

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
JULY 3, 2014

A regularly advertised hearing on the application of **Jas W. Glover, Ltd. (SPP 14-162)** was called to order at 9:47 a.m. in the County of Hawai'i, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i with Chairman Myles Miyasato presiding.

COMMISSIONERS PRESENT: Myles Miyasato, Charles Heaukulani, Gregory Henkel, Raylene Moses, and Stephen Ono.

ALSO PRESENT: Duane Kanuha (Planning Director), Margaret Masunaga (Deputy Corporation Counsel for the Windward Planning Commission), Amy Self (Deputy Corporation Counsel for the Planning Director, from 9:37 a.m. to 12:25 p.m.), Melody Parker (Deputy Corporation Counsel for the Planning Director from 9:13 a.m. to 12:39 p.m.), Daryn Arai (Planning Program Manager), Jeff Darrow (Staff Planner), Maija Cottle (Staff Planner), Sarah Hata-Finley (Secretary), Kim Tanaka (Secretary), and Melissa Dacayanan (Planning Commission Support Technician).

And approximately 20 people from the public in attendance.

APPLICANT: JAS W. GLOVER, LTD. (SPP 14-162)

Application for a Special Permit to allow the establishment of a new quarry site on approximately 85.338 acres of a 140.368-acre property situated within the State Land Use Agricultural District. The project site is located southeast of the Hawai'i National Guard Site and Hilo International Airport and approximately 3,000 feet southwest of the County's Sewer Treatment Plant Site at Honohononui, South Hilo, Hawai'i, TMK: (3) 2-1-013: Portion of 004.

MIYASATO: Okay, Commissioners, let's go back to the agenda, Item No. 2. Jas Glover.

ONO: Excuse me, Mr. Chair. I thought we were going to discuss the entire Item No. 5.

MASUNAGA: No, no, just the testimony--

MIYASATO: No, just, we just took that testifier out of order—

ONO: Okay, thank you.

COTTLE: Good morning, Commissioners.

MIYASATO/MOSES: Good morning.

COTTLE: The next item on your agenda is a request for a Special Permit. The subject property is located in the South Hilo District, and it is located just southeast of the Hilo Airport. You can

see the property on the slide outlined in black in this general area here. So, we have the Hilo Airport to the north. This is Railroad Avenue on the left side of the slide. And then the Hilo Transfer Station is somewhere just right around this area here. The subject property is zoned Agricultural – 5 acres which is shown in the light green color. Properties to the south are zoned Agricultural – 20 acres. That’s shown in the dark green. And to the north is the Hilo Airport zoned Limited Industrial.

The State Land Use Designation for the property is Agricultural as well as most of the properties surrounding the site, except for, of course the Hilo Airport which is zoned, which is designated Urban. And, the lands over near the Hilo Transfer Station are also designated Urban. The General Plan Designation for the property is both Important Agricultural land which is shown in the light green color and Industrial, which is shown in the gray.

And, the Applicant is requesting to allow establishment of a new quarry site on approximately 85 acres of a 140-acre property that is situated in the State Land Use Agricultural District. The material to be quarried is aggregate and rock for commercial applications and consists largely of basaltic blue rock with very little cinder. The material will be removed and either processed on site or transported to Glover’s Hilo operations site on Leilani Street.

And just to give you some background of this property, because this Commission recently saw a Special Permit application in this area I think last year, so I know you’re all familiar with it. It is a 140-acre property that’s owned by Kamehameha Schools. Currently, Glover holds licenses. They hold two licenses to quarry the entire property from Kamehameha Schools. These licenses expire on May 31, 2027, but there is an option for a 10-year extension for a portion of the property.

There are four valid Special Permits that have been issued by the Planning Commission previously. These are for quarrying operations, and the combined land area covered by these permits is 55 acres. So the Applicant is now requesting to come in to permit the remaining portion of the 140-acre property, and that remaining portion is approximately 85 acres. And that 85 acres is not covered by any Special Permit.

