

**LAND USE COMMITTEE**  
**Council of the County of Maui**

**MINUTES**

**Council Chamber**

**September 15, 2010**

**CONVENE:** 1:30 p.m.

**PRESENT:** Councilmember Gladys C. Baisa, Chair  
Councilmember Michael J. Molina, Vice-Chair  
Councilmember Jo Anne Johnson, Member  
Councilmember Sol P. Kaho`ohalahala, Member (arr. at 1:34 p.m.)  
Councilmember Danny A. Mateo, Member (arr. at 1:39 p.m.)  
Councilmember Bill Kauakea Medeiros, Member  
Councilmember Wayne K. Nishiki, Member  
Councilmember Joseph Pontanilla, Member

**EXCUSED:** Councilmember Michael P. Victorino, Member

**STAFF:** Carla Nakata, Legislative Attorney  
Pauline Martins, Committee Secretary

**ADMIN.:** James Giroux, Deputy Corporation Counsel, Department of the Corporation  
Counsel  
Ann Cua, Planner, Department of Planning  
Paul Fasi, Planner, Department of Planning

**OTHERS:** Karlynn Fukuda, Munekiyo & Hiraga, Inc.  
David Gomes, General Manager, Hawaiian Cement Maui Concrete &  
Aggregate Division  
Plus (2) other people

**PRESS:** *Akaku Maui Community Television, Inc.*

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# LAND USE COMMITTEE

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**LU-46      CONDITIONAL PERMIT AMENDMENT TO ALLOW HAWAIIAN CEMENT  
TO CONTINUE TO OPERATE A CONCRETE RECYCLING AND GREEN  
WASTE COMPOSTING FACILITY WITHIN THE COUNTY AGRICULTURAL  
DISTRICT (WAILUKU) (C.C. No. 05-151)**

CHAIR BAISA: . . . (*gavel*) . . . Will the meeting of the Land Use Committee please come to order. Chair will note that it is a few minutes after 1:30 and I'd like to thank the Members that are present this afternoon. I know you had a busy morning. Thank you for returning on time. My name is Gladys Baisa, and I'm the Chair of the Land Use Committee. Today is September 15<sup>th</sup>; and with us, we would like to note that a quorum is present. First of all, I would like to ask anyone who might have a cell phone that's audible to please put it on the silent mode so that we will not be disturbed. And then, I would like to introduce the Committee Members that are present today. I have Vice-Chair of this Committee, Mike Molina.

VICE-CHAIR MOLINA: Good afternoon, Madam Chair.

CHAIR BAISA: Good afternoon. We have Member Jo Anne Johnson.

COUNCILMEMBER JOHNSON: Aloha.

CHAIR BAISA: Thank you. We have Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and Good afternoon, Madam Chair.

CHAIR BAISA: Good afternoon. Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Good afternoon.

CHAIR BAISA: Good afternoon. And Member Joseph Pontanilla.

COUNCILMEMBER PONTANILLA: Good afternoon.

CHAIR BAISA: Excused this afternoon is Member Mike Victorino and Member Danny Mateo and Member Sol Kaho`ohalahala. With me today, from the Department of the Corporation Counsel, the representative--James Giroux--our Deputy Corporation Counsel.

MR. GIROUX: Good afternoon, Madam Chair.

CHAIR BAISA: Thank you, James. We also have with us Ann Cua, the Deputy Planning Director.

MS. CUA: Good afternoon, Chair.

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CHAIR BAISA: We also have Paul Fasi, Planner with the Department of Planning.

MR. FASI: Good afternoon, Madam Chair.

CHAIR BAISA: Good afternoon, all. We also have from the applicant today, Karlynn Fukuda of Munekiyo & Hiraga, Inc. They are the consultants for Hawaiian Cement. We also have David Gomes, who is the General Manager for Hawaiian Cement Maui Concrete & Aggregate Division. I also have my ever faithful Committee Staff, Pauline Martins, our Committee Secretary; and Carla Nakata, our Legislative Attorney.

Chair will be accepting public testimony in a few moments. Those wishing to testify should sign up at the table set up in the lobby. Testimony will be limited to three minutes. The yellow light will indicate that you have 30 seconds remaining and should begin to conclude. Testifiers are requested to state their name for the record and indicate who they are representing, if applicable. Staff, do we have any testifiers?

MS. MARTINS: No.

CHAIR BAISA: Anybody signed up to testify?

