



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Application Of) DOCKET NO. SP73-147
)
GRACE PACIFIC CORPORATION) FINDINGS OF FACT, CONCLUSIONS
(Formerly Pacific Concrete & Rock Co.,) OF LAW, AND DECISION AND ORDER
Ltd.)) APPROVING WITH MODIFICATIONS
) THE RECOMMENDATION OF THE
To Extend The Life Of The Makakilo) CITY AND COUNTY OF HONOLULU
Quarry Resource Extraction And) PLANNING COMMISSION TO (1)
Aggregate Processing Operations To) EXTEND THE LIFE OF THE
2032 And To Expand The Resource) MAKAKILO QUARRY RESOURCE
Extraction And Buffer Areas Of The) EXTRACTION AND AGGREGATE
Quarry On Approximately 541.5 Acres) PROCESSING OPERATIONS TO 2032;
Of Land Within The State Land Use) AND (2) EXPAND THE RESOURCE
Agricultural District At Pu`u Makakilo,) EXTRACTION AND BUFFER AREAS OF
'Ewa, O`ahu, Hawai`i, Tax Map Keys:) THE QUARRY
9-1-16: 4 And 9-2-03: Por. 74 And Por. 82)
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The Land Use Commission ("LUC"), having examined the complete record of the City and County of Honolulu Planning Commission's ("Planning Commission") proceedings on Grace Pacific Corporation's ("Applicant") application to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing

operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry (“Application”), and upon consideration of the matters discussed therein, at its meeting on October 2, 2008, in Honolulu, Hawai`i, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On October 5, 2007, the Applicant filed the Application with the City and County of Honolulu Department of Planning and Permitting (“DPP”) to amend Special Use Permit No. 72/SUP-1, originally issued to Pacific Concrete & Rock Co., Ltd. (“Pacific Concrete”), pursuant to section 205-6, Hawai`i Revised Statutes (“HRS”), and sections 15-15-95 and 15-15-96, Hawai`i Administrative Rules (“HAR”).¹

2. The Applicant sought to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry.

3. On November 9, 2007, the DPP accepted the Application for processing.

4. On July 31, 2008, Mark M. Schnabel filed a Petition To Intervene on behalf of himself and John Riggins. Mr. Schnabel subsequently withdrew the Petition To Intervene by letter dated August 5, 2008.

¹ The Applicant initially filed the Application with the DPP on April 18, 2007. However, the DPP declined to accept the Application for processing until various issues were addressed and/or clarified and returned the Application to the Applicant. On October 5, 2007, the Applicant also filed an application to amend Conditional Use Permit No. 72/CUP-15 that was granted for the quarrying operations. Docket No. SP73-147/Grace Pacific Corporation (Formerly Pacific Concrete & Rock Co., Ltd.) Page 2
Findings Of Fact, Conclusions Of Law, And Decision And Order Approving With Modifications The Recommendation Of The City And County Of Honolulu Planning Commission To (1) Extend The Life Of The Makakilo Quarry Resource Extraction And Aggregate Processing Operations To 2032; And (2) Expand The Resource Extraction And Buffer Areas Of The Quarry

5. On July 18, 2008, public notice of the Planning Commission's hearing on the Application was published in the *Honolulu Star-Bulletin*.

6. On August 20, 2008, the Planning Commission conducted the hearing in the City Council Committee Meeting Room, Second Floor, 530 South King Street, Honolulu, Hawai'i. At the hearing, the Planning Commission heard and received public testimony from individuals in support of and in opposition to the Application. After due deliberation, the Planning Commission recommended approval to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry to the LUC, subject to 13 conditions recommended by the DPP and 1 additional condition.²

7. On September 12, 2008, the LUC received the decision and the complete record of the Planning Commission's proceedings.

8. On October 2, 2008, the LUC met in Conference Room 406, Leiopapa A Kamehameha Building, Honolulu, Hawai'i, to consider the matter.³

Douglas Ing, Esq.; Robert M. Creps; and Lee Sichter appeared on behalf of the Applicant. Ray Young appeared on behalf of the DPP. Bryan C. Yee, Esq., and Abe

² Pursuant to the recommendation of the DPP, the Planning Commission considered the Application as a new special use permit (File No. 2007/SUP-6), effectively superseding Special Use Permit No. 72/SUP-1 and its 12 conditions applicable to the quarry operations. The Planning Commission did not address the sanitary landfill operations that were also approved as part of Special Use Permit No. 72/SUP-1 nor the conditions imposed thereon.

