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COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

February 6, 2015

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 January 14, 2015, makes reference to County Communication 14-284, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING HAWAIIAN CEMENT A CONDITIONAL PERMIT TO OPERATE THE CONCRETE BATCHING PLANT AT HONOKOWAI, LAHAINA, ISLAND OF MAUI, WITHIN THE COUNTY R-3 RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NUMBER (2) 4-4-002:039 (POR), HONOKOWAI, LAHAINA, ISLAND OF MAUI, HAWAII". The purpose of the proposed bill is to grant a Conditional Permit to allow the continued operation of a concrete batching plant on approximately 1.0 acre in the R-3 Residential District, Honokowai, Lahaina, Maui, Hawaii, TMK: (2) 4-4-002:039 (por.).

Your Committee notes the proposed bill would grant a 20-year Conditional Permit for the operation of an existing concrete batching plant. The Department of Planning stated in its report this is the first application for a Conditional Permit for this batching plant, which has been in continuous operation at this location since 1987. In 1988, the County enacted legislation to implement a Conditional Permit process for uses not specifically permitted within County zoning districts.

Your Committee reviewed information on the community's need for this use; the applicant's operations, including efforts made by the applicant to install fences to control dust; and other efforts made by the applicant to limit adverse environmental impacts. The neighboring landowners and residents have not expressed any dissatisfaction with the operations.

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Your Committee revised the proposed bill to incorporate a metes and bounds description for the property and to adjust the property description from 1.0 acre to 1.182 acres.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Carroll, Vice-Chair Victorino, and members Baisa, Cochran, Couch, Crivello, and Guzman voted "aye".

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE GRANTING HAWAIIAN CEMENT A CONDITIONAL PERMIT TO OPERATE A CONCRETE BATCHING PLANT WITHIN THE COUNTY R-3 RESIDENTIAL DISTRICT, TAX MAP KEY NUMBER (2) 4-4-002:039 (POR), HONOKOWAI, LAHAINA, MAUI, HAWAII", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING HAWAIIAN CEMENT A CONDITIONAL PERMIT TO OPERATE A CONCRETE BATCHING PLANT WITHIN THE COUNTY R-3 RESIDENTIAL DISTRICT, TAX MAP KEY NUMBER (2) 4-4-002:039 (POR), HONOKOWAI, LAHAINA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 14-284 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

lu:cr:15031aa:scj

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE GRANTING HAWAIIAN CEMENT A
CONDITIONAL PERMIT TO OPERATE A CONCRETE BATCHING PLANT
WITHIN THE COUNTY R-3 RESIDENTIAL DISTRICT, TAX MAP KEY NUMBER
(2) 4-4-002:039 (POR), HONOKOWAI, LAHAINA, MAUI, HAWAII

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

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Hawaiian Cement for the operation of the concrete batching plant at Honokowai, Lahaina, identified for real property tax purposes by Tax Map Key Number: (2) 4-4-002:039 (por.), within the County R-3 Residential District, comprising 1.182 acres of land situated at Honokowai, Lahaina, Maui, Hawaii. Said property is more particularly described in the metes and bound description attached hereto as Exhibit "1".

SECTION 2. The granting of this Conditional Permit is subject to the following conditions:

1. That the Conditional Permit shall be valid until April 30, 2034; provided that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the Conditional Permit shall be nontransferable unless approved by the Planning Director or Commission.
3. That Hawaiian Cement and 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) naming the County of Maui as an additional 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 Conditional 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 nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning (Department) within ninety (90) calendar days from the date of approval of this Conditional Permit. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable tax map key and permit numbers.

4. That Hawaiian Cement shall develop and use the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That full compliance with the conditions of the State Land Use Commission Special Use Permit (SUP2 2013/0021) shall be observed.

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

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

HAWAIIAN CEMENT HONOKOWAI BATCH PLANT LICENSE AREA
SITUATED AT KAAPALI, LAHAINA, MAUI, HAWAII
BEING A PORTION OF ROYAL PATENT 7661,
LAND COMMISSION AWARD 76, APANA 3 TO WILLIAM SHAW
BEING ALSO A PORTION OF LOT 15,
KAANAPALI 2020 SUBDIVISION

Beginning at the North corner of this License Area, said point being $315^{\circ} 24' 43.7''$ 51.28 feet from South corner of Lot 6, Kaanapali Transportation Center, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAINA" being 16,787.42 feet North and 6,831.54 feet West and running by azimuths measured clockwise from True South:

1. $304^{\circ} 10'$ 191.69 feet along the remainder of Lot 15, Kaanapali 2020 Subdivision;
2. $48^{\circ} 00'$ 369.65 feet along the remainder of Lot 15, Kaanapali 2020 Subdivision;
3. $124^{\circ} 00'$ 86.78 feet along the remainder of Lot 15, Kaanapali 2020 Subdivision;
4. $211^{\circ} 39' 25''$ 103.70 feet along Baseyard and Turnaround Lot;
5. $121^{\circ} 39' 25''$ 12.00 feet along Baseyard and Turnaround Lot;

6. 214° 10' 256.11 feet along the remainder of Lot 15, Kaanapali 2020 Subdivision to the point of beginning and containing an area of 1.182 Acres.



R. T. TANAKA ENGINEERS, INC.

A handwritten signature in cursive script, appearing to read "K. T. Tanaka".

Kirk T. Tanaka
Licensed Professional Surveyor
Certificate No. 7223-LS
License Expires: April 30, 2014

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

July 23, 2013