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2017 DEC -5 PM 2:30
DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

Attorneys for Applicant
DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU

For a New Special Use Permit To Supersede
Existing Special Use Permit To Allow A
92.5-Acre Expansion And Time Extension For
Waimanalo Gulch Sanitary Landfill,
Waimanalo Gulch, O'ahu, Hawai'i, Tax Map
Key No. (1) 9-2-03: 72 And 73,

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU

To delete Condition No. 14 of Special Use
Permit No. 2008/SUP-2 (also referred to as
Land Use Commission Docket No. SP09-403)
which states as follows:

FILE NO. 2008/SUP-2

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU'S RESPONSE TO
INTERVENORS KO OLINA COMMUNITY
ASSOCIATION AND MAILE
SHIMABUKURO'S OBJECTIONS TO
AGENDA FOR DECEMBER 6, 2017;
DECLARATION OF KAMILLA C. K.
CHAN; EXHIBITS "1" THROUGH "4";
CERTIFICATE OF SERVICE

“14. Municipal solid waste shall be allowed at the WGS� up to July 21, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGS� after July 31, 2012.”

DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU’S RESPONSE TO INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND MAILE SHIMABUKURO’S OBJECTIONS TO AGENDA FOR DECEMBER 6, 2017

Applicant DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU (“Applicant” or “ENV”), by and through its attorney, KAMILLA C. K. CHAN, Deputy Corporation Counsel, respectfully submits this Response to Intervenor Ko Olina Community Association and Maile Shimabukuro’s (collectively, “Intervenor KOCA”) Objections to Agenda for December 6, 2017, dated November 30, 2017. ENV contends that the agenda for the December 6, 2017 meeting provides sufficient notice that the Planning Commission (“Planning Commission”) will act to adopt proposed findings of fact, conclusions of law, and decision and order in the above-captioned proceeding. Further, the adoption of a proposed decision at the scheduled meeting complies with the Land Use Commission’s June 6, 2017 Order (“2017 LUC Order”).

The Planning Commission issued the agenda for the December 6, 2017 meeting on November 29, 2017. The agenda includes the following item:

CONTINUED – CONTESTED CASE HEARING

EWA-STATE SPECIAL USE PERMIT AMENDMENT APPLICATION –
2008/SUP-2(RY)

WAIMANALO GULCH SANITARY LANDFILL (WGS�)

FOR ACTION

1. Adoption of Proposed Findings of Fact, Conclusions of Law, and Decision and Order.¹

See Decl. of Kamilla C. K. Chan ¶ 5 and Dec. 6, 2017 agenda, attached hereto as Exh. “4”.

The seven days’ notice provided by the Planning Commission for the hearing to adopt the proposed findings of fact, conclusions of law, and decision and order is sufficient. The notice requirements in Hawaii Revised Statutes (“HRS”) § 91-9.5(a)² and RPC § 2-63(a)³, which imposes a minimum of fifteen days’ notice, applies to the notice issued at the commencement of a contested case hearing. It does not apply to every subsequent hearing in a contested case proceeding.

A “contested case” is “a proceeding in which the legal rights, duties or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.” See HRS § 91-1(5). HAPA sets forth the procedures to be afforded parties in a contested case, including: (1) reasonable notice; (2) the opportunity to present evidence and argument; (3) an agency decision on the record; (4) rules of evidence, including, where oral evidence is received by the agency, the right to cross-examine and the right to submit rebuttal evidence; (5) a written decision accompanied by findings of fact and conclusions of law; and (6) a prohibition against

¹ This agenda item was previously scheduled for the Planning Commission’s October 25, 2017 meeting. See Decl. of Kamilla C. K. Chan at ¶ 2 and Oct. 25, 2017 Notice of Hearing, attached hereto as Exh. “1”. Two days before the scheduled hearing, the Commission notified the parties that the continued contested case hearing was cancelled because it did not have quorum. See Chan Decl. at ¶ 4 and Notice of Cancellation, attached hereto as Exh. “3”.

² HRS § 91-9.5(a) states as follows: “Unless otherwise provided by law, all parties shall be given written notice of hearing by registered or certified mail with return receipt requested at least fifteen days before the hearing.”

³ RPC §2-63(a) states as follows: “Unless otherwise provided by law, the notice of a contested case hearing shall be served on all parties and any other deemed appropriate by the commission at their last recorded addresses at least fifteen (15) calendar days prior to the date of the hearing by certified mail with return receipt requested. Notices shall also be posted by the city clerk and at the commission’s office.”

ex parte communications. See Alejado v. City and County of Honolulu, 89 Haw. 221, 225 (1999).

