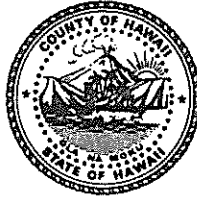


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL

Z 095 324 017

JUN 26 1998

Robert E. Bethea, Esq.
Mr. Masayoshi Onuma
688 Kinoole Street, Suite 210
Hilo, HI 96720

Dear Messrs. Bethea and Onuma:

Special Permit Application (SPP 98-8)

Applicant: Hawaiian Bitumuls Paving and Precast Company

Request: Establishment of a Facility to Manufacture Asphaltic-Concrete Products

Tax Map Key: 6-7-1:Portion of 25

The Planning Commission at its duly held public hearing on June 19, 1998, voted to approve the above-referenced application. The Commission also voted to deny standing to William Kalawai'anui in a contested case proceeding based on the Third Circuit Court's action to dismiss his claim on land ownership.

Special Permit No. 1002 is hereby issued to allow the establishment of a facility to manufacture asphaltic-concrete products on approximately 5.75 acres of land within the State Land Use Agricultural District. The property is located 2.5 miles northeast of Mamalahoa Highway-Saddle Road Junction in the vicinity of the West Hawaii Concrete quarries, Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are classified as "D" or "Poor" by the Land Study Bureau's Overall

06036

JUN 26 1998

Master Productivity Rating and unclassified by the Department of Agriculture's ALISH Map.

In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district.

The subject property is situated within the County's Agriculture 40-acre (A-40a) zone district. The proposed facility would be situated on an approximately 5.74 acre portion of a 22,478.839 acre parcel of land, portions of which are already used for quarrying operations. The proposed 5.74 acres of land that will be taken out of the agricultural inventory for this area will not significantly affect the agricultural resource of the area, as the proposed use will be confined to an area which is presently being quarried and no additional surrounding lands are to be developed. In addition, no active agricultural lands will be taken out of production to provide the area necessary to establish this use. The Parker Ranch ranching activities will still be ongoing.

Therefore, based on the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in agricultural use in years. Therefore, the proposed use would not be contrary to the objectives of the State Land Use Law for the Agricultural district.

Approval of the request would not be contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Extensive Agricultural uses. The proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use - Industrial Element

- * Industrial activities may be located close to raw materials or key resources.

Land Use - Natural Resources

- * Ensure that alterations to existing land forms and vegetation, except 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.

Economic Element

- * Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.

- * The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

With appropriate conditions, the request can support the Natural Resources element of the General Plan which states a goal to "Ensure that alterations to existing land forms and vegetation, except 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 impacts on the environment." The ability of the subject property to provide the needed raw material vital to the construction industry while able to absorb the noxious nature of quarries speaks to the appropriateness of the area for such uses.

The desired use will not adversely affect the surrounding properties. The subject property is currently used for ongoing ranch operations including office, shop, warehouse, paddock and pasture as well as existing quarrying activities. The proposed site is remote and approximately 5 to 6 miles from Waimea Town. The surrounding properties are largely owned by or controlled by Parker Ranch. There are no owners or residents within 500 feet of the perimeter of the boundary of the subject parcel. In addition, because of the proposed facilities remote location, access to it will be from Mamalahoa Highway and privately maintained roads. Dust and air-borne particles have and will be mitigated through the application of operating procedures and 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 photographs, landscaping plans, and contours, the Planning Department would review and, if acceptable, approve the restoration. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social, or other impacts that this facility use may have on the area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. Water is provided by Parker Ranch for dust control. The Department of Water Supply has no objections to the request. The traffic to be generated by the proposed facility would maintain its present volume, six (6) employees are expected to be hired for the new operation. All requirements of the Department of Health, Department of Public Works and Fire Department shall be complied with prior to establishment of the proposed use.

The land upon which the proposed use is sought is not suitable for the uses permitted within the district. The soils within the project area are not suitable for many types of agriculture uses. The nature of the request is to allow for a facility to manufacture asphaltic-concrete products, adjacent to existing quarry activities now occurring.

