

LEEWARD PLANNING COMMISSION  
COUNTY OF HAWAI'I

HEARING TRANSCRIPT  
JUNE 21, 2018

A regularly advertised hearing on the application of **PR MAUNA KEA, LLC (AMEND SPP 724/LUC SP 90-374)** was called to order at 11:52 a.m. in the West Hawai'i Civic Center, Community Center, Building G, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i, with Chairman Keith F. Unger presiding.

COMMISSIONERS PRESENT: Keith F. Unger, Nancy Carr Smith, Scott Church, Perry Kealoha, Barbara Nobriga and Sonny Shimaoka

ALSO PRESENT: Malia Hall, Esq. (Counsel for the Commission), Jeff Darrow (Planning Program Manager), Maija Jackson (Planner), Christian Kay (Planner), and Noriko Sauer (Commission Secretary)

And three people from the public in attendance.

**APPLICANT: PR MAUNA KEA, LLC (AMEND SPP 724/LUC SP 90-374)**

Request for amendment to Special Permit No. 724, which was originally approved to allow for the operation of a quarry and related uses on approximately 143.48 acres of land situated within the State Land Use Agricultural District. The applicant is requesting an amendment to Condition No. 7 (Life of the Permit) to allow a time extension to run coterminous with the current lease between the applicant and WHC, Ltd., dba West Hawai'i Concrete, which expires on September 3, 2037. The affected property is located approximately 3.7 miles north east of the Māmalahoa Highway/Waiki'i Road intersection, Waikoloa, South Kohala, Hawai'i, TMK: 6-7-001:portion of 034 (formerly 6-7-001:portion of 025).

UNGER: Item No. 3 on the agenda, Applicant PR Mauna Kea, LLC, AMEND SPP 724/LUC SP 90-374, request for amendment to Special Permit No. 724, which was originally approved to allow for the operation of a quarry and related uses on approximately 143.48 acres of land situated within the State Land Use Agricultural District. The applicant is requesting an amendment to Condition 7, Life of the Permit, to allow a time extension to run coterminous with the current lease between the applicant and WHC, Ltd., dba West Hawai'i Concrete, which expires on September 3, 2037. The affected property is located approximately 3.7 miles northeast of the Māmalahoa Highway-Waiki'i Road intersection, Waikoloa, South Kohala, Hawai'i, TMK 7-6, excuse me, 6-7-1:portion 034, formerly 6-7-1:portion 025. County?

KAY: Yes, thank you, Mr. Chair. If I can turn your attention to the presentation screen. As you said, this is an amendment to a Special Permit. The subject parcel is 143.48 acres in size, and outlined in red toward the bottom of the screen, located in the South Kohala District of Hawai'i Island. For your reference Māmalahoa Highway is generally running north and south through the slide. Waimea Town is here to the north approximately five miles from the subject parcel, and the parcel is approximately three miles to the east of Māmalahoa Highway. The closest

residences to this area are approximately one and a quarter miles further mauka, and this is the Department of Hawaiian Homelands Pu'ukapu Pasture Lots.

The applicant is requesting an amendment to Special Permit No. 724, LUC Docket No. 90-374, which was originally approved in 1990 and amended in 2000 to allow for the operation of a quarry and related uses on approximately 143.48 acres of land situated within the State Land Use Agricultural District. The applicant is requesting a time extension to run coterminous with the lease between the applicant and WHC, Ltd. doing business as West Hawai'i Concrete, which expires on September 3, 2037.

West Hawai'i Concrete has been successfully operating a quarry on the property since 1972, and wishes to continue those operations at least until 2037. There are approximately eight million tons of material remaining in the quarry to be mined. West Hawai'i Concrete currently supplies all their concrete aggregates out of the quarry on the property, therefore ceasing operation would cause disruption to the local construction market. Additionally, the rock source on the property is unique, as it is the only quarry that West Hawai'i Concrete utilizes, which produces rock aggregate that does not result in alkali silica reactivity in the finished concrete products; this is a condition which occurs when concrete is exposed over time to wet conditions causing it to expand and results in premature concrete failure.