In the instant proceeding, the parties received reasonable notice, an opportunity to present evidence and argument, the right to cross-examine witnesses, and the right to submit rebuttal evidence before the evidentiary record was closed on April 23, 2012. Additionally, the prohibition against ex parte communications continues to apply throughout the proceeding. In conducting further proceedings in accordance with the 2017 LUC Order, this Commission indicated that it will provide parties with an agency decision on the record and a written decision accompanied by findings of fact and conclusions of law.⁴ Accordingly, full compliance with the procedural protections afforded by HAPA will be met.

Further, requiring a minimum of fifteen days' notice for every subsequent day of hearing would be unduly burdensome. This Commission would be barred from continuing a contested case hearing for an additional consecutive day, as may be necessary and desirable during the course of a hearing. Accordingly, Intervenor KOCA's application of the notice requirement to the instant hearing must be rejected.

ENV also asserts that the description of the hearing in the December 6, 2017 agenda is sufficient. As discussed above, the agenda clearly states that the Planning Commission is meeting to adopt the proposed findings of fact, conclusions of law, and decision and order. See Chan Decl. at ¶ 5 and Dec. 6, 2017 agenda, attached hereto as Exh. "4". Information from Planning Commission staff confirms that the purpose of the meeting⁵ is to:

[A]dopt **proposed** Findings of Fact, Conclusions of Law, Decision and Order ("D&O") for dissemination to the parties for their consideration. If a **proposed**

⁴ See Chan Decl. at ¶ 3.

⁵ The action item on the October 25, 2017 agenda is identical to the one on the December 6, 2017 agenda. Thus, ENV asserts that the purpose of the meeting remains the same. See Chan Decl. at ¶¶ 2, 5.

D&O is adopted at the meeting, the Commission will take the following further procedural steps:

1. Schedule deadlines for the parties to submit written exceptions to the proposed D&O.
2. Set the hearing date for oral arguments on the proposed D&O.
3. Distribute the proposed D&O to all the parties.
4. After the written exceptions are filed, hold the hearing for oral arguments by the parties.
5. The Planning Commission may discuss the matter after oral arguments are made.
6. If after oral arguments and discussion the Planning Commission is ready to adopt the final D&O, then the Commission may do so at the hearing. Otherwise the Commission may take the matter under advisement.

Pursuant to the above procedural steps, the parties will have ample opportunities to voice their objections through the filing of written exceptions and oral arguments.

See Chan Decl. at ¶ 3 and Oct. 20, 2017 email from Gloria C. Takara, attached hereto as Exh. “2” (emphasis in original).

Contrary to Intervenor KOCA’s claim, HRS § 91-9(b)(4) and RPC § 2-63(b) do not require the notice of hearing to specify the scheduling of deadlines and hearings for oral argument. Rather, the procedural protections afforded by HAPA and RPC require the notice issued at the commencement of the proceeding to include “[a]n explicit statement in plain language of the issues involved” in the contested case hearing.

Finally, the adoption of **proposed** findings of fact, conclusions of law, and decision and order at the December 6, 2017 hearing complies with the 2017 LUC Order, which remanded the proceedings to the Planning Commission pursuant to HAR § 15-15-96(a) for further proceedings to:

- (1) clarify whether the Planning Commission followed Section 2-75 of the Rules of the Planning Commission in issuing its Findings of Fact, Conclusions of Law, and Decision and Order;
- (2) clarify the basis of the Planning Commission’s proposed additional Condition No. 3, which specifies a December 31, 2022, date

within which the Applicant is to identify an alternative site that will be used upon the WGSL reaching its capacity and the implications it has on the closure date of the WGSL to use and the subsequent commencement of operations at the alternative landfill site; (3) clarify whether the record needs to include updated information on the operation of the WGSL, the landfill site selection process, and the waste diversion efforts of the City and County of Honolulu; (4) assuming the Planning Commission eventually recommends approval of the matter, clarify the effective date of the Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order; and (5) clarify whether the Planning Commission is ruling on both the 2008 Application and the 2011 Application in its Findings of Fact, Conclusions of Law, and Decision and Order.

See 2017 LUC Order at 5-6.