MS. MARTINS: No.

CHAIR BAISA: Seeing none, is there anyone in the gallery who would like to testify? If not, Members, without objection, Chair will close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR BAISA: Thank you very much. Members, today, we have one single item on our agenda. That's Land Use No. 46, Conditional Permit Amendment to allow Hawaiian Cement to continue to operate a concrete recycling and green waste composting facility within the County Agricultural District in Wailuku.

This bill would grant a ten-year Conditional Permit time extension for the continued 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)).

For the Members' information, I have distributed a copy of pages 15 through 19 of the July 13, 2010 minutes of the Maui Planning Commission's meeting. This meeting was referenced on page 1 of County Communication No. 10-169, but the minutes were never received.

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The minutes contained the Commission's discussion on Hawaiian Cement's request. Please note that the entire discussion related to clarification of the conditions applicable to the State Special Use Permit, and that the "original 23 conditions from [the State Land Use Commission's] December 4, 2006" Decision and Order, are contained in Exhibit "9" to the document entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION JANUARY 26, 2010". Review of the attached minutes indicates that the Commission did not discuss the proposed Conditional Permit time extension at the July meeting.

The minutes of the Commission's January 26, 2010 meeting were included as part of the County Communication and contained the Commission's recommendation on the proposed Conditional Permit.

I have asked the applicant's representative, Karlynn Fukuda, to provide the Committee with a brief presentation on this matter. The Committee will be in recess for a couple minutes so that we can lower the screen and get ready for the presentation. The meeting is now in recess. . . . (*gavel*) . . .

**RECESS: 1:36 p.m.**

**RECONVENE: 1:38 p.m.**

CHAIR BAISA: . . . (*gavel*) . . . Will the meeting please come back to order. Before we begin the presentation, Chair would like to note the presence of Member Sol Kaho'ohalahala. Ms. Fukuda, if you could? Please, go ahead.

**. . . BEGIN PRESENTATION . . .**

MS. FUKUDA: Okay, thank you. Good afternoon, Chair and Members of the Land Use Committee. My name is Karlynn Fukuda of Munekiyo & Hiraga, Inc. Joining me today is Dave Gomes, General Manager of Hawaiian Cement Maui Concrete & Aggregate Division. We are before you today regarding the time extension request for Hawaiian Cement's Conditional Permit to continue the concrete recycling and green waste composting operations at the Pohakea Quarry. We have a short PowerPoint presentation for you today.

The request before you today is a ten-year time extension request to allow Hawaiian Cement to continue its concrete recycling operation at the Pohakea Quarry and to initiate the green waste composting operation. The concrete recycling is and the green waste composting would be valuable services to the community to divert waste entering the County landfills.

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This is a regional map for the Pohakea Quarry. It's not translating well for the, the site itself; but to explain--this dark boundary here is the actual boundary for the quarry site itself, which is in total 79, approximately 79.2 acres in size. The concrete recycling and green waste composting operation is limited to this area here, which is approximately 14.9 acres; and right now, the operation is limited to approximately this area, which was colored yellow, but it's a little difficult to see.

The Pohakea Quarry itself is located mauka of the intersection of Kuihelani Highway and Honoapiilani Highway. And just to clarify, again, this 14.9 acres plus the additional area here, which is approximately 64.3 acres. When added all together, the total area of the quarry site itself is approximately 79.2 acres in size. The site is surrounded by vacant Agricultural lands to the North, South, East, and West, with conservation-designated lands further beyond to the West here. Hawaiian Cement has a twenty-year lease with the property owner (Pohakulepo Recycling, LLC) to operate the quarry, concrete recycling, and green waste composting operation. The lease would expire in 2024.

This is a site map of the existing concrete recycling and pending green waste composting operation. As I noted earlier, the green waste composting component has not been initiated by Hawaiian Cement at this time, although the concrete recycling has been in operation since 2008. The delay for the green waste composting operation is due primarily to operational constraints. One of the constraints is a space constraint for the location of the equipment and the processing for the green waste composting. Also there are Federal Mine Safety and Health Administration (MSHA) regulations that the quarry must operate under. Safety regulations have become more stringent with access around quarry areas. So Hawaiian Cement needs to determine process and procedures for access to the green waste compost operation. Hawaiian Cement is also reviewing how to incorporate green waste composting into its current line of business. We would like to keep the permit for the green waste composting as Hawaiian Cement is looking into starting operations or partnering with a local business, who has expertise in green waste composting, within the next year or two; and by keeping this option open, it would allow for the composting to be implemented, supporting and providing an important option for sustainability practices in the community.