The use will not substantially alter or change the essential character of the land and the present use. The proposed use will alter the character of the land. However,

the applicant will be required to submit photographs of existing conditions and submit restoration plans, including landscaping of the land to be altered. This condition of approval will help ensure that the restoration, visual and public safety concerns will be mitigated to the best extent possible.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The rapid growth experienced in West Hawaii has created a demand for natural resources by the construction industry. No existing or proposed areas for agricultural activities will be curtailed or diminished as a result of the establishment of this activity on this property. As such, other undeveloped areas are still available for agricultural development and the removal of approximately 5.74 acres of land from the agricultural inventory will not have a detrimental impact on the agricultural resources of the area or the County of Hawaii.

Based on the above considerations, the proposed facility for the manufacturing of asphaltic-concrete products is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the Special Permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed facility and related improvements shall be completed within five (5) years from the effective date of this permit. This time period shall include the securing of Final Plan Approval from the Planning Director for the proposed facility. Plans shall identify any proposed structures and parking associated with the proposed operation in accordance with Chapter 25 (Zoning Code). Photographs of the area and a topography map of the project site and its related surrounding areas shall also be submitted with plans for Plan Approval.
3. The life of this Special Permit shall be co-terminous with the Parker Ranch lease agreement or its abandonment, whichever occurs first.
4. The applicant shall submit an Erosion Control and Site Restoration Plan for review and approval by the Planning Director, in consultation with the Department of Public Works, one year prior to the termination of the manufacturing operations.
5. Upon termination of the manufacturing operations or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding area and rehabilitated as approved in the Erosion Control and Site Restoration Plan. The affected site shall be left in a non-hazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Department and the Department of Public

- Works for review and approval within ninety (90) days from the date of termination and/or abandonment.
6. An adequate supply of water shall be made available for dust control and for fire suppression and pre-suppression.
 7. The applicant shall comply with all other laws, rules, regulations and requirements of the affected agencies for the approval of the facility, including those of the Department of Health, Fire Department and the Department of Public Works.
 8. An annual monitoring report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include the progress in complying with the conditions of approval and, if any, a detailed listing of public complaints or problems and their disposition. This condition shall remain in effect until all of the conditions of approval have been complied with.
 9. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide, in writing, a final status report to the Planning Director.
 10. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
 11. An initial extension of time for the performance of conditions within the permit, with the exception of Condition No. 5, may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance 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.
 - 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).

Robert E. Bêthea, Esq.
Mr. Masayoshi Onuma
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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.

Should you have any questions, please contact Alice Kawaha of the Planning Department at 961-8288 or Royden Yamasato of the Planning Department West Hawaii Office at 327-3510.

Sincerely,

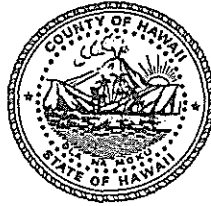


Kevin M. Balog, Chairman
Planning Commission

LHawaii01.PC

cc: Mr. James Tomei
Mr. William P. Kalawai'anui
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Department of Land & Natural Resources
Kazu Hayashida, Director/DOT-Highways, Honolulu

Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

OCT 17 2003

Mr. William L. Moore
159 Halai Street
Hilo, HI 96720

Dear Mr. Moore:

Amendment to Special Permit No. 1002
Applicant: Parker Ranch, Inc.
Tax Map Key: 6-7-1:portions of 25 and 36

The Planning Commission at its duly held public hearing on October 3, 2003, voted to approve the above-referenced request to amend Special Permit No. 1002, which initially allowed the establishment of an asphalt-concrete manufacturing facility on approximately 5.75 acres of land within the State Land Use Agricultural District. The request is to increase the permit area to 14.75 acres and to also allow truck storage, parking, service, maintenance and fueling facilities, baseyards, car towing and storage facilities, and related uses. The area involved is located south of the existing West Hawaii Concrete facility and approximately 1,500 feet mauka of Hawaii Belt Road (State Highway 190), Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be situated within an area whose soils are classified as "D" or "Poor" by the Land Study Bureau's Overall Master Productivity Rating and within an area listed as "Other Important Agricultural Land" by the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. Approval of this request for an amendment to Special Permit No. 1002 will not introduce a use that will be detrimental to the County's inventory of agricultural lands that maintain a high potential for agricultural use.

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OCT 17 2003

In recognizing that lands within the Agricultural District may not be highly suited for agricultural activities and yet classified as such; and in recognition that certain types of uses may not be strictly agricultural in nature, yet reasonable in such districts, the Legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district.

