

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
C. EARL STONER, JR., ON BEHALF)
OF S & F LAND CO.)
To Amend the Special Permit to)
Establish an Asphalt Batching Plant)
on Approximately 17.52 acres of)
Land Situate Within the Agricul-)
tural District at Puunene, Wailuku,)
Maui, Tax Map Key Number: 3-8-05:)
portion of parcel 19)

DOCKET NO. SP83-358
C. EARL STONER, JR., ON
BEHALF OF S & F LAND
CO.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
AUG 13 2 16 PM '87

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AND DECISION AND ORDER

C. Earl Stoner, Jr., on Behalf of S & F Land Co. (hereinafter the "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order:

Procedural Matters

1. Petitioner filed the Special Permit Amendment by letter to the County of Maui Planning Department dated September 24, 1986.

2. The County of Maui Planning Commission conducted informational meetings on the subject request on March 24, 1987 and April 21, 1987.

3. On April 21, 1987, the Maui Planning Commission approved the request subject to ten conditions.

4. The Commission received a copy of the special permit record for informational purposes on June 1, 1987.

5. On June 9, 1987, the Commission informed the Maui Planning Department that the proposed batching plant use was subject to Land Use Commission review and approval.

6. The Commission received the complete Special Permit record of the proceeding before the Maui Planning Department on June 19, 1987.

Description of the Property

7. The subject property is located within the State Land Use Agricultural District, at the southeast corner of Mokulele Highway-Waiko Road intersection in Puunene, Wailuku, Maui, Tax Map Key Number 3-8-05: portion of parcel 19, consisting of approximately 17.52 acres (hereinafter referred to as the "Property").

8. Alexander and Baldwin, Inc. is the fee owner of the Property. Petitioner has owner's approval to use the Property for a construction baseyard.

9. The Property consists of two adjoining sections, one of which is located adjacent to Mokulele Highway and Waiko Road. The remaining section is located south of the first section separated by a cane haul road and is approximately 400 feet east of Mokulele Highway.

The first section is used for various construction related storage and limited fabrication. The remaining section and subject of the proposed batching plant, is vacant. There are no trees on the site and surrounding uses include a kiawe grove, cane fields and an intermittent stream.

10. The Property has been used for industrial-type facilities for the past 30 years. Land surrounding the Property is cultivated in sugarcane.

11. The Land Study Bureau rates the Property as "A" in overall agricultural productivity.

Previous Special Permit Approvals for the Property

12. The Commission originally granted this Special Use Permit for the operation of a baseyard, storage of construction equipment and materials, the fabrication of large construction material items and storage of containerized household and freight goods on February 13, 1984, subject to eight conditions.

13. On November 14, 1984, the Commission approved an amendment to the Special Use Permit to allow storage and fabrication uses subject to an additional condition that Petitioner file an application for district boundary amendment by December 17, 1987, with the landowner's consent.

Summary of Proposed Use

14. Petitioner is proposing to establish a portable asphalt batching plant on a three-acre site located at the southern end of the Property. Grace Pacific Corporation will

install and operate the proposed batching plant. The highest point of the batching plant will be forty feet above grade.

Grace Pacific Corporation also proposes to store construction equipment, stockpiling construction materials, including aggregates, and related paving materials on the three-acre lot.

15. Access is provided from Waiko Road by an existing service road. Pavement width is 24 feet within a 30 foot wide right-of-way.

16. All other infrastructure such as wastewater disposal, electricity, telephone service, water and fire protection are or will be made available to the Property.

17. Petitioner estimates the proposed batching plant will add three vehicles per hour to existing roadway traffic conditions subject to the number and scale of jobs Grace Pacific Corporation receives.

18. The proposed batching plant will increase ambient noise levels. Petitioner anticipates the impact to be local and not significant beyond 200 feet from the source. Petitioner proposes landscaping and proper equipment maintenance to mitigate adverse noise impacts.

19. Petitioner estimates dust emissions will be controlled by prevailing winds and better batch plant design.

20. Petitioner submitted an environmental assessment which addressed environmental impacts of the project.

State and County Plans and Programs

21. The Property is located within the State Agricultural District as indicated on the State Land Use District Map (M-5 Wailuku).

22. The Wailuku-Kahului General Plan designates the Property as Agriculture.

Planning Commission Recommendation

23. At its meeting of April 21, 1987, the Planning Commission voted to approve the instant amendment subject to the following conditions:

- "1. That the operation of the batching plant shall be valid for a period of one (1) year subject to further extension by the Planning Commission.
- "2. That the operation of the batching plant shall begin within six (6) months of the date of this approval.
- "3. That a landscape planting plan shall be submitted for review and approval by the Planning Department within three (3) months of the granting of this approval.
- "4. That this approval shall be non-transferable.
- "5. That full compliance with all governmental requirements shall be rendered.
- "6. That in the event any historic, archaeological or cultural sites, remains, artifacts or resources are discovered during site preparation, work shall stop and the State Historic Office, Department of Land and Natural Resources, and County Planning Department shall be duly notified for advisement on appropriate action.
- "7. The conditions of this approval shall be self-enforcing and, accordingly, the approval shall be suspended from and after the time of breach of same. Upon due notice by the Planning Department that such a breach has occurred the applicant/

permittee shall be entitled to a hearing on the restoration of the permit, provided that a written request for such hearing is filed with the department within ten (10) days of the date of receipt of said notice of breach. If no appeal is duly filed, the Planning Commission shall revoke said approval.

- "8. That a left turn lane shall be installed on Mokulele Highway, and its intersection with Waiko Road, within two years of the issuance of this approval.
- "9. That truck traffic generated by the project shall be restricted as much as possible from left turn movement at the intersection of Waiko Road and Mokulele Highway between the peak hours of 7:00 am. - 8:00 a.m. and 5:00 p.m. - 6:00 p.m. until the left turn lane on Mokulele Highway is constructed and operational.
- "10. That full compliance with requirements of the Department of Fire Control shall be rendered. Said requirements may include provisions for: 1) at least two 160 lb. UL Approved Roll on dry chemical fire extinguishers, 2) the new waterline for the baseyard, to accommodate fire protection provisions for the batching plant, and 3) final review of plans by the Department of Fire Control during the building permit review process."

CONCLUSIONS OF LAW

The additional uses proposed for the Property are "unusual and reasonable" as defined by Chapter 205-6 Hawaii Revised Statutes, as amended, and are not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited.

ORDER

IT IS HEREBY ORDERED that the amendment to Special Permit Docket No. 83-358 filed by C. Earl Stoner, Jr., on

Behalf of S & F Land Co., to establish a portable asphalt batching plant and the storage of related equipment and materials, is hereby approved, subject to the following conditions as recommended by the Maui Planning Commission:

1. That the operation of the batching plant shall be valid for a period of one (1) year subject to further extension by the Planning Commission.

2. That the operation of the batching plant shall begin within six (6) months of the date of this approval.

3. That a landscape planting plan shall be submitted for review and approval by the Planning Department within three (3) months of the granting of this approval.

4. That this approval shall be non-transferable.

5. That full compliance with all governmental requirements shall be rendered.

6. That in the event any historic, archaeological or cultural sites, remains, artifacts or resources are discovered during site preparation, work shall stop and the State Historic Office, Department of Land and Natural Resources, and County Planning Department shall be duly notified for advisement on appropriate action.

7. The conditions of this approval shall be self-enforcing and, accordingly, the approval shall be suspended from and after the time of breach of same. Upon due notice by the Planning Department that such a breach has

occurred the applicant/permittee shall be entitled to a hearing on the restoration of the permit, provided that a written request for such hearing is filed with the department within ten (10) days of the date of receipt of said notice of breach. If no appeal is duly filed, the Planning Commission shall revoke said approval.

8. That a left turn lane shall be installed on Mokulele Highway, and its intersection with Waiko Road, within two years of the issuance of this approval.

9. That truck traffic generated by the project shall be restricted as much as possible from left turn movement at the intersection of Waiko Road and Mokulele Highway between the peak hours of 7:00 am. - 8:00 a.m. and 5:00 p.m. - 6:00 p.m. until the left turn lane on Mokulele Highway is constructed and operational.

10. That full compliance with requirements of the Department of Fire Control shall be rendered. Said requirements may include provisions for: 1) at least two 160 lb. UL Approved Roll on dry chemical fire extinguishers, 2) the new waterline for the baseyard, to accommodate fire protection provisions for the batching plant, and 3) final review of plans by the Department of Fire Control during the building permit review process.

IT IS ALSO HEREBY ORDERED that all other conditions of the Special Permit shall remain in effect.

DOCKET NO. SP83-358 - C. EARL STONER, JR. ON BEHALF OF
S & F LAND CO.

Done at Honolulu, Hawaii, this 13th day of August 1987,
per motions on July 14, 1987 and August 12, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By J. P. Tacbian
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By Sharon R. Himeno
SHARON R. HIMENO
Commissioner

By Richard B. F. Choy
RICHARD B. F. CHOY
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE
Commissioner

By Toru Suzuki
TORU SUZUKI
Commissioner

By Renton L. K. Nip
RENTON L. K. NIP
Commissioner

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CO.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

CHRISTOPHER L. HART, Planning Director
Planning Department
County of Maui
200 South High Street
Wailuku, Hawaii 96793

DEBRA CHUN, ESQ., Attorney for Petitioner
Kiefer, Oshima, Chun & Webb
841 Bishop Street, 4th Floor
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 13th day of August 1987.



ESTHER UEDA
Executive Officer

SP83-358/C. EARL STONER, JR. ON BEHALF OF S & F LAND COMPANY

A copy of the Land Use Commission's Decision and Order was served by regular mail to the following on August 13, 1987.

REAL PROPERTY TAX DIVISION
County of Maui
200 South High Street
Wailuku, Maui 96793

C. EARL STONER, JR., President
S & F Land Company, Inc.
333 Dairy Road
Kahului, Maui, Hawaii 96732