As previously noted, Hawaiian Cement started the concrete recycling operation in 2008. Since 2008, approximately 974 tons of concrete waste has been recycled at the Pohakea Quarry; and thus, diverted from the landfill. The State Land Use designation for the property is Agricultural as well as the community plan and the zoning. Concrete recycling and green waste composting are not permitted or special uses in Agricultural lands and this is why we are seeking a time extension request for our conditional permit.

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In January of this year, the Maui Planning Commission reviewed the request and recommended a ten-year time extension for the County conditional permit. The last time extension for this conditional permit was granted in 2004 for five (5) years. And again, to emphasize the concrete recycling and green waste composting services are valuable in that it reduces the amount of waste entering our County landfills.

The recycled crushed concrete is mixed and reused on Maui, and the green waste compost products would be marketed locally.

Again, we respectfully request the Committee's recommendation for a ten-year time extension to continue the concrete recycling and initiate the green waste composting services at Pohakea Quarry.

I just have a few photographs of the site for you. This is the driveway entrance to the Pohakea Quarry. This is the scale house building on the left here. The semis drive up and then get weighed and then drive off, once they get filled with base course or whatever materials they are seeking. This is a photo of the rock crusher, itself. This crusher is useful for dual purpose. It's used for crushing the rock that is mined from the quarry, but it's also used for crushing the recycled concrete and creating the fill material.

This concludes our presentation. I am available to answer any questions you may have. Thank you very much.

... **BEGIN PRESENTATION** ...

CHAIR BAISA: Thank you very much, Ms. Fukuda. Members, we'll be in recess for a couple minutes to raise the screen and get back to order. Meeting is now in recess. ... *(gavel)* ...

**RECESS:** 1:45 p.m.

**RECONVENE:** 1:47 p.m.

CHAIR BAISA: ... *(gavel)* ... Will the meeting please come back to order. Chair would now ask for comments from the Planning Department or the Planner, whoever wants to take the job here. Mr. Fasi?

MR. FASI: Thank you, Chair. As Karlynn mentioned, in her presentation briefly, that the Planning Commission did grant the recommendation for approval for the Conditional Permit at their January 26, 2010 meeting; and the Department concurs with that agreement. Thank you.

CHAIR BAISA: Any further comments from the Planning Department? Ann, anything?

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MS. CUA: No, Madam Chair.

CHAIR BAISA: Okay, thank you very much. Members, you've seen the presentation. Are there any questions? Yes, Member Mateo--and thank you for joining us. Chair would like to note your presence.

COUNCILMEMBER MATEO: Thank you, Madam Chair. Madam Chair, my question is for the Department.

CHAIR BAISA: Yes.

COUNCILMEMBER MATEO: I actually don't have a problem with this particular application at all for extension. However, I did like maybe to have the Planning Department provide a clarification because the Conditional Permit is indicative of two primary functions. One is to address the concrete recycling component and the other is to address the green waste composting. As we had heard in this presentation, they have been doing only one component of the Conditional Permit. So how does the Department address these years of recommending approvals of their extension when in fact they had not been addressing two specific components? Can you kind of provide some kind of explanation?

MR. FASI: Well the Department feels that they're not in any type of inconsistency with the permit. If it were the other way around, where they were doing green waste composting without the approval, then we would have a problem with that. But as it stands, the Department's comfortable with the renewal as it's written and actually it'll save time; so when they do initiate the composting, it's already written into the condition and we won't have to bring it back and revisit the issue.

COUNCILMEMBER MATEO: And does the Department have an idea as to when?

MR. FASI: I would defer that to the applicant.

COUNCILMEMBER MATEO: Okay. No, I don't need that part because I had the opportunity of dealing with the applicant.

MR. FASI: Yeah.

COUNCILMEMBER MATEO: And even then, it is, you know, pending.

MR. FASI: Yes.

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COUNCILMEMBER MATEO: So I was just kind of concerned because this Department has been real specific for a good number of years. Now this particular applicant somehow seems to . . . it's okay to let this go until they're ready to. But yet it hasn't been your Department's directive for other applicants; it's been specific, so I just wanted clarification on that. As I said, I just needed clarification because this just does not seem to be a standard Department review of Conditional Use Permits when it is not consistent. Thank you. Thank you, Madam Chair.