The applicant is proposing a proposed language for the amendment of Condition No. 7. The proposed additional language is underlined and the proposed deletion is bracketed and struck through. I'll read it as it would read: "The life of this Special Permit shall run coterminous with the Parker Ranch lease, which terminates on September 30, 2037. Any amendments to the terms of the lease with Parker Ranch, which extend the term of the lease beyond September 30, 2037, shall be submitted to the Planning Commission and the State Land Use Commission for approval."

The applicant also proposes deleting the following footnote from Condition No. 7 as the proposed language above addresses the footnote requirements. And the footnote reads, "Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the applicant to Esther Ueda, Executive Officer, State Land Use Commission."

The County zoning for the subject parcel and surrounding area is Agricultural-40 acres as indicated in the blue color. The State Land Use Boundary designation for the subject parcel and surrounding area is Agricultural, and the General Plan Land Use Pattern Allocation Guide Map designates the majority of the parcel as Extensive Agriculture with a small portion is Important Agricultural Lands.

Here's some aerial photographs of the subject parcel. On the left hand side is a zoomed-out view that shows, again, Māmalahoa Highway running generally north and south through the slide, and then the 20-foot wide concrete asphalt paved access road to the subject parcel, which is outlined in blue. On the right hand side it's zoomed in a little bit, again, outlined in blue is the subject parcel. There is a situation with our aerial photography where the parcel lines and what's on the

ground don't always match up, so this should actually be shifted up slightly so that encompasses, the northern, or northwestern, boundary would be approximately here. At any rate you can see the quarry area and some quarry materials, as well as, difficult to see here, but there's some older structures related to the quarry, some, an old shop and some Matson container storage and an old wooden building that are considered temporary and are not really used at this point.

The applicant submitted this as a part of their site plan. Again, the subject parcel is outlined in red. The road is coming up here in this case from Māmalahoa Highway toward the top of the parcel. As you can see here, indicated as Lot 26 is the original 91.827 acres that was approved under the 1990 Special Permit, and that was expanded in 2000 to the present 143.48 acres, which is now the permit area. That was subsequently subdivided in 2017 to basically have that so they can no longer expand that area, and they are not asking for an expansion in this amendment.

Here's some photographs of the intersection of Māmalahoa Highway and the quarry access road looking south toward Kona, with the subject property again roughly three miles mauka. And on the bottom right you'll see the intersection of Māmalahoa Highway and the quarry access road looking north toward Waimea, with the subject property mauka to the right.

I just wanted to quickly go over the authority. Since the Special Permit is for property greater than 15 acres, the final authority for approval of a Special Permit is going to be with the State Land Use Commission. So the requested amendment to Special Permit 724, again, is for lands greater than 15 acres and requires approval of both the Planning Commission and the State Land Use Commission; therefore, the Planning Commission's action will be to either approve or deny the request. In the case of approval, the requested amendment will then go up to the Land Use Commission who would then render a final decision as to the time extension. Should you deny their requested amendment, it's considered denied and would no longer, you know, go to the next step.

With that in mind the Planning Director is recommending approval of the amendment request. We did vary slightly from the suggested language of the applicant's, however, just to clarify some things, bring it up to the current ownership, and ran this language by the applicants, and they seem okay with it, as it kind of does the same things that they were looking for. I'll just read that to you here: "The life of this Special Permit shall run coterminous with the current least between PR Mauna Kea LLC and West Hawai'i Concrete, Ltd., which terminates on September 30, 2037. Any extension to the life of this Special Permit beyond the current least shall require the approval of the Planning Commission and the State Land Use Commission." Also to note, we deleted, or are suggesting deletion of some conditions that have been completed, so this is now going to be Condition No. 5 instead of the original Condition No. 7.

With that, I'll be happy to answer any questions that the Commission may have.

UNGER: So your deletions on your report have already been done?

KAY: Yes, correct, they've, they are conditions that have already been complied with —

UNGER: Okay.

KAY: — and no longer need to be conditions of this amendment.

UNGER: Okay, great, thank you. So, specifically, then, we are focusing on Condition 7, which is the main change of this Special Permit, and the change is, number one, to run coterminous with the existing least, which expires September 30, 2037, and then we are adjusting the language right now where it reads, “Any amendments to the terms of the lease with Parker Ranch” – I’m assuming with West Hawai‘i Concrete.

