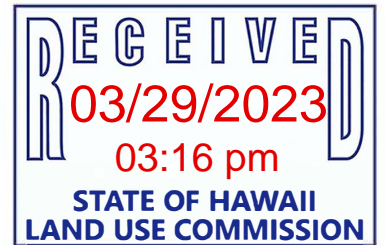


BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII



IN THE MATTER OF THE PETITION OF)
)
THE STATE OF HAWAII,)
DEPARTMENT OF ACCOUNTING AND)
GENERAL SERVICES)
)
FOR A STATE SPECIAL USE PERMIT)
_____)

FILE NO. 2022/SUP-3
FINDINGS OF FACT
CONCLUSIONS OF LAW
AND DECISION AND ORDER

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER**

The Planning Commission of the City and County of Honolulu (Planning Commission), having examined the complete record of the proceedings on State Special Use Permit (SUP) No. 2022/SUP-3, filed by the State of Hawaii, Department of Accounting and General Services (Petitioner), for an after-the-fact SUP for the Waiawa Correctional Facility (WCF) to bring the facility into compliance with the State Land Use Law, Chapter 205, Hawaii Revised Statutes (Petition). The Petition includes approximately 23.7 acres of land in the State Agricultural District identified by Tax Map Key (TMK) No. (1) 9-6-005: 011 in the Ewa District of Oahu, Hawaii (Petition Area), and upon consideration of the matters discussed therein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On September 2, 2022, the Petitioner filed the Application with the City and County of Honolulu Department of Planning and Permitting (DPP) (SUP No. 2022/SUP-3), pursuant to Chapter, 205-6, Hawaii Revised Statutes (HRS), and Chapter 15-15-95 et seq., Hawaii Administrative Rules (HAR).

2. On November 10, 2022, the Petitioner requested a 30-day extension of the processing of the SUP which the DPP approved on November 21, 2022.

3. On January 11, 2023, the Planning Commission considered the Petition. No public testimony was received at the hearing. After due deliberation, the Planning Commission recommended approval of the Application to the State of Hawaii Land Use Commission (LUC) subject to conditions.

DESCRIPTION OF THE PROPERTY

4. The Petition Area which is the subject matter of this Application is described as an approximately 23.7 acre portion of Parcel 1 of Executive Order No. 3414 located in the Ewa District of Oahu, Hawaii, identified by TMK No. (1) 9-6-005: 011 (Master Lot).

5. The Petition Area contains approximately 23.7 acres and the Master Lot contains approximately 157.875 acres. The Master Lot is owned by the State of Hawaii, Department of Public Safety (PSD). The WCF encompasses approximately 180.5 acres of land and is for use as a minimum-security correctional facility. In total, it is comprised of two TMK parcels identified as TMK (1) 9-6-005: 011 and 012. Parcels 011 and 012 are 157.875 acres and 22.611 acres respectively. The

correctional facility's operations are carried out on the southern portion of Parcel 011. Parcel 012 is currently undeveloped, used for agricultural purposes, and not included as part of this Petition.

6. In the early 1900s, most of Waiawa was subleased to the Oahu Sugar Company 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.

7. 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. It 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, which provided the Army with a global radio communications system spanning from London to Tokyo.

8. In 1985, the State of Hawaii acquired the site from the federal government under a 30-year quitclaim deed. After acquiring the site, the PSD converted the former military communications center into a 120-bed minimum-security correctional facility as ordered by Governor's Executive Order No. 3414, executed by John Waihee on February 24, 1989.

9. The WCF has 40 existing buildings and structures to house the inmates and provide administrative support, operations, and program activities. Out of the 40 existing buildings and structures, three buildings and four structures were found to be existing remnants of the Waiawa Military Reservation. Other structures include infrastructure facilities such as a 0.5-million-gallon water tank, a wastewater treatment

plant, and disinfection basin that currently services three ponds near the entry gate. Treated water for potable use is pumped from the Waiahole Ditch which passes through the WCF. The water tank is currently in use and is proposed to be replaced by a 0.75-million-gallon water tank under the Petitioner's Job No. 12-27-5657 New Domestic Water System and Related Improvements project.

10. The WCF site is located within the State Land Use Agricultural District. Prisons and correctional facilities are not classified as permissible uses with the Agricultural District; therefore, a SUP is required.

11. The nearest residences are located in the Pacific Palisades neighborhood of Pearl City, approximately 1.2 miles south of the Petition Area. These properties are in the State Land Use Urban District.

12. Access to the Petition Area is via an existing gated entry from Waiawa Prison Road. Waiawa Prison Road is a paved, two-way, 20-foot-wide, 1.8-mile-long road, oriented in the east-west direction. It starts at a three-legged intersection with Mililani Cemetery Road and ends at the entrances to the WCF. The Waiawa Prison Road runs through two properties owned by Castle & Cooke (TMKs 9-4-006: 026; 9-6-004: 021) and two properties owned by Bernice Pauahi Bishop Trust Estate (TMKs 9-6-004: 024; 9-6-005: 003), however the State owns Waiawa Prison Road via easements. The intersection of Mililani Cemetery Road and Waiawa Prison Road is stop sign controlled with a stop sign for the vehicles traveling along Waiawa Prison Road. Mililani Cemetery Road is a curvy, two lane, two-way road, oriented in the north-south direction. It starts at the signalized intersection of northbound Interstate H-2 ramps and Ka Uka Boulevard and terminates at the Mililani

Cemetery. No curb and gutter or sidewalks exist along Waiawa Prison Road or Mililani Cemetery Road.

