

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)
)
FONG CONSTRUCTION)
)
To Establish a Construction)
Baseyard and Accessory Uses on)
Approximately 31.164 Acres of Land)
Within the State Land Use)
Agricultural District at Waikapu,)
Maui, Hawai'i, TMK 3-8-07: 89 and)
por. 102)
_____)

DOCKET NO. SP94-387
ORDER GRANTING REQUEST
FOR A TIME EXTENSION

1997 JUL 21 A 8:51
LAND USE COMMISSION
STATE OF HAWAII

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ORDER GRANTING REQUEST FOR A TIME EXTENSION

On July 22, 1996, the Maui County Planning Department received a request from Fong Construction Company, Ltd. ("Applicant"), for a three-year time extension on the Special Permit issued in the above-entitled docket and a one-year time extension on the period in which to initiate construction of the proposed construction baseyard.

On February 25, 1997, the Maui Planning Commission ("Planning Commission") conducted a public hearing in this matter.

On February 25, 1997, after due deliberation, the Planning Commission recommended approval of a time extension to the Commission, subject to all the conditions originally imposed by the Land Use Commission ("Commission") in its Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") dated September 19, 1995, with amendments to Condition

Nos. 1, 9, 13, and 24 of the Decision and Order and an additional Condition No. 25 as follows:

Condition No. 1

That the State Land Use Commission Special Use Permit shall be valid until September 30, 1998, subject to further extensions by the Maui Planning Commission and the Land Use Commission upon a timely request for extension filed at least one hundred twenty (120) days prior to its expiration. The Maui Planning Commission may require a public hearing on the time extension.

Condition No. 9

That construction waste from the project shall be taken to the Ma'alaea Landfill on North Kihei Road and that refuse collection for the project shall be by a private collector with recycling capabilities.

Condition No. 13

That fire protection and improvements shall be provided in accordance with the rules and standards of the Board of Water Supply and the Department of Fire Control.

Condition No. 24

The Applicant shall commence construction of the baseyard no later than September 19, 1998. If construction of the baseyard does not commence by this date, the Maui Planning Commission and Land Use Commission may revoke said State Land Use Commission Special Use Permit. The Land Use Commission may extend the time limit if it deems that circumstances warrant the granting of the extension.

Condition No. 25

That prior to applying for a time extension, all necessary County Land Use Permits shall be obtained.

On April 17, 1997, the Commission received a portion of the Planning Commission's record in this proceeding.

On May 22 and 23, 1997, the Commission received the remaining documents to the record in this proceeding.

This Commission, having duly considered the arguments provided by the respective parties at its hearing on June 12, 1997, in Lihu'e, Kaua'i, and good cause existing therefrom,

HEREBY GRANTS a time extension to the Applicant on the Special Permit issued in the above-entitled docket and a time extension on the period in which to initiate construction on the proposed construction baseyard.

IT IS HEREBY ORDERED that Condition Nos. 1, 9, 13, 21, and 24 of the Decision and Order dated September 19, 1995, shall be amended to read as follows:

1. That the State Land Use Commission Special Use Permit shall be valid until September 30, 1998, subject to further extensions by the Maui Planning Commission and the Land Use Commission upon a timely request for extension filed at least one hundred twenty (120) days prior to its expiration. The Maui Planning Commission may require a public hearing on the time extension.
9. That construction waste from the project shall be taken to the Ma'alaea Landfill on North Kihei Road and that refuse collection for the project shall be by a private collector with recycling capabilities.
13. That fire protection and improvements shall be provided in accordance with the rules and standards of the Board of Water Supply and the Department of Fire Control.
21. That the following conditions relating to historic preservation shall be adhered to:
 - a. Archaeological subsurface survey work shall be conducted on the prominent dune features within the project area. A report of the findings shall be approved prior to the initiation of any earthmoving or vegetation grubbing on the property. If evidence of human skeletal remains or cultural deposits are encountered during the archaeological inventory survey, compliance with Chapter 6E must occur and an acceptable mitigation plan

must be prepared. The State Historic Preservation Division must verify in writing to the County that the plan has been successfully executed, prior to any land altering activities.

- b. That a qualified archaeologist shall be on-site to monitor vegetation clearing, grubbing, grading, and excavation. A report of the monitoring activities and findings shall be submitted to DLNR/HPD for approval.
 - c. That if remains of historic sites are encountered during construction, all work in the vicinity of the find shall stop and the archaeologist shall be given sufficient time to collect information, assess the significance of the find, and confer with the DLNR/HPD regarding appropriate treatment. If human burials are encountered during monitoring, procedures as outlined in Hawai'i Revised Statutes §6E-43.6 shall be followed.
24. The Applicant shall commence construction of the baseyard no later than September 19, 1998. If construction of the baseyard does not commence by this date, the Maui Planning Commission and Land Use Commission may revoke said State Land Use Commission Special Use Permit. The Land Use Commission may extend the time limit if it deems that circumstances warrant the granting of the extension.

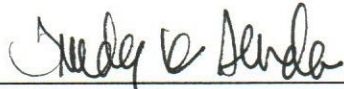
IT IS FURTHER ORDERED that the Special Permit shall be subject to an additional condition to read as follows:

- 25. That prior to applying for a time extension, all necessary County Land Use Permits shall be obtained.

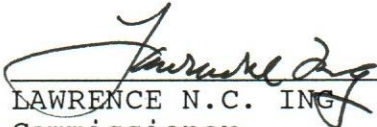
All other conditions to the Decision and Order dated September 19, 1995, are hereby reaffirmed and shall continue in effect.

Done at Honolulu, Hawai'i, this 21st day of July 1997,
per motions on June 12, 1997 and July 17, 1997.

LAND USE COMMISSION
STATE OF HAWAI'I

By 
TRUDY K. SENDA
Chairperson and Commissioner

By 
RUPERT K. CHUN
Vice Chairperson and Commissioner

By 
LAWRENCE N.C. ING
Commissioner

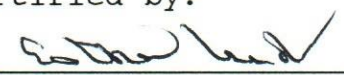
By (opposed)
M. CASEY JARMAN
Commissioner

By (absent)
HERBERT S.K. KAOPUA, SR.
Commissioner


By (absent)
LLOYD F. KAWAKAMI
Commissioner

By 
MERLE A. K. KELAI
Commissioner

Filed and effective on
July 21, 1997

Certified by:

Executive Officer

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

By 
JOANN N. MATTSON
Commissioner

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_____)
CERTIFICATE OF SERVICE


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I hereby certify that a copy of the Order Granting Request For A Time Extension was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. DAVID W. BLANE, Director of Planning
Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

CERT. RODERICK FONG
Fong Construction
495 Hukilike Street, Bay #4
Kahului, Hawaii 96732

DATED: Honolulu, Hawaii, this 21st day of July 1997.



ESTHER UEDA
Executive Officer