KAY: Right, that’s correct. So the 2000 amendment the applicant was actually West Hawai‘i Concrete, and now the applicant is shifting back to the landowner, which is PR Mauna Kea, which is a company that is associated with Parker Ranch. So the language that we have on the screen right here, just wanted to clarify who the current landowner is and the lease between those two entities, which will end —

UNGER: Okay, Parker Ranch Mauna Kea, or PR Mauna Kea, and West Hawai‘i Concrete —

KAY: Ltd., correct.

UNGER: — you are referring to. “Shall be submitted to the Planning Director and the State Land [Use] Commission,” essentially, strike that and make it more specific, any amendments to the lease with Parker Ranch and West Hawai‘i Concrete, which extends, specifically, which extends the term of the lease beyond 2037 shall be submitted. So there’s, those are the two major requests.

KAY: Right, that’s correct. And then the second piece is there was, again, the footnote that was added at the bottom, and really what the language in our proposed condition does is kind of combine the footnote along with updating who the ownership is and everything. So I think what you are reading is part of the background. If you look at the condition —

UNGER: I saw that, no, no —

KAY: Yeah, the recommendation condition, that’s what we are proposing as the, currently, which, for the condition —

UNGER: Got it, okay. That was my clarification —

KAY: Yeah, okay, sure.

UNGER: — Commissioners, any other questions? If the applicant is here, please come forward. If you would like to come forward. Please raise your right hand. Do you swear or affirm to tell the truth before the Planning Commission?

REPRESENTATIVES: I do.

UNGER: Thank you. We can start over here, please, or, Mr. Lim, would you like, okay. Please state your name and area of residence.

MACY: Jason Macy, Waimea.

UNGER: That's fine and you can continue with your discussion and we can continue down, if you'd like to start. Or, Mr. Lim, would you like to start?

LIM: I'll go ahead and start.

UNGER: Okay, go ahead and introduce yourself and —

LIM: Okay. I'm Steven Lim, attorney for the applicant. And with me today are Nahua Guilloz from Parker Ranch, Inc., the senior manager and corporate secretary, and on my further left is Jason Macy who is the president of WHC, Ltd. Parker Ranch, Inc. being the overall business entity for the entity you guys know as Parker Ranch, the Parker Ranch Foundation Trust being the current landowner, and Mr. Macy's company WHC, Ltd., some of you know that as West Hawai'i Concrete, that's been the long time lessee for the property doing the quarry.

As you might have gleaned from some of the background on this project, this is the request of the applicant to extend the time, the life of the permit. We are not expanding the quarry nor are we adding any additional uses. There was one request that we made to the Planning Department early to determine that the conditions that were imposed by the Planning Commission and the Land Use Commission in the Special Permit did not require us to come back for a time extension that means to me for approval of the lease extension, but the Planning Department felt that the better course is to come back through, and that's why we are here today. So that relates to the amendments to Condition No., new Condition No. 5, old Condition No. 7, that you see in the recommendation. And the deletion of the footnote for, which is all the way at the bottom of that page, that footnote was unreasonable; I, we felt that we didn't have to come back to the Commission, Planning Commission, and to the Land Use Commission for approval of the lease extension. But it was, like I said, determined that we should come back, and so here we are.

I wanted to confirm that the written direct testimony of Juliann Nahualani Guilloz and also the written direct testimony of Jason E. Macy was in the record; those are basically their written testimony in support of the request. This is a project that's been in existence through many years now, and has formed the backbone of a lot of the rock and material that's been used in the development here in Kona. We request that the Planning Commission give us favorable condition of the time extension. And when I'm reading the new Condition 5 as proposed by the Director, it says, "The life of this Special Permit shall run coterminous with the current lease between PR Mauna Kea LLC and WHC, Ltd., which terminates on September 30, 2037." I wanted to make it clear that we request that the Commission adopt language that allows assignments of the lease without further review by the Planning Commission or the Land Use Commission. And if that's, if that's something that requires an amendment, we can suggest language on that. My suggestion, if the Commission desires, is that we just delete the words "between PR Mauna Kea LLC and WHC, Ltd.," and insert the word "quarry" between the words "current" and "lease"; so it would read, "The life of this Special Permit shall run coterminous

with the current quarry lease, which terminates on September 30, 2037.” Particularly on the part of Parker Ranch side, who has been doing several revisions of their legal entities based upon various tax interest reasons.