As discussed in ENV's Memorandum in Opposition to Intervenor KOCA's Motion to Reopen the Contested Case Hearing, the Planning Commission can rely on the existing complete evidentiary record in this proceeding to address the five clarifications requested by the LUC on remand.⁶ See ENV's Memorandum in Opposition, dated Dec. 4, 2017, at 9-10. It would not be proper to reopen the contested case hearing because there is no documentary evidence that would be relevant to the clarifications specifically requested by the LUC. Id. Accordingly, ENV contends that the Planning Commission can immediately address the requested clarifications in the proposed findings of fact, conclusions of law, and decision and order, which it may adopt at the December 6, 2017 meeting.

Based on the foregoing, ENV contends that the Planning Commission provided sufficient notice of the contested case hearing, the description of the hearing is sufficient, and

//

⁶ Requested clarification (1), which asks this Commission to clarify whether it followed RPC § 2-75, is a purely procedural matter. Requested clarification (2) asks this Commission to clarify its basis and intentions in setting the December 31, 2022 deadline in Condition No. 3, which does not require any further factual findings. Requested clarification (3) asks for the Commission's determination as to whether the record needs updated information to support its 2017 Planning Commission Decision, which the Commission previously decided in denying the parties' requests to reopen, a decision for which there is no justification to reconsider. Requested clarifications (4) and (5) ask this Commission to clarify the intended application of its decision and order, which would not be affected by any additional factual information. See ENV Memorandum in Opposition at 10.

that the adoption of a proposed decision at the scheduling hearing complies with the 2017 LUC Order.

DATED: Honolulu, Hawaii, December 5, 2017.



KAMILLA C. K. CHAN
Deputy Corporation Counsel
Attorneys for Applicant
DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY
OF HONOLULU

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
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For a New Special Use Permit To Supersede
Existing Special Use Permit To Allow A
92.5-Acre Expansion And Time Extension For
Waimanalo Gulch Sanitary Landfill,
Waimanalo Gulch, O'ahu, Hawai'i, Tax Map
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“14. Municipal solid waste shall be allowed at
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allowed at the WGS� after July 31, 2012.”

FILE NO. 2008/SUP-2

DECLARATION OF KAMILLA C. K.
CHAN

DECLARATION OF KAMILLA C. K. CHAN

I, KAMILLA C. K. CHAN, hereby declare as follows:

1. I am one of the attorneys for the Department of Environmental Services, City and County of Honolulu, in this action and make this declaration based on personal knowledge.

2. On October 19, 2017, I received notice by email that the Honolulu Planning Commission (“Planning Commission”) placed this continued contested case hearing on the agenda for its October 25, 2017 meeting. Attached hereto as Exhibit “1” is a true and accurate copy of the transmittal email and October 25, 2017 Honolulu Planning Commission agenda.

3. On October 20, 2017, I received an email from Gloria Takara, a member of the Planning Commission staff, which stated the purpose of the October 25, 2017 meeting and described the procedural steps that would be followed if the Planning Commission adopted the proposed decision and order at the meeting. Attached hereto as Exhibit “2” is a true and accurate copy of the email from Ms. Takara.

4. On October 23, 2017, I received an email from Planning Commission staff, which provided notice that due to a lack of quorum, the continued contested case hearing was cancelled and would not be heard on October 25, 2017. Attached hereto as Exhibit “3” is a true and accurate copy of the transmittal email and cancellation notice.

5. On November 29, 2017, I received notice by email that the Planning Commission placed this continued contested case hearing on the agenda for its December 6, 2017 meeting. Attached hereto as Exhibit “4” is a true and accurate copy of the transmittal email and December 6, 2017 Honolulu Planning Commission agenda.

I declare under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge and belief.

DATED: Honolulu, Hawaii, December 5, 2017.



KAMILLA C. K. CHAN

Chan, Kamilla C K

From: Takara, Gloria C
Sent: Thursday, October 19, 2017 2:41 PM
To: Arsima Muller Esq. (amuller@carlsmith.com); Cal Chipchase, Esq. ; Christopher Goodin, Esq. ; Viola, Dana M O; Ian Sandison, Esq. ; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing
Attachments: PC's October 25, 2017 PC agenda - Halawa TOD and WGSL contested case hearing.pdf

To All,

Attached is Planning Commission's Oct. 25, 2017 agenda.