³ Because this matter involves a previously approved LUC special use permit, the LUC is considering it as an amendment to the existing special use permit, and not a new LUC special use permit. The LUC acknowledges that there have been changes to the quarrying operations since its original approval and believes that reviewing the Application in the context in which it was filed provides an opportunity to bring the entire record in this docket current with existing uses and acreages.

Mitsuda were also present at the meeting on behalf of the State Office of Planning (“OP”). Pursuant to section 92-3, HRS, the LUC heard and received public testimony from several individuals.⁴ At the meeting, the Applicant provided a background of its request and clarified various matters relating to the quarry and sanitary landfill operations originally approved in the special use permit.⁵ After discussion, a motion was made and seconded to approve with modifications the recommendation of the Planning Commission to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry, subject to the Planning Commission’s 14 conditions and two additional conditions recommended by the LUC staff.⁶ Upon further discussion, the motion was amended and seconded to also include the amendments to Condition Numbers 1, 4, 9, 11, and 12 recommended by the LUC staff. There being a vote tally of 6 ayes, 0 nays, and 3 excused, the amended motion carried.

⁴ Providing oral and/or written testimony were Sharie Phillips-Swatek, Michael Swatek, Kurt Fevella, Patti Teruya, Warren Wegesend (on behalf of Greg Peterson), William “Buzz” Hong, Dr. Kioni Dudley, John Riggins, Jacqueline Rabang, Allan Los Banos, and Mark and Sara Schnabel. In addition, OP provided oral testimony in support of the Applicant’s request.

⁵ The Applicant also proposed an amendment to the Planning Commission’s Condition Number 4 to specifically include landscape material production as a permitted use on TMK: 9-1-16: 4 following the closure of the processing site on the parcel and an amendment to the Planning Commission’s Condition Number 5 to allow cleaning and washdown of equipment and preventive maintenance on equipment from 6:00 p.m. to 8:00 p.m., Monday to Friday, beginning January 1, 2012. Additionally, the Applicant noted that it would be necessary for the tunnel beneath the H-1 Freeway to be accessible beyond January 1, 2012, in order for the Applicant to service the utility lines that are contained within the tunnel. Upon questioning by the LUC, the DPP noted that these issues were not specifically raised during the Planning Commission’s hearing. Neither the Applicant’s proposed amendments nor the Applicant’s assertion that the use of the tunnel continue beyond January 1, 2012, were included as part of the LUC’s approval of the recommendation of the Planning Commission. The LUC determined that they are matters that should go back to the Planning Commission for further consideration.

⁶ Condition Number 15 specifies the uses that shall occur in the quarry excavation area and Condition Number 16 requires the Applicant to establish the quarry expansion in substantial compliance with the representations to the LUC. The Applicant, the DPP, and OP had no objections to these additional conditions.

DESCRIPTION OF THE PROPERTY

9. The Makakilo Quarry is located at Pu`u Makakilo, `Ewa, O`ahu, Hawai`i. The existing quarry, including the berming and buffer areas, and the proposed expansion areas are located on Tax Map Keys (“TMKs”): 9-2-03: por. 74 and por. 82, while the processing site and a portion of the tunnel are located on TMK: 9-1-16: 4 (a portion of the tunnel is also located beneath the H-1 Freeway and is not assigned a TMK parcel) (collectively “Property”).⁷ The Property consists of approximately 541.5 acres.

10. The Property is located within the State Land Use Agricultural District.

11. The `Ewa Development Plan designates the Property as Low and Medium Density Residential, Golf Course, Agricultural and Preservation, and Highway. The Property is further designated within the Urban Growth Boundary.

⁷ An existing 1.4-acre offsite stilling basin on TMK: 9-1-16: por. 108 related to the quarrying operations is not included herein as it will be abandoned and was not originally included in the special use permit.

