

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
DECEMBER 17, 2015

A regularly advertised hearing on the application of **WHC, LTD. (Amend SPP 833/SPP 92-001)** was called to order at 9:38 a.m. in the West Hawai'i Civic Center, Community Center, Building G, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i, with Chairman Brandi Beaudet presiding.

COMMISSIONERS PRESENT: Brandi Beaudet, Scott Church, Collin Kaholo, Barbara Nobriga and Thomas Whitemore

ABSENT AND EXCUSED: Sonny Shimaoka and Keith Unger

ALSO PRESENT: Danny Patel (Counsel for the Commission), Duane Kanuha (Planning Director), Daryn Arai (Planning Program Manager), Jeff Darrow (Planner) and Noriko Sauer (Commission Secretary)

And six people from the public in attendance.

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:portion of 066 (formerly 6-8-001:portion of 005).

BEAUDET: Today's first application is West Hawai'i Concrete, Limited, with an amendment to Special Permit 833 and Special Permit 92-001. Staff?

DARROW: Thank you, Mr. Chairman. Good morning, Members of the Planning Commission. If I could direct your attention to our first and only presentation this morning. This is, the applicant is WHC, Ltd. They are requesting an amendment to Special Permit No. 833, which was actually approved through the State Land Use Commission under Docket No. 92-01.

The area of the subject application is within the South Kohala District of Hawai'i. More specifically, we are looking in the area of Waikoloa and in along the Waikoloa Road, which is in this general area. Just for reference on the left side of the map we have Queen Ka'ahumanu Highway, and again running mauka-makai, or east-west, is the Waikoloa Road, and the subject property is identified with the black outline. This particular area here in yellow represents the Waikoloa Village area.

This is a closer view, which is also representing the County zoning for the particular area. The different colors represent the zoning for the properties. This particular property in, and the

surrounding areas, in light green represents Agricultural-5 acres. The darker green represents Open zoning, and we have some Rural zoning, as well as Residential zoning up in the village.

This is our State Land Use Boundary Designation Map, which identifies the property as Agriculture in the green. The pink areas represent Urban areas that are currently being set aside for urban development.

This is the General Plan Land Use Pattern Allocation Guide Map. This particular property is within the hatched area, which identifies Urban Expansion. To the south we have Extensive Agriculture, and again we have green, which represents an Open Conservation type area, and the yellow and orange areas represent Low Density Urban and Medium Density Urban.

This is an aerial photo. Again, for reference, we have the Waikoloa Road, and access is from Waikoloa Road on a gravel pathway, or roadway, and you can see the subject property that has been used for quarrying for approximately 20 years in this particular area.

The applicant is requesting an amendment to Special Permit No. 833, which was originally approved in 1993, to allow for the operation of a quarry and related uses on approximately 219.990 acres. This is situated within the State Land Use Agricultural District, and the amendment includes the following: First amendment is a request to amend Condition No. 12, which is the condition that has the life of the permit; currently it is up till December 31, 2018; they are requesting to extend that to 2043, or a longer period of time; second, they are allowing, requesting to allow greenwaste composting; this will be on an approximately three-acre portion of the property; and lastly, to allow the processing and recycling of Portland cement concrete and asphalt concrete pavement, and this, it will be on an approximately ten-acre portion of the property.

This is the applicant's site plan that was submitted along with the application. Again, for reference – oh, sorry – on the right side of the map we have Waikoloa Road and we have the access roadway that comes from Waikoloa Road, and then we have the subject property identified with this outline. It's hard to read what the wording is, but this particular area here in the circle is the area proposed for the recycling of the concrete and asphalt, the square area is the proposed area for the greenwaste composting, and the property is used for the quarrying and also the other related uses up in this particular area.

These are some site photos. This is looking makai on Waikoloa Road, with the entrance to the property on the left side of the road. You can see sight distance is good in this particular area. This is looking mauka, again, with the subject property entrance on the right side of the road. And again, sight distance doesn't seem to be an issue in this area. And this is looking at the particular driveway access to the subject property from Waikoloa Road.

The Planning Director is recommending that the Planning Commission send a favorable recommendation for the requested amendments to the State Land Use Commission. The time extension that was requested until 2043, or a longer period, the Planning Director is recommending that this be until 2043 to allow for an updated review of the quarry operation and related uses at that time.

I have a few housekeeping items to take care of. One is that this morning we've received an additional submittal from the applicant's representative, dated December 17, 2015, and that has been passed out to the Commission. We would like to request to make a simple change to Condition No. 5, and it's not really changing the Condition overall; it's just rewording it. And if you could look, if I could refer you to this letter dated December 17, 2015, from the applicant's representative, on Page 1 they are identifying the current Condition that is within the proposed amendment request and recommendation, and on Page 2 they have the requested change to Condition No. 5. In review of this it doesn't appear that there are any problems making that simple adjustment on the Condition. But with the change in Condition No. 5, we would also request that on Page 7, which is of the Recommendation, at the top portion of the page, that we also reflect the wording of Condition 5, to reflect the change in Condition 5 in the amended Condition. Lastly, just for clarification on Condition No. 12, just so that we are clear in the wording of this that "The life of this permit shall be for," and there are three different possibilities here: One is that it's for "a period co-terminous with the existing license agreement with the owner of the property"; or number two, "until December 31, 2043," which is the date of completion for the proposed quarrying; or number three, of "its abandonment, whichever comes first." So it's not just a date, there are several possibilities that could occur prior to the date of completion. With that, that concludes our presentation. Thank you.