Thank you,

Gloria Takara
Planning Commission –
768-8007

CITY AND COUNTY OF HONOLULU
PLANNING COMMISSION

Meeting of the Planning Commission

DATE: Wednesday, October 25, 2017
TIME: 1:30 p.m.
PLACE: Mission Memorial Conference Room, Mission Memorial Building,
550 South King Street, Honolulu, Hawaii

AGENDA

APPROVAL OF MINUTES: The minutes of the August 30, 2017 and September 27, 2017 meetings, as previously circulated, to be approved by the Commission.

PUBLIC HEARING:

Public hearing notice published in the Honolulu Star-Advertiser on October 13, 2017.

HALAWA AREA TRANSIT-ORIENTED DEVELOPMENT (TOD) PLAN (FK)

Request: Recommendation to adopt a community-based plan that focuses on the area surrounding the future Aloha Stadium rail transit station in Halawa.

CONTINUED - CONTESTED CASE HEARING:

EWA-STATE SPECIAL USE PERMIT AMENDMENT APPLICATION – 2008/SUP-2 (RY)
WAIMANALO GULCH SANITARY LANDFILL (WGSL)

Applicant: Department of Environmental Services, City and County of Honolulu
Landowner: City and County of Honolulu
Location: 92-460 Farrington Highway, Honouliuli, Ewa, Oahu
Tax Map Key: 9-2-3: 72 & 73
Existing Use: Landfill and open space
State Land Use: Agricultural District
Existing Zoning: AG-2 General Agricultural District
Land Area: 200.622 Acres

REQUEST:

- 1) For a New Special Use Permit to Supersede Existing Special Use Permit to Allow a 92.5-Acre Expansion and Time Extension for Waimanalo Gulch Sanitary Landfill, Waimanalo Gulch, O'ahu, Hawai'i, Tax Map Key No. (1) 9-2-03: 72 and 73
- 2) To delete Condition No. 14 of Special Use Permit No. 2008/SUP-2 (also referred to as Land Use Commission Docket No. SP09-403) which states as follows:

"14. Municipal solid waste shall be allowed at the WGSL up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGSL after July 31, 2012."

FOR ACTION

1. Adoption of Proposed Findings of Fact, Conclusions of Law, and Decision and Order

EXECUTIVE SESSION

To consult with the Commission's attorney on the authority, duties, privileges and immunities pertaining to Section 205-6 of the Hawaii Revised Statutes, as amended, and Chapter 2, Subchapters 4 and 5 of the Rules of the Planning Commission, in accordance with HRS 92-5(a)(4).

ADJOURNMENT

If you require special assistance, auxiliary aid and/or service to participate in this event (i.e., sign language interpreter, interpreter for language other than English, or wheelchair accessibility), please call 768-8000, or email your request to info@honoluluodpp.org at least three business days prior to the event.

Chan, Kamilla C K

From: Takara, Gloria C
Sent: Friday, October 20, 2017 2:28 PM
To: Christopher Goodin; Cal Chipchase
Cc: Arsima Muller Esq. (amuller@carlsmith.com); Viola, Dana M O; Ian Sandison, Esq.; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing

To All,

The Planning Commission meeting currently scheduled for October 25, 2017 is simply to adopt **proposed** Findings of Fact, Conclusions of Law, Decision and Order ("D&O") for dissemination to the parties for their consideration. If a **proposed** D&O is adopted at the meeting, the Commission will take the following further procedural steps:

1. Schedule deadlines for the parties to submit written exceptions to the proposed D&O.
2. Set the hearing date for oral arguments on the proposed D&O
3. Distribute the proposed D&O to all the parties.
4. After the written exceptions are filed, hold the hearing for oral arguments by the parties.
5. The Planning Commission may discuss the matter after oral arguments are made.
6. If after oral arguments and discussion the Planning Commission is ready to adopt the final D&O, then the Commission may do so at the hearing. Otherwise the Commission may take the matter under advisement.

Pursuant to the above procedural steps, the parties will have ample opportunities to voice their objections through the filing of written exceptions and oral arguments.

It is in the best interests of all parties for the Commission to issue proposed D&O as soon as practicable. Therefore, the meeting currently scheduled for October 25, 2017 will proceed as scheduled, simply to issue a **proposed** D&O for the parties' consideration. The **proposed** D&O will be subject to the further actions of the parties through written exceptions and oral arguments.