This is a site plan that the Applicant provided. You can see the property outlined in red, although it’s kind of light. The four valid Special Permits are shown in dark blue, and then any area that’s not outlined in dark blue is the remaining 85 acres.

This is an aerial photo of the property. Again, the property is outlined in red. You can see the Hilo Airport to the north. The access road into the quarry site is off of Leilani Street, which extends out in this direction over State land. The applicant has the access rights over that, that property. And then, they enter the quarry at this site. You can see two of the areas that have active Special Permits on it have been extensively quarried so far, but there is quite a bit of land remaining to be quarried.

This is a view of the southeast portion of the property. This is former Special Permit 936. This was a permit that was issued to Yamada & Sons quite a while ago, and the permit had a condition that said that the, the validity of the permit would run with the lease with Kamehameha

Schools. That lease has stopped. I think it stopped in 2007, so that, that permit is no longer valid. And this is the old quarry site. I'm going to go back so you can see generally where this picture was taken. It's showing this location right here. And then, this is a view of Special Permit 1107, looking northeast towards the subject permit area. So, this area in the background is a portion of the property that has not yet been quarried. So, again, I'm gonna go back and show you that picture was taken here looking in this direction. And, Permit 1107 quarry looking northeast, and that would be looking here and then this direction to the northeast—oh, northeast, northwest. Northwest. And, a view of Special Permit 1221 quarry looking southeast, and again you can see the unquarried area in the background. This is looking northwest and northeast so I'm gonna go back and show you—this is Special Permit area 1221. Those pictures were taken looking in this direction as well as this direction here, and here. So, you can kind of get a general idea of what the surrounding property that's unquarried looks like.

The Planning Director is recommending that the Commission approve this request and forward their approval recommendation to the State Land Use Commission for final determination. In this particular case, the State Land Use Commission makes the final determination because the property, the permit area is over 15 acres in size. And, I'd just like to draw your attention to a few correspondences we've received since issuing the Background and Recommendation. I also want to apologize for getting the Background and Recommendation Reports to you so late.

You should have a transmission, a fax transmission. This was provided by the Applicant. And this is an archaeological monitoring plan that the Applicant had provided to the Department back in 2004. And this corrects a statement that we made in our Background Report on Page 4, Number 12. It says the applicant has not complied with Condition 7 of Special Permit 1221 which required submittal of an archaeological monitoring plan to SHPD prior to starting quarry operations. So, we'd like to remove that statement because they did submit that plan, and it's here.

We also have another correspondence from the applicant dated July 2nd. It's an email, and they're requesting a few changes to the conditions of approval. And, we can discuss that a little bit more. The Department is supportive of the change to Condition 8. The change in hours of operation that the Applicant is requesting, we have a little bit of concern because the Department of US Fish and Wildlife recommended that nighttime quarry activities not occur in order to protect the seabirds, the endangered and threatened seabirds that can cross the area. So, the, the Commission may want to consider adding a condition to address that, and staff would happy to help them draft that if they choose to do so.

Are there any questions?

MIYASATO: Commissioner Henkel.

HENKEL: Maija, are there any regulatory guidelines as to what happens to a property like this after it's exhausted as a quarry?

COTTLE: Well, the guidelines are laid out in our permit conditions as far as restoring the site. I'm not aware of any Department of Health regulations related to quarries but I think—

HENKEL: --Could you briefly explain what restoration means?

COTTLE: To the Planning Department, restoration means restoring the site to a safe condition. This particular property doesn't have any surrounding neighbors that have developed their property. It's all forest land. So, there is really no visual impact concerns. We're concerned mostly with safety. So, that would mean, you know, those shear walls that are cut straight down, it would mean bringing in fill to restore it to more of a slope so that, that people or things don't fall off and are injured.

HENKEL: Thank you.

