

Planning Commission

Larry S. Tanimoto
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

August 29, 1990

Robert W. Carlsmith, Esq.
P.O. Box 1720
Kailua-Kona, HI 96745-1720

Dear Mr. Carlsmith:

Special Permit Application
Richard Smart Trust dba Parker Ranch
TMK: 6-7-01:03 (Portion)

The Planning Commission at its duly held public hearing on August 15, 1990, voted to approve the above application, Special Permit No. 747, to allow the establishment of a 14.407-acre quarry site within the State Land Use Agricultural District located two miles from the Saddle Road-Mamalahoa Highway junction on Saddle Road and approximately 1.3 miles off Saddle Road in a southwesterly direction, Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also includes lands which are surrounded by or contiguous to agricultural lands that are not suited to agricultural or ancillary activities by reason of topography, soils, and other characteristics. The Land Study Bureau's overall master productivity rating is "D" or Poor. The subject area is classified as "Other Important Agricultural Land"

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according to the State Department of Agriculture's ALISH Map. Although surrounding lands are used for cattle grazing, approval of the subject request would not be detrimental to grazing use. Land reclamation measures are recommended as a condition of approval. It is, therefore, determined that the proposed use would not be contrary to the objectives of the State Land Use Law and Regulations.

The desired use will not adversely affect the surrounding properties. The project site is approximately 4,000 feet away from the nearest property boundary. The nearest residence is over a mile away. No blasting is proposed. Dust and air-borne particulates will be mitigated through compliance with the regulations of the Department of Health. From a visual and public safety standpoint, a condition of this approval requires the applicant to restore the area to a state which would blend with surrounding topography of the area. Based upon submittal of appropriate documentation, such as landscaping plans and contours, the Planning Department would review and, if acceptable, approve the restoration.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. All necessary services are available to the property or will be provided by the applicant. Consulted agencies had no objection to the request.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Development in West Hawaii has resulted in a continued need for quarried materials from a local source. It is determined that the subject property is an appropriate site from which to supply these needs.

The proposed use will alter the character of the land. However, it is felt that with the review and approval of restoration efforts by the Planning Department, visual and public safety concerns can be mitigated to the best extent practicable.

The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Agricultural uses. It would also support the following goal and policy in the Natural Resources Element of the General Plan which says "Ensure that alterations to existing land forms and vegetation, except

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crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake" and "The County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse effects on the environment."

Based on the foregoing, it is determined that the proposed quarrying activity within a 14.4-acre area is an unusual and reasonable use of the land within the State Land Use Agricultural District and that approval of the subject request would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

Approval of this request is subject to the following conditions:

1. The applicant, successors, or assigns shall comply with all of the stated conditions of approval.
2. A map and metes and bounds description of the quarry site shall be filed with the Planning Department within one year from the effective date of this permit.
3. The quarrying activity, including the loading and hauling, shall be limited to between the hours of 6 a.m. and 6 p.m. on Mondays through Saturdays only.
4. The quarrying operations shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.
5. 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.
6. That all other applicable laws, requirements, rules and regulations, including those of the Department of Health, be complied with.

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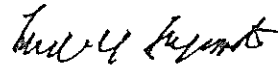
7. An annual monitoring report shall be submitted to the Planning Director prior to the anniversary date of the approval of the amendment request. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems and their disposition. 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.
8. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director upon the following circumstances: a) the nonperformance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, 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.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Fred Y. Fujimoto
Chairman, Planning Commission

xc: Richard Smart Trust dba Parker Ranch
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Office - Kona
State Land Use Commission

bcc: Plan Approval Section