

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
JULY 1, 2009

The Windward Planning Commission met in regular session at 9:03 a.m. in the Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i with Chairman Rell Woodward presiding.

PRESENT: Rell Woodward
Takashi Domingo
Wallace Ishibashi
Zendo Kern
Shelly Ogata

Brandon Gonzalez, Deputy Corporation Counsel
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

ABSENT & EXCUSED: Andrew Iwashita

The Chair introduced the staff and Windward Planning Commissioners to members of the public.

The Commission took the following item up at 9:05 a.m. with approximately 14 people from the public in attendance:

APPLICANT: ARROW OF OREGON/HAWAII, LLC (SPP 09-76)

Special Permit to allow a cinder and rock quarry operation on 5.003 acres of land situated within the State Land Use Agricultural District. The properties are located at the corner of Mahimahi Drive and Liliana Lane, Hawaiian Ocean View Estates Subdivision, Kahuku, Ka'u, Hawai'i, TMK: 9-2-148:1 to 5.

Mr. Darrow oriented the Commission and public of the subject and surrounding properties on the location map and site plan. He said the applicant did submit a geotechnical report as requested by the Department of Public Works that included plans indicating 15-foot setbacks from the adjacent properties and roadways, access to the quarry and compacted driveway section, and an on-site benching diagram. He produced aerial photos of the area showing the quarrying operation occurring since the late fifties and early sixties. He then summarized the request, noting the properties have been consolidated into one parcel and Mahimahi Street at this time is closed because of a safety issue from previous illegal mining. He stated the Director is recommending approval with conditions.

The applicant's representatives, Joe Chamberlain and Robert Thomas, were in attendance.

Mr. Thomas said he visited the site and adjoining properties yesterday with Mr. Chamberlain and observed several vertical faces in the excavation, some in unsafe conditions. He said he felt

the plan submitted is conservative and an increased improvement over current conditions in the area.

Mr. Thomas agreed with the Chair that the plans are to excavate Mahimahi Street to about 80 feet below the existing roadway, noting evidently there are two adjacent properties where illegal mining has occurred.

Mr. Chamberlain said the lowering of the roadway will be done in two or three phases and he agreed with the Chair that he will be coming back to the Planning Commission for further permits as he plans to acquire four adjacent properties.

In response to Commissioner Kern's inquiries, Mr. Chamberlain said he has been in the mining business off and on, he did a lot of subdivisions on industrial zoned lands and he owns a hard rock quarry in Oregon that has about 2.6 million tons of hard rock. He then added that when mining is complete, he was thinking of using the land as a rain water reservoir, to which the Chair noted protea farmers in the Ocean View area put liners down in holes for their agricultural water.

In response to Commissioner Ogata's inquiry, Mr. Thomas said under the best management practices on dust control mitigation, proper dust fencing and silt screens will be put in place, as well as properly misting or wetting the rock products to minimize dust emissions.

There was no one from the public wishing to testify on this application.

The applicant stated the proposed conditions were acceptable.

It was moved by Commissioner Ogata and seconded by Commissioner Domingo that the application be approved as recommended by the Planning Director, with conditions. The Chair stated he saw no problems with the application as it is the most responsible cinder and rock quarry operation the Commission has considered. Commissioner Domingo felt this was a worthwhile project as he saw a more organized effort in mining the property with strict regulations and oversight. A roll call vote was taken and motion carried with five ayes (Ogata, Domingo, Ishibashi, Kern and Woodward) and one absent and excused (Iwashita).

The Commission took the following item up at 9:24 a.m. with approximately 14 people from the public in attendance:

APPLICANT: MARK JERNIGAN (SPP 09-81)

Special Permit to allow the removal of cinder on 43,608 square feet of land situated within the State Land Use Agricultural District. The property is located along the south side of Mahimahi Drive, approximately 356 feet east of the Mahimahi Drive – Lurline Lane intersection, Hawaiian Ocean View Estates Subdivision, Kahuku, Ka'u, Hawai'i, TMK:9-2-145:59.

Mr. Darrow oriented the Commission and public of the subject and surrounding properties on the location map and site plan, and summarized the request due to safety reasons as the adjacent landowners removed cinder creating vertical faces to the east, west, and south boundaries of the property. He then showed overview of the area showing some of the mining going on and noted the Planning Director's recommendation that the application be approved with conditions.