CHAIR BAISA: Thank you, Member Mateo. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Madam Chair. I just have a few questions for the applicant.

CHAIR BAISA: Yes. Go ahead.

COUNCILMEMBER MEDEIROS: I know from the presentation and the explanation by the Planning Department that the green waste composting operations have not started yet.

MS. FUKUDA: That . . .

COUNCILMEMBER MEDEIROS: That's correct?

MS. FUKUDA: That's correct.

COUNCILMEMBER MEDEIROS: Okay. And when it does start, what would be the source of the green waste? And I ask that because—is the public going to be able to drop it off there? And is there a fee?

MS. FUKUDA: At this point in time--Councilmember Medeiros, thank you for your question. At this point in time, I don't think that that's necessarily been determined yet. There are operational issues, as I mentioned. The safety factors that would have to be taken into consideration for public access to the quarry site, itself, which Hawaiian Cement would need to comply with; but I don't think that that's an option that's ruled out either. So unfortunately, at this point, it's difficult to say exactly what the operation would entail.

COUNCILMEMBER MEDEIROS: Okay. So you wouldn't know if there is going to be a fee for the public to drop off green waste there?

MS. FUKUDA: Yes.

COUNCILMEMBER MEDEIROS: It hasn't been--

MS. FUKUDA: At this point, no.

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COUNCILMEMBER MEDEIROS: --determined yet?

MS. FUKUDA: That has not been determined.

COUNCILMEMBER MEDEIROS: Okay. And as far as the composting--because it was said that it was going to be marketed locally. So does that mean that they're going to bag it and market it? Or you drive up with your truck; they load you and weigh you; and then, there's a price for that?

MS. FUKUDA: You know, again, I think that that would be something that either Hawaiian Cement would have to determine if they take on the operation; or the partner that they . . . the local business that they could partner with, who has expertise, that would be something that they would determine. But it being marketed locally, you know, it's not where this would be shipped off island or anything like that. It would, more than likely, just stay here and be available for local use.

COUNCILMEMBER MEDEIROS: Okay. So you're still in the—I mean the applicant is still in the planning stages as far as composting?

MS. FUKUDA: Uh-huh. Yes.

COUNCILMEMBER MEDEIROS: And finally, just on composting, has there been a consideration of how this green waste composting will affect the composting at the landfill that gets mixed with sewer sludge? Will it affect them as far as enough green waste coming to the landfill?

MS. FUKUDA: No. That has not been looked at--

COUNCILMEMBER MEDEIROS: Okay.

MS. FUKUDA: --as far as whether it would impact the business.

COUNCILMEMBER MEDEIROS: I think it's EKO, yeah.

MS. FUKUDA: But certainly, it seems, you know, whatever we can do to divert waste from the landfill is a good thing.

COUNCILMEMBER MEDEIROS: Yeah, it is.

MS. FUKUDA: So . . .

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COUNCILMEMBER MEDEIROS: Thank you. Thank you for your questions . . . *uh* . . . for your answers--sorry. Mahalo, Madam Chair.

CHAIR BAISA: Thank you, Mr. Medeiros. Any further questions?

VICE-CHAIR MOLINA: Recommendation?

CHAIR BAISA: Chair would like to deal with one--

COUNCILMEMBER KAHO`OHALAHALA: Chair?

CHAIR BAISA: --amendment before we go to a recommendation. One of the recommendations I have--you received a single sheet; and on that single sheet, the Chair would like to . . .

COUNCILMEMBER KAHO`OHALAHALA: Chair?

CHAIR BAISA: Yes.

COUNCILMEMBER KAHO`OHALAHALA: I was raising my hand for a question, but . . .

CHAIR BAISA: I'm sorry, Mr. Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: Yeah.

CHAIR BAISA: Go ahead.

COUNCILMEMBER KAHO`OHALAHALA: Yeah. Thank you. One is that—is this an area of land currently owned by Hawaiian Cement?

MS. FUKUDA: No. Hawaiian Cement has a long-term lease with Pohau..., Pohao..., I always get these two confused. It's Pohakulepo Recycling, LLC, that's the actual owner of the property. We have, Hawaiian Cement has a twenty-year lease, which would expire in 2024; and I believe there is an option for them to extend the lease.

COUNCILMEMBER KAHO`OHALAHALA: 2024?

MS. FUKUDA: Yeah.