BEAUDET: Thank you, Jeff. Commissioners, any questions or discussion with staff?

DARROW: Thank you.

BEAUDET: Thank you. Just for disclosure purposes, I just wanted to put on the record that I am currently employed with Parker Ranch; Parker Ranch has a relationship with the applicant that is not related to this parcel. As my role as an employee at Parker Ranch I don't have any direct business relationship with the applicant. Thanks. Would the applicant and/or its representatives please come forward? I'll have to swear you in first. If you could all raise your right hand. Do you swear or affirm to tell the truth now and before the Leeward Planning Commission?

REPRESENTATIVES: I do.

BEAUDET: Thank you. If you could each, starting with you, Mel, just introduce yourself.

M. MACY: Yeah, hi, my name is Mel Macy, and I want to thank you all for giving us this opportunity. And you all pretty much know West Hawai'i Concrete; we've been around for 40-plus years serving the community and, with your blessing, we hope to continue to do so. Thank you.

J. MACY: Yeah, and I'm Jason Macy, Vice President of West Hawai'i Concrete, and again I'd just like to thank all of you for your time and addressing this matter. Thank you.

LIM: And I'm Jennifer Lim who is the applicant's representative, and I echo their sentiments. Thank you very much for the opportunity today. And if I could, too, I just want to mention that Mr. Charlie Jencks is in the audience, and he is the representative of the landowner, which is WQJ2008 Investment, LLC and Ukumehame Quarry Company Limited. Just mentioning that he is here as well. Thank you.

BEAUDET: So I assume that you've all had a chance to review the conditions and have had discussions with the Department relative to the changes.

LIM: Yes.

BEAUDET: Okay. If you'd like to proceed with a presentation.

LIM: Sure. Thank you. Oh, I mean, first of all, the presentation that Jeff gave was really excellent, and I'm so glad that you did that because I think the visuals also were helpful. I hope the Commission found that helpful. And the Background Report was quite comprehensive, so there is probably not much more that we need to add. But just because we are here, we do want to make ourselves available for questioning as well.

But to try to recap what's in the application and what Jeff already said, as you know, these folks have been running the quarry there for over 20 years; I mean when the first permit was, when the Land Use Commission approved this, I think it was '93, then there was a delay until about '98 before things could get started, and then it's been a going concern since then, no complaints, no complaints from area residents. Obviously, even with this application, of course, notice got sent to area residents and there was no feedback or anything like that. So it's been a successful quarrying operation. The top five feet of the 219.990-acre property has been removed almost entirely; there is maybe some small portion, but so the top five feet are completely gone. But there is years and years' worth of quarrying material that's left in the site, and that's why they would like to continue doing this for at least 20 years. And we understand the Department's recommendation wanting to limit it to just to 2043, which is the term of the current license agreement with the landowner, and the applicant accepts that. But the reason why we were seeking even longer, just so that you know, is even with the rate of business and even if there is a substantial increase in business, there is just a lot of land there and a lot more quarrying could take place. So, but we are perfectly willing and grateful, if the Commission allows us to go forward to 2043.

The additional uses that we are asking for permission to operate, one is the greenwaste processing, and again, that's already happening on the property; it's been happening for a few years through a permit that's issued by the State Department of Health. But we wanted to be upfront and go ahead and get that before the Commission, so that you folks would be aware of it. And if you have any questions about it, certainly we can answer that.

And then the two additional uses, the recycling of the concrete and the asphalt as described in the Planning Director's report and recommendation, those are pretty complimentary uses to the existing quarry activities and the other things that were approved in the original permit. But it's a use, it's two uses that aren't happening right now, and both Mr. Macy and Mr. Macy believe that those are going to be good business generators. And, in fact, you do operate a recycling plant at another location right now.

J. MACY: Yeah.

LIM: So with that, we are ready to answer any questions that you may have, or if you've got questions for either Mr. Jason Macy or Mr. Mel Macy.

BEAUDET: Thank you very much. Commissioners, any discussion or questions of the applicant?

CHURCH: My only question is, is it possible to buy Binders Lodges in that?

[Laughter]

LIM: I certainly hope not.

KANUHA: Mr. Chairman, I have a question.

BEAUDET: Sure.

KANUHA: Can you explain for the Commission the reasons for your proposed modifications of Condition No. 5?