As part of the Planning Commission’s recommendation, an approximately 1.5-acre portion of an access road, owned by D.R. Horton-Schuler Homes, LLC (“Horton-Schuler”), and located on TMK: 9-2-02: por. 6, was included in the special use permit area. Since the Applicant had not included this access road in its request, there is no written authorization from Horton-Schuler in the record consenting to its inclusion. At the October 2, 2008, meeting, the Applicant clarified that it did not include that portion of the access road on TMK: 9-2-02: por. 6 in its request because the Applicant only has a non-exclusive easement for the use of that road. Others who utilize the Horton-Schuler lands also have access to the road and the Applicant reserved the right to dedicate further access to others for use of the road. According to the Applicant, farmers and ranchers currently utilize the road. Based on the Applicant’s explanation for excluding the road from its request, the DPP stated that it had no objections to the road’s exclusion. The Applicant also provided the LUC with Table 1 which clarified the approximate acreages of the existing quarry operations and the proposed expansion area. The DPP had no objections to the acreages as clarified by the Applicant in Table 1. In response to the DPP’s concerns about possible encroachment upon State and U. S. Navy lands by uses associated with the processing site, the Applicant stated that it removed the stockpiled material in question from the area along the H-1 Freeway and will survey the area near the U. S. Navy well located to the north and east of the processing site. The Applicant represented that if there is any encroachment in this area by uses associated with the processing site, the Applicant will remove it.

12. The City and County zones TMK: 9-2-03: 74 and 82 as AG-2 General Agricultural District and TMK: 9-1-16: 4 as AG-1 Restricted Agricultural District.

13. Puu Makakilo, Inc. ("PMI"), a wholly-owned subsidiary of the Applicant, owns TMK: 9-2-03: 74, while the James Campbell Company LLC ("JCC") owns TMKs: 9-2-03: 82 and 9-1-16: 4. JCC licenses TMK: 9-2-03: 82 to the Applicant through a license agreement that expires in 2017. The Applicant has negotiated with JCC for an extension of the license to 2032. JCC leases TMK: 9-1-16: 4 to the Applicant through a lease agreement that expires in 2017. The Applicant has similarly negotiated with JCC for an extension of the lease to 2032.

14. The State of Hawai'i owns the tunnel under the H-1 Freeway. The State granted Easement 748 to Pacific Concrete, the predecessor to the Applicant herein, dated October 2, 1973. The term of the easement is for 65 years.

BACKGROUND OF THE MAKAKILO QUARRY

15. On February 28, 1973, the Planning Commission under File No. 72/SUP-1 considered and recommended approval of Pacific Concrete's special use permit application for rock quarrying operations on the southeastern slopes of Pu'u Makakilo to produce basalt aggregate for concrete production and road and fill rock.

16. On March 23, 1973, following receipt of the Planning Commission's record from the then Planning Department, the LUC approved Pacific Concrete's rock

quarrying operations on approximately 295 acres of land in LUC Docket No. SP73-147, subject to 12 conditions as recommended by the Planning Commission. The 295-acre site consisted of a 72-acre quarry and a 188-acre buffer area. The remaining 35 acres were reserved for the shop, office, scale, processing site, and concrete batching plant. In the same docket, the LUC also approved the establishment of sanitary landfill operations on approximately 29 acres of land at Pu`u Palailai, subject to 12 conditions that were applicable to the landfill only. The landfill has since closed.⁸

17. By Certificate of Merger issued on February 4, 1985, Pacific Concrete and Grace Brothers, Limited (“Grace Brothers”), merged and Grace Brothers acquired the quarry operation from Pacific Concrete. Grace Brothers subsequently changed its name to Grace Pacific Corporation, the Applicant herein.

18. The Applicant is the operator of the existing quarry and currently uses the quarry site for rock excavation, primary crushing and stockpiling, recycling of concrete and asphaltic pavement, support services, and open space buffer. The Applicant is also the operator of the processing site and currently uses the site for finish crushing, stockpiling of aggregate, concrete and asphaltic concrete manufacturing, maintenance activities, employee training, laboratory, and other support services.

⁸ At the October 2, 2008, meeting, the Applicant clarified that it acquired the lease for the landfill site by assignment from Pacific Concrete. The Applicant had that lease extended and is currently the lessee of the landfill site. As the lessee, the Applicant was responsible for the closure of the landfill and is responsible for the maintenance and monitoring under the closure plan approved by the State Department of Health (“DOH”) and the Environmental Protection Agency (“EPA”). The Applicant continues daily monitoring at the site and prepares and submits annual reports to the DOH for review. In 1990, the EPA released the landfill from further reporting and further action after an inspection.

