



County of Hawai'i

PLANNING COMMISSION

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September 19, 2005

Mr. Mark K. Crawford
Motorsports Park Hawaii
P.O. Box 1489
Kealahou, HI 96750

Dear Mr. Crawford:

Special Permit Application (SPP 05-012)

Applicant: Motorsports Park Hawaii

Request: Off-Road Vehicle (Mini Motorcycle/ATV) Recreation Area Within
The State Land Use Agricultural District

Tax Map Key: 6-7-1:portion of 3

The Planning Commission at its duly held public hearing on August 26, 2005, voted to approve the above-referenced application to allow the establishment of an off-road vehicle recreation facility and related uses on 14.9 acres of land situated within the State Land Use Agricultural District. The property is located along the south side of Saddle Road in the vicinity of Nohonaohae Cinder Cone, approximately 1 mile from the Saddle Road – Mamalahoa Highway (Highway 190) junction, Waikoloa, South Kohala, Hawaii.

Approval of this request is based on the following:

Motorsports Park Hawaii, which is a non-profit organization, is requesting a Special Permit to establish an off-road vehicle recreation facility and related uses on 14.999 acres of land within a 23,978.059-acre parcel. The objective of the applicant is to provide a suitable area for its members to operate and enjoy off-road full size and mini motorcycles and all terrain vehicles (ATV). Special events may be held that include operator safety clinics, training, and competition. The site was previously utilized as part of a quarry that is no longer in operation.

The grounds for approving a special permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In recognizing that lands within the 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. In addition, 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 land on which the proposed use will be located is classified as "D" or "Poor" for agricultural productivity by the Land Study Bureau and classified as "Other Important Agricultural Land" by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The project site is 14.9 acres in size. The site was previously grubbed and graded, as the area was a permitted quarry site that is no longer in operation. Therefore, approval of the proposed request will not have a significant adverse effect on the County's agricultural land inventory. It is determined that the proposed use is an unusual and reasonable use of land situated within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends as follows:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The applicant has met this criterion based on the previous discussion above, mainly that 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 project area is very small in comparison to the size of the property (14.9 acres within a 23,978.059-acre parcel) and is poor for agricultural

activities. Additionally, previous grading and grubbing has altered the land, which was done by a former quarry operation. Lastly, the use of an off-road recreation facility would be an unusual and reasonable use of land for this area.

(B) The desired use would not adversely affect surrounding properties. The proposed location is approximately 1 mile south from the Saddle Road – Mamalahoa Highway (Highway 190) junction on Saddle Road, near the base of the Nohonaohae cinder cone. The surrounding properties are largely owned by or controlled by Parker Ranch. They are currently utilized for ongoing ranch operations and the existing quarrying operations. The nearest dwellings are located within the Waikii Ranch Subdivision, which is approximately three (3) miles away from the subject area and is not anticipated to be affected by the proposed request. Any negative impacts that may be generated by the proposed use, including noise, dust, and visual impacts, should be mitigated by the amount of distance from the proposed use to the nearest dwellings. The Planning Department has not received any letters of opposition from the public as of this writing. Based on the above discussion, the applicant has met this criterion.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the facility will be from Saddle Road, which is a State-owned, County-maintained arterial roadway with an 18 to 20-foot wide pavement within a 70-foot right-of-way. From Saddle Road, the applicant proposes to utilize an existing 25-foot wide gravel road, and build the remainder of the gravel road to the track area. The applicant will be placing a gate and a check-in station approximately 600 feet from Saddle Road. This will allow enough room for participants to enter the facility without causing a traffic delay on Saddle Road.

Although County water is not available to the site, Parker Ranch has indicated that it will provide limited ranch water to the subject area, which will be used mainly for dust control. Wastewater will be disposed of by several portable toilets that will be placed in different locations on-site. Electricity can be provided by generator, if needed, and telephone services can be provided by cellular telephones. Police, fire and medical services are located within Waimea, which is approximately 6 miles away. There is a concern that there should be some kind of fire suppression capability for this project. A condition of approval will be added that the applicant be required to construct a water tank for fire suppression. Based on the above discussion, the applicant has met this criterion.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. There has been a rising trend on the mainland and in the islands for the sport of motorcycle and all-terrain vehicle (ATV) riding. Numerous

homemade tracks have been formed on private lands as a result of the increasing popularity of the sport. There are large competitions that are being held more frequently, which encourage the need for private practice among competitors.

Additionally, it is clear that this type of activity has become a very popular family sport as well. Many families and friends spend time together on the weekends riding at each other's tracks or at a designated track for competition.

A motorcycle or ATV track can create major irritants to the surrounding neighbors, including noise and dust impacts. When such a use has the potential to adversely affect surrounding property owners, the need for a Special Permit is evident. This will allow an opportunity for surrounding property owners to have input, as well as conditions to be placed on the use to minimize potential impacts.

In regards to the proposed request, it is located in an area that would be ideal for such a use. There are no dwellings located near the proposed use that would be adversely affected and there are no public agencies that would be burdened. The approval of this request would provide a legal and safe location for off-road vehicles that will benefit residents island-wide. Based on the above discussion, the applicant has met this criterion.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The soil within the subject property is classified as "D" or "Poor" for agricultural productivity and classified as "Other Important Agricultural Land" by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The project site has been disturbed by previous grading and grubbing in relation to a quarry operation and would be unsuited for agricultural potential in agricultural use. Therefore, this criterion has been met.