But, with that, I think we both, we have both Nahua and Jason available for your questions.

UNGER: Great. Thank you. Any questions by the Commissioners?

CARR SMITH: Steve, can you just repeat the change one more time? So, striking —

LIM: Okay, it would, we would strike the words “between PR Mauna Kea LLC and WHC, Ltd.,” and then I would add in between, just before that, between the words “current” and “lease,” add “quarry.” So it would be, “coterminous with the current quarry lease, which terminates on September 30, 2037.”

CARR SMITH: Thank you.

UNGER: And, can you clarify again the reason? Is this lease between PR Mauna Kea and West Hawai‘i Concrete?

LIM: That’s the current lease, yes.

UNGER: Oh, okay.

CARR SMITH: So this just – sorry – this just allows you to assign the lease, right?

LIM: That’s correct. If, if Parker Ranch Inc. decides for whatever reason they have to change the landowning entity, because they have kind of a complicated tax and trust structure, we could do that without having to come back through the whole process all over again.

CARR SMITH: So it’s more for the benefit of the landowner than the lessee.

LIM: Yes.

SHIMAOKA: And the lessee agrees to that, I’m assuming?

MACY: What’s that?

SHIMAOKA: The current language that he just mentioned, yeah?

MACY: Yeah, yeah.

SHIMAOKA: Okay.

MACY: West Hawai‘i is good with that.

SHIMAOKA: Okay.

UNGER: Any other questions?

CHURCH: Just curious, eight million tons, what's that? Is that a whole, I mean, a hundred meters on a cube side or, how big is that?

MACY: Yeah, it's, cubic yards-wise, it's probably right around 640,000 cubic yards to get eight million tons. It expands, you get a certain amount of expansion in the quarry when you mine the rock, and —

CHURCH: How big is that? Is that like a hundred feet on a side?

MACY: More than that.

CHURCH: More than that, okay —

MACY: Yeah, it's, yeah, it's a, it's a good size chunk of land, you know, it's about, the quarry itself is probably 60 feet high elevation from the floor, so, a lot of rock in there still.

UNGER: Any other questions? Thank you, Applicants. The meeting is opened up for public testimony. I don't have anybody signed up. If there is anybody — oh, okay — there is no one signed up for public testimony, therefore I need to close this portion of the hearing. I need a motion.

SHIMAOKA: I motion that we close.

NOBRIGA: Second.

UNGER: We have a motion by Commissioner Shimaoka, second by Commissioner Nobriga. All in favor?

COMMISSIONERS: Aye.

UNGER: Oppose? *[None.]* Motion passes. Public hearing is closed. At this time we'd like to entertain a motion on this agenda item.

CARR SMITH: I'd like to move that the application to amend Special Permit No. 724 be approved based on the Planning Director's recommendation and proposed conditions, including the recent edit of Item 5, shall be adopted.

NOBRIGA: I second.

UNGER: We have a motion by Commissioner Carr Smith, second by Commissioner Nobriga. The floor is open for discussion. And to clarify, that condition is No. 5, "The life of this Special Permit shall run coterminous with the current quarry lease, which terminates on September 30,

2037," and then the rest is as recommended by the Planning Department. The floor is open for discussion. Seeing no – Mr. Darrow.

DARROW: Just for the record, staff wanted to confirm that the Planning Department is agreeable to the change.

UNGER: Okay, so noted. Roll call.

KAY: Yes, thank you, Mr. Chair. Commissioner Carr Smith?

CARR SMITH: Aye.

KAY: Commissioner Nobriga?

NOBRIGA: Aye.

KAY: Commissioner Church?

CHURCH: Aye.

KAY: Commissioner Kealoha?

KEALOHA: Aye.

KAY: Commissioner Shimaoka?

SHIMAOKA: Aye.

KAY: And Chair Unger?


UNGER: Aye.

KAY: Thank you. Motion carries, six-nothing.

UNGER: Thank you, Applicant. You'll be notified in writing by the Planning Commission.

The discussion ended at 12:14 p.m.

Respectfully submitted,



Noriko Sauer, Secretary  
Leeward Planning Commission