COTTLE: And then, it also involves revegetation. Usually that's done naturally, but sometimes you have to help it along. In this area, there's a lot of non-native invasive species that have gotten into the forest so I think natural vege—natural revegetation would be fairly easy.

MIYASATO: Any further questions for staff? Commissioner Ono.

ONO: Thank you. I was just for there—this many years ago—but just as a thought, is there a plan or a suggestion to which that would be kind of a fill for the waste disposal which is waste property that's, what, just less than a mile away. Is—how would that be a consideration?

COTTLE: I'm not aware of any plans at this time—

ONO: Not at this time?

COTTLE: No—

ONO: Okay—

COTTLE: Yeah.

MIYASATO: Thank you. Would the Applicant please come forward?

VITOUSEK: Good morning, Mr. Chair.

MIYASATO: Good morning. Could you please raise your right hand? Do you swear or affirm to tell the truth on this matter now before the Hawai'i County Planning Commission?

VITOUSEK: Yes.

PEARRING: Yes.

MIYASATO: Could you please state your names and residence?

VITOUSEK: Sure, I'm Randy Vitousek—

MIYASATO: Speak into the mic, please.

VITOUSEK: Okay. Randy Vitousek, I'm an attorney for Glover, for the Applicant. My business address is 75-170 Hualālai Road, Kailua-Kona. This is Mike Pearring with Glover.

PEARRING: Yeah, Michael Pearring. I work with James Glover. Our business address is 890 Leilani Street, Hilo 96720.

MIYASATO: Go ahead.

VITOUSEK: Mr. Chairman, Bryon Fujimoto of Glover is also present here today. This, as you know, the staff really has done a great job in preparing the Background Report and in analyzing the proposed use in light of the conditions or the requirements of the Special Permit under Planning Commission Rule 6 and Hawai'i Revised Statutes, Chapter 205.

The reason that Glover's applying for this permit for the 55, I'm sorry for the 85 acres, is because when the last Special Permit was granted, that was back in 2012, I recall. It was Permit 000145, the Land Use Commission commented that they were concerned about the practice of the Planning Commission, the County Planning Commission granting Special Permits for parcels of less than 15 acres because the practice in the past had been that the party, the applicant would apply for a Special Permit for a parcel less than 15 acres, go to the Planning Commission rather than go to the Land Use Commission. So the Land Use Commission commented. The Planning Commission went ahead and approved the application for Special Permit 145 for a 10-acre parcel, but one of the conditions was that the applicant would apply for Special Permit for the balance of the unquarried areas in this, in this 140-acre parcel, and it would go to the Land Use Commission with that application. So, this application is in furtherance of Glover's obligations under the previously issued Special Permit. The goal is to have all, you know, Glover has a license, actually two separate license agreements from Kamehameha Schools for the entire 140-acre parcel, and this is to try to take that through the Special Permit process so that all of the area that's under license can be under Special Permit and can be quarried.

Mr. Henkel asked questions about the restoration and I, if it's okay, I'll ask Mr. Pearring to explain to you what the restoration requirements are under the license with Kamehameha Schools.

PEARRING: Thank you. The—Maija did a great job of explaining what the restoration would incur. We have two separate licenses, and what's basically involved is a restoration of the property to satisfy the owner. Our second license there, at Kamehameha Schools--has got some thoughts about, you know, what they're gonna do with the property after the quarrying is done several years down the road, and we've agreed to help work with them to develop that process whether it's reforestation or some kind of agriculture, but in terms of the main focus of our restoration efforts are to protect the property, the people who may be going near the property from injuring themselves, and in addition to slopes, there's also a benching process. We make different benches depending on what the conditions and material are there.

