

LAND USE COMMISSION
MEETING MINUTES
September 27, 2018 – 9:30 a.m.
Natural Energy Laboratory Hawai'i Authority (NELHA)
73-987 Makako Bay Drive Kailua Kona, Hawai'i 96740-2637
Hale `Iako Training Room #119

COMMISSIONERS PRESENT: Jonathan Scheuer
Lee Ohigashi
Dawn Chang
Arnold Wong
Nancy Cabral

COMMISSIONERS EXCUSED: Aaron Mahi
(8 Seated Commissioners) Edmund Aczon
Gary Okuda

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Randall Nishiyama, Deputy Attorney General
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:30 a.m.

APPROVAL OF MINUTES

Chair Scheuer asked if there were any corrections or additions to the September 13, 2018 meeting minutes. There were none. Commissioner Ohigashi moved to approve the minutes and Commissioner Cabral seconded the motion.

The minutes were unanimously approved by voice vote (5 ayes-0 nays- 3 excused).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners for the following dates and docket numbers.

October 24-25 (Hawai`i) at Kailua-Kona

- A06-767 Waikoloa Mauka LLC (Hawai`i) - Continued Proceedings

November 14, 2018- at Honolulu International Airport Conference Room

- A06-763 Kapolei Development- (O`ahu) – Extend Time

November 15, 2018- (Maui) at Maui Arts and Culture Center (MACC)

- A07-773 Emmanuel Lutheran- (Maui) – Motion to Extend, Approve 201H, Motion to Bifurcate
- A05-755 Hale Mua- Order to Show Cause Adoption of Order

November 28, 2018 (Hawai`i) at NELHA

- Status Reports- A10-788 HHFDC and A00-730 Lanihau
- OSC A06-770 Shopoff Group
- A18-805 Church – Motion to Accept FONSI

November 29, 2018 – Maui at MACC

- Continued/unfinished Maui business

December 12, 2018- (Maui) at MACC

- A94-706 Ka`ono`ulu Ranch status report
- Pending IAL docket

Any questions or concerns- please contact LUC staff.

There were no questions or comments on the schedule.

Chair Scheuer stated that the next agenda item was a hearing and action on A06-767 Waikoloa Mauka (Hawai`i).

ACTION

SP90-374 Richard Smart Trust, dba, Parker Ranch (Hawai`i)

To consider PR Mauna Kea LLC's proposed amendment to Condition No. 7 to extend the life of the special permit for the continued operation of an existing rock quarry and related uses on approximately 143.480 acres of land within the State Land Use Agricultural District at Waikoloa, South Kohala, Hawai`i, identified as TMK: (3) 6-7-001: 34 [formerly TMK: (3) 6-7-001: portion 25]

APPEARANCES

Katherine Garson Esq. represented Petitioner Richard Smart Trust, dba Parker Ranch (RST)

Nahua Guilloz, Representative, RST

Jason Macy, Representative, West Hawaii Concrete, Ltd. (WHC)

Joey Purdy, Representative, WHC

Ron Kim Esq., Deputy Corporation Counsel, represented County of Hawai`i Planning Department (County)

Jeff Darrow, Program Manager, County

Christian Kay, Planner, County

State Office of Planning advised via correspondence that it would not be in attendance.

Chair Scheuer updated the record and explained the procedures to be followed for the proceedings. There were no questions, comments or objections to the procedures.

DISCLOSURES

None

Chair Scheuer called for Public Witnesses

PUBLIC WITNESSES:

None

Petitioner

Chair Scheuer called Petitioner to make its presentation.

Ms. Garson stated that her client had no objections to the Commission's policy on reimbursement of hearing expenses, and would comply with the policy; and then provided background information on why Petitioner had filed a proposed amendment to Condition No. 7 of the SP90-374 Special Permit Decision and Order. Ms. Garson recollected various events and circumstances which had affected the Petition Area since the initial Decision and Order had been issued and why the extension of time for the special permit was necessary.

Chair Scheuer asked if County had any questions or comments.

COUNTY QUESTIONS

Mr. Kim stated that County had no questions and that the County's Leeward Planning Commission had favorably recommended the extension of the special permit.

COMMISSIONER QUESTIONS

Commissioner Cabral requested clarification on the mineral attributes of the mined quarry rock. Mr. Macy, after being sworn in, described the characteristics which made the mined quarry rock so desirable for use in the local construction industry.

Commissioner Ohigashi requested clarification on how long the estimated tonnage available to be mined might last and what processing/transport operations would be associated with the activity. Mr. Macy replied that mining activity would depend on demand and described how the yield of the mining operations could be adjusted to meet increases in demand, and what the estimated longevity of the mine would be in different scenarios

Commissioner Chang requested clarification on the co-terminus lease agreement between RST and WHC and whether site restoration to viable pasture land was included. Mr. Macy described the lease agreement and how site restoration was included in it.

Commissioner Cabral requested additional specifics on the restoration of the Petition Area to pastureland. Mr. Macy further described how the land would be prepared for cattle grazing.

Chair Scheuer requested clarification on Petitioner's failure to provide annual reports. Ms. Garson deferred to WHC- Mr. Macy and RST- Ms. Guilloz to respond. Mr. Macy stated that the problem had been rectified internally with his organization and

that WHC would be providing timely annual information. Ms. Guilloz, after being sworn in, responded that RST would also follow-up to remain current on reports.

Final Comments

County-

Mr. Kim re-stated that County had favorably recommended extending the life of the special permit; and noted that Mr. Darrow wished to make a comment.

Mr. Darrow, after being sworn in, expressed how County appreciated Petitioner's efforts to resolve the ambiguity in the existing condition's language, and described how the amended condition resolved that problem.

There were no further questions for County.

The Commission had no further questions or comments.

Chair Scheuer entertained a motion.

Commissioner Cabral moved and Commissioner Wong seconded the motion and requested a brief recess.

Chair Scheuer granted the request at 9:55 a.m. and reconvened the meeting at 9:56 a.m.

Commissioner Cabral re-stated her motion that the Decision and Order for the Special Permit:

- Correct a typographical error in Condition No. 4 (renumbered to Condition No. 2).
- Amend Condition No. 6 (renumbered to Condition No. 4) to (1) identify the Applicant and/or quarry operator as the responsible party to cease work, protect any find, and contact the SHPD; and (2) identify the individual at the SHPD to contact rather than to rely on a telephone number.
- Amend Condition No. 11 (renumbered to Condition No. 9) to retain language addressing non-compliance with the conditions by the Applicant.
- Authorize the Chair to sign the Order in this matter on behalf of the Commission.

Commissioner Wong requested clarification on whether the motion included authorizing the Chair to sign the order in this matter. Chair Scheuer responded that it did.

Chair Scheuer stated his support for the motion.
There was no further discussion.

Chair Scheuer had Mr. Orodener poll the Commission.

The Commission unanimously voted in favor of the motion. (5-0-3 excused).

There being no further business to address, Chair Scheuer adjourned the meeting at 9:59 a.m.