

ORIGINAL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

2015 DEC 3 PM 1 44

ASB TOWER, SUITE 2100
1001 BISHOP STREET
HONOLULU, HAWAII 96813
TELEPHONE 808.523.2500 FAX 808.523.0842
WWW.CARLSMITH.COM

PLANNING DEPARTMENT
COUNTY OF HAWAII

DIRECT DIAL NO.
808.523.2557

JLIM@CARLSMITH.COM

OUR REFERENCE NO.:
035536-00006

December 2, 2015

HAND DELIVERY

Duane Kanuha
Planning Director
Hawai'i County Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

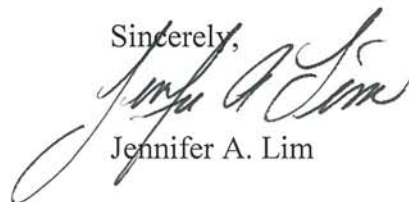
Re: **Affidavit of Mailing (Docket No. 92-000001)**
Applicant: WHC, Ltd. dba West Hawaii Concrete
Amendment to Special Permit No. 833 to Allow a Time Extension to
Condition No. 12, Allow Greenwaste Composting, and Allow the Processing
of Portland Cement Concrete and Asphalt Concrete Pavement
Tax Map Key No. (3) 6-8-001: 066 (formerly portion of (3) 6-8-001: 005)

Dear Mr. Kanuha:

Enclosed please find an Affidavit of Mailing of Notice of Hearing attesting to our transmittal of a notification letter regarding the hearing that is set on the pending Application for Amendment to Special Permit No. 833, filed with the Planning Department on September 15, 2015 ("**Application**"), to the owners and lessees of properties within 500 feet of the perimeter of the above-referenced property.

Please feel free to contact me at (808) 523-2557 or jlim@carlsmith.com should you have any questions concerning this submittal.

Sincerely,



Jennifer A. Lim

JAB1/PPT
Enclosure(s)
cc: Mel Macy, West Hawaii Concrete

EXHIBIT
16

HONOLULU · HILO · KONA · MAUI · GUAM

SCANNED
LOS ANGELES
DEC 24 2015
By: 102343

ORIGINAL

2015 DEC 3 PM 1 44

Applicant: WHC, Ltd. dba West Hawaii Concrete

PLANNING DEPARTMENT
COUNTY OF HAWAII

Location: Tax Map Key No. (3) 6-8-001: 066 (por.) (formerly a portion of TMK No. (3) 6-8-001: 005), District of South Kohala, Island and County of Hawaii

Request: Special Permit No. 833 (Docket No. 92-000001)
Amendment to Special Permit No. 833 to Allow a Time Extension to Condition No. 12, Allow Greenwaste Composting, and Allow the Processing and Recycling of Portland Cement Concrete and Asphalt Concrete Pavement ("**Application**")

**AFFIDAVIT OF MAILING OF
NOTICE OF HEARING**

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

JENNIFER A. LIM, being first duly sworn on oath, deposes and says that:

1. I am a partner at the law firm of Carlsmith Ball LLP, which represents the Applicant in this Special Permit proceeding, WHC, Ltd., a Hawai'i corporation doing business as West Hawaii Concrete, who is requesting an amendment to Special Permit No. 833 to extend the expiration date of Special Permit No. 833, to allow greenwaste composting, and to allow the processing and recycling of Portland Cement Concrete and Asphalt Concrete Pavement on TMK No. (3) 6-8-001: 066 (formerly a portion of TMK No. (3) 6-8-001: 005), situated at Waikoloa, District of South Kohala, Island and County of Hawaii (the "**Property**").

2. On September 15, 2015, Affiant filed the above-referenced Application with the Planning Department.

3. By letter dated September 24, 2015, which was received by Affiant on October 1, 2015, and by Applicant on October 5, 2015, the Planning Department acknowledged receipt of the Application.

4. Affiant has compiled a list of names and addresses of property owners and lessees within 500 feet of the perimeter boundary of the Property, a copy of said list being attached hereto as **Exhibit 1**.