VITOUSEK: And so, you know, in reviewing the proposed conditions from the Planning Department which were generally you know fine and acceptable to Glover and consistent with the previous Special Permits, there was one condition that, is Condition No. 3, which talked about limiting the hours of operation to 6 a.m. to 6 p.m. daily. The Planning Commission, I'm sorry, the Planning Department, correctly points out that that's the condition in the previous permits. In this application, I think, Glover requested the opportunity to quarry at other hours if necessary to meet demand—that was in the application. We would, we would like to ask that, that language be included in the conditions. We've given you proposed language. Maija correctly points out that the US Fish and Wildlife service commented concerns about night quarrying activities during the times of year when there's a potential for shearwater fallout, the Newell's shearwater and other birds that fly over the area can get confused by lights. It's a little problematic because you know this is right next to the airport, but at the same time, you know, I think that at this point we can you know live with a condition that would limit nighttime operation hours to not allow them during those, during those months. The other condition again relates to the US Fish and Wildlife recommendations and what we are asking there is that the actual language of the Fish and Wildlife recommendation be imported into the condition. In other words, there's a difference between the language and the condition proposed by the Planning Department and the language that, of the recommendation of the Fish and Wildlife Service, and we just ask that, that be made consistent and I understand that, from Maija, that that's acceptable to the Planning Department.

If there are any other questions, we're here to answer them, and thank you very much for your consideration of this application.

MIYASATO: Commissioner, any questions? Thank you. We have no testifiers. Commissioners, any discussion?

ONO: Mr. Chair?

MIYASATO: Commissioner Ono.

ONO: Would we be discussing the recommendations made or can we leave it up to the Director to include that? Those recommendations being discussed.

MIYASATO: You would include that in your motion.

ONO: We would have to include that in our motion?

MIYASATO: Yeah.

ONO: I think the—Mr. Chair?

MIYASATO: Commissioner Ono.

ONO: I think the recommendations were a little too much for me, so could I have it reviewed?

MIYASATO: Maija?

ONO: That way we can take them one at a time? I thought there were about three recommendations made.

COTTLE: Commissioner Ono, did you want to discuss the Applicant's proposed changes to the conditions?

ONO: I'm sorry?

COTTLE: Did you want to discuss the Applicant's proposed changes to the Planning Department's conditions?

ONO: Yes.

COTTLE: Okay.

ONO: Yes.

COTTLE: So, for Condition 3, the Applicant is requesting to add a sentence so it would be changed to say quarrying activities shall be limited to the hours of 6 a.m. and 6 p.m. daily. Work may occur at other times depending on demand. And, for Condition No. 8, they're suggesting to add some wording to the existing condition so it will read like this. To protect any Hawaiian hawk and Hawaiian goose in the vicinity of the property, vegetation clearing and beginning quarrying, quarry activities shall not occur in the unquarried areas of the permit area during Hawaiian hawk breeding season of March to September, and then the rest of the condition remains. So they're just trying to clarify that this condition would occur. It would trigger before vegetation clearing, and it would be relevant to the unquarried areas of the permit area, not the entire permit area. And that's consistent with what the US Fish and Wildlife recommended.

ONO: Did you not also come up with some recommendations?

COTTLE: Related to which condition?

ONO: In your presentation, did you not have some recommendations as well?

COTTLE: Yeah, so what I did was I suggested that if the Commission wants to allow work outside of 6 a.m. to 6 p.m., that they consider, you consider adding another condition to address the threatened or endangered seabirds and outdoor lighting. So, if you look at Exhibit No. 23, that is the Department of US Fish and Wildlife's letter explaining their recommendations. I'm sorry, Exhibit 25. And, if you look at Page No. 2, in the middle of that page—let me give you a minute—Exhibit 25, it's towards the back of your Background Report.

MOSES: Page 2?