(F) The use will not substantially alter or change the essential character of the land and the present use. The subject area has been disturbed by the former quarry operation that occurred in the past. There are several gravel and dirt roads that run through the site, as well as a cinder pit. Although the requested use will alter the land and change its present use, the land was previously altered by the quarry operation, which was approved previously by special permit for this area.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-

urban form for areas within the County. The area where the proposed request would be located is designated as Extensive Agriculture, which are lands not classified as Important Agricultural Land, and includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. Other less intensive agricultural uses such as grazing and pasture may be included in the Extensive Agriculture category.

The proposed off-road vehicle recreation facility would complement the following goals, policies and standards of the Recreation and Land Use elements of the General Plan:

Recreation

- Provide a wide variety of recreational opportunities for the residents and visitors of the County.
- Provide a diversity of environments for active and passive pursuits.
- Recreational facilities shall reflect the natural, historic, and cultural character of the area.

Land Use Element:

- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The proposed request will provide a much-needed recreational facility for motorcycle and ATV riding for residents island-wide. Thus, the proposed request is consistent with the Recreation and Land Use goals and policies of the General Plan. There are no other community development or design plans that apply to this area. Based on the above discussion, the applicant has met this criterion.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. Given the fact that the property has previously been disturbed, it is unlikely that any archaeological features and threatened species of plant or animal are present on the site. The Department of Land and Natural Resources-State Historic Preservation Division has issued a "no-effect" letter stating that they believe that there are no historic properties present because previous grubbing/grading has altered the land. Thus, they believe that "no historic properties will be affected" by this undertaking.

Endangered plants are known to be on Nohonaohae and Puu Papapa. *Lipochaeta venosa*, *Isodendrion hosakae* and *Virgo O-wahuensis* are found on these two Puu's. Based on this information, a condition of approval will require that the applicant maintain the existing fence that is along the boundary of the project area and along the base of the Nohonaohae cinder cone to prevent patrons from accessing the cinder cone area. Additionally, the applicant will be required to maintain a 20-foot firebreak around the riding and parking areas, to construct a minimum 25,000-gallon water tank, and supply a cache of tools on the property for fire suppression.

There is no designated public access to the mountain areas over the property. The subject property is located approximately 10 miles from the nearest coastline. It is adjacent to existing residences and vacant lands. Therefore, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion.

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

- Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kamaaina accounts of the area, historical survey of documentary records, or botanical study was included in the application.
- The valued cultural, historical, and natural resources found in the special permit area: There are no valued cultural, historical and natural resources found in the special permit area. The property was previously disturbed by a quarry operation.
- Possible adverse effect or impairment of valued resources: Given the scope of work previously conducted and the property's disturbed setting, no known rare, threatened, or endangered species are known to inhabit the special permit area. Endangered plants are known to be on Nohonaohae and Puu Papapa. *Lipochaeta venosa*, *Isodendrion hosakae* and *Virgo O-wahuensis* are found on these two Puu's. A condition of approval will require the applicant to maintain the existing fence between the subject site and the base of the Nohonaohae cinder cone to prevent any possible adverse effect or impairment to the endangered species.

- Feasible actions to protect native Hawaiian rights: To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights

Based on the above considerations, the request to establish an off-road vehicle recreation facility and related uses on the subject property would be an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all of the 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 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). 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 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 recreation facility.
4. Upon termination 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 that 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.
5. Spark arrestors shall be required for all off-road vehicles (motorcycles and all terrain vehicles) that utilize the site.

6. The applicant shall have a 25,000-gallon water tank kept full, for dust control and for fire suppression and pre-suppression. The tank design shall be approved by the Fire Department.
7. The applicant shall create and maintain a 20-foot wide firebreak around the riding and parking areas. The firebreak, parking areas and the on-site access road shall be maintained free of vegetation by grubbing and/or poisoning and removal of grass.
8. The applicant shall store onsite backpack pumps, fire extinguishers, and tools for fire suppression, including flappers, pulaskis and shovels (a minimum of five (5) each). The applicant shall have a designated person with keys to the fire cache at each event. Keys to the fire cache and entry gate shall also be made available to the Fire Department and the Department of Land and Natural Resources.
9. The applicant shall maintain the existing fence that is along the southern boundary of the project area and along the base of the Nohonaohae cinder cone to protect the identified endangered plant species.
10. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
11. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.
12. All driveway connections to Saddle Road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code and County Detail R-37.
13. Access to Saddle Road, including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works.
14. If the scale of operations warrants improvements to the project intersection with Saddle Road, as determined by the Department of Public Works, the applicant shall provide such improvements.
15. The applicant shall control access to the site so that it can only be used by authorized persons. The applicant shall maintain the present gate near the Saddle

Road. On days when events are held, the gate near Saddle Road shall be opened, and a secondary access control shall be located at least 500 feet from Saddle Road.

16. The applicant shall control activities so that riding occurs only in designated riding areas and not on the pu'u or adjacent ranchland.
17. Hours of operation shall be 7:00 a.m. to 7:00 p.m., weekends and holidays only.
18. The facility shall be only operated by a non-profit organization.
19. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
20. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
 1. The 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.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 4. 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).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special 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.

Mr. Mark K. Crawford
Motorsports Park Hawaii
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

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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