13. According to the Online Rainfall Atlas of Hawaii, the mean annual rainfall in the vicinity of the Petition Area is approximately 47.6 inches.

14. The Petition Area is situated on a broad ridge at a mean elevation of 800 feet above mean sea level. The topography in this area is generally sloping from north to south.

15. The Waiahole Ditch System, the sole water source for the WCF, runs across the north-central portion of the Petition Area.

16. According to the Hawaii National Flood Insurance Program, the Petition Area is located entirely within an area that has been designated as Flood Zone D, where analysis of flood hazards has not been conducted and flood hazards are undetermined. No portion of the Petition Area is within a special flood hazard zone.

17. The Petition Area is located in the State Land Use Agricultural District, and has been within this district since the inception of the State Land Use District classification system. The Petition Area has not been designated as Important Agricultural Lands (IAL) under Part III of Chapter 205, HRS. Chapter 205-44.5, HRS, identifies a separate process under which public lands, as defined under Chapter 171-2, HRS, are to be identified for IAL designation. The Petition Area, as State-owned and considered public lands under this definition, has not been designated with IAL, as the State has not undertaken the IAL designation process.

18. The Petition Area is located within the City and County of Honolulu's F-1 (Military and Federal Preservation) zoning district, regulated under Chapter 21 of the Revised Ordinances of Honolulu, Land Use Ordinance.

19. The Petition Area is located within the Central Oahu Sustainable Communities Plan area. As defined in the plan's Land Use Map, the Petition Area is identified as the location for a correctional facility. It is located outside the community growth boundary.

20. No portion of the Petition Area is located within the Special Management Area (SMA).

DESCRIPTION OF PROPOSED USE

21. The WCF is an all-male facility that has on average a combined total of approximately 420 inmates and staff on-site. The facility is designed for a maximum capacity of 334 inmates and 118 staff. The WCF experiences a fluctuation in its inmate population as they are constantly being transferred in and out of the facility due to the nature of the minimum-security correctional system. The number of staff also fluctuates due to the various shifts and availability of staff to support the correctional facilities on the island. The WCF is in operation 24 hours a day, seven days a week, and 365 days a year.

22. The PSD currently has no plans for the addition of any structures or buildings to the WCF. No physical alterations are planned for the site.

NEED FOR THE PETITION

23. The objective of the WCF is to provide an environment conducive to the success of inmates re-entering the community after finishing their sentence. Inmates are required to participate in the work programs offered on-site. The WCF has a Community Service Workline, but participation is subject to inmates' sentence and demonstrated behavior.

24. Through the educational programs offered at the WCF, inmates are able to earn their General Education Degree and also work towards an Associate of Arts Degree. Other educational programs offered include adult basic education, life skills, restorative justice, interactive parenting skills, tutor practicum training, communication, keyboarding, test strategies, introduction to information technology, health management, forklift certification, choir, makahiki, and Toastmasters.

25. The Knowledge, Attitude, Skills, Habits, Behaviors, Opinion and X – The Unknown Factors (KASHBOX) Drug Rehabilitation Program, substance abuse Treatment program was established at the WCF in 1990. The program utilizes a holistic approach to treat inmates through a change in lifestyle by monitoring and reinforcing changes in attitude, emotions, and conduct. The treatment consists of five different programs: the KASHBOX Therapeutic Community is the most intensive program, which spans from 12-15 months long; the Intensive Out Patient program lasts for eight months; and the Continuing Care Program and Relapse Intervention Program lasts for four months each.

26. The work programs offered include food service, building maintenance, farming, landscaping, automotive, educational tutoring, store assistance, and janitorial worklines. Food service worklines are responsible for prepping, cooking, and serving every meal at the facility. They also wash the dishes and clean the dining room and kitchen. The building maintenance workline is responsible for the upkeep of all buildings and structures around the facility. This includes any electrical, carpentry, masonry, welding, and plumbing work that is needed. The farming workline works on the eight-acre, on-site farm facility (outside of the Petition Area) and upkeeps the hydroponics and aquaponics plants. The landscaping workline is responsible for the landscaping maintenance work around the facility. This includes conducting off-site landscaping work on the perimeter of Waiawa Prison Road. The landscaping workline uses weed whackers, lawn mowers, sickles, and cane knives, and are trained in equipment maintenance. The automotive workline is responsible for the repair and maintenance of all mechanical equipment on the facility, including vehicles, forklifts, tractors, and all power tools. The store assistance workline assists with laundry, store orders, and clothing issuance. The janitorial workline is responsible for cleaning the restrooms, sweeping, mopping, stripping and waxing floors, cleaning windows, and dusting.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

27. According to data published by the Natural Resources Conservation Service, the soils with the Petition Area include Helemano silty clay, 30 to 90 percent slopes (HLMG), Leilehua silty clay, two to six percent slopes (LeB), Manana silty clay

loam, six to 12 percent slopes (MoC), and Wahiawa silty clay, three to six percent slopes (WaB). Helemano silty clay soils are well-drained with rapid or very rapid runoff and moderately rapid permeability. Helemano soils are used for pasture, woodland, and wildlife. Leilehua silty clay soils are well-drained with slow to medium runoff and moderately rapid permeability. Leilehua soils are used for pineapple and irrigated sugarcane production. Manana silty clay loam soils are well-drained with slow to rapid runoff and moderately rapid permeability. Manana silty clay loam are used for growing irrigated sugarcane and non-irrigated pineapple and pasture. Wahiawa silty clay soils are well-drained with slow to medium runoff and moderately rapid permeability. Wahiawa silty clay are used primarily for the production of irrigated sugarcane and dryland pineapple, and small areas are in pasture.