COTTLE: Page 2. So the middle of the page is addressing Hawaiian petrel and Newell's shearwaters. Those are seabirds. It says they may traverse the project area at night during the breeding season, and they go on to talk about their concern is outdoor lighting at the site could result in the seabird being disoriented which leads to injury or mortality. And then they go onto recommend that if, if the applicant does intend to work during nighttime with outdoor lighting, that they not do that between September 15th and December 15th, which is the seabird fledging period. So, if the Commission would like, we could draft a condition similar to the other US Fish and Wildlife recommended Condition Nos. 7 and 8 with--with language either allowing nighttime quarrying activities except for those months or limiting outdoor lighting during the entire year? It's really up to the Commission.

ONO: Mr. Director, I'm sorry, I'm not familiar with the nuances of this—the industry, so what would be your recommendation as to what the suggestions are? I'm not familiar with the idea that we should limit the time between six and six or rather the lighting would be sufficient to continue quarrying during this period of time, so I guess I need to give it out to staff to make a suggestion.

COTTLE: I would suggest asking the Applicant what—whether that's very limiting to their operations or whether they would be agreeable to not operating at night during the fledging season.

VITOUSEK: Yeah, if I may, Mr. Chairman.

MIYASATO: Yeah, go ahead.

VITOUSEK: What if we, on Condition 3, what if we you know said work may occur at other times depending on demand except, except during the months of September 15 to whatever the date was. I'm sorry, I don't remember what the dates are and just put that in there for now, and just leave it like that. Keep it simple. In other words, permit it during that period except during the months of September 15th to whatever the date was.

MASUNAGA: December 15th.

VITOUSEK: September 15th to December 15th. Cause we're gonna be you know going to the Land Use Commission also, and so, but I think for now that will be a fine change that would address the Planning Department's and the Fish and Wildlife's concerns and allow us to move.

MIYASATO: Thank you. Any further discussion, Commissioners?

ONO: Do we also need this—Chair? Do we also need to discuss the suggestions by the Applicant? The additions?

MIYASATO: It's open for discussion.

ONO: Would you care to go over them one by one again so that we can—

COTTLE: Sure. Okay, so the Applicant's suggestion was to change Condition 3 to now say quarrying activities shall be limited to the hours of 6 a.m. to 6 p.m., daily. Work may occur at other times depending on demand, except for, from September 15th to December 15th.

MIYASATO: Commissioners, just as a comment yeah, this is a relatively remote area. And it's, the only concern is the wildlife, I think. That's a pretty sufficient amendment to that condition.

ONO: I don't know how to make this--Mr. Chair? I don't know the format of the motion, but I'd like to—

MIYASATO: It's a recommendation to the Land Use Commission, yeah.

ONO: Okay, so what, do we—I move to accept the Recommendation of the, the land, the Director with amendments as proposed. Is that sufficient?

MIYASATO: Maija—

COTTLE: Commissioner Ono—

ONO: I'm not—

COTTLE: You can just read here.

ONO: I think you're looking for wordings, and I'm not familiar with wordings as to how we proceed, so—

COTTLE: You could say, the Planning Director recommends that this request be approved by the Commission and forwarded to the State Land Use Commission for final determination.

ONO: I so move that we do that.

MASUNAGA: With the conditions.

MIYASATO: With conditions—amended—

COTTLE: I'm sorry, yes, with, with the amended conditions.

ONO: Oh, with the amended conditions.

MOSES: Second.

MIYASATO: Motion by Commissioner Ono and seconded by Commissioner Moses.

COTTLE: Okay, Commissioner Ono?

ONO: Aye.

COTTLE: Commissioner Moses?

MOSES: Aye.

COTTLE: Commissioner Heaukulani?

HEAUKULANI: Aye.

COTTLE: Commissioner Henkel?

HENKEL: Aye.

COTTLE: And Mr. Chair.

MIYASATO: Aye.

COTTLE: Okay, the motion passes five, zero.

MIYASATO: Thank you. You'll be notified in writing.

VITOUSEK: Thank you.

The discussion ended at 10:17 a.m.

Respectfully submitted,

Sarah Y. Hata-Finley, Secretary
Windward Planning Commission