The project site is situated within the State Land Use Agricultural district and the County's Agriculture 40-acre (A-40a) zone district. The proposed expanded area will be from 5.75 acres to approximately 14.75 within a portion of a much larger 22,479-acre parcel, portions of which are currently utilized for quarrying operations. This proposed amendment will create a larger area for truck storage, parking, service, maintenance and fueling facilities, including baseyards and car towing and storage facilities and related uses in addition to the currently permitted use of the manufacturing of asphaltic-concrete (A-C) products. There have been ongoing quarrying activities within this parcel since 1945. Since 1977, the State Land Use Commission and the County of Hawaii Planning Commission have issued a total of seven (7) Special Permits to allow for various quarrying activities and related uses at locations throughout the subject property, involving a total of approximately 135 acres. The proposed 14.75 acres of land that will be taken out of the agricultural inventory for this area to accommodate the proposed storage and baseyard activities as well as the currently permitted use of the manufacturing of asphaltic-concrete (A-C) products will not significantly affect the agricultural resource of the area, more specifically, the existing ranching operations of Parker Ranch. Therefore, based on the above circumstances, approval of the subject request would not be contrary to the objectives of the State Land Use Law Rules and Regulations.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to the Coastal Zone Management Program. The subject property is located at least 14 miles from the nearest shoreline and is not located within the Special Management Area. The proposed development will not impact any recreational activities, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion. Finally, due to its location, it is not anticipated that the proposed activities would significantly obstruct any ocean (makai) views or significantly affect view planes.

Based on the Archaeological Assessment survey and Botanical Survey submitted by the applicant, it is unlikely that any archaeological features and/or threatened species of plants or animals will be affected by this development. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to the Coastal Zone Management Program.

The desired use will not adversely affect surrounding properties. The project site is situated in the general vicinity of existing quarry operations that have been operating since 1945. The project site is in a relatively remote section of South Kohala adjacent to West Hawaii Concrete's baseyard. The remainder of the subject property, consisting of 22,479 acres, is owned by Parker Ranch. Dust and air-borne particles have and 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 will require the applicant to restore the project site to a state that will blend with the surrounding topography of the area upon termination of storage and baseyard activities. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social, or other impacts that this activity may have upon the surrounding area. There is sufficient landscaping along the Waimea side of the project with Eucalyptus trees planted along this area to decrease the visual impacts to motorists traveling along Mamalahoa Highway. However, there is no landscaping to minimize the visual impacts along the southern and eastern boundaries of the project for people traveling along Saddle Road. Therefore, a condition requiring landscaping along the southern and eastern boundaries of the project to minimize the visual impacts to surrounding areas is included.

Given the lack of industrial zoned areas in the South Kohala area, the options for truck storage and baseyards are very limited. There are no approved truck parking facilities/baseyards in the Waimea Area. The only option is located in Kawaihae, which is over 10 miles from Waimea. The proposed project will provide an option that will not adversely impact our agricultural resources. Its location will strike a balance of land use by providing for the need for additional truck storage and baseyard options while minimizing significant adverse impacts upon agricultural activities and surrounding communities.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection. Water will be provided by the applicant for dust control. Since the proposed operations will not depend upon the County's water system for its water needs, the Department of Water Supply will not be burdened. The access road will accommodate the additional traffic to be generated by the proposed operations. The proposed use will provide services and parking facilities to service the existing trucks. The establishment of the parking/maintenance and fueling facilities will reduce the need for trucks to traverse through Waimea to reach existing facilities in Waimea and Kona, thereby reducing overall traffic on the highways. The Department of Public Works commented that the access road appears to be in good condition and that the Hawaii Belt Highway is under the jurisdiction of the Hawaii Department of Transportation (HDOT). This approval recommendation will require the applicant to comply with all other laws, rules, regulations and requirements of the affected agencies including, but not limited to, the Department of Health, Department of

Public Works, Fire Department and Department of Transportation prior to establishment of the proposed use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The rapid growth of West Hawaii has created a demand for areas to allow industrial type uses. In order to sustain this growth, new areas need to be rezoned to industrial or these types of uses will need to be permitted through the Special Permit process. With the lack of industrial zoned lands in South Kohala, this amendment will create an area for truck storage and baseyards until such time that more industrial lands area created.

