



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Petition Of The	)	DOCKET NO. SP90-374
	)	
RICHARD SMART TRUST, dba,	)	ORDER ADOPTING THE
PARKER RANCH	)	RECOMMENDATION OF THE
	)	COUNTY OF HAWAII
For A Special Use Permit To Continue	)	LEEWARD PLANNING
An Existing Rock Quarry And Related Uses	)	COMMISSION TO APPROVE
On Approximately 143,480 Acres Of Land	)	A TIME EXTENSION
Within The State Land Use Agricultural	)	REQUEST TO THE STATE
District At Waikoloa, South Kohala, Hawai'i,	)	SPECIAL USE PERMIT WITH
Tax Map Key No.: 6-7-001: 34 (formerly	)	MODIFICATION
6-7-001: Portion 25)	)	
	)	

ORDER ADOPTING THE RECOMMENDATION OF THE COUNTY OF  
HAWAII LEEWARD PLANNING COMMISSION TO APPROVE A TIME  
EXTENSION REQUEST TO THE STATE SPECIAL USE PERMIT WITH  
MODIFICATION

AND

CERTIFICATE OF SERVICE

This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawai'i

10/17/18 by

LUC Chief Clerk



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OCT 04 2018

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ORDER ADOPTING THE RECOMMENDATION OF THE COUNTY OF HAWAII LEEWARD PLANNING COMMISSION TO APPROVE A TIME EXTENSION REQUEST TO THE STATE SPECIAL USE PERMIT WITH MODIFICATION

On March 23, 2018, PR Mauna Kea, LLC ("Applicant"), successor-in-interest to Richard Smart Trust, dba, Parker Ranch, filed a request with the County of Hawai`i Planning Department ("Planning Department") to amend Condition No. 7 of County of Hawai`i Planning Commission Special Permit No. 724/Land Use Commission ("LUC") Docket No. SP90-374, pursuant to Hawai`i Revised Statutes ("HRS") §205-6 and Hawai`i Administrative Rules ("HAR") §§15-15-95, 15-15-96, and 15-15-96.1. The Applicant proposes to amend Condition No. 7 to extend the life of the special use

permit for the existing quarry and related uses to continue co-terminous with the lease between the Applicant and WHC, Ltd., a Hawai`i corporation ("WHC"), the quarry's operator, to September 30, 2037.

On June 21, 2018, the County of Hawai`i Leeward Planning Commission ("Planning Commission") considered the Applicant's request. After due deliberation, the Planning Commission voted to recommend approval of (1) the Applicant's request to amend Condition No. 7 to extend the life of the special use permit to run co-terminous with the current quarry lease, which terminates on September 30, 2037; (2) the deletion of Condition Nos. 2 (filing of a map and metes and bounds description of the quarry site) and 3 (preparation of a visual impact analysis and implementation of landscaping, if appropriate); and (3) the modification of Condition Nos. 6 (preparation of an archaeological reconnaissance survey and implementation of approved mitigation measures) and 11 (administrative time extension).

On August 20, 2018, the Planning Department filed the decision and a portion of the record of the Planning Commission's proceeding on the Applicant's request with the LUC. On August 28 and September 14, 2018, the Planning Department filed the remaining portions of the record with the LUC.

The LUC has jurisdiction over the Applicant's request. HRS §205-6 and HAR §§15-15-95, 15-15-96, and 15-15-96.1 authorize the LUC to approve special use permits and amendments thereto for areas greater than 15 acres where application for

LUC approval is made within 60 days after the decision is rendered on the request to the Planning Commission.

On September 27, 2018, the LUC met at the Natural Energy Laboratory Hawai'i Authority, Hale 'Iako Training Room #119, in Kailua-Kona, Hawai'i, to consider the recommendation of the Planning Commission to approve the Applicant's time extension request. At the meeting, Katherine A. Garson, Esq., and Juliann Nahualani Guilloz appeared on behalf of the Applicant. Jason E. Macy and Joey Purdy were also present on behalf of WHC. Ron Kim, Esq.; Jeffrey Darrow; and Christian Kay were present at the meeting on behalf of the Planning Department. By letter dated September 25, 2018, the State of Hawai'i Office of Planning ("OP") informed the LUC staff that while they supported the Applicant's request for a time extension, they would not attend the meeting due to budgetary constraints, and in fact no representative of OP was present at the meeting.

At the meeting, the Applicant provided a background of the quarry, its location, its conformance to the special use permit guidelines, and its operations. The Applicant then responded to questions pertaining to the nature of the quarried material, the renaturalization process, and mitigation measures to address dust control, among other things. Thereafter, a motion was made and seconded to adopt the recommendation of the Planning Commission, subject to (1) amendments to Condition

Nos. 4, 6, and 11 (renumbered to Condition Nos. 2, 4, and 9, respectively) to read as follows:

2. The quarry operation shall be limited to dynamiting, portable crushing, loading, and limited stockpiling.
4. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or concentration work, the Applicant and/or quarry operator shall cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the Hawai'i Island archaeologist at the State Historic Preservation Division.
9. If the applicant should require an additional extension of time for any condition of this permit, the applicant shall submit their request to the Planning Commission for appropriate action by the Planning Commission and State Land Use Commission. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

and (2) a provision authorizing the chairperson to sign the Order in this matter on behalf of the LUC.

Following discussion, a vote was taken on the motion. There being a vote tally of 5 ayes, 0 nays, and 3 excused,<sup>1</sup> the motion carried.

#### ORDER

The LUC, having duly considered the arguments presented by the Applicant and the record in this proceeding, and a motion having been made and

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<sup>1</sup> There are currently eight sitting commissioners on the LUC. The one remaining seat is vacant.

seconded at a meeting held on September 27, 2018, in Kailua-Kona, Hawai`i, and the motion having received the affirmative votes required by HAR §15-15-13, and there being good cause for the motion,

HEREBY ORDERS that the recommendation of the Planning Commission be ADOPTED, subject to the following conditions to supersede all other conditions in the Findings of Fact, Conclusions of Law, and Decision and Order filed on March 16, 1990, as amended by the Order Granting Applicant's Request to Expand Existing Quarry and to Amend Condition Number 7 filed on May 9, 2000:

1. The applicant, successors, or assigns shall comply with all of the stated conditions of approval.
2. The quarry operation shall be limited to dynamiting, portable crushing, loading, and limited stockpiling.
3. The quarry activity, including the loading and hauling, shall be limited to between the hours of 5:00 a.m. and 8:00 p.m. on Mondays through Saturdays only.
4. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or concentration work, the Applicant and/or quarry operator shall cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the Hawai`i Island archaeologist at the State Historic Preservation Division.
5. The life of this Special Permit shall run coterminous with the current quarry lease which terminates on September 30, 2037. Any extension to the life of this Special Permit beyond the current lease shall require the

approval of the Planning Commission and the State Land Use Commission

6. Upon termination of the operations or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding areas and revegetated. Further, the site shall be left in a nonhazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Director for review and approval within ninety (90) days from the termination or abandonment date.
7. That all other applicable laws, requirements, rules, and regulations be complied with.
8. An annual monitoring report shall be submitted to the Planning Director and the Commission prior to the anniversary date of the approval of the issuance of the Commission's Decision and Order. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems and their disposition, and the applicant's progress in complying with the conditions imposed herein.

Should a conflict arise which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

9. If the applicant should require an additional extension of time for any condition of this permit, the applicant shall submit their request to the Planning Commission for appropriate action by the Planning Commission and State Land Use Commission. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.



ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 4th day of October, 2018, per motion on September 27, 2018.

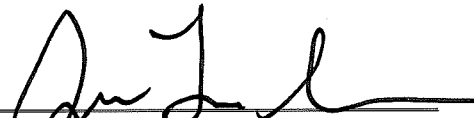
APPROVED AS TO FORM

Randall S. Ashiyama

Deputy Attorney General

LAND USE COMMISSION

STATE OF HAWAI'I

By 

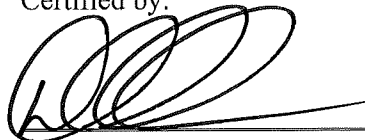
JONATHAN LIKEKE SCHEUER

Chairperson and Commissioner

Filed and effective on:

10/4/2018

Certified by:



DANIEL E. ORODENKER

Executive Officer



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_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a certified copy of the ORDER ADOPTING THE RECOMMENDATION OF THE COUNTY OF HAWAII' I LEEWARD PLANNING COMMISSION TO APPROVE A TIME EXTENSION REQUEST TO THE STATE SPECIAL USE PERMIT WITH MODIFICATION was served upon the following by depositing the same in the U.S. Postal Service by registered mail or certified mail as noted:

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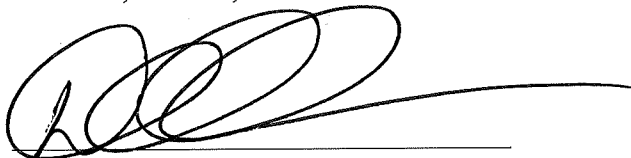
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Dated: 10/4/2018

Honolulu, Hawai'i,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Daniel E. Orodener  
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Dated: 10/4/2018

Honolulu, Hawai'i,



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