28. Based on the Agricultural Lands of Importance to the State of Hawaii Classification System (ALISH), small slivers of land on the western portions of the Petition Area are designated as Prime Agricultural Land. The majority of the site is not classified as ALISH.

29. Based on the Land Study Bureau (LSB) soil classification system, much of the western half of the Petition Area is comprised of Class B soils. A small portion of the land, less than 0.2 acres, near the entrance contains Class A soils. Class C and E soils are also present in small areas of the Petition Area. Much of the main campus area does not contain soils designated by the LSB rating system.

30. Aside from the non-agricultural uses in this Petition, the areas outside of the Petition Area will continue to be used for agricultural or remain as open space.

31. The Petition Area comprises 13 percent of the overall 180.5-acre WCF and would not preclude future agricultural activities from occurring on the remainder of this land.

Archaeological and Cultural Resources

32. 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. Based on the RLS, three buildings and four 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 RLS was submitted to the State Historic Preservation Division (SHPD) for review under Chapter 6E-08, HRS. In a letter dated December 11, 2019, the SHPD concurred with the Petitioner's determination of "no historic properties affected" since no WCF activities affect any existing sites that have been found to retain historic integrity. While the three buildings and four structures were found to be eligible for listing under the SIHP, the PSD does not have any plans to modify or demolish these structures and buildings.

33. An Archaeological Assessment was conducted in 1997 by Cultural Surveys Hawaii (CSH) as part of the Environmental Assessment (EA) for the 200-bed KASHBOX facility. In this Archaeological Assessment, CSH prepared a brief archaeological literature review and a field inspection of the site for the KASHBOX facility, which is summarized below. The field inspection conducted by CSH included the area of the KASHBOX facility and the facilities that were being built at that time. No

historic sites were observed. Informal interviews with the WCF guards were also conducted at that time, and had indicated that occasionally small spent cartridges and rocket launcher parts were found during sub-surface excavations. Based off the extensive land modification related to pineapple and sugarcane cultivation, followed by military utilization, no further archaeological research was recommended by CSH. They concluded that the proposed KASHBOX facility and the in-progress improvements at that time would have no adverse effects on historic sites. In a letter dated November 15, 1997, the SHPD concurred that the impacts from previous improvements and the 200-bed KASHBOX facility would have no effect on significant historic resources. Since the archaeological assessment, the WCF has experienced minor upgrades and additions of small structures to the site. All new structures constructed since 1998 have been built on previously disturbed land. The Final EA and Finding of No Significant Impact (FEA-FONSI) completed in 2008 for the Temporary Housing and Program Structures also resulted in a finding of no impact on historic properties. As the land had been previously disturbed for pineapple cultivation and military utilization, the likelihood of the presence of archaeological, historical, and cultural resources on the WCF site is very low.

34. In October 2020, Pacific Consulting Services, Inc. (PCSI) prepared a Cultural Impact Assessment for the WCF to evaluate any potential effect on historic properties, traditional cultural places, or traditional cultural practices in the Petition Area. The report was prepared using archival background research, maps, historical and archival documents, and previous archaeological studies in the vicinity of the site. Relevant historical maps were georeferenced to determine where traditional Hawaiian

or historic features may be located within the Petition Area. The assessment included archival research regarding Hawaiian activities, including kaaos (legends), wahi pana (storied places), olelo noeau (proverbs), oli (chants), mele (songs), traditional moolelo (stories), traditional subsistence and gathering methods, ritual and ceremonial practices; background research focused on land transformation, development, and population changes beginning with the early post-contact era to the present day.

35. Remnants related to former sugarcane and pineapple cultivation activities include the Waiahole Ditch System (SIHP No. 50-80-09-2268) built by the Waiahole Water Company in 1913 to divert water from Windward Oahu to the central plateau. The ditch and tunnel system were completed in 1916, a portion of which passes through the WCF property.

36. Based on PCSI's findings, no traditional cultural places or practices, or archaeological sites, have been identified in the Petition Area. Due to the pineapple and sugarcane cultivation, followed by grading, leveling, and filling associated with military use, any evidence of both pre-and post-contact land use has most likely been destroyed or buried. At present, there is no documentation or community input indicating traditional or customary Native Hawaiian rights are currently being exercised within the Petition Area. No historic trails are known to exist within the Petition Area. As such, the WCF has not impacted traditional Hawaiian trails or access to upland areas. No further work (such as archaeological monitoring) is recommended; however, in the event that historic properties, e.g. human remains, are found, the contractor shall stop work immediately, protect the find and notify the SHPD.

37. In *Ka Paakai v Land Use Commission*, 94 Hawaii 31, 74, 7 P.3d 1068 1084 (2000), the Court held the following analysis be conducted:

- a. The identity and scope of valued cultural, historical, or natural resources in the Petition Area, including the extent to which traditional and customary native Hawaiian rights are exercised in the Petition Area;
- b. The extent to which those resources including traditional and customary native Hawaiian rights will be affected or impaired by the proposed action; and
- c. The feasible action, if any, to be taken by the Land Use Commission to reasonably protect native Hawaiian rights if they are found to exist.