From: Takara, Gloria C
Sent: Friday, October 20, 2017 12:35 PM
To: 'Christopher Goodin'; 'Cal Chipchase'
Cc: Arsima Muller Esq. (amuller@carlsmith.com); Viola, Dana M O; Ian Sandison, Esq.; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing

Aloha Cal and Chris,

Confirming receipt of your emails (request and formal objection). Both were deferred to Chair Hazama and Deputy Corp Counsel Don Kitaoka (advisory to the Planning Commission).

Thank you,
Gloria

From: Christopher Goodin [mailto:cgoodin@cades.com]
Sent: Friday, October 20, 2017 10:54 AM
To: Takara, Gloria C

Cc: Arsima Muller Esq. (amuller@carlsmith.com); Viola, Dana M O; Ian Sandison, Esq.; Chan, Kamilla C K; Richard N. Wurdeman, Esq.; Cal Chipchase

Subject: RE: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing

Gloria,

We're preparing our formal objection now. In addition to the points below, our objection will show that:

1. The notice of hearing does not comply with the commission's rules section 2-63, which requires at least fifteen days' notice prior to the hearing.
2. The commission has not served a proposed decision as required by the commission's rules section 2-75 or given us opportunity to file objections and present oral argument on the proposed decision as required by the same section.
3. The commission has not followed the LUC's remand order to clarify a number of points, including (a) the basis for the commission's prior proposed condition 3 for identification an alternate site and (b) whether the record needs to include updated information. Because the commission has not followed the LUC's order, we intend to file a motion to reopen. No decision should be made at least until the motion is decided.

Each of these grounds would invalidate the commission's decision. We respectfully ask that the chair reconsider our request to move the hearing.

Thanks,
Chris Goodin

From: Cal Chipchase

Sent: Friday, October 20, 2017 10:36 AM

To: Takara, Gloria C

Cc: Christopher Goodin; Arsima Muller Esq. (amuller@carlsmith.com); Viola, Dana M O; Ian Sandison, Esq.; Chan, Kamilla C K; Richard N. Wurdeman, Esq.

Subject: Re: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing

Hi -

I appreciate the commission's position. Nevertheless, refusing to move the hearing is not an option. Our clients' counsel, who have represented the clients for six years in this matter, are unable to attend the hearing. This isn't a mere scheduling preference or a situation where lead counsel is unavailable but associate counsel can handle it. This is a situation where two parties will be prevented from having any legal representation at a substantive hearing.

It would be a patent violation of the commission's rules and chapter 91 and a patent denial of due process under Town and a legion of cases not to move the hearing. The commission sat on its decision for months, noticed a hearing out of the blue and didn't ask anyone about availability. We've adapted to that mode of scheduling for every prior hearing, often despite the hardship. This time we simply cannot accommodate the commission's preferred date.

Accordingly, we renew our request to reschedule the hearing. If the commission proceeds anyway, we object. And you can expect the LUC or the court to vacate the decision and make the commission do it over again. Let's not waste that time and those resources.

Thank you,

Cal

On Oct 20, 2017, at 9:34 AM, Takara, Gloria C <gtakara@honolulu.gov> wrote:

Aloha Chris,

Due to the upcoming docket and availability of the Commissioners, Planning Commission is not able to move Oct. 25th, 2017 hearing.

Thank you,

Gloria

From: Takara, Gloria C
Sent: Thursday, October 19, 2017 5:30 PM
To: 'Christopher Goodin'
Cc: Arsima Muller Esq. (amuller@carlsmith.com); Cal Chipchase; Viola, Dana M O; Ian Sandison, Esq. ; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: confirming receipt - Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing

Aloha Chris,

I deferred your request onto Chairman Dean Hazama.

Thank you,

Gloria

From: Christopher Goodin [<mailto:cgoodin@cades.com>]
Sent: Thursday, October 19, 2017 4:52 PM
To: Takara, Gloria C; Arsima Muller Esq. (amuller@carlsmith.com); Cal Chipchase; Viola, Dana M O; Ian Sandison, Esq. ; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: RE: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGSL contested case hearing

Gloria,

Cal Chipchase and I both have schedule conflicts on October 25. I would greatly appreciate the courtesy of moving this hearing. Please let me know.