19. The Applicant typically brings the raw material from the quarry via the tunnel to the processing site for subsequent processing into aggregates for sale or for the production of hot-mix asphalt (“HMA”) and ready-mix concrete. The Applicant operates the HMA plant on the site, while Hawaiian Cement operates the ready-mix concrete plant.

20. The quarry and processing site currently operate primarily during the hours of 6:00 a.m. to 6:00 p.m. with recycling ending at 11:00 p.m., Monday through Saturday. Night operations at the recycling facility for receiving and processing cold-planned asphalt from City and County and State road paving jobs and at the existing HMA plant occur about 160 nights of the year and operate as late as 1:00 a.m.

DESCRIPTION OF PROPOSED USE

21. The Applicant proposes to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry. The expansion of the quarry entails the excavation of rock from the upper slopes of Pu`u Makakilo.

22. The Applicant plans to excavate as deep as 200 to 250 feet below the existing grade to maximize extraction of known basaltic reserves. The Applicant intends to establish berming and landscaping along the perimeter of the lower half of the quarry pit in the first phase (2009 to 2012). It is anticipated that mining activities will continue in the existing pit floor. During the second phase (2013 to 2017), the

Applicant plans to undertake berming and landscaping of the upper half of the quarry, with excavation continuing in the mid-section of the quarry. Excavation of the remaining portions of the quarry are expected in the third to fifth phases, with final grades at the upper most portion of the Pu`u Makakilo completed by 2032. These schedules for excavation are dependent upon actual market demand and the actual phasing may differ.

23. The Applicant also proposes to relocate the industrial processing uses on the processing site located on the makai portion of the Property to either the quarry pit on the mauka portion of the Property or to the Campbell Industrial Park by December 31, 2012. The relocation will involve the re-use of existing and purchase of new equipment. The proposed 24-year time extension will allow the Applicant to amortize the costs associated with the relocation of the uses.

24. The relocation will involve the removal of the HMA plant and the ready-mix concrete plant, both of which are scheduled to be completed by June 2009. By December 2012, the finish crushing and screening plant and the maintenance shop are anticipated to be removed from the site. The HMA plant will be relocated to the Campbell Industrial Park to accommodate night operations and a new HMA plant will be constructed in the quarry pit for day operations only. All other uses except for removal and renaturalization activities are scheduled to cease within three years after receipt of approval of the Applicant's request. The Applicant also intends to landscape

the entire site within six years after receipt of approval of its request and return the land to landowner JCC by 2015.

NEED FOR THE PROPOSED USE

25. The Makakilo Quarry supplies 70 percent of the local rock production. The quarry sites at Kapa`a and Halawa supply the remaining 30 percent. The rock is used for the construction of roadways and buildings. Extracting rock at the Makakilo Quarry is more economically feasible than importing rock from other quarries on the island of O`ahu or from sites that are located off-island. If the Makakilo Quarry is closed, rock from other quarries would need to be dramatically increased, possibly at higher prices because of their greater distances from the job sites that utilize concrete and base course products. The supply of rock from other quarries on the island may also not be sufficient to economically replace the Makakilo Quarry and may not be established in a timely manner to meet the demand from the construction industry.

26. With the expansion of the quarry, the Applicant proposes to supply approximately 500,000 tons of A-Grade rock and 600,000 tons of B-Grade rock annually for the next 24 years to meet the demand.

IMPACTS UPON THE RESOURCES OF THE AREA

Agricultural Resources

27. The Land Study Bureau Detailed Land Classification system classifies the existing pit and proposed expansion area as overall (master) productivity

rating class "E," the lowest agricultural productivity rating. The processing site contains soils with a productivity rating class of "A," "B," "D," and "E," with the majority of the site consisting of "A" and "B" rated soils.

28. The Agricultural Lands of Importance to the State of Hawai'i ("ALISH") classification system classifies a small portion of the pit expansion as "Other Important Agricultural Land." Most of the remaining quarry site comprised by the buffer areas is not rated under the ALISH system. The majority of the processing site is rated "Prime Agricultural Land" and "Other Important Agricultural Land."

