



October 21, 2022

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TO: City and County of Honolulu  
Department of Planning and Permitting  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, Hawai'i 96813

Attention: Mr. Thomas Blair, Planner

SUBJECT: Waiawa Correctional Facility  
State Special Use Permit – Responses to the State Land Use Commission's Letter  
dated September 28, 2022

Provided in this letter are supporting information, references and documentation in response to the State Land Use Commission's (LUC) letter dated September 28, 2022 addressed to Franz Kraintz of the City and County of Honolulu, Department of Planning and Permitting (DPP) regarding the Waiawa Correctional Facility's (WCF) application for a State Special Use Permit (SUP).

**Compliance with LUC guidelines stated in Hawai'i Administrative Rules (HAR) 15-15-95(c)**

**Reference: WCF SUP Final Technical Report (FTR), Section 6.5 Land Use Commission Guidelines**

- 1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the commission;

**Response:** The SUP application is being processed to meet the requirements of the State Land Use Commission's guidelines, which upon acceptance will bring the WCF in compliance with Hawai'i Revised Statutes (HRS) Chapters 205 and 205A.

- 2) The proposed use would not adversely affect surrounding property;

**Response:** The WCF is a long-standing facility that was once used as a military reservation, which was converted in 1985 to become a prison. It is located on an isolated ridge that is surrounded by undeveloped land. The State Department of Public Safety (PSD) currently has no plans to expand or perform any major upgrades at the WCF, and thus the surrounding property will not be adversely affected.

- 3) 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;

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**Response:** The WCF is a long-standing facility that already has the appropriate infrastructure in place to be in full operation. It does not require any additional infrastructure improvements or services from other public agencies as described in Sections 4.0 and 5.0 of the FTR.

- 4) Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established; and

**Response:** Prior to its current use, the WCF was once a military reservation constructed in the 1940s during World War II by the federal government. The existence of the facility predates the State Land Use Law and the designation of the district boundaries. The WCF falls within the State Land Use Agricultural District, and the Agriculture and Preservation Areas as identified on the Central O'ahu Sustainable Communities Plan (COSCP) Public Facilities Map. Its location within lands planned for agricultural use is consistent with the COSCP's general policy for the location of correctional facilities.

- 5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

**Response:** The site's use solely for agriculture as a permitted use is unsuitable due to its longstanding use as a correctional facility and former military reservation.

### **Hawai'i Revised Statutes (HRS), Chapter 6E-8 Review and Reconnaissance Level Survey (RLS)**

#### **References: WCF SUP FTR, Section 2.5 Existing Structures; Waiawa Correctional Facility Reconnaissance Level Survey prepared by Fung Associates Inc., July 2019**

The WCF has 40 existing buildings and structures. An architectural Reconnaissance Level Survey (RLS) was prepared by Fung Associates Inc. in 2019 to inventory and identify any potential historic properties for listing under the State Register of Historic Places and National Register of Historic Places. The RLS was submitted for the State Historic Preservation Division's (SHPD) Hawai'i Revised Statutes (HRS) 6E-08 review. In a letter dated December 11, 2019, the SHPD concurred with DAGS determination of "no historic properties affected". This letter, along with the RLS report is included with the SUP Application.

Out of the 40 existing buildings and structures, three (3) buildings and four (4) structures were found to be existing remnants of the Waiawa Military Reservation and have retained their historic integrity. These buildings and structures were filed to be listed under the State Inventory of Historic Places (SIHP) for the WCF (SIHP 50-80-09-08853). The letter from SHPD is included in with the SUP Application.

- WCF-04, 05 and 06: these buildings have retained their integrity of design, workmanship, material, setting, feeling, location, and association, and appear to meet Criterion C as examples of the modern, international building style in Hawai'i in the 1950s.

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- V1, V2, V3, and V4: these telecommunication huts have retained their integrity of design, workmanship, material, setting, feeling, location, and association, and appear to meet Criterion Associated at the local level with military history and installation construction in Hawai‘i.