Thank you,
Chris Goodin

Christopher T. Goodin
Attorney at Law

Cades Schutte LLP

Cades Schutte Building

1000 Bishop Street, Suite 1200

Honolulu, HI 96813

(t) 808.521.9296 | (f) 808.540.5090

cgoodin@cades.com | www.cades.com

From: Takara, Gloria C [<mailto:gtakara@honolulu.gov>]

Sent: Thursday, October 19, 2017 2:41 PM

To: Arsima Muller Esq. (amuller@carlsmith.com); Cal Chipchase; Christopher Goodin; Viola, Dana M O; Ian Sandison, Esq. ; Chan, Kamilla C K; Richard N. Wurdeman, Esq.

Subject: Planning Commission's Oct. 25, 2017 agenda - Halawa TOD & WGS� contested case hearing

To All,

Attached is Planning Commission's Oct. 25, 2017 agenda.

Thank you,

Gloria Takara
Planning Commission –
768-8007

This e-mail, including its attachments, is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. If you are not the intended recipient, please do not forward, disseminate, disclose, distribute, use, or copy this e-mail or its attachments. Instead, please notify us immediately by reply e-mail or by telephone (808) 521-9200, and delete the original e-mail and its attachments, and all copies.

This e-mail, including its attachments, is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. If you are not the intended recipient, please do not forward, disseminate, disclose, distribute, use, or copy this e-mail or its attachments. Instead, please notify us immediately by reply e-mail or by telephone (808) 521-9200, and delete the original e-mail and its attachments, and all copies.

Chan, Kamilla C K

From: Takara, Gloria C
Sent: Monday, October 23, 2017 2:08 PM
To: Arsima Muller Esq. (amuller@carlsmith.com); Cal Chipchase, Esq. ; Christopher Goodin, Esq. ; Viola, Dana M O; Ian Sandison, Esq. ; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: Planning Commission's 10-25-17 mtg. (cancelled - WGSL continued contested case hearing)
Attachments: WGSL lack of quorum @ 10-25-17 mtg.pdf

To All,

Thank you.

Gloria Takara
Planning Commission
768-8007

CITY AND COUNTY OF HONOLULU
PLANNING COMMISSION

**WGSL CONTINUED
CONTESTED CASE
HEARING IS CANCELLED
FOR LACK OF QUORUM
AND WILL BE
RESCHEDULED AT A
LATER DATE**

Meeting of the Planning Commission

DATE: Wednesday, October 25, 2017
TIME: 1:30 p.m.
PLACE: Mission Memorial Conference Room, Mission Memorial Building,
550 South King Street, Honolulu, Hawaii

AGENDA

APPROVAL OF MINUTES: The minutes of the August 30, 2017 and September 27, 2017 meetings, as previously circulated, to be approved by the Commission.

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HALAWA AREA TRANSIT-ORIENTED DEVELOPMENT (TOD) PLAN (FK)

Request: Recommendation to adopt a community-based plan that focuses on the area surrounding the future Aloha Stadium rail transit station in Halawa.

CONTINUED - CONTESTED CASE HEARING: *** **CANCELLED** ***

EWA-STATE SPECIAL USE PERMIT AMENDMENT APPLICATION – 2008/SUP-2 (RY)
WAIMANALO GULCH SANITARY LANDFILL (WGSL)

Applicant: Department of Environmental Services, City and County of Honolulu
Landowner: City and County of Honolulu
Location: 92-460 Farrington Highway, Honouliuli, Ewa, Oahu
Tax Map Key: 9-2-3: 72 & 73
Existing Use: Landfill and open space
State Land Use: Agricultural District
Existing Zoning: AG-2 General Agricultural District
Land Area: 200.622 Acres

REQUEST:

- 1) For a New Special Use Permit to Supersede Existing Special Use Permit to Allow a 92.5-Acre Expansion and Time Extension for Waimanalo Gulch Sanitary Landfill, Waimanalo Gulch, O'ahu, Hawai'i, Tax Map Key No. (1) 9-2-03: 72 and 73
- 2) To delete Condition No. 14 of Special Use Permit No. 2008/SUP-2 (also referred to as Land Use Commission Docket No. SP09-403) which states as follows:

"14. Municipal solid waste shall be allowed at the WGSL up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGSL after July 31, 2012."