No cultural resources, practices, or beliefs have been identified as existing within the Petition Area, nor is there any indication that traditional or customary Native Hawaiian rights are currently being exercised within any portion of the Petition Area. The Petition is not expected to affect or impair traditional and customary Native Hawaiian rights exercised elsewhere in the Waiawa Ahupuaa; therefore no action needs to be taken to reasonably protect Hawaiian rights as a result of this Petition. However, as a condition of approval, the decision & order includes a provision for kupuna and traditional and cultural practitioners to continue to be consulted to identify historic and cultural resources. Should any be found, and traditional and cultural practitioners wish to access them, the Applicant will consider allowing passage so long as the safety and security of the public and inmate population is not compromised.

Flora and Fauna

38. A biological survey report was conducted within the Petition Area by H.T. Harvey & Associates, Ecological Consultants (HTH). In general, the survey indicates that the area has been extensively modified by previous agricultural use and the introduction of invasive species, which has resulted in a reduction of the number and abundance of native species and habitats suitable for native species.

39. No rare, native Hawaiian plant species, or plant species that are listed as a threatened, endangered, or candidates for listing on both state and federal lists were observed in the accessible parts of the WCF. HTH observed 57 plant species at the facility, and a vast majority (53 species) are either non-native or cultivated species. Three species are Polynesian introductions, and only one species (*Acacia koa*) is native to Hawaii. Any maintenance and construction activities at the WCF are not anticipated to have a substantial adverse impact on any plant species that is state or federally listed as threatened or endangered, candidate species for listing as endangered, species of concern, or rare native Hawaiian plant species. The site is highly disturbed and contains primarily alien forestry tree and plant species.

40. The point-count surveys conducted by HTH identified 107 birds comprising of 18 different species. Of the identified species, two are endemic and endangered Hawaiian waterbirds – the Hawaiian coot (*Fulica alai*) and Hawaiian stilt (*Himantopus mexicanus knudseni*); and one – the Pacific golden plover (*Pluvialis fulva*), is a migratory shorebird that is recognized as an indigenous species. The remaining species are alien to Hawaii. No Hawaiian waterbird nests or nesting behavior was observed. The Hawaiian coot and Hawaiian stilt were considered as rare sightings; in

total, two Hawaiian coots and three Hawaiian stilts were observed. The Hawaiian stilt and Hawaiian coot are state and federally listed as endangered species and are protected under the state and federal Endangered Species Act. While the coots and stilts were observed in Pond B of the WCF, no nests or nesting behavior of these birds was observed. The ponds and/or reservoirs at the WCF do not provide the preferred nesting habitat for the Hawaiian coot, which would be a mosaic of open, shallow water and floating aquatic vegetation for nesting. The ponds are either too open (Pond B) or covered with hyacinths that limits open water (Pond A) and does not appear to provide suitable nesting habitat for these species.

41. No non-native mammal species were observed, however feral pig wallows, scat, and rooting signs were observed in the Acacia Dominated Forest in the northwestern part of the WCF.

42. As a precaution, the State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) and the U.S. Fish and Wildlife Service (USFWS) should be consulted as they requested in their agency comment letter, to evaluate potential impacts on state-listed waterbirds and the endangered Hawaiian hoary bat from construction activities, specifically near the ponds and reservoirs. Consistent with the recommendations provided by the USFWS and the DOFAW, the Petitioner will incorporate measures as:

- a. Posting reduced speed limits;
- b. Incorporate best management practices in the event for repairs, maintenance or land disturbance activities;

- c. If the Hawaiian Stilt and Hawaiian Coot are present during operational activities that pose a risk, all activities within 100 feet (30 meters) will cease, and the bird(s) will not be approached;
- d. Do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season (June 1 through September 15); and
- e. Avoid nighttime construction during the seabird fledging period, September 15 through December 15.

43. To minimize predator presence at the WCF, bait stations for rodents and mongoose will be placed, feral cats will be removed, and covered trash receptacles will be used.

44. Concerns over the outdoor lights impacting the Hawaiian hoary bat and Hawaiian seabirds at the WCF were raised by the USFWS, the DPP, and the DOFAW. The streetlights at the WCF have a photocell switch that will turn on at or below three-foot candles, and off at two to 10-foot candles. A time delay will prevent the accidental switching from transient light sources. The streetlights are full-cutoff and do not illuminate light above the horizontal plane. The floodlights at the WCF do not stay on all night and are only activated when there is a security incident. In addition, the facility does not have any search lights or beams installed on any permanent fixtures; only mobile search lights are used at the WCF.

Groundwater Resources

45. A portion of the site is located within the Zone of Contribution (ZOC) of the U.S. Navy's Waiawa Shaft. According to a Groundwater Hydrology Assessment prepared by Tom Nance Water Resource Engineering, the activities with the potential to impact the ZOC underlying groundwater area associated with percolation from the un-lined silty basin on the drinking water system and potential leakage of treated wastewater from the systems two lined lagoons, however activities are considered to be insignificant.