### **Ka Pa‘akai Analysis**

**References: WCF SUP FTR, Section 2.5 Existing Structures and Section 5.2.5 Historic Sites;**

**Waiawa Correctional Facility After the Fact Permits for State Special Use Permit and Plan Review Use Permit Final Environmental Assessment Finding of No Significant Impact ([https://files.hawaii.gov/dbedt/erp/Doc\\_Library/2021-07-08-OA-FEA-Waiawa-Correctional-Facility-permits.pdf](https://files.hawaii.gov/dbedt/erp/Doc_Library/2021-07-08-OA-FEA-Waiawa-Correctional-Facility-permits.pdf)), Section 2.8 Historic and Archaeological Resources and Section 2.9 Cultural Resources;**

**Waiawa Correctional Facility Reconnaissance Level Survey prepared by Fung Associates Inc., July 2019;**

**Cultural Impact Assessment in Support of the Waiawa Correctional Facility (WCF) Special Use Permit (SUP) and Plan Review Use (PRU) Applications, Environmental Assessment, Waiawa Ahupua‘a, ‘Ewa District, Island of O‘ahu, Hawai‘i prepared by Pacific Consulting Services, Inc., April 2021**

Per the decision in the *Ka Pa‘akai O Ka Aina v. Land Use Commission* (94 Hawai‘i 31, 7 P.3d 1068 [2000]) case, the State and its agencies are responsible “to protect the reasonable exercise of customarily and traditionally exercised rights of native Hawaiians to the extent feasible.” Government agencies must follow the analytical framework and guidelines set forth in the *Ka Pa‘akai* case by the Hawai‘i Supreme Court, which states “that in order to fulfill its duty to preserve and protect customary and traditional Native Hawaiian rights to the extent feasible, as required by Article XII, Section 7 of the Hawai‘i Constitution, an administrative agency must, at minimum, make specific findings of fact and conclusions of law as to the following:

- 1) The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area.
- 2) The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and
- 3) The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.”

**Response:** A Ka Pa‘akai Analysis was not conducted for the WCF’s SUP Application for several reasons, which are further explained below.

- 1) The WCF SUP Application was not prepared for the purposes of petitioning new or modified uses within the SUP petition area. The SUP Application is being prepared to attain after-the-fact State and County permits per direction provided by the City and County of Honolulu, Department and Planning and Permitting in a letter dated June 5, 2009. The WCF is a long-standing facility that has been in operation since 1985.

The site on which the WCF operates, along with nine of the existing buildings, were built and established before the State Land Use Law (Chapter 205, Hawai'i Revised Statutes (HRS), adopted in 1961 by the State Legislature) which identify land use districts and their related permissible uses throughout the State of Hawai'i; the Revised Ordinances of Honolulu 1990 (ROH); and also the Ka Pa'akai O Ka Aina v. Land Use Commission (2000) case and decision. This is supported by the research conducted and included in the RLS. The following is the chronological history of the WCF site (inclusive of the SUP petition area).

The WCF encompasses approximately 180 acres of land in the ahupua'a of Waiawa, which was claimed by Victoria Kamamalu, sister of Alexander Liholiho (Kamehameha IV) and Lot Kamehameha (Kamehameha V) (Cultural Surveys Hawai'i, 1997). It was later inherited by Bernice Pauahi Bishop, and became a part of her estate after her death. In the early 1900s, most of Waiawa was subleased to O'ahu Sugar Co. for commercial pineapple cultivation. Dole's Hawaiian Pineapple Company opened a cannery and associated camp in Waiawa, including pineapple fields on plateau lands and the WCF site.

In 1916, the Waiāhole Ditch System, which passes through the WCF site, was completed. This system diverted water from Windward O'ahu to Central O'ahu, and made water available to irrigate sugarcane, thus the pineapple fields were converted for cane cultivation. In the 1940s after the United States entered World War II, the WCF site was taken over by the military for training and storage purposes and became known as the Waiawa Military Reservation. After World War II, the site was converted by the military to become a communications center as part of the Army Command & Administrative Network (ACAN), which provided the Army with a global radio communications system spanning from London to Tokyo.

In 1985, the State of Hawai'i acquired the site from the federal government under a 30-year quitclaim deed. Per the 30-year quitclaim deed, the property was to be used continuously for educational purposes; a condition that was met through the educational programs and worklines made mandatory at the WCF. After acquiring the site, the PSD converted the former military communications center to create a 20-bed, minimum-security correctional facility.

- 2) Based on the history of the WCF site and its previous intensive uses (site for commercial pineapple cultivation in the early 1900s; conversion to sugarcane cultivation by 1916; and use as the Waiawa Military Reservation in the 1940s) it can be inferred that there is a very low probability of identifying "valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian

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rights are exercised in the project area.” The WCF site has been constantly occupied by intensive uses dating back to the 1900s.