29. The U. S. Department of Agriculture, Soil Conservation Service, classifies the soils on the excavation expansion area as a combination of Mahana Silty Clay Loam (McD2), 12 to 20 percent slopes; Helemano Silty Clay (HLMG), 30 to 90 percent slopes; and Mahana Badland Complex (MBL). The majority of the proposed excavation expansion falls within the Mahana Badland Complex soil type. Mahana Silty Clay Loam and Helemano Silty Clay soils are used for pasture, woodland, and wildlife habitat. Mahana Badland Complex consists of Mahana soils and Badland and is used for pasture.

30. The expansion of the quarry will not adversely impact agricultural resources of the area. The suitability of the quarry site for agricultural activities is limited given the poor crop productivity ratings and the lack of readily available irrigation water. The processing site will be returned to open space and landscaping by

2012 at which time it will be available for agricultural uses should the City and County's development plan policies for 'Ewa designate the site for agriculture.

Archaeological and Historical Resources

31. A surface archaeological reconnaissance was conducted in 1988 for Finance Realty, Ltd.'s, 18-hole golf course that was proposed on the mauka portion of the Property where the expansion of the quarry is now proposed. No surface remains were found and it was concluded, with the concurrence of the State Historic Preservation Division, that subsurface testing was not needed. Based on the archaeological reconnaissance and the ongoing use of the Property, there are no known archaeological and historical resources on the Property. Therefore, it is not anticipated that the quarry expansion will adversely impact such resources.

Flora and Faunal Resources

32. A limited variety of floral species have been identified on the Property, including guinea grass (*Panicum maximum*), buffel grass, feather fingergrass (*Chloris radiata*), 'uhaloa (*Waltheria indica*), kiawe (*Prosopis pallida*), and klu (*Acacia farnesiana*). Introduced fauna such as mongoose, rat, zebra dove, common mynah, house sparrow and finch, bulbul, and Java finch are also present on the Property. There are no known endangered or threatened native species of flora and fauna on the site, and therefore the quarry expansion is not anticipated to adversely impact such species.

It is also not anticipated that the quarry expansion will adversely impact any natural habitats at Pu`u Makakilo.

Vibration and Rockfall Hazards

33. There is the potential for vibration and rockfalls as a result of blasting activities associated with quarrying operations. The Applicant regularly monitors blasting activities with a seismograph and past readings have not exceeded standards. Blasting is controlled by regulations of the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. With the proposed expansion, drilling and blasting activities will occur further mauka from their present location. Should vibration and/or rockfalls from blasting adversely impact the surrounding property, the Applicant proposes to reduce the blast intensity by utilizing smaller drill patterns or by “double-decking” the explosives.

Air Quality and Noise

34. Area residents have expressed concerns about the noise and dust generated by the existing quarrying and related manufacturing operations. Fugitive dust emitted by the processing site equipment has been observed crossing the H-1 Freeway on several occasions. A dust plume arising out of blasting at the quarry has also been seen traveling downwind beyond the boundaries of the Property.

35. As part of the request to expand the quarry, the Applicant will cease operations at the processing site by December 31, 2012, and relocate the industrial

processing uses to either the quarry pit on the mauka portion of the Property or to the Campbell Industrial Park. This relocation is intended to mitigate the noxious impacts of the processing upon surrounding neighbors. As may be required by the DOH, the Applicant will be required to place in service additional dust control measures to control dust generation, so that no visible fugitive dust shall cross the combined boundaries of TMK: 9-2-03: 74 and 82.

36. To address noise and dust impacts on nearby residences from night operations, beginning January 1, 2012, receipt of cold-planed asphalt at the quarry site will be allowed up to 10:00 p.m., Sunday to Friday. No other night operations will be permitted.

37. The Applicant is also required to submit annual reports to the DPP and the LUC which, among other things, must include observations of fugitive dust and a report of any citizen's complaints relating to the operation along with the actions taken to ameliorate those complaints. The Applicant is further required, for the life of the extension, to establish and disclose to the community a telephone number dedicated to receiving and recording complaints relating to quarry and recycling operations.

Visual Resources

38. Pu`u Makakilo is part of the proposed Open Space and Greenways Network and is intended for preservation and enhancement as a visual landmark and as part of a significant vista from Kapolei.