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1. Adoption of Proposed Findings of Fact, Conclusions of Law, and Decision and Order

EXECUTIVE SESSION

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ADJOURNMENT

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Chan, Kamilla C K

From: Takara, Gloria C
Sent: Wednesday, November 29, 2017 3:32 PM
To: Arsima Muller Esq. (amuller@carlsmith.com); Cal Chipchase, Esq. ; Christopher Goodin, Esq. ; Viola, Dana M O; Ian Sandison, Esq. ; Chan, Kamilla C K; Richard N. Wurdeman, Esq.
Subject: Planning Commission Dec. 6, 2017 agenda - WGSL continued contested case hearing
Attachments: agenda - PC's Dec. 6, 2017 WGSL continued contested case hearing.pdf

To All,

Attached is Planning Commission's Dec. 6, 2017 agenda, WGSL continued contested case hearing.

Thank you,

Gloria

CITY AND COUNTY OF HONOLULU
PLANNING COMMISSION

Meeting of the Planning Commission

DATE: Wednesday, December 6, 2017
TIME: 1:30 p.m.
PLACE: Mission Memorial Conference Room, Mission Memorial Building,
550 South King Street, Honolulu, Hawaii

AGENDA

APPROVAL OF MINUTES: The minutes of the October 25, 2017 and November 8, 2017 meetings, as previously circulated, to be approved by the Commission.

CONTINUED - CONTESTED CASE HEARING:

EWA-STATE SPECIAL USE PERMIT AMENDMENT APPLICATION – 2008/SUP-2 (RY)
WAIMANALO GULCH SANITARY LANDFILL (WGSL)

Applicant: Department of Environmental Services, City and County of Honolulu
Landowner: City and County of Honolulu
Location: 92-460 Farrington Highway, Honouliuli, Ewa, Oahu
Tax Map Key: 9-2-3: 72 & 73
Existing Use: Landfill and open space
State Land Use: Agricultural District
Existing Zoning: AG-2 General Agricultural District
Land Area: 200.622 Acres

REQUEST:

- 1) For a New Special Use Permit to Supersede Existing Special Use Permit to Allow a 92.5-Acre Expansion and Time Extension for Waimanalo Gulch Sanitary Landfill, Waimanalo Gulch, Oahu, Hawaii, Tax Map Key No. (1) 9-2-03: 72 and 73
- 2) To delete Condition No. 14 of Special Use Permit No. 2008/SUP-2 (also referred to as Land Use Commission Docket No. SP09-403) which states as follows:

“14. Municipal solid waste shall be allowed at the WGSL up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGSL after July 31, 2012.”

FOR ACTION

1. Adoption of Proposed Findings of Fact, Conclusions of Law, and Decision and Order

FOR DISCUSSION

1. Intervenors Ko Olina Community Association and Maile Shimabukuro's Motion to Reopen the Contested Case Hearing

EXECUTIVE SESSION

To consult with the Commission's attorney on the authority, duties, privileges and immunities pertaining to Section 205-6 of the Hawaii Revised Statutes, as amended, and Chapter 2, Subchapters 4 and 5 of the Rules of the Planning Commission, in accordance with HRS 92-5(a)(4).

ADJOURNMENT

If you require special assistance, auxiliary aid and/or service to participate in this event (i.e., sign language interpreter, interpreter for language other than English, or wheelchair accessibility), please call 768-8000, or email your request to info@honoluluodpp.org at least three business days prior to the event.

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU

For a New Special Use Permit To Supersede
Existing Special Use Permit To Allow A
92.5-Acre Expansion And Time Extension For
Waimanalo Gulch Sanitary Landfill,
Waimanalo Gulch, O'ahu, Hawai'i, Tax Map
Key No. (1) 9-2-03: 72 And 73,

In the Matter of the Application of

DEPARTMENT OF ENVIRONMENTAL
SERVICES, CITY AND COUNTY OF
HONOLULU

To delete Condition No. 14 of Special Use
Permit No. 2008/SUP-2 (also referred to as
Land Use Commission Docket No. SP09-403)
which states as follows:

“14. Municipal solid waste shall be allowed at
the WGSL up to July 21, 2012, provided that
only ash and residue from H-POWER shall be
allowed at the WGSL after July 31, 2012.”

FILE NO. 2008/SUP-2

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE **DEPARTMENT OF
ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU'S RESPONSE
TO INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND MAILE**

SHIMABUKURO'S OBJECTIONS TO AGENDA FOR DECEMBER 6, 2017 was duly served by hand-delivery to the following on the date below, addressed as follows:

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DEPARTMENT OF PLANNING AND PERMITTING
City and County of Honolulu
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Honolulu, Hawai'i 96813

DATED: Honolulu, Hawai'i, December 5, 2017.


KAMILLA C. K. CHAN
Deputy Corporation Counsel