

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI`I

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| In the Matter of the Petition of) | DOCKET NO. SP70-85 |
|) |) |
| WAIKOLOA DEVELOPMENT COMPANY) | ORDER GRANTING REQUEST |
|) | TO AMEND CONDITION NO. 4 |
| For an Amendment to the Special) | |
| Permit Which Established the Pu`u) | |
| Hinai and the Village Quarries and) | |
| Allied Uses on Approximately 152.6) | |
| Acres of Land Within the State Land) | |
| Use Agricultural District at) | |
| Waikoloa, South Kohala, Hawai`i,) | |
| TMK 6-8-02: por. 16 and por. 33) | |
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LAND USE COMMISSION
STATE OF HAWAII

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TMK 6-8-02: por. 16 and por. 33)
_____)

ORDER GRANTING REQUEST TO AMEND CONDITION NO. 4

On September 7, 2000, Waikoloa Development Company ("Applicant") filed a request with the County of Hawai`i Planning Department in Docket No. SP70-85/Waikoloa Development Company to amend Condition No. 4 to allow an extension of the life of the Special Permit for the Pu`u Hinai Quarry for five years until December 11, 2005 ("Request").

On November 1, 2000, the County of Hawai`i Planning Commission ("Planning Commission") conducted a hearing on the Applicant's Request.

On November 1, 2000, after due deliberation, the Planning Commission recommended approval of the Applicant's Request to the Land Use Commission ("Commission"), subject to the following six conditions to replace the previous nine

conditions imposed by this Commission in its Order Granting Request to Amend Special Permit issued on January 24, 1996:

1. The Applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Quarrying operations at Site 1 (Pu`u Hinai Quarry) shall be terminated by December 11, 2005, or prior to final subdivision approval of the increment of adjacent RA zoned lands which abut the quarry boundaries, or prior abandonment, whichever occurs first.
3. Upon termination of operations or abandonment of any portion of Site 1 (Pu`u Hinai Quarry) and Site 2 (Village Quarry), the land shall be graded to blend with the surrounding areas and re-vegetated. Further, the sites shall be left in a non-hazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Hawai`i County Planning Director for review and approval within ninety (90) days from the termination or abandonment date.
4. All other applicable laws, requirements, rules and regulations, including those of the Department of Health, shall be complied with.
5. An annual monitoring report shall be submitted to the Hawai`i County Planning Director and the State Land Use Commission prior to the anniversary date of the approval of this amendment. The report shall include, but not be limited to, the amount of material quarried or removed, a detailed listing of public complaints or problems, and their disposition. Should conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the County of Hawai`i Planning Commission that the quarry use will have an adverse impact on surrounding properties.
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Hawai`i County Planning Director shall initiate procedures to revoke the permit.

On December 21, 2000, this Commission received and accepted for consideration the complete record of the Planning Commission's record on the Applicant's Request.

The Applicant's Request came on for hearing on January 19, 2001, at this Commission's meeting in Kailua-Kona, Hawai'i. Appearing on behalf of the Applicant was Audrey Ng, Esq. Deputy Corporation Counsel Patricia K. O'Toole, Esq., for the County of Hawai'i informed the Commission staff that she would not be present at the hearing. At the hearing, a motion to approve the Applicant's Request was made and seconded. There being a vote tally of six ayes and no nays, the motion carried.

ORDER

Having duly considered the Applicant's Request, the arguments by the Applicant, and a motion having been made at a hearing conducted on January 19, 2001, at Kailua-Kona, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, Hawai'i Administrative Rules, and there being good cause for the motion, this Commission hereby GRANTS the Applicant's Request, subject to the following conditions to supersede all previous conditions imposed in this docket:

1. The Applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.

2. Quarrying operations at Site 1 (Pu`u Hinai Quarry) shall be terminated by December 11, 2005, or prior to final subdivision approval of the increment of adjacent RA zoned lands which abut the quarry boundaries, or prior abandonment, whichever occurs first.

