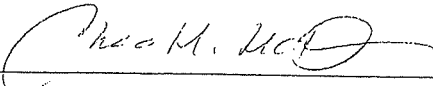
APPROVED AS TO FORM

STATE OF HAWAII

Deputy Attorney General

By _____
KYLE CHOCK
Chairperson and Commissioner

By _____
RONALD HELLER
Vice- Chairperson and Commissioner

By  _____
CHAD McDONALD
Vice- Chairperson and Commissioner

By Sheldon R. Biga
SHELDON BIGA
Commissioner

By Lance Inouye
LANCE INOUE
Commissioner

By _____ (excused)
JAYE NAPUA MAKUA
Commissioner

By Ernest Matsumura
ERNEST MATSUMURA
Commissioner

Filed and effective on:

10/8/12

By _____ (excused)
THOMAS CONTRADES
Commissioner

Certified by:

Daniel Orodanker
DANIEL ORODENKER
Executive Officer

By Nicholas W. Teves Jr.
NICHOLAS W. TEVES JR.
Commissioner



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

2012 OCT - 8 P 12:15
LAND USE COMMISSION
STATE OF HAWAII

In The Matter Of The Application Of The)	DOCKET NO. SP09-403
DEPARTMENT OF ENVIRONMENTAL SERVICES,)	ORDER REMANDING COUNTY
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Special Use Permit To Allow A 92.5-Acre Expansion)	COUNTY OF HONOLULU
And Time Extension For Waimānalo Gulch Sanitary)	PLANNING COMMISSION ;
Landfill, Waimānalo Gulch, O`ahu, Hawai`i, Tax Map)	CERTIFICATE OF SERVICE
Key: 9-2-03: 72 And 73)	
)	

CERTIFICATE OF SERVICE

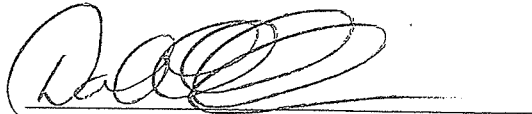
I hereby certify that a copy of the ORDER REMANDING COUNTY SPECIAL
USE PERMIT FILE NO. 2008/SUP-2 TO THE CITY AND COUNTY OF
HONOLULU PLANNING COMMISSION was served upon the following by either
hand delivery or depositing the same in the U. S. Postal Service by regular or certified
mail as noted:

DEL. Jesse Souki, Director
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Bryan Yee, Esq.
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- CERT. Don Kitaoka, Esq.
Deputy Corporation Counsel
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- CERT. Dana Viola, Esq.
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Honolulu, Hawaii 96813
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CHRISTOPHER T. GOODIN
1000 Bishop St. Suite 1200
Honolulu, HI 96813

Dated: October 8, 2012, Honolulu, Hawaii.


Daniel Orodener, Executive Officer