

DAVID Y. IGE
Governor

MIKE McCARTNEY
Director



DANIEL E. ORODENKER
Executive Officer

LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

August 22, 2019

Ms. Michele Chouteau Mclean,
Planning Director
Planning Department
2200 Main Street
One Main Plaza, Suite 315
Wailuku, HI, 96793

Dear Ms. Mclean:

Subject: LUC Docket No. SP06-400/Hawaiian Cement Pohakea Quarry 10-Yr
time Extension Request.

We received your letter dated July 16, 2019, transmitting the application for an extension to SP 06-400.

At this time, we cannot recommend an extension be granted. Our records indicate that there may be violations of conditions previously imposed by the Land Use Commission (LUC) on the Special Permit. As you know, the LUC imposed 23 conditions pursuant to its Decision and Order (D&O) approving the Special Permit issued on December 4, 2006. The Planning Commission recommended to the LUC, and the LUC approved, the extension of the Special Permit to December 15, 2019 on January 6, 2011. Our record indicates that the Petitioner has failed to comply with condition No. 6 by not filing any Annual Progress Reports. The only annual report received by the LUC since the 2006 D&O was submitted on April 2019. The Petitioner's progress report from 2006 until now is untimely.

The LUC recognizes that County-level permits also required periodic reporting. The County should insure that applicants understand the importance of these reporting requirements as they are necessary to the enforcing authority under HRS Section 205-12. Until the annual reports are made up to date we cannot recommend extension of the permit.



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The Petitioner was required to submit Certification of Insurance as per the LUC D&O condition No. 4. The Certification of Insurance (Exhibit C) provided with this application, will expire on 01/01/2020. A new certification should be obtained prior to any extension being granted.

County Special Use Permit condition No. 5 required the applicant to submit progress reports to the Department bi-annually. The LUC does not have any information as to whether the County has received bi-annual reports besides the included 2018 reports.

The LUC can't determine from the information provided whether the Petitioner has complied with the condition No. 7 requiring submittal of annual progress reports for the County Conditional Permit.

The justification for granting further time extensions does not appear to adequately address the economic viability of the activity or a continuing demand for product from this particular site into the future. Such information is necessary for the Planning Commission to make an informed decision. We suggest the Planning Department request further documentation on this and the other issues raised in this comment letter.

As there is significant ambiguity involving compliance with conditions, we cannot support further extension of the Special Permit in the absence of some evidence demonstrating current and continued compliance with the county-level conditions and the conditions contained in the Decision and Order.

Should you have any questions, please feel free to call me at (808) 587-3822.

Sincerely,

Daniel E. Orodénkar
Executive Officer