3. Upon termination of operations or abandonment of any portion of Site 1 (Pu`u Hinai Quarry) and Site 2 (Village Quarry), the land shall be graded to blend with the surrounding areas and re-vegetated. Further, the sites shall be left in a non-hazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Hawai`i County Planning Director for review and approval within ninety (90) days from the termination or abandonment date.

4. All other applicable laws, requirements, rules and regulations, including those of the Department of Health, shall be complied with.

5. An annual monitoring report shall be submitted to the Hawai`i County Planning Director and the State Land Use Commission prior to the anniversary date of the approval of this amendment. The report shall include, but not be limited to, the amount of material quarried or removed, a detailed listing of public complaints or problems, and their disposition. Should conflict arise, which cannot be mitigated or mediated, the

quarry operations shall cease upon appropriate findings by the County of Hawai'i Planning Commission that the quarry use will have an adverse impact on surrounding properties.

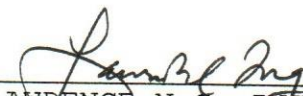
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Hawai'i County Planning Director shall initiate procedures to revoke the permit.


ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 16th day of February 2001. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

LAND USE COMMISSION
STATE OF HAWAI'I

By (absent)
MERLE A. K. KELAI
Chairperson and Commissioner

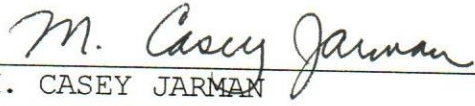
By 
LAWRENCE N.C. ING
Vice Chairperson and Commissioner

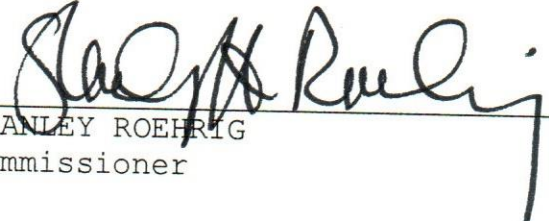
By 
P. ROY CATALANI
Commissioner

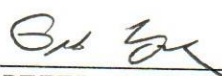
By 
BRUCE A. COPPA
Commissioner

By (absent)
PRAVIN DESAI
Commissioner

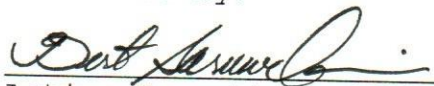
By 
ISAAC FIESTA, JR
Commissioner

By 
M. CASEY JARMAN
Commissioner

By 
STANLEY ROEHRIG
Commissioner

By 
PETER YUKIMURA
Commissioner

Filed and effective on
February 21, 2001

Certified by:

Acting Executive Officer

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| <p>In the Matter of the Petition of) WAIKOLOA DEVELOPMENT COMPANY) For an Amendment to the Special) Permit Which Established the Pu`u) Hinai and the Village Quarries and) Allied Uses on Approximately 152.6) Acres of Land Within the State Land) Use Agricultural District at) Waikoloa, South Kohala, Hawai`i,) TMK 6-8-02: por. 16 and por. 33) <hr style="width: 60%; margin-left: 0;"/></p> | <p>)))))))))))</p> | <p>DOCKET NO. SP70-85 CERTIFICATE OF SERVICE</p> |
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Request To Amend Condition No. 4 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

DEL. DAVID W. BLANE, Director
 Office of Planning
 P. O. Box 2359
 Honolulu, Hawaii 96804-2359

CERT. CHRISTOPHER YUEN, Planning Director
 Planning Department, County of Hawaii
 25 Aupuni Street
 Hilo, Hawaii 96720

CERT. LINCOLN ASHIDA, ESQ.
 Corporation Counsel
 County of Hawaii
 The Hilo Lagoon Center
 101 Aupuni Street, Suite 325
 Hilo, Hawaii 96720

AUDREY NG, ESQ., Attorney for Petitioner
CERT. Goodsill Anderson Quinn & Stifel
1099 Alakea Street, Suite 1800
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 21st day of February 2001.



BERT SARUWATARI
Acting Executive Officer