

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

January 6, 2021

Mr. David Gomes
Hawaiian Cement
P.O. Box 488
Kahului, Hawaii 96733

Dear Mr. Gomes:

SUBJECT: 15 YEAR TIME-EXTENSION REQUEST FOR STATE LAND USE COMMISSION SPECIAL PERMIT AND COUNTY SPECIAL USE PERMIT TO CONTINUE OPERATION OF THE POHAKEA QUARRY OPERATIONS IN THE STATE AND COUNTY AGRICULTURAL DISTRICTS AT MAALAEA, ISLAND OF MAUI, HAWAII; TMK: (2) 3-6-004:007 (SUP1 2006/0001) (CUP 2006/0001)

At its regular meeting on November 24, 2020, the Maui Planning Commission (Commission) approved the above referenced request(s) subject to the following conditions:

STATE LAND USE COMMISSION SPECIAL PERMIT

1. That the State Land Use Commission (LUC) Special Permit shall be valid until December 15, 2035, subject to further extensions by the LUC upon a timely request for extension filed at least 120 days prior to its expiration date. If the appropriate Planning Commission approves the LUC Special Permit, it shall forward its approval to the LUC for final determination.
2. That the conditions of this LUC Special Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawaii Revised Statutes (HRS). Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation, and providing the permit holder no more than 60 days to cure the violation. If the permit holder fails to cure the violation within 60 days of said notice, the appropriate enforcement agency shall issue an order which may require one or more of the following: that the violative activity cease; that the violative development be removed; that a civil fine be paid not to exceed \$1,000.00 per violation; and that a civil fine not to exceed \$5,000.00 shall be issued if violation not cured within six months of the issuance of the order. The order shall become final 30 days after the date of its mailing or hand-delivery unless written request for a hearing is mailed or delivered to the Department of Planning (Department) within said 30 days. Upon receipt of a request for a hearing, the Department shall specify a time and place for the permit holder to

appear and be heard. The hearing shall be conducted by the Planning Director (Director) or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

3. That the subject LUC Special Permit shall not be transferred without the prior written approval of the LUC. The appropriate Planning Commission shall make a recommendation to the LUC. However, in the event that a contested case hearing preceded issuance of said LUC Special Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
4. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject LUC Special Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this LUC Special Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000.00 naming the County of Maui and State of Hawaii as an additional named insured, insuring and defending the Applicant, County of Maui and State of Hawaii against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Department within 90 calendar days from the date of transmittal of the Decision and Order.
5. That full compliance with all applicable governmental requirements shall be rendered.

COUNTY SPECIAL USE PERMIT

The Commission approved the 15-year time-extension request for the County Special Use Permit subject to the following conditions:

Standard Conditions:

1. That the County Special Use Permit shall be valid until December 15, 2035, subject to extension by the Commission upon a timely request for extension filed at least 120 days prior to its expiration date. The Commission may require a public hearing on the time extension.

2. That the County Special Use Permit shall not be transferred without the prior written approval of the Commission.
3. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject County Special Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this County Special Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000.00 naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Department within 90 calendar days from the date of transmittal of the Decision and Order.
4. That full compliance with all applicable governmental requirements shall be rendered.
5. That the Applicant shall submit bi-annually to the Department, one digital copy of a detailed report addressing its compliance with the conditions established by the County Special Use Permit.
6. That the Applicant shall continue to develop the property in substantial compliance with the representations made to the Commission in obtaining the County Special Use Permit. Failure to so develop the property may result in the revocation of the permit.

Project Specific Conditions:

7. That the Applicant shall continue compliance with the following recommendations of the State Department of Transportation:
 - a) The Applicant shall continue to regularly remove dirt, debris, gravel, and other byproducts of quarry operations from the quarry access road's intersection with Honoapiilani Highway. The Applicant shall abide by its previous plan for rapid removal of any quarry products spilled on the State highway right-of-way; and

- b) No increase in storm water runoff will be allowed onto the State highway right-of-way.
- 8. That in the event any significant cultural deposits or human skeletal remains are encountered, work shall stop in the immediate vicinity and the State Historic Preservation Division shall be contacted.
- 9. That the Applicant shall have an on-site monitor to ensure that the load is covered and material is removed from the exterior of the truck bed and wheels to reduce debris falling onto the public roadways.
- 10. That upon cessation of the Pohakea Quarry operations, a closure plan shall be prepared to re-vegetate the site or other measures to reduce erosion and shall be reviewed and approved by the Department.
- 11. That the Applicant shall incorporate applicable Best Management Practices (BMPs) to mitigate noise and dust related to the Pohakea Quarry expansion.
- 12. That the Applicant shall maintain the existing natural landscape buffer along the southern boundary of the project site for the life of the quarry to provide a visual buffer.
- 13. That base course material from the quarry shall not be exported off-island.

Thank you for your cooperation. If additional clarification is required, please contact Senior Staff Planner Paul Fasi at paul.fasi@mauicounty.gov or at (808) 270-7814.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
J. Rapacz, Planning Program Administrator (PDF)
Paul F. Fasi, Staff Planner (PDF)
State Land Use Commission (PDF)
Bryan Esmeralda, Munekiyo Hiraga, Inc. (PDF)
Project File

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