

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

October 1, 2010

**Committee**  
**Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on September 15, 2010, makes reference to County Communication No. 10-169, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2669 (1998), AS AMENDED BY ORDINANCE NO. 2853 (2000), AS AMENDED BY ORDINANCE NO. 3232 (2004), TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE RECYCLING AND GREEN WASTE COMPOSTING FACILITY IN CONJUNCTION WITH THE PERMITTED QUARRY AND ROCK CRUSHING OPERATION WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-6-004:007, WAILUKU, MAUI, HAWAII".

The purpose of the proposed bill is to grant a request from Hawaiian Cement for a ten-year Conditional Permit time extension for the operation of a concrete recycling and green waste composting facility on approximately 14.8 acres within the County Agricultural District, in conjunction with the permitted quarry and rock crushing operation, known as the Pohakea Quarry, Wailuku, Maui, Hawaii (TMK: (2) 3-6-04:007 (portion)).

Your Committee received a revised proposed bill, entitled "A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE RECYCLING AND GREEN WASTE COMPOSTING FACILITY IN CONJUNCTION WITH THE PERMITTED QUARRY AND ROCK CRUSHING OPERATION WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-6-004:007 (POR.), WAILUKU, MAUI, HAWAII", incorporating nonsubstantive revisions.

According to Karlynn Fukuda, Principal, Munekiyo & Hiraga, Inc., consultant for Hawaiian Cement, the property is owned by Pohakulepo Recycling, LLC, and is the subject of a long-term lease with Hawaiian Cement, which expires in 2024.

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Your Committee notes that the Council first granted the subject Conditional Permit by Ordinance No. 2669 (1998). The Council granted extensions of the Conditional Permit by Ordinance Nos. 2853 (2000) and 3232 (2004). The Conditional Permit was last extended until December 15, 2009.

Your Committee further notes that the Maui Planning Commission recommended that the Conditional Permit be extended until December 15, 2019, for a total of ten years.

According to Ms. Fukuda, Hawaiian Cement has conducted its concrete recycling operation since 2008, recycling approximately 974 tons of concrete waste and thereby diverting it from the landfill. She advised your Committee that, although green waste composting has not yet been started at the site, Hawaiian Cement is exploring opportunities to begin that component of the work authorized by the Conditional Permit.

Your Committee recommended that Condition No. 5 of the revised proposed bill, relating to uses authorized by the Conditional Permit, be revised to explicitly authorize the 14.8-acre site to be used for the quarry and rock-crushing operation's office and weighing of rock. Your Committee, therefore, incorporated language authorizing use of the scale house and office structure on the site.

Your Committee voted 8-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Baisa, Vice-Chair Molina, and members Johnson, Kaho`ohalahala, Mateo, Medeiros, Nishiki, and Pontanilla voted "aye". Committee member Victorino was excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

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Your Land Use Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE RECYCLING AND GREEN WASTE COMPOSTING FACILITY IN CONJUNCTION WITH THE PERMITTED QUARRY AND ROCK CRUSHING OPERATION WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-6-004:007 (POR.), WAILUKU, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 10-169 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
GLADYS C. BAISA, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2010)

A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE RECYCLING AND GREEN WASTE COMPOSTING FACILITY IN CONJUNCTION WITH THE PERMITTED QUARRY AND ROCK CRUSHING OPERATION WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-6-004:007 (POR.), WAILUKU, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 2669 (1998), as amended by Ordinance No. 2853 (2000), as amended by Ordinance No. 3232 (2004), is extended, subject to the conditions imposed in Section 2 of this ordinance, for the operation of a concrete recycling and green waste composting facility in conjunction with the permitted quarry and rock crushing operation within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key No. (2) 3-6-004:007 (por.), and is comprised of approximately 14.8 acres of land.

SECTION 2. The conditions imposed in Ordinance No. 3232 (2004) are amended to read as follows:

- "1. That full compliance with all conditions of the State Special Use Permit, with the conditions of the State Department of Health, Clean Air Branch, Noncovered Source Permit,

and with all other applicable governmental requirements shall be rendered;

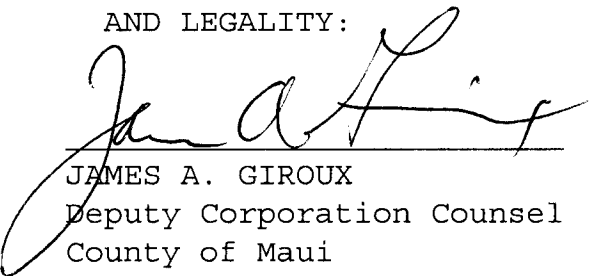
2. That the Conditional Permit is hereby granted to Hawaiian Cement and shall be valid [for a period of five years from the effective date of the most recent amendment to this ordinance;] until December 15, 2019; provided that, an extension of this permit beyond this [five-year] period may be granted pursuant to Section 19.40.090, Maui County Code;
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance;
4. That Hawaiian Cement, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00), naming the County of Maui as an additional [named] insured, insuring and defending Hawaiian Cement 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 Hawaiian Cement 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. A copy of a policy naming County of Maui as an additional [named] insured shall be submitted

to the Department of Planning within ninety (90) calendar days from the effective date of the most recent amendment to this ordinance[.];

5. That this Conditional Permit shall be limited to the composting of green waste and grubbed material, [and] the recycling of concrete rubble in connection with the base course production, and the use of the scale house/office structure located on the site;
6. That Hawaiian Cement shall employ dust control measures at the green waste composting area to minimize dust emissions; and
7. That Hawaiian Cement shall submit to the [Planning Department] Department of Planning annual reports addressing its compliance with the conditions established with the subject Conditional Permit."

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

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