39. The Applicant has excavated up to the 560-foot elevation of Pu`u Makakilo and the pit's near vertical cuts and exposed rock are visible to much of the `Ewa Plain.

40. The Applicant's Closure Grading Plan dated June 5, 2008, calls for (1) a screening berm of up to 40 feet above finish grade and extending from the quarry pit access road to an elevation of 725 feet along the northern ridgeline; (2) a smaller berm between the quarry pit and the H-1 Freeway; and (3) renaturalization of grades of the former golf course driving range located in the upper valley of Pu`u Makakilo to replicate conditions that existed prior to the mass grading for the golf course. Post-quarry operations also include the incorporation of final landforms that will have slopes no greater than 75 percent to promote long-term soil retention and landscaping. Under the plan, there are no vertical cuts, horizontal benches, or exposed rocks. The Applicant intends to implement the final closure grades as represented in its Closure Grading Plan dated June 5, 2008.

41. The Applicant is also required to provide a beneficial re-use plan for lands disturbed by its quarry operations. The plan must include planning and preparation of design and implementation scenarios for the beneficial re-use of the pit area consistent with established land use policies for the site and surrounding area.

ADEQUACY OF PUBLIC FACILITIES AND UTILITIES

Roadways

42. Farrington Highway provides access to the processing facility on the makai portion of the Property, while Palehua Road, a private paved roadway, provides access to the quarry pit. Trucks entering and exiting the quarry pit use westbound on and off-ramps at the H-1 Freeway at Palehua Road as the underpass is closed as a result of the ongoing construction of the North-South Road Interchange. Eastbound trucks exiting the quarry enter the H-1 Freeway via the westbound on-ramp and change direction at the Palailai Interchange. Upon completion of the North-South Interchange, traffic into and out of the quarry would utilize the new interchange. There are no changes anticipated to the traffic volumes generated by the quarry expansion.

Water

43. The Applicant has a well source on the processing site that is limited by the State Commission on Water Resource Management (“CWRM”) to a maximum draw of 168,000 gallons per day (“gpd”). This is a private water source and is used for washing, dust control, and landscaping. The Applicant also obtains drinking water from the Board of Water Supply which has transmission mains beneath Farrington Highway. The Applicant uses an average of 27,000 gpd. Under the proposal to expand the quarry, the source and uses of water will not change.

44. The Applicant's Revegetation Matrix and Revegetation Phasing Plan assumes the availability of approximately 200,000 gpd of water for quarry and revegetation purposes. Of this amount, the Revegetation Plan targets 100,000 gpd or less for revegetation purposes. This limitation on supply serves as a constraint on the speed by which land graded for visual mitigation purposes may be revegetated. As a result, the Applicant is in the process of requesting that its current allocation of Waiahole Ditch water of 750,000 gpd be reduced and allowed to be used for existing and future revegetation and landscaping purposes on TMK: 9-2-03: 74.⁹

Drainage

45. The Applicant prepared an Engineering Report dated April 2007 that addresses drainage requirements, regrading, and revegetation upon completion of resource extraction activities. The Applicant proposes to retain all storm water runoff that drains into the quarry pit with three existing drainage basins that have been designed for a 100-year storm event. The quarry expansion is not anticipated to have adverse impacts on adjacent properties and existing drainage systems downstream of the Property. If required by the DPP, the Applicant must submit an update of the drainage plan for the DPP's review and approval as a result of modifications to the final grading and beneficial re-use plans.

⁹ Pursuant to the CWRM's Decision and Order dated July 13, 2006, PMI was assigned Water Use Permit No. 775 for 750,000 gpd of non-drinking water for the irrigation of the golf course that was proposed by Finance Realty, Ltd., and partially developed by the parcel's previous owner before being abandoned. The issuance of the permit is currently on appeal.

Wastewater

46. The quarry is not connected to the City and County wastewater collection system. The Applicant installed an Individual Wastewater System on TMK: 9-1-16: 4 in 2006 consisting of three septic tanks and a converted seepage pit which serves the restrooms at the administration building, truck scale house, and batch plants. Portable toilet facilities are provided on other areas of the site. No changes to the wastewater flows are anticipated with the expansion of the quarry.

Solid Waste

47. Solid waste generated by the quarry operations is removed by a private hauler, which will continue under the expansion of the quarry.