Mr. Darrow said as requested by the Planning Department the applicant has provided the off-site storage location of the cinder to be used for the applicant's landscaping business and, additionally, the Planning Department has received a petition for standing in a contested case from Chris Harlan, manager of Big Island Concrete and Aggregate LLC and a surrounding property owner.

After the Chair's explanation of the procedures of a contested case, Mr. Harlan withdrew his petition for standing in a contested case and stated he would just like to provide public testimony. The Chair noted his filing fee will be refunded.

The applicant, Mark Jernigan, stated he found after he purchased the property that a special permit was required, noting an insurance company refused to give him liability insurance because of the hazardous steep vertical slopes. He said once the property is brought into a safe condition within the industry standards, they will in the future seek mining the property to go below grade.

Upon the Chair's inquiry, Mr. Jernigan said the five-year life of the permit was acceptable and he understood any further quarrying beyond five years would require another permit.

Tracy Crain said they have met with the HOVE Association and adjacent property owners and noted they are aware the permit is for five years and currently the applicant will not mine below the deck and make the existing conditions safer.

Chris Harlan, owner of a 15-acre quarry two lots away, expressed his concern of setting a precedent of 1-acre quarries in Ocean View. He noted the HOVE side of the property did not look like it was unsafe but felt the other sides needed to be addressed.

The Chair clarified for Mr. Harlan that the request is basically to create a safe situation on three sides of the property and there will be a five-year time limit on the life of the permit. He clarified that the applicant at this time cannot quarry below the deck, and any further quarrying is going to require another permit.

As far as Mr. Harlan's concern of setting a precedent for the area, the Chair noted that any other applications will be considered on a case-by-case basis. The Chair added that this request is an unusual case in that it is a one-acre parcel that is adjacent to an existing mining operation, and the applicants are mitigating an unsafe condition, not that they are setting any precedence.

For Commissioner Ishibashi's information, Mr. Harlan clarified that he does not own the adjacent property, although he did mining for that adjacent landowner and some of the banks were existing at that time. Commissioner Ishibashi noted the adjacent landowner could also come in for a special permit, but right now the Commission is just trying to mitigate an unsafe condition on the subject property.

It was moved by Commissioner Domingo and seconded by Commissioner Kern that the application be approved as recommended by the Planning Director, with conditions. Commissioner Kern said he normally would not be in favor of quarrying on a one-acre piece of land unless it's a very special use, however he felt this was a safety issue and that the

Commission's approval would not a set precedent. A roll call vote was taken and motion carried with five ayes (Domingo, Kern, Ishibashi, Ogata and Woodward) and one absent and excused (Iwashita).

The Commission took the following item up at 9:47 a.m. with approximately 14 people from the public in attendance:

APPLICANT: PAA AINA TRUST (REZ 962)

Amendment to condition B (time limit to secure Final Plan Approval) and related conditions of Ordinance No. 01 34, which rezoned 19,721 square feet of land from Single-Family Residential 10,000 square feet (RS-10) to General Commercial 10,000 square feet (CG-10) district. The property is located along the west (mauka) side of Kinoole Street, approximately 240 feet south (Puna side) of the Kinoole Street – Wailoa Street intersection, Waiakea, South Hilo, Hawai'i, TMK: 2-2-20:7.

Mr. Darrow oriented the Commission and public of the subject and surrounding properties on the location map and site plan, summarized the request, and noted the Planning Director recommended approval of the application with conditions.

The applicant's representative, Gina Hara Chun, said the family of Mabel Kubota rezoned the property but her client did not proceed with the project as the industry became very busy and it was difficult to get a consultant to do the work they needed to do. She said now that the economy is slower they have decided to move forward with the project to convert the existing home into an office space, noting it is consistent with the General Plan and LUPAG Map.

There was no one from the public wishing to testify on the application.

It was moved by Commissioner Domingo and seconded by Commissioner Ogata that the application be approved as recommended by the Planning Director, with conditions. A roll call vote was taken and motion carried with five ayes (Domingo, Ogata, Ishibashi, Kern, and Woodward) and one absent and excused (Iwashita).