3) A Cultural Impact Assessment (CIA) was prepared in support of the WCF Environmental Assessment (EA) by Pacific Consulting Services, Inc. (PCSI) in April 2021. As part of the consultation process for the CIA, PCSI sought input from the following organizations via mailed letters or email sent on February 18, 2021; no responses were received at the time of writing of the Final CIA in April 2021.

- The Office of Hawaiian Affairs (OHA)
- SHPD Archaeology Branch
- The ‘Aha Moku Advisory Committee
- The ‘Ewa-Pualoa Hawaiian Civic Club
- The Historic Hawai‘i Foundation
- Mililani-Waipio Neighborhood Board
- Pearl City Neighborhood Board

The CIA also documented previous archaeological investigations done within the immediate vicinity of the WCF. To date, no human burials had been identified; a majority of identified historic properties are related to historic period agriculture and military use.

Based on the map included in the CIA, four archaeological investigations were previously conducted in which the WCF’s Parcel 011 was included in the study area: an Archaeological Reconnaissance and Inventory Survey by Goodman and Nees, 1991; Archaeological Assessment by Cultural Surveys Hawai‘i, 1997; Archaeological Assessment by Ogg et al., 2003; and Archaeological Testing and Sampling by Cleghorn and Kahahane, 2008. Based on the findings from the previous reports, only one historic property (State Inventory of Historic Places (SIHP) 50-80-09-02272) was found to be within the WCF parcel. Site 02272 consists of extant military structures and buildings, which were identified and documented in the RLS prepared by Fung Associates, Inc.

Although a Ka Pa’akai Analysis was not included in the WCF’s SUP Application, the following findings are provided based on the reports prepared in support of the WCF’s EA and SUP processes.

- 1) *The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area.*

**Findings:** Based on the RLS and CIA prepared in support of the WCF, the facility contains three buildings and four structures that are eligible for listing in the Hawai‘i and National Register of Historic Places under Criteria A and C. A State Inventory of Historic

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Places (SIHP) number request form was prepared for the eligible buildings and structures.

In response to the RLS prepared for the WCF's SUP application, the SHPD concurred with the Department of Accounting and General Services (DAGS) determination of "no historic properties affected" in a letter dated December 11, 2019. This letter has been included in the WCF SUP Application.

As part of the CIA process, PCSI contacted Native Hawaiian Organizations and community organizations to seek input concerning the WCF's application for the SUP and Plan Review Use permits. No responses were received during the process.

The CIA noted that a previous CIA was prepared in 2003 for the proposed development of 3,600 acres in Waiawa and Waipio, where hunting was a land use noted in vicinity of the WCF. The report noted that according to several hunters, the best way to access the hunting grounds is from Waiawa Prison Road. Hunters considered it a good access route because it would get them as close as possible to the hunting grounds. One hunter claimed that following the opening of the WCF, access to the hunting grounds became difficult. It was noted that the older hunters expressed concern that too much development closer to the upland valleys may intrude on pig habitat and push the pigs away.

- 2) *The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and*

**Findings:** As previously noted, the extant military structures and buildings have been identified and documented in the RLS prepared in support of the WCF SUP Application, and the SHPD concurred with the "no historic properties" affected determination for the project. The SUP application is being prepared to attain after-the-fact State and County permits; the WCF will not be doing any work to expand its current facility, and no work will be done to significantly alter the existing structures and buildings. A list of Capital Improvement Projects (CIP) currently planned or underway at the WCF are included in the SUP Application written statement.

The Waiawa Prison Road is primarily used by the WCF to access the facility; however, it is not a secured road and is accessible by the public. The WCF does not limit or control public access on Waiawa Prison Road and does not propose to change the current access to the road. Thus the public is still able to access surrounding hunting areas through the Waiawa Prison Road.

- 3) *The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.*

**Findings:** Besides access to hunting grounds, there were no traditional and customary Native Hawaiian rights identified within the WCF SUP petition area. Access to hunting grounds off Waiawa Prison Road will not be altered or affected as part of the WCF's application for a SUP.

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## **Agricultural Uses and Productivity**

### **References: WCF SUP FTR, Section 2.4.1 Programs**

The WCF has two agricultural areas that is maintained in the facility; an 8-acre agricultural area west of WCF-K KASHBOX facility and approximately 16-acres in the northern part of Parcel 011. Both agricultural areas are not included in the SUP Petition Area as they are considered permissible uses within the State Agricultural District.

The farm workline cultivates approximately 2,000 to 3,000 pounds of produce per week, and averages over 10,000 pounds per month from the 8-acre agricultural area. Some of the produce they grow and harvest include lettuce, eggplant, squash, pineapple, beets, green onions, kale, bok choy, choy sum, taro, tomatoes, mango, lemons, banana, strawberry, beans, mizuna, radish, spinach, sweet potato, bell peppers, corn, and various herbs. They also raise sunfish tilapia for the aquaponics plants, which works in harmony with the hydroponics plants. The produce grown on-site is cooked and served in meals at the facility. Surplus produce is shared with the Women's Correctional Facility, O'ahu Community Correctional Center, and the Hālawā Correctional Facility, while fish is shared with Kapi'olani and Leeward Community Colleges' culinary programs. Deliveries to these other facilities occur approximately twice a month.

An approximate 16-acre area on the northern portion of Parcel 011 is used to grow a variety of trees, including albizia, eucalyptus, mango, mulberry, citrus, guava koa, ironwood, and pine. The pine trees are cultivated for the Department of Land and Natural Resources' (DLNR) Christmas decorations at the Honolulu City Hall during the holiday season.

### **Pursuit of a Special Use Permit Petition v. District Boundary Amendment**

The State Department of Public Safety (PSD) and State Department of Accounting and General Services (DAGS) were notified by DPP of the requirement for a SUP and Plan Review Use (PRU) approval for the WCF, beginning with a letter dated June 5, 2009 (2009/ELOG-951 (RY)) from the DPP to the PSD and DAGS regarding the Temporary Program Structures at the WCF. The DPP stated the following:

“Ordinarily, the correctional facility would be subject to a State Special Use Permit (SUP) and a Plan Review Use Permit (PRU). However, you request that the land use requirements be deferred until such time that funds become available to establish the next permanent development at Waiawa Correctional Facility. We will defer the requirement for submitting the required SUP and PRU applications, provided your respective agencies commit to submitting the applications no later than December 2014.”

Subsequent to DPP's notification in 2009, applications for after-the-fact entitlements were deferred until full transfer of the site to the State could occur after the end of the 30-year quitclaim deed, and State funds were made available to establish the next permanent development at WCF. In 2015, DPP granted DAGS and PSD a five (5) year deferral extension to apply for entitlements by December 2019. DAGS and PSD applied for a SUP in December 2019.

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From 2009 to the present, the DPP has not provided any guidance to PSD and DAGS suggesting application for a District Boundary Amendment over a SUP, nor was it discussed during the pre-consultation meeting for the SUP and PRU that was held on May 8, 2019.

### **Waiāhole Ditch System**

#### **References: WCF SUP FTR, Section 4.1 Water**

Groundwater Hydrology Assessment of the Waiawa Correctional Facility prepared by Tom Nance Water Resource Engineering, June 2019

The Waiāhole Ditch (aka Waiāhole Water System) is owned and operated by the State Agribusiness Development Corporation (ADC). Per the ADC's Annual Report for Fiscal Year 2021, the Waiāhole Ditch system produces 22 to 29 million gallons per day (MGD) and delivers between 5 to 7 MGD to system customers. The WCF is permitted 0.15 MGD based on Water Use Permit No. 630 issued on December 28, 2001.

A Groundwater Hydrology Assessment was prepared by Tom Nance Water Resource Engineering in June 2019 in support of the SUP and PRU applications. Per the assessment, it is reported that the ADC monitors WCF's monthly water use from the Raw Water Flow Meter at the onsite water treatment plant. Based on data from the Raw Water Flow Meter from January 2016 to April 2019, the WCF uses between .044 MGD to .076 MGD.

As noted in the hydrology assessment, untreated ditch water is also used by the WCF for irrigation of the 8-acre agricultural area. The untreated ditch water is not metered as the water is delivered from the ditch to a buried 96,000 gallon storage tank and does not pass through the Raw Water Meter Flow. Based on the assessment, it is estimated that the untreated ditch water use is between .02 to .03 MGD, which would bring the WCF's total water withdrawal from the Waiāhole Ditch to a maximum of 0.10 MGD, which is still below the WCF's 0.15 MGD permitted use.

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The information provided in this letter has been extracted from the WCF's FEA-FONSI, SUP FTR, and the supplemental technical studies prepared to support both the FEA-FONSI and the SUP application. Should there be any questions or concerns regarding the information provided in this letter, please contact me at (808) 356-1233 or by email at [ckadota@ssfm.com](mailto:ckadota@ssfm.com).

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