Police and Fire Protection

48. The Property is located within the existing service area of the Honolulu Police Department. There are no adverse impacts anticipated on police services from the proposed quarry expansion.

49. The Property is located within the existing service area of the Honolulu Fire Department. The processing facility site has four water tanks with a total capacity of 10,000 gallons. There is also a water truck available onsite with pressurized water capability and a water cannon. In addition, there are fire extinguishers located throughout the site. There are no adverse impacts anticipated on fire protection services from the proposed quarry expansion.

Electrical Service

50. Hawaiian Electric Company has a substation on the processing site and provides electrical service to the quarry.

CONCLUSIONS OF LAW

1. The LUC has jurisdiction over this matter pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR.

2. Based upon the record of the proceedings before the Planning Commission, and pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, the LUC finds that the recommendation of the Planning Commission to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry generally meets the guidelines for determining an “unusual and reasonable” use within the State Land Use Agricultural District.

3. The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the LUC. The expansion of the quarry on the mauka portion of the Property is not contrary to the objective of protecting land with a high capacity for intensive cultivation since the site consists of marginal agricultural land that is and will increasingly be surrounded by urban uses. Under the expansion plans, the known basaltic reserves in the expansion area will be used to supply the construction industry with A-Grade and B-Grade rock. There are no

known archaeological and historical resources on the Property. There are also no known endangered or threatened species of flora and fauna on the Property.

4. Based upon the record of the proceedings before the Planning Commission, the desired use would not adversely affect surrounding property. At the time of the establishment of the quarry, the surrounding lands consisted of sugarcane fields, open space, and pasture. However, much of these lands have since been either developed or are planned for urban development. Residents of Kapolei Villages and Kapolei Knolls, located approximately 2,000 and 1,500 feet from the quarry pit, respectively, have complained about noise, dust, and odors as a result of the existing quarrying and related manufacturing operations. The Applicant has agreed to close the processing site and to relocate all uses into the quarry pit or to the Campbell Industrial Park by December 31, 2012. To mitigate adverse visual impacts of the quarrying activities, the Applicant intends to implement its final closure grades, as identified in the June 5, 2008, grading plan. These slopes provide a more natural finish grade that will encourage long-term vegetation growth and blend with the surrounding topography of Pu`u Makakilo. The Applicant is also required to file annual reports to include, among other things, a report of any citizen's complaints relating to the operation along with the actions taken to ameliorate those complaints. The Applicant will further be required, for the life of the special use permit, to establish and disclose to the community a telephone number dedicated to receiving and recording complaints

relating to the quarrying and recycling operations. The Applicant regularly monitors blasting activities with a seismograph and past readings have not exceeded standards. With the proposed expansion, drilling and blasting will occur further mauka from the H-1 Freeway. Should vibration and/or rockfalls from blasting adversely impact the surrounding property, the Applicant proposes a reduction in blast intensity by utilizing smaller drill patterns or “double-decking” the explosives.

5. Based upon the record of the proceedings before the Planning Commission, the use would not unreasonably burden public agencies to provide facilities and services. There are no changes to the traffic volumes and the wastewater flows generated by the expansion to the quarry operations. The Applicant will be required to submit a fire protection and control plan to the Honolulu Fire Department for review.

6. Based upon the record of the proceedings before the Planning Commission, the preponderance of the evidence established that unusual conditions, trends, and needs had arisen since the district boundaries and rules were established. Approval to establish the quarry was granted in 1973 to produce basalt aggregate for concrete production and road and fill rock. At the time of the establishment of the quarry, the surrounding areas were largely undeveloped. Despite the increasing urban development in the area, there continues to be demand for the rock in the construction of roadways and buildings. However, good quality rock in the existing approved area

of the quarry has been depleted, and at this time, there are no reasonable alternatives on the island that can be timely established to provide quality rock that is economical, reliable, and meets construction standards. With the expansion of the quarry, the Applicant proposes to supply approximately 500,000 tons of A-Grade rock and 600,000 tons of B-Grade rock annually for the next 24 years to meet the demand.

7. Based upon the record of the proceedings before the Planning Commission, the land upon which the proposed use is sought is unsuited for the uses permitted within the district. The expansion and extension of the quarry will not have an adverse impact on agricultural resources. The quarry expansion involves marginal agricultