

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 ACTION

4 SP70-85 DeLUZ TRUCKING & GRAVEL, LLC)  
5 (Hawai'i) )  
\_\_\_\_\_ )

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8 TRANSCRIPT OF PROCEEDINGS

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10 The above-entitled matter came on for a Public Hearing  
11 at Waikoloa Beach Marriott Resort, Ali'i Room #3,  
12 69-275 Waikoloa Beach Drive, Waikoloa, Hawai'i  
13 commencing at 9:10 a.m. on Friday, January 21, 2011  
14 pursuant to Notice.

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20 REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR  
Certified Shorthand Reporter

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1           CHAIRMAN DEVENS: This meeting is called to  
2 order. This is an action meeting on SP70-85 DeLUZ  
3 TRUCKING & GRAVEL to consider granting an amendment to  
4 Condition No. 2 to extend the special permit for five  
5 years to December 11, 2015.

6           Will the parties identify themselves for the  
7 record starting with the Applicant.

8           MR. HAITSUKA: Good morning. My name is Ed  
9 Haitzuka. I'm the attorney for the Applicant Edwin  
10 Deluz Trucking and Gravel, LLC. And with me today is  
11 the Applicant's representative Mr. Kevin Balog.

12          CHAIRMAN DEVENS: Good morning.

13          MR. BRILHANTE: Good morning. William  
14 Brilhante, deputy corporation counsel, county of  
15 Hawai'i along with Ms. Bobby Jean Leithead-Todd,  
16 planning director, county of Hawai'i.

17          CHAIRMAN DEVENS: Good morning.

18          MR. YEE: Good morning. Deputy Attorney  
19 General Bryan Yee on behalf of the Office of Planning.  
20 With me is Mary Alice Evans from the Office of  
21 Planning.

22          CHAIRMAN DEVENS: Good morning to you all. On  
23 December 22, 2010 the Commission received the County  
24 of Hawai'i's Department of Planning's Decision and  
25 Findings of Applicant's Request To Amend Condition 2,

1 life of permit, of LUC Docket No. Alpha 70-85. We're  
2 going to first take public testimony. Are there any  
3 witnesses signed up, Dan?

4 MR. DAVIDSON: No witnesses.

5 CHAIRMAN DEVENS: We have the complete record  
6 from the planning commission. The Commissioners have  
7 had a chance to review the entire record. My  
8 understanding is that the recommendation is that  
9 Condition No. 2 be amended to extend the termination  
10 date from December 11, 2010 to December 11, 2015. Is  
11 that the understanding of the parties? Applicant?

12 MR. HAITSUKA: It is, Mr. Chair.

13 CHAIRMAN DEVENS: County?

14 MR. BRILHANTE: That's correct, Mr. Chair.

15 CHAIRMAN DEVENS: Office of Planning?

16 MR. YEE: Yes.

17 CHAIRMAN DEVENS: The other recommendation is  
18 to add a Condition No. 3 which reads as follows:  
19 Mining of Pu'u Hinai shall immediately cease to  
20 protect and preserve the pu'u in compliance with the  
21 South Kohala Community Development Plan.

22 And a Condition No. 5 that reads as follows:  
23 The Applicant shall submit a soils report of the  
24 minded area of Pu'u Hinai by an engineer qualified in  
25 the field of soil mechanics and licensed within the

1 state of Hawai'i, that 90 days from the effective date  
2 of this amendment.

3 The soil report shall provide recommendations  
4 for the stabilization of Pu'u Hinai shall be submitted  
5 to the planning director for review and approval in  
6 consultation with the Department of Public Works.

7 The Applicant shall comply with the  
8 recommendations of the approved soils report to  
9 stabilize the pu'u in bringing it into a non-hazardous  
10 condition.

11 Additionally, the Applicant shall comply with  
12 any other measures determined by the planning director  
13 to provide reasonable assurance with the stability of  
14 Pu'u Hinai and the safety of people who may work in  
15 reasonably close proximity to the pu'u.