Based on the above considerations, the proposed development is an unusual and reasonable use of land that will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The land upon which the proposed use is sought is not suitable for the uses permitted within the district. The soils within the project site are not suitable for many types of agricultural uses. Soils within the project site and surrounding area are suitable for pasture uses as evidenced by its former use as part of Parker Ranch's ranching operations. We have determined that to commit 14.75 acres of land to the proposed operations will not adversely affect the potential of surrounding lands to be maintained in pasture use.

The proposed use will not substantially alter or change the essential character of the land and the present use. The proposed use will not alter the physical character of the land. However, the applicant will be required to grade any portion of the affected site where operations have been terminated or abandoned to blend with the surrounding area. The applicant will be required to submit an Erosion Control and Site Restoration Plan and comply with its conditions for restoring the land in a rehabilitated and non-hazardous condition. This condition of approval will help ensure that the restoration, visual and public safety concerns will be mitigated to the best extent possible. The area surrounding the project site has been involved in various quarrying activities since 1945. Therefore, approval of the request will be consistent with the existing "industrial" character of the surrounding area.

Approval of the request would not be contrary to the General Plan. The subject property is designated for Extensive Agricultural uses by the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map. While storage and baseyard activities are not defined as a use that is compatible with the Extensive Agricultural designation of the affected area, the Planning Commission must also consider how the proposed use will also achieve the desired goals, policies and standards as set forth within the General Plan.

The Planning Director has determined that the proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- Industrial activities may be located close to raw materials or key resources. The area surrounding the project site has been involved in various quarrying activities since 1945. One of the proposed amendments to the LUPAG Map involves the subject parcel and surrounding area, which is proposed to be changed from Extensive Agricultural to Industrial.

Economic Element

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- The County shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The establishment of truck storage, parking, service, maintenance and fueling facilities, including baseyards and car towing and storage facilities will strengthen the existing industrial activity occurring in the area and will provide opportunities for businesses to be established on the property.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the Special Permit (Material to be deleted is bracketed and material to be added is underscored).

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed facility and related improvements shall be completed within five (5) years from the effective date of this [permit] amendment. This time period shall include [the securing of] securing Final Plan Approval from the Planning Director for the proposed facility. Plans shall identify any proposed structures and parking associated with the proposed operation in accordance with Chapter 25 (Zoning Code). A Landscaping Plan shall also be submitted at the time of Plan Approval that will provide a landscaping buffer along the southern and eastern boundaries of the project site to minimize visual impacts. Photographs of the area and a topography map of the project site and its related surrounding areas shall also be submitted with plans for Plan Approval.

Mr. William L. Moore

Page 6

- [3. The life of this Special Permit shall be co-terminous with the Parker Ranch lease agreement or its abandonment, whichever occurs first.]
- [4.] 3. The applicant shall submit an Erosion Control and Site Restoration Plan for review and approval by the Planning Director, in consultation with the Department of Public Works, one year prior to the termination of the manufacturing operations.
- [5.] 4. Upon termination [of the manufacturing operations] or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding area and rehabilitated as approved in the Erosion Control and Site Restoration Plan. The affected site shall be left in a non-hazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Department and the Department of Public Works for review and approval within ninety (90) days from the date of termination and/or abandonment.
- [6.] 5. An adequate supply of water shall be made available for dust control and for fire suppression and pre-suppression.
- [7.] 6. The applicant shall comply with all other laws, rules, regulations and requirements of the affected agencies for the approval of the facility[,] including, but not limited to, those of the Department of Health, Fire Department, Department of Transportation and the Department of Public Works.
- [8.] 7. An annual [monitoring] progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include the progress in complying with the conditions of approval and, if any, a detailed listing of public complaints or problems and their disposition. This condition shall remain in effect until all of the conditions of approval have been complied with.
- [9.] 8. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide, in writing, a final status report to the Planning Director.
- [10.] 9. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- [11.] 10. An initial extension of time for the performance of conditions within the permit, with the exception of Condition No. 5, may be granted by the Planning Director upon the following circumstances:

Mr. William L. Moore
Page 7

- A. Non-performance 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.] B. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- [D.] C. 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).

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.

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lparkerranchspp1002PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Department of Land & Natural Resources-HPD/Kona
Rodney Haraga, Director/DOT-Highways, Honolulu