5. On October 9, 2015, Affiant filed with the Planning Department (1) the Affidavit of Sign Posting attesting to the posting of a sign on the Property on October 8, 2015, which serves to notify the public of the pending Application, and (2) the Affidavit of Mailing of Notice of Filing Application, attesting to Affiant's mailing on October 5, 2015 of a notification letter regarding the filing of the Application, which included the Tax Map Key map showing the Property, a Site Plan of the Property, and the County's form application for Petition for Standing in a Contested Case Hearing, to all said property owners and lessees.

6. By letter November 24, 2015, which was received by Affiant on November 30, 2015, the Planning Department informed the Applicant of the December 17, 2015 agenda for the Planning Commission's hearing on the above-referenced Application.

7. On December 1, 2015, Affiant mailed to all said property owners and lessees the Notice of Hearing, which included a copy of the Tax Map Key map showing the Property, a Site Plan of the Property, the Planning Commission agenda for the hearing on the Application, and the County's form application for Petition for Standing in a Contested Case Hearing. A copy of said Notice being attached hereto as **Exhibit 2**.

8. This Affidavit is being submitted in accordance with Section 25-2-4 of the County of Hawaii Zoning Code and Rule 6-6 of the County of Hawaii Planning Commission Rules of Practice and Procedure, and as set forth in the Planning Department's letter dated November 24, 2015.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: Honolulu, Hawai'i, December 2, 2015.

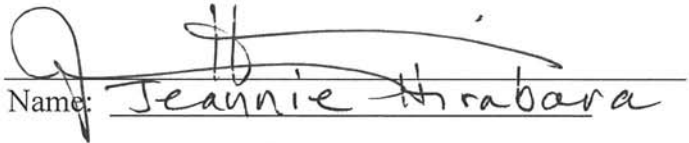


JENNIFER A. LIM

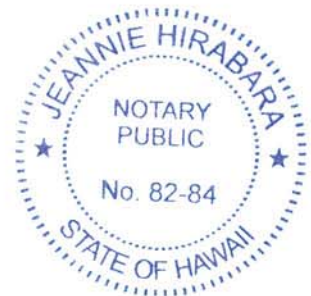
STATE OF HAWAI'I)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of December, 2015, before me personally appeared **JENNIFER A. LIM**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Name: Jeannie Hirabara
Notary Public, State of Hawai'i
My commission expires: 2/7/18

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Affidavit of Mailing of Notice of Hearing</u>
Document Date:	<u>12/2/15</u>
No. of Pages:	<u>13</u>
Jurisdiction (in which notarial act is performed): <u>First Circuit</u>	
Signature of Notary	<u>12/2/15</u>
<u>Jeannie Hirabara</u>	Date of Notarization and Certification Statement
Printed Name of Notary	



(Notary Stamp or Seal)

WHC, Ltd.
Special Permit Application
Surrounding Property Owners Within 500'
of
TMK:(3) 6-8-001:066

<u>TMK</u>	<u>Owner Name and Address</u>
6-8-001:005 027 067	Waikoloa Mauka LLC Attn: Mr. Kevin C. Kellow 431 N Brand Blvd., Suite 201 Glendale, CA 91203-4418
6-8-001:999	County of Hawaii Department of Public Works Highway Maintenance 101 Pauahi Street, Suite 7 Hilo, HI 96720
7-1-003:001	State of Hawaii Department of Land and Natural Resources Land Division 75 Aupuni Street, Room 204 Hilo, HI 96720 AT&T Wireless Services of HI LLC 500 Kahelu Avenue Mililani, HI 96789-3938
6-8-002:019	Waikoloa Village Association P.O. Box 383910 Waikoloa, HI 96738

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JLIM@CARLSMITH.COM

DIRECT DIAL NO.
808.523.2537

BEFORE THE LEEWARD
PLANNING COMMISSION
(AMEND SPP 883/SPP 92-001)