The Commission took the following item up at 9:54 a.m. with approximately 13 people from the public in attendance:

APPLICANT: HAWAII JOHNS, INC. (SPP 09-82)

Special Permit to allow the storage of portable toilets, parking for employee and business vehicles, and office on 1.65 acres of land situated within the State Land Use Agricultural District. The property is located at the southwest corner of Highway 19 and Kalopa Lower Road intersection, Kalopa Homesteads, Hamakua, Hawai'i, TMK: 4-4-3:portion of 50.

(SEE EXHIBIT A, Pages 1 to 16.)

RECESSED

The Chair called a short recess at 10:32 a.m.

RECONVENED

The Commission reconvened at 10:45 a.m.

The Commission took the following item up at 10:45 a.m. with approximately 17 people from the public in attendance:

APPLICANT: ANTHEM TELECOM, LLC (SPP 09-80)

Special Permit to allow the construction of a 150-foot telecommunication tower and related structures on approximately 10,000 square feet of land situated within the State Land Use Agricultural District. The area under consideration is located along the mauka section of Paauilo Mill Road, approximately 1,300 feet mauka of Highway 19, Paauilo, Hamakua, Hawai‘i, TMK: 4-3-7: portion of 10.

(SEE EXHIBIT B)

The Commission took the following item up at 11:17 a.m. with approximately 14 people from the public in attendance:

APPLICANT: NANI MAU, INC. (LUC DOCKET NO SP73-159)

Amendment to allow the conversion of a maintenance building into a charter school facility on a 23-acre area with the State Land Use Agricultural District. The property is a part of the Nani Mau Gardens complex located along the north side of Makalika Street, Panaewa Farm Lots Subdivision, Waiakea, South Hilo, Hawai‘i, TMK: 2-2-48: portion of 13.

Mr. Hayashi noted as the applicant did not notify surrounding property owners of today’s meeting, claiming they did not receive a copy of the Commission’s letter, the Planning Department is recommending the hearing be continued to the next Hilo meeting. He noted a second letter to the applicant transmitting agency comments did state the date, time and place of today’s meeting but apparently the applicant overlooked that portion of the letter.

There was no one from the public wishing to testify on the application.

It was moved by Commissioner Domingo and seconded by Commissioner Ogata that the hearing be continued to the next Hilo meeting. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

The Commission at this time, 11:19 a.m., again took up the following application:

APPLICANT: HAWAII JOHNS, INC. (SPP 09-82)

Special Permit to allow the storage of portable toilets, parking for employee and business vehicles, and office on 1.65 acres of land situated within the State Land Use Agricultural District. The property is located at the southwest corner of Highway 19 and Kalopa Lower Road intersection, Kalopa Homesteads, Hamakua, Hawai‘i, TMK: 4-4-3:portion of 50.

(SEE EXHIBIT A, Pages 16 to 17.)

The Commission took the following item up at 11:20 a.m. with approximately 18 people from the public in attendance:

APPLICANT: MARTIN OLIVER (SPP 09-83)

Special Permit to allow the development of a private, non-commercial airstrip on approximately 5 acres of land situated within the State Land Use Agricultural District. The property is located approximately 1,000 feet northeast (mauka) of Waiohinu Park and also mauka of Highway 11, Waiohinu, Ka'u, Hawai'i, TMK: 9-5-5: portion of 13.

(SEE EXHIBIT C)

The Commission took the following item up at 11:59 a.m. with approximately 12 people from the public in attendance:

APPLICANT: HOOLUANA PLACE, LLC (SMA 09-33)

Special Management Area Use Permit to allow the development of a family entertainment center and retail complex, which would include a bowling alley, restaurants, sports bar, butcher shop, retail shops and related improvements. The property is located at the corner of Kekuanaoa Avenue and Mililani Street and adjacent to the Waiakea Villas complex, Waiakea, South Hilo, Hawai'i, TMK: 2-2-30:17 and 19.

(SEE EXHIBIT D)

MINUTES - At 12:31 p.m., the Board took up the minutes of June 5, 2009. It was moved by Commissioner Domingo and seconded by Commissioner Ishibashi that the minutes be approved. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

ADMINISTRATIVE MATTERS - There was nothing taken up under Administrative Matters.

ANNOUNCEMENTS - Staff announced the next meeting is scheduled for August 7, 2009.

ADJOURNMENT - There being no further business, the Chair declared the meeting adjourned at 12:32 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary

A T T E S T:

Rell Woodward, Chairman
Windward Planning Commission