COUNCILMEMBER KAHO`OHALAHALA: Okay. And who is Pohaku [*sic*]?

MS. FUKUDA: I'm not sure who all the members are of the LLC. I do know that Ron Jacintho is one of the members.

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COUNCILMEMBER KAHO`OHALAHALA: Okay. And then, just in looking at the, your slide there of the area, itself, I noticed—because I have to drive by there every single day, at least twice a day--but I noticed that stockpiling of crushed material is along the highway, you know, the Honoapiilani Highway. Is that your material that's being stockpiled there?

MS. FUKUDA: No. That's not Hawaiian Cement's. Hawaiian Cement's is actually, you'd need to take the driveway up and go further mauka to get to Hawaiian Cement's operation.

COUNCILMEMBER KAHO`OHALAHALA: So that's, none of that material is your material then?

MS. FUKUDA: No. That is not Hawaiian Cement's.

COUNCILMEMBER KAHO`OHALAHALA: Where is that material coming from?

MS. FUKUDA: I'm not certain; but it would likely be the owner of the property, you know.

COUNCILMEMBER KAHO`OHALAHALA: Okay. There's mountains . . . I mean they were, they keep appearing and getting bigger and bigger, so. And then the other question I have is that--so you are currently looking forward to initiating the green waste part of the operations, but *you're* not going to be operating that?

MS. FUKUDA: It is possible that Hawaiian Cement may actually operate that. They are still looking at that; but they are also looking at the opportunity for partnering with a local business who has expertise in green waste composting.

COUNCILMEMBER KAHO`OHALAHALA: Okay. And that's because that is not your expertise. Right?

MS. FUKUDA: Right.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Okay. So I just wanted that clarification.

CHAIR BAISA: Thank you, Member Kaho`ohalahala. Chair would like to entertain a motion to amend Condition No. 5. All of you can find your conditions attached to the report that we got from the Department of Planning. We would like to amend Condition No. 5 of the revised proposed bill, and you have it passed out for you, "that this Conditional Permit shall be limited to the composting of green waste and grubbed material"--deleting *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." The Chair would like to explain why. As it stands now, this does not mention the use of the scale house/office structure on the site; and I felt that--in looking at the condition and the permit--it was very important that we be very clear to



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CHAIR BAISA: Chair will mark it eight “ayes” and one Member excused—Member Victorino. The Chair would also like to proceed with her recommendation. Members, the Chair will entertain a motion to recommend passage on first reading of the 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 any amendments made at today’s meeting—we had one--and nonsubstantive revisions, and to file County Communication No. 10-169.

VICE-CHAIR MOLINA: So moved, Madam Chair.

COUNCILMEMBER JOHNSON: Second.

COUNCILMEMBER PONTANILLA: Second.

CHAIR BAISA: Thank you very much. We have a motion by Vice-Chair Molina and a second by Member Johnson, and a third? ... *(chuckled)* ... Any comments? Any questions? If not, Chair will call for the question. All those in favor, please say “aye”.

COUNCIL MEMBERS VOICED AYE.

CHAIR BAISA: Opposed, “no”?

**VOTE:       AYES:   Chair Baisa, Vice-Chair Molina, Councilmembers Johnson, Kaho`ohalahala, Mateo, Medeiros, Nishiki, and Pontanilla.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Victorino.**

**MOTION CARRIED.**

**ACTION:    FIRST READING OF REVISED BILL AND FILING OF COMMUNICATION.**

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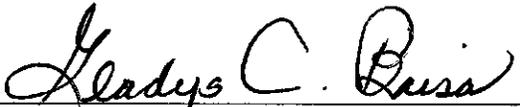
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CHAIR BAISA: Chair will mark it eight "ayes"; one Member excused; and no "noes". The motion carries. Members, there is no further business to come before this meeting today; and before I adjourn the meeting, the Chair would like to ask all of you. There is a meeting that will be convened at 2:30. It is the Public Services meeting that has been in recess since about 12:30 this morning. We hope that you will all be there in a timely manner so that we can proceed with the afternoon's meeting. Thank you very much to the Members. Thank you to my staff. Thank you to all of the consultants, the applicant, and the applicant's representatives. The meeting is adjourned. . . . (*gavel*) . . .

**ADJOURN: 2:00 p.m.**

APPROVED BY:



GLADYS C. BAISA, Chair  
Land Use Committee

lu:min:100915

Transcribed by: Pauline Martins