December 1, 2015

NOTICE OF HEARING

- To: Surrounding Property Owners Within 500' of TMK No. (3) 6-8-001: 066 (por.)
- Applicant: WHC, Ltd., a Hawaii corporation doing business as West Hawaii Concrete
- Owners: WQJ2008 Investment, LLC, a Washington limited liability company
Ukumehame Quarry Company Limited Partnership, a Hawaii limited partnership
- Location: Approximately four (4) miles mauka of Queen Kaahumanu Highway, south of Waikoloa Road, in Waikoloa, District of South Kohala, Island and County of Hawaii. See attached map identifying the location of the Property.
- Request: To amend Special Permit No. 833 to allow a time extension to Condition No. 12 to allow the current quarrying operations to continue within the 219.990-acre property, and to allow greenwaste composting, and the processing and recycling of Portland cement concrete and asphalt concrete pavement pursuant to Section 6-3, Planning Commission Rules of Practice and Procedure. See attached site plan.

Tax Map Key ("TMK") No. (3) 6-8-001: 066 (por.) (formerly a portion of TMK No. (3) 6-8-001: 005) ("**Property**")

Dear Surrounding Property Owners:

Pursuant to Rule 6 of the Planning Commission Rules of Practice and Procedure, on September 15, 2015, Applicant WHC, Ltd. dba West Hawaii Concrete filed with the Planning Department of the County of Hawaii, an application seeking to amend Special Permit No. 833, which allows quarrying activities on the Property until December 31, 2018. The amendment seeks to (1) extend the expiration date of Special Permit No. 833 so that the quarrying and other activities can continue to 2043 or for so long as the Owners allow the Applicant to continue quarrying operations, which could extend the permit until 2063, (2) allow greenwaste composting and, (3) allow the processing and recycling of Portland cement concrete and asphalt concrete pavement, on approximately 219.990-acres of the Property, located within the State Land Use Agricultural District.

December 1, 2015

Page 2

The Applicant received the Planning Department's acceptance of the Special Permit Application on September 24, 2015. On October 5, 2015, the Applicant mailed its Notice of Filing Application to the owners and lessees of record within 500 feet of the perimeter boundary of the Property, notifying said owners and lessees of the filing of the subject application to amend Special Permit No. 833.

Date, time and place that the public hearing will be held to consider the Application. A hearing on this matter will be held on **Thursday, December 17, 2015 at 9:30 a.m. in the West Hawaii Civic Center, Community Center, Building G, located at 74-5044 Ane Keohokalole Highway, Kailua-Kona, Hawaii.** A copy of the Leeward Planning Commission's agenda for the aforementioned hearing is enclosed.

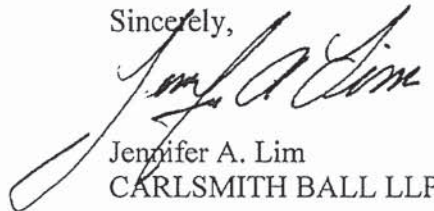
You have a right to submit a written request for a contested case hearing. In accordance with Rule 4 of the Planning Commission Rules of Practice and Procedure, you have the right to submit a written request for a contested case proceeding in this matter. Should you seek to intervene as a party, you should file a written request no later than (7) calendar days prior to the Planning Commission's first scheduled public hearing to consider the application. The written request shall be in conformity with the Planning Commission's Rules of Practice and Procedure, Rule 4, related to Contested Case Procedures, and in a form as provided by Rule 4, Appendix A, "Petition for Standing in Contested Case Hearing." A copy of this form is attached hereto as Appendix A. Your written request must be filed with the Planning Commission located at 101 Pauahi Street, Suite 3, Hilo Hawaii 96720, and accompanied by a filing fee of \$200.00 payable to the Director of Finance.

In the event that you choose not to submit a written request for a contested case procedure, you may express your support/opposition in writing or by oral testimony at the Planning Commission public hearing scheduled on **December 17, 2015.**

Maps showing the general location and boundary of the area under consideration are on file in the offices of the Planning Department in the Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawaii 96720 at 808.961.8288, or at the Planning Department's West Hawaii Office, 74-5044 Ane Keohokalole Highway, Building E, 2nd Floor, Kailua-Kona, Hawaii 96740 at 808.323.4770, and are open to inspection during office hours.