LIM: Sure. Thanks for asking. So Condition No. 5, the genesis is the original Condition in the permit is what you see in the, you know, the strikeout language that's in this letter and also what you see in the Director's report. When this application got circulated to the various County and State agencies for comment, the Department of Public Works submitted a comment letter that's in the materials; so basically reiterating the language in the Condition. And the language is just a little, it's a little vague, frankly, the way that it was originally drafted, and I'm sure at the time it was, everybody understood what was meant, what was meant by it, but looking back at it all these years later. So Mr. Macy actually went and met with representatives over at the Department of Public Works, tried to clarify just what exactly where the concerns about access, because, remember originally, like you saw in the picture that Jeff showed, from Waikoloa Road there is this long skinny road that goes into the quarry site; that's a road that the applicant actually built. And it's a paved road; it's actually not a gravel road. And that's -.

DARROW: Sorry about that.

LIM: It's okay. That was built several, several years ago. So, you know, maybe that was the original intention of the Condition. And so when the Department of Public Works, you know, wrote in their letter language very much like that, Mel wanted to go find out, hey, what are you talking about, what do you mean. So in those discussions, basically what Mel and the Department of Public Works agreed to is what you see on Page 2 of our letter, which is the amendment that we are requesting.

So now to specifically try to answer Director Kanuha's question, there is two basic changes that Mel and the Department of Public Works had agreed to that are a little bit different from what was in the Condition that the Planning Department put together. First of all, if you notice the first sentence that the Department of Planning had written was that at the written request of DPW, access to the road will comply with Chapter 22 of the Hawai'i County Code. We are actually, the access already does comply with Chapter 22; access had to comply when the road first got built. So what we think really makes more sense is if there are additional improvements that ever are needed, that those additional

improvements would comply with Chapter 22. So we are just moving it from the front of the paragraph to the bottom of the paragraph to tie in with any additional or new improvements.

And then the other difference is that as per discussions with Mel and folks at the Department of Public Works, is that the Department of Public Works was comfortable with having the applicant submit a traffic impact analysis report in five years upon DPW's request, so, you know, because I mean there might just be that there is, traffic isn't an issue right now; if you look through the application, traffic is not going to be an issue through this project. But, nevertheless, the language that Mel had agreed to with the Department of Public Works is that he would do a report, if DPW ask for one; whereas the Condition that the Planning Department had come out with didn't have the requirement for DPW to actually ask for one. So those are two differences.

KANUHA: Have we been able to confirm that Public Works is in agreement with this wording?

DARROW: Yes. Thank you, Mr. Director. We, when the applicant originally submitted their response letter to the Department of Public Works' comment letter, and this is found under Planning Department Exhibit No. 10, the wording was, as mentioned by the applicant's representative, it did not reference access to Waikoloa Road complying with Chapter 22. In discussions with Ki Emler of Public Works, he suggested that that be added. When I drafted up the addition, I just added it in the beginning of the sentence, in the beginning of the Condition, versus the end. And by doing that, it did seem to change the wording of the Condition by not requiring the TIAR at a written request of DPW; it was more as if the written request would be relative to the access issue. So by what the applicant's representative did by moving that to the end of the sentence, seem to make more sense. We contacted Ki and asked him if he was comfortable with the language, and he agreed it was sufficient and he was in agreement with it.

KANUHA: That's all I have, Mr. Chairman.

BEAUDET: For clarity, though, so if DPW does not make a written request after the fifth year anniversary, then the requirement is, doesn't have to be fulfilled until -.

DARROW: Correct.

BEAUDET: -- until their request is made.

DARROW: Request is made, yes.

BEAUDET: Okay.

M. MACY: And the request can be made, excuse me, and as far as we are concerned, the request can be made any time after five years.

BEAUDET: Commissioners, any more comment? Thank you. I see here that no one has submitted request for testimony. Staff, any further comment before we move forward?

DARROW: No, thank you.

BEAUDET: Okay, thank you. With no more comments or questions and no testimony from the audience, first of all, thank you for answering the questions, we appreciate that. Commissioners, I would like to request for an action.

WHITTEMORE: Chair, I'd like to move that the application to amend Special Permit SPP 833 be approved, with the amended Condition 5 included, and a recommendation for approval be forwarded to the State Land Use Commission, pursuant to the Planning Director's findings, recommendation, proposed conditions, which shall be adopted.

NOBRIGA: I second.

BEAUDET: It has been moved by Commissioner Whittemore for a favorable recommendation and seconded by Commissioner Nobriga. Staff, roll call.

DARROW: Thank you, Mr. Chairman. With that, we'll take the roll call. Commissioner Whittemore?

WHITTEMORE: Aye.

DARROW: Commissioner Nobriga?

NOBRIGA: Aye.

DARROW: Commissioner Church?

CHURCH: Aye.

DARROW: Commissioner Kaholo?

KAHOLO: Aye.

DARROW: And Mr. Chairman?

BEAUDET: Aye.

DARROW: The motion passes, five to zero.

LIM: Thank you so much.

M. MACY: Thank you, Chair.

BEAUDET: Thank you. Good luck.

M. MACY: Thank you, Committee Members.

The discussion ended at 10:00 a.m.

Respectfully submitted,

Noriko Sauer, Secretary
Leeward Planning Commission

DRAFT