16 Is that your understanding of the additional  
17 conditions that are being recommended to us,  
18 Applicant?

19 MR. HAITSUKA: Yes, it is, Mr. Chair.

20 CHAIRMAN DEVENS: County?

21 MR. BRILHANTE: Yes, Mr. Chair.

22 CHAIRMAN DEVENS: OP?

23 MR. YEE: Yes.

24 CHAIRMAN DEVENS: Do any of the parties have  
25 any objections to those recommendations? Applicant?

1 MR. HAITSUKA: We have no objections.

2 CHAIRMAN DEVENS: County?

3 MR. BRILHANTE: No objections.

4 CHAIRMAN DEVENS: Office of Planning?

5 MR. YEE: No objection.

6 CHAIRMAN DEVENS: Commissioners, have any  
7 questions for the parties? Commissioner Heller.

8 COMMISSIONER HELLER: Yes. In terms of the  
9 request regarding Pu'u Hinai, what is the status of  
10 public accessibility or non-accessibility?

11 MR. HAITSUKA: There's presently no public  
12 accessibility to the area in question. It's on  
13 private land. The access to the property is gated.

14 COMMISSIONER HELLER: Okay. Thank you.

15 CHAIRMAN DEVENS: Any further questions? At  
16 this time I'd like to move that we approve the  
17 Applicant's request for the five-year time extension  
18 to the special use permit along with the  
19 recommendations to add Conditions 3 and 5 as  
20 recommended to us from the planning commission. Is  
21 there a second?

22 COMMISSIONER KANUHA: Second.

23 CHAIRMAN DEVENS: Second by Commissioner  
24 Kanuha. Is there any discussion? Hearing none, Dan,  
25 if you can take the vote.

1           MR. DAVIDSON: Motion to approve as stated by  
2 Chair Devens.

3           Chair Devens?

4           CHAIRMAN DEVENS: Yes.

5           MR. DAVIDSON: Commissioner Kanuha?

6           COMMISSIONER KANUHA: Yes.

7           MR. DAVIDSON: Commissioner Lezy?

8           COMMISSIONER LEZY: Yes.

9           MR. DAVIDSON: Commissioner Judge?

10          COMMISSIONER JUDGE: Yes.

11          MR. DAVIDSON: Commissioner Jencks?

12          COMMISSIONER JENCKS: Yes.

13          MR. DAVIDSON: Commissioner Heller?

14          COMMISSIONER HELLER: Yes.

15          MR. DAVIDSON: Commissioner Chock?

16          COMMISSIONER CHOCK: Yes.

17          MR. DAVIDSON: Motion passes 7/0, Chair.

18          CHAIRMAN DEVENS: Would the parties like to  
19 add anything else to the record? Applicant?

20          MR. HAITSUKA: Nothing further, Mr. Chair.

21 Thank you very much.

22          CHAIRMAN DEVENS: County?

23          MR. BRILHANTE: Nothing further.

24          CHAIRMAN DEVENS: Office of Planning?

25          MR. YEE: Nothing further.

1           CHAIRMAN DEVENS: Is there any other business  
2 on the agenda, Mr. Davidson?

3           MR. DAVIDSON: None. Thank you, Chair.

4           CHAIRMAN DEVENS: We will stand adjourned.  
5 Thank you very much to the parties.

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7           (The proceedings were adjourned at 9:15 a.m)

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1 C E R T I F I C A T E

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3 I, HOLLY HACKETT, CSR, RPR, in and for the State  
4 of Hawai'i, do hereby certify;

5 That I was acting as court reporter in the  
6 foregoing LUC matter on the 21st day of January 2011

7 That the proceedings were taken down in  
8 computerized machine shorthand by me and were  
9 thereafter reduced to print by me;

10 That the foregoing represents, to the best  
11 of my ability, a true and correct transcript of the  
12 proceedings had in the foregoing matter.

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14 DATED: This \_\_\_\_\_ day of \_\_\_\_\_ 2011

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20 HOLLY M. HACKETT, CSR #130, RPR  
21 Certified Shorthand Reporter

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