Should you have any additional questions concerning this matter, please call our office at 808.523-2557, or the Planning Department in Hilo at 808.961.8288, or in Kona at 808.323.4770. Thank you for your kind attention.

Sincerely,

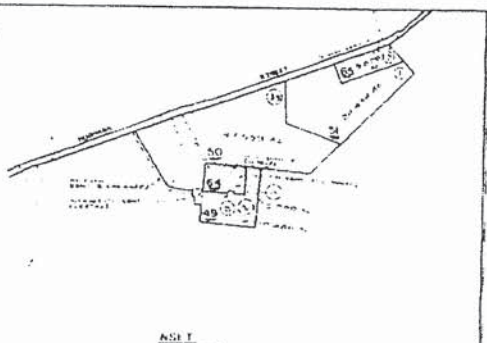
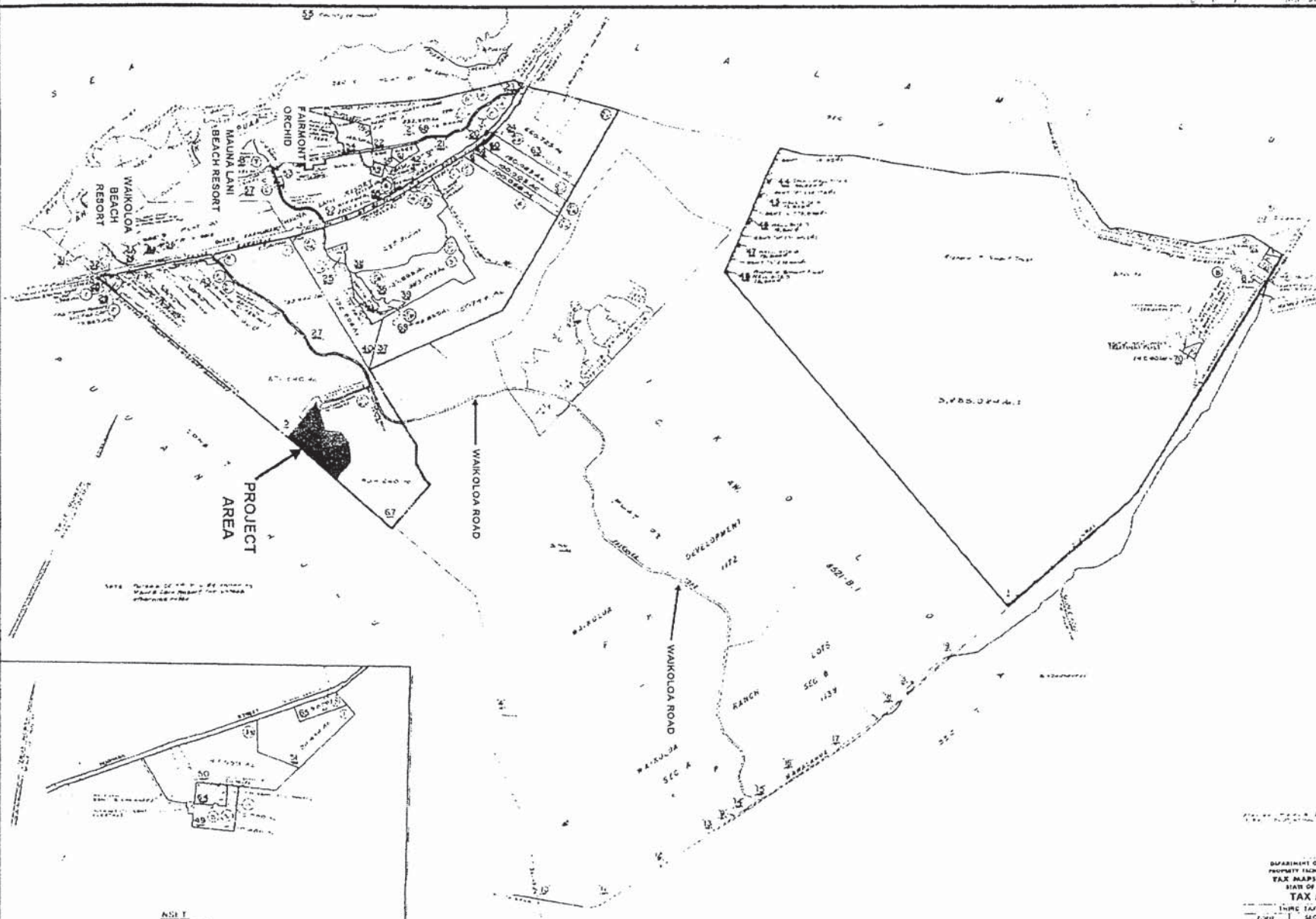


Jennifer A. Lim
CARLSMITH BALL LLP

JABI/PPT

xc: Mel Macy, West Hawaii Concrete

4850-5037-9819.1



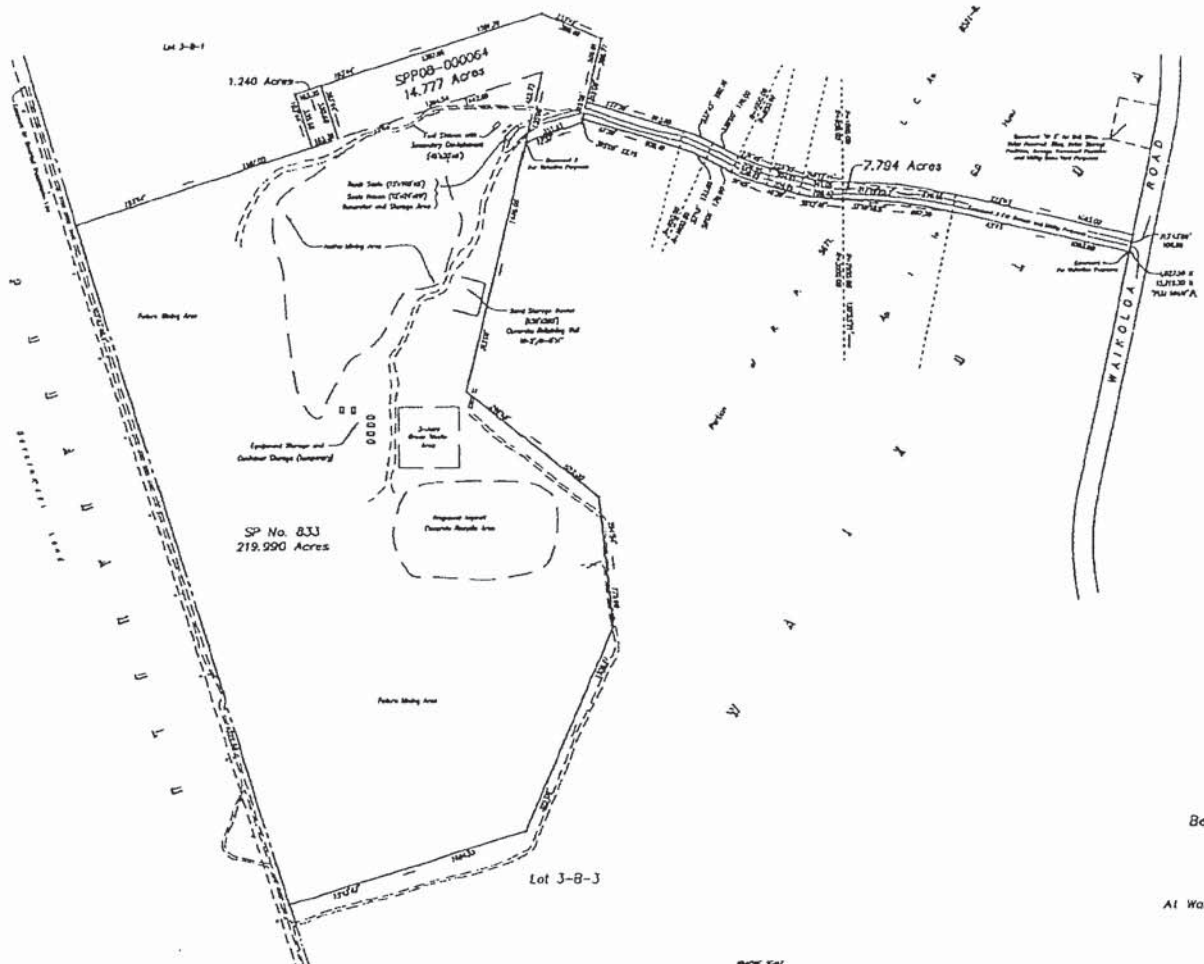
DATE: 11/15/01
 DRAWN BY: J. L. HARRIS
 CHECKED BY: J. L. HARRIS
 DATE: 11/15/01
 SOURCE: 1:50,000
 SCALE: 1" = 1000'