46. Raw water is drawn from the Waiahole Ditch System, the sole water source for the WCF, by two booster pumps at Pump Station 6 (WCF-P6) and into a 2,400-gallon raw water storage tank. The existing Pump Station 6 pump, and the P-301 and P-302 pumps are each rated at 160 gallons-per-minute. There is an existing 1-1/2 inch draw-off line between the Pump Station 6 and raw water storage tank used to fill an existing underground irrigation storage tank. Raw water is then transferred from the raw water storage tank to the treatment facility. At the treatment facility, raw water is run through two high pressure continuous microfiltration units with one unit in stand-by mode. Upon completion of the water treatment process, the water is transferred from a temporary 450-gallon capacity holding tank on to the existing 0.5-M gallon finished water storage reservoir through a three-inch intake waterline. From the finished water storage reservoir, water is distributed to the WCF by a 12-inch waterline.

Wastewater System

47. The wastewater flows at the WCF originate from the dormitories, kitchen and/or dining facilities, administration building and other miscellaneous facilities accommodating security, educational and recreational activities. Due to the remote location of this facility, connecting the WCF wastewater system to the City and County's system is not feasible.

48. The design average flow of 56,000 gallons per day (gpd) also matches the design average flow of 56,100 gpd calculated in the 1997 Preliminary Engineering Report (M&E Pacific, Inc., 1997). This design average flow data was used as the basis for the design and construction of the third and last improvement conducted within the WCF wastewater system. Note that the wastewater design standards required to design wastewater flow rates have since been updated, and any future improvements will require compliance with the Chapter 11-62, HAR.

Visual Resources

49. Significant views and vistas in the vicinity of the Petition Area is identified in Table 3-2 of the Central Oahu Sustainable Communities Plan include panoramic views of the Koolau Mountains from the H-2 Freeway. However, due to its isolated location, the WCF is not visible from the H-2 and thus does not restrict any public views or viewplanes. The tallest structure on-site is three-stories, while most are single-story buildings. These structures are obscured by the hilly terrain and trees surrounding the WCF. There are no plans to add any new structures to the WCF.

ENVIRONMENTAL IMPACTS Chapter 343, HRS

50. A FEA-FONSI for the Petition was accepted and issued by the Petitioner on June 29, 2021, and was published in The Environmental Notice on July 8, 2021.

Air and Noise Quality

51. There are no substantial operations changes or construction activities planned at the WCF which might result in any change in noise and air quality impacts. The existing operations at the facility do not make any significant noise or air quality impacts. Any increase in noise during regular operations would be slight and virtually inaudible to the public, as the nearest development is the Pacific Palisades residential subdivision and the Mililani Memorial Park & Mortuary, which are 1.2 miles and two-miles from the WCF, respectively.

Water Quality

52. There are no perennial streams, natural surface waters, or wetland features within the WCF site, as identified by the National Wetlands Inventory (USFWS 2020a). The facility falls within the Pearl Harbor Aquifer Sector of Oahu, which starts from Joint Base Pearl Harbor Hickam on the east, and runs all the way to Ko Olina on the west, up to Mililani Mauka on the north. The WCF falls within the Waipahu-Waiawa aquifer system of the Pearl Harbor Aquifer Sector. No significant impacts to groundwater aquifers or surface waters are expected to result from the on-going operations or proposed capital improvements projects at the WCF.

53. The WCF is not connected to any municipal water supply system and has an on-site water treatment plant system to provide for the whole facility's water demand. The PSD does not propose to expand the use or capacity at the facility, thus it will not require an expansion of its water system.

Wastewater System Quality

54. The WCF is not connected to a municipal wastewater system due to its isolated location. The PSD does not propose to expand the use or capacity at the facility; thus it will not require an expansion of its wastewater system. The existing operations and any planned capital improvement projects at the WCF have not, and are not anticipated to, have any effect on any municipal or adjacent wastewater systems.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Roadways

55. The key roadways used to access the Petition Area include the H-2 Freeway, the Ka Uka Boulevard off-ramp, and the Mililani Cemetery and Waiawa Prison Roads.

56. The vehicular impact of the trips generated by the WCF is considered to have a negligible impact on the operations of Waiawa Prison and Mililani Cemetery Roads, and the primary intersection of northbound Interstate H-2 ramps and Ka Uka Boulevard. In the event that there is future expansion or intensification of land use beyond the existing use at the WCF, an updated Traffic Assessment or Traffic Impact Analysis Report will be completed per the recommendation made by the State of Hawaii Department of Transportation, Highways Division.

Bus Transit

57. The City and County of Honolulu transit system, The Bus, operates Route 433 that stops on Moaniani Street, opposite from Costco, which is approximately 2.5 miles from the WCF. This route connects travelers to the Wahiawa Transit Center.

Bicycle and Pedestrians

58. No sidewalks exist nor are there any bikeway facilities in the vicinity of the WCF.

Solid Waste

59. Solid waste generated at the WCF is collected on a regular schedule (twice a week) by West Oahu Aggregate. The waste generation at WCF is estimated at approximately two to four pounds of waste generated per inmate, per day. Using the average of these numbers, if three pounds of waste was generated per inmate and/or staff, per day, this would approximate a total of 18.9 tons of waste generated per month. The WCF is not increasing staff or inmate populations or expanding the capacity of infrastructure facilities, therefore waste generation is not expected to increase or result in significant impacts through the foreseeable future.

Fire Protection

60. The nearest fire stations to the WCF are the Honolulu Fire Department's (HFD) Fire Station 36 Mililani, Fire Station 41 Mililani Mauka, and Fire Station 42 Waikele, all of which are located approximately seven miles of the site. HFD's Fire Station 16 Wahiawa, Fire Station 20 Pearl City, and Fire Station 38 Waiau are also within range and are approximately eight to nine miles from the WCF. The WCF will not

be adding additional buildings to their site, and no increase in inmate and staff population is expected. No impacts to HFD's operations are expected.

Police Protection

61. The WCF lies within the Honolulu Police Department's (HPD) Patrol District 2 – Wahiawa/North Shore, Sector 1, which covers Waipio, Mililani, and Mililani Mauka. The nearest police stations are the Pearl City District Station and the Wahiawa District Station. The inmates at the WCF pose a low risk to the public since they are in the final stage of their term and are being prepared for release. In addition, PSD staff would be trained and equipped to handle most emergency situations that may arise during operations at the facility. The WCF is not undergoing any expansion, thus the inmate and staff population is not expected to increase. Significant impacts to HPD's services are not anticipated.

Schools

62. The WCF is located in the Hawaii State Department of Education's Leeward Oahu District, between the Pearl City and Waipahu school complexes. The schools closest to the site (in driving distance) include Kanoelani Elementary, August Ahrens Elementary, and Waipahu High School, which range in distance from four to seven miles southwest of the WCF. The WCF and its operations will not generate an increase in residents and school children, thus no anticipated impacts to the Pearl City and Waipahu school complexes are anticipated.

CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM

63. The Petition Area is not within either the SMA or the shoreline setback area, nor would it involve a federal activity or permit requiring federal consistency review.

CONFORMANCE WITH THE SUP GUIDELINES

64. The guidelines for determining “unusual and reasonable” uses for granting of a SUP are provided in Section 2-45 of the Rules of the Commission, which can also be found in Section 15-15-95(c), HAR. The Petition is consistent with these guidelines are stated as follows:

(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.* Chapter 205, HRS, recognizes that some lands in the State Land Use Agricultural District may be better suited for non-agricultural uses as well as providing protection of agricultural lands and to continue their availability for agricultural use. These include such as solar energy facilities, and other renewal energy facilities. However, the use of the site, for military purposes, predates the adoption of the State Land Use classification system. Its continued non-agricultural use as a correctional facility precludes any need or desire to revert the Petition Area back to agricultural use. The trade-off is the continued use of the balance of the property as an agricultural work-line for the inmates as well as open space and forest. The Petition would also be in compliance with the objectives and policies of Chapter 205A, HRS.

(2) *The desired use would not adversely affect surrounding property.*

There are no anticipated direct impacts that would affect adjacent properties as there is no proposal to change the intensity or use of the WCF. The WCF is surrounded by forest, the lands of which are owned by one owner, the Bernice Pauahi Bishop Estate. The trustees of the estate, Kamehameha Schools, in contemplating their own long-range development plans in the Waiawa area have factored in a wide buffer of separation from the WCF. According to recent proceedings before the LUC, the timetable to complete such development is decades away (LUC Docket No. A87-610). Occasionally, inmates have attempted to escape but security at the WCF is exceptional and few, if any, actually succeed. Besides, as a minimum security facility, it is not in their interest to attempt escape so near their release. While actual urban uses are few and far apart, the presence of the WCF does not pose as a deterrent to their continued urban use. With no changes in operations or planned expansion or intensification of use, the WCF will not alter the character of the surrounding areas in a manner that would result in significant adverse effects.

(3) *The use would not unreasonably burden public agencies to provide roads, and streets, sewers, water drainage and school improvements, and police and fire protection.* The Petition would not require improvements or otherwise burden public infrastructure, nor would it be expected to require police or fire protection services.

(4) *Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established.* The long-term establishment of the site as a military communications facility and barracks preceded the district boundaries and regulations that exists today. However, institutional uses would not be considered typical agricultural or accessory to agricultural uses. Therefore when the correctional facility replaced the military use, one institutional use was replaced by another. The establishment of the WCF under the Governor's Executive Order No. 3414 in 1989 necessitated an unusual condition for a minimum security correctional facility to be placed at this site that could not have been contemplated when the district boundaries and regulations were established. The City's long-range land use plan, the Central Oahu Sustainable Communities Plan also formally recognizes this area as an established area for the correctional facility.

(5) *The land upon which the proposed use is sought is unsuited for the uses permitted within the district.* Decades of correctional facility and military use have long wrought the land within the Petition Area as no longer suited for agriculture. The proposed boundaries of the Petition Area were carefully drawn to include only the developed lands and exclude as much undeveloped and potentially viable permitted agricultural uses.

RULINGS ON THE PROPOSED FINDINGS OF FACT

Any of the proposed Findings of Fact submitted by any party not already ruled upon by the Planning Commission by adoption, or rejected by clearly contrary Findings of Fact, are hereby denied and rejected.

Any Conclusions of Law herein improperly designated as a Findings of Fact should be deemed or construed as a Conclusion of Law; and Findings of Fact herein improperly designated as a Conclusion of Law should be deemed or construed as a Finding of Fact.

CONCLUSIONS OF LAW

1. The Planning Commission has jurisdiction over this matter pursuant to Section 205-6, HRS, and Section 5-15-95 *et seq.* HAR.
2. Based upon the record and pursuant to the Rules of the Planning Commission, Subchapter 4, Section 2-45, and Section 15-15-95 *et seq.*, HAR, the Planning Commission finds that the Petition meets the guidelines for determining an “unusual and reasonable use” and “would promote the effectiveness and objectives” of Chapter 205 within the State Land Use Agricultural District.
3. The Petition constitutes an unusual and reasonable use within the State Land Use Agricultural District other than those for which the district is classified, and complies with Chapter 205-6(a), HRS.
4. The Petition constitutes an exceptional situation where the use desired would not change the essential character of the district nor be inconsistent therewith, Save Sunset Beach Coalition v. City and County of Honolulu, 102 Hawaii 465, 78 P.3d 1 (2003).
5. The Petition constitutes a use that would promote the effectiveness and objectives of Chapter 205, HRS, and complies with Chapter 205-6(c), HRS.

6. The Petition is consistent with the “overarching purpose” of Chapter 205, HRS, which is to “protect and conserve natural resources and foster intelligent, effective, and orderly land allocation and development.” Kauai Springs v Planning Commission, 130 Hawaii 407, 312 P.3d 283 (2013).

7. The Petition Area is not designated as IAL under Part III of Chapter 205, HRS, and therefore the Petition does not conflict with any part of Chapter 205, HRS, and complies with Chapter 205-6(c), HRS.

8. Article XI, Section 1, of the Hawaii State Constitution requires the State to conserve and protect Hawaii’s natural beauty and all natural resources, including land, water, air minerals, and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

9. The Planning Commission has considered Article XI, Section 1, of the Hawaii State Constitution and finds that the Petition is in compliance and non-violative therewith.

10. Article XI, Section 3, of the Hawaii State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase Agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

11. The Planning Commission has considered Article XI, Section 3, of the Hawaii State Constitution and finds that the Petition is in compliance and non-violative therewith.

12. Article XII, Section 7, of the Hawaii State Constitution requires the State to protect Native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupuaa tenants who are descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

13. The Planning Commission has considered Article XII, Section 7, of the Hawaii State Constitution and finds that the Petition is in compliance and non-violative therewith.

14. The State, Counties, and their agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised Native Hawaiian rights to the extent feasible. Public Access Shoreline Hawaii v Hawaii County Planning Commission, 79 Hawaii 425, 903, P.2d 1246, certiorari denied, 517 U.S. 1163, 116 S.Ct. 1559, 134 L.Ed.2d 660 (1996). The Planning Commission has considered such responsibilities and obligations and finds the Petition to be a consistent and non-violative therewith.

15. The Planning Commission is empowered to preserve and protect Customary and traditional rights of Native Hawaiians, Ka Paakaj, 94 Hawaii 31. The Planning Commission has considered such responsibilities and obligations and finds The Petition to be consistent and non-violative therewith.

16. The Planning Commission finds the DPP and the Petitioner have satisfied the Notice requirements contained in Section 205-6, HRS; and Subchapter 4 of the Rules of the Planning Commission.

DECISION AND ORDER

Having duly considered the complete record in this matter and the oral arguments presented by the Petitioner and their representatives in this proceeding, and a motion having been duly made and seconded at a meeting conducted on January 11, 2023, in Honolulu, Hawaii, and the motion having received the affirmative votes required by Section 2-46, Rules of the Planning Commission and there being good cause for the motion, the Planning Commission hereby APPROVES the Petition for a State SUP encompassing the Petition Area of approximately 23.7 acres of land in the State Land Use Agricultural District identified by TMK No. (1) 9-6-005: 001 (Portion), in the Ewa District of Oahu, Hawaii, as shown approximately on Exhibit "A", attached hereto and incorporated by reference herein, subject to the following conditions:

1. The Petitioner shall submit a metes and bounds description of the Petition Area to the DPP for review and approval within ninety (90) days following an approval by the State LUC. The area of the metes and bounds description and survey map shall not exceed the representations made in Exhibit A and all uses of the correctional facility, not permitted in the State Land Use Agricultural District, shall fall within the area described by the approved metes and bounds description and map.

2. The Petitioner shall submit to the DPP an application for a Planned Review Use (PRU) approval within two years from the date of the Adoption of the LUC Decision and Order. Prior to the submittal of a PRU Application, the Petitioner shall:

a. Submit water demand estimates and calculations to the Department of Land and Natural Resource (DLNR), Engineering Division. The DPP shall be copied on the transmittal to the DLNR.

b. Submit to the DPP, for review and approval, an outdoor lighting Plan that conforms to the guidelines contained in the Central Oahu Sustainable Communities Plan. To avoid and minimize potential impacts to the Hawaiian seabirds and the endangered Hawaiian hoary bat, the outdoor lighting plan shall incorporate the recommendations proffered by the USFWS in their comments on this Petition.

c. Consult with local kupuna and area cultural practitioners to identify the scope of “valued cultural, historical, or natural resources” within the framework of a Ka Paakai analysis. The findings and any determinations shall be submitted to the LUC and the DPP. Should such resources be found and traditional and customary Native Hawaiian rights be sought, access shall be granted to the extent possible, and reasonably balanced against the security necessary for protecting public health, safety, and welfare of the general prison population, practitioners, and the general public.

3. In the interest of maintaining the agricultural uses and productivity at the WCF, the Petitioner shall continue the farming, aquaponics, silviculture, and plant propagation and nursery operations in a meaningful and substantial way so long as the WCF has a presence on this site.

4. On or before December 31 of each year that the SUP is in effect, the Petitioner or its successor, will file an Annual Report with the DPP and the LUC that demonstrates the Petitioner's compliance with conditions of the SUP.

5. Major modifications to: (1) The approved site plan; (2) Amendments to the conditions of approval; (3) Any increases in acreage of the Petition Area; or (4) Change in approved uses stated herein, will be subject to the review and approval of the Planning Commission. Minor modifications, including minor additions to accessory uses and structures in the approved area, are subject to review and approval by the Director.

6. The Petitioner and/or landowner shall notify the Director of the DPP of:
- a. Any change or transfer of licensee on the property;
 - b. Any change in uses on the property;
 - c. Termination of any uses on the property ; and/or
 - d. Transfer in ownership of the property.

The Planning Commission, in consultation with the Director of the DPP, shall determine Disposition of this SUP, and the facilities permitted herein.

7. Enforcement of the conditions of the SUP shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause as to the

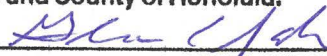
reason the SUP should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions imposed herein.

Dated at Honolulu, Hawaii, this 22nd day of February 2023.

PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

By  _____
Brian Lee, Chair

I certify that this is a full, true and correct copy of the original document on file with the Department of Planning and Permitting/Planning Commission, City and County of Honolulu.

 _____
2-22-2023
DATE

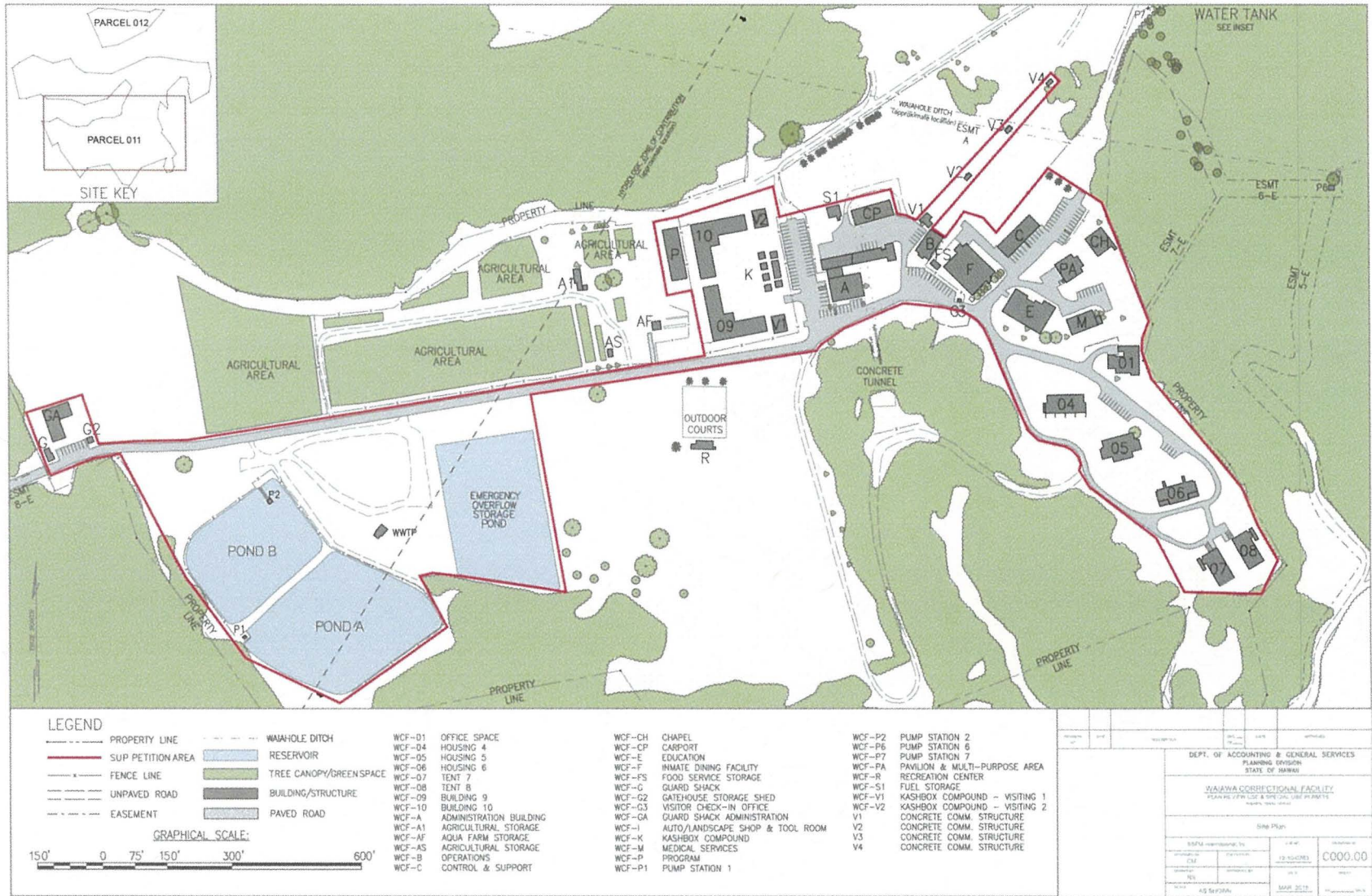


EXHIBIT A – PETITION AREA/2022-SUP-3 WAIAWA CORRECTIONAL FACILITY
January 11, 2023