ASSET

WAIKOLOA, SOUTH SHORE, HAWAII

DEPARTMENT OF REVENUE
 PROPERTY TECHNICAL OFFICE
 TAX MAPS BRANCH
 STATE OF HAWAII
 TAX MAP
 TOWN OF WAIKOLOA DISTRICT
 6 8 01
 SCALE: 1" = 1000'

FOR PROPERTY ASSESSMENT PURPOSES
 SUBJECT TO CHANGE



Lot 3-B-2
 Being a Portion of Royal Patent 5671,
 Land Commission Award 8521-B,
 Apana 1 to G.D. Huou

At Waikaloa, North Kohala, Island of Hawaii Hawaii
 Tax Map Key: (3) 6-B-01: 066

243,794 Acres



AJA THOMAS CONSULTING

Map for Map 3-000-0-1
 1/24/00

2000 State of Hawaii, Dept. of Land and Natural Resources
 Planning, Research, and
 Information Division

William P. Keno
Mayor



Brandi Beaudet, Chair
Thomas Whittmore, Vice Chair
Scott Church
Collin Kaholo
Barbara Nobriga
Oliver "Sonny" Shimaoka
Keith Unger

County of Hawai'i

LEEWARD PLANNING COMMISSION
Aupuni Center • 101 Puuahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

AGENDA

NOTICE IS HEREBY GIVEN of the following matters to be considered by the Leeward Planning Commission of the County of Hawai'i in accordance with the provisions of Chapters 91 and 92, Hawai'i Revised Statutes, Section 6-7.5(a) of the Charter of the County of Hawai'i, and the Commission's Rules of Practice and Procedure.

DATE: Thursday, December 17, 2015

TIME: 9:30 a.m.

PLACE: West Hawai'i Civic Center, Community Center, Building G,
74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i

STATEMENTS FROM THE PUBLIC – Note that statements from the public regarding any particular item on this agenda will be taken at the time the particular item is called to order.

NEW BUSINESS – 9:30 a.m.

1. APPLICANT: WHC, LTD. (Amend SPP 833/SPP 92-001)

Request for amendments to Special Permit No. 833 which was originally approved to allow for the operation of a quarry and related uses on approximately 219.990 acres of land situated within the State Land Use Agricultural District. The requested amendments include: 1) amendment to Condition No. 12 (life of the permit) to allow a time extension until December 31, 2043 or a longer period of time; 2) to allow greenwaste composting; and 3) to allow the processing and recycling of Portland cement concrete and asphalt concrete pavement. The affected property is located on the south side of Waikoloa Road approximately 1,500 feet west of the 3 Mile Marker, Waikoloa, South Kohala, Hawai'i, TMK: 6-8-001:066 (formerly 6-8-001:portion of 005).

MINUTES

Minutes of the November 19, 2015 meeting

ADMINISTRATIVE MATTERS

1. Status of applications heard by Leeward Planning Commission that are pending before County Council.
2. Election of Officers for 2016

ANNOUNCEMENTS

ADJOURNMENT

The purpose of the public hearing is to afford all interested persons a reasonable opportunity to be heard on the above matter.

Submitting Testimony: According to Rule 1 (General Rules) of the Planning Commission, a person desiring to submit oral or written testimony shall indicate her/his name; address; and whether the testimony is on her/his behalf or as a representative of an organization or individual. If testimony is being submitted on behalf of an organization, documentation showing membership ratification should accompany the testimony. Written testimony shall be submitted with an original and fifteen copies prior to testifying. The Commission would appreciate timely submittal to the Planning Department at least one week prior to the hearing date to allow for mailing and thorough Commission review. Testimony that is irrelevant or unduly repetitious may be limited by the Chairperson pursuant to Rule 1.

Pursuant to Rule 4, Contested Case Procedure, of the County of Hawai'i Planning Commission Rules of Practice and Procedure, any person seeking to intervene as a party to a contested case hearing on the above agenda item is required to file a written request which must be received in the office of the Planning Department no later than seven (7) calendar days prior to the Planning Commission's first public meeting on the matter. Such written request shall be in conformity with Rule 4, in a form as provided by the Planning Department entitled "Petition for Standing in a Contested Case Hearing." The written petition/request shall be filed with the Planning Commission at Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawai'i 96720, and accompanied by a filing fee of \$200 payable to the Director of Finance. Any party may retain counsel if that person so desires. Rule 4 may be inspected or purchased (\$2.50) at the above-cited location. Rule 4 may also be viewed at the County of Hawai'i website (<http://www.co.Hawaii.hi.us>).

Notice to Lobbyists: If you are a lobbyist, you must register with the Hawai'i County Clerk within five days of becoming a lobbyist {Article 15, Section 2-91.3(b), Hawai'i County Code}. A lobbyist means "any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials." {Article 15, Section 2-91.3(a)(6), Hawai'i County Code} Registration forms and expenditure report documents are available at the Office of the County Clerk, 25 Aupuni Street, Room 1402, Hilo, Hawai'i 96720.

Copies of the applications are on file and open to inspection during office hours at the Planning Department, Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawai'i and at the Kona office of the Planning Department, West Hawai'i Civic Center, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i.

Anyone who requires an auxiliary aid or service, other reasonable modification, or language interpretation to access this meeting please contact the Planning Department at 961-8288 as soon as possible, but no later than five working days prior to the meeting date, to arrange for accommodations. "Other reasonable modification" refers to communication methods or devices for people with disabilities who are mentally and/or physically challenged.

Hawai'i County is an Equal Opportunity Provider and Employer

LEEWARD PLANNING COMMISSION
Brandi Beaudet, Chair

(Hawaii Tribune Herald: Sunday, November 29, 2015)
(West Hawaii Today: Sunday, November 29, 2015)

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 1 of 2)

NAME: _____

ADDRESS: _____

PHONE NO.: _____

APPLICANT/

DOCKET NO.: _____

A. Is your interest in this matter clearly distinguishable from that of the general public?

Yes _____ No _____

If the answer is "yes", please explain:

If the answer is "no", please explain how the proposed action will nevertheless cause you actual or threatened injury:

B. Are you a government agency whose jurisdiction includes the land involved in the subject request?

Yes _____ No _____

If the answer is "yes", please explain the nature of the agency's jurisdiction:

C. Do you lawfully reside on or have some property interest in the land involved in the subject request?

Yes _____ No _____

If the answer is "yes", please explain:

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 2 of 2)

D. Are you a person or persons descended from native Hawaiians who inhabited the Hawaiian Islands prior to 1778, who practiced those rights which were customarily and traditionally exercised for subsistence, cultural, or religious purposes?

Yes _____ No _____

If the answer is "yes", please submit any genealogical evidence and historical evidence showing the exercise of those rights to support your statement:

Petitioner's Signature

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 20____, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Notary Public, State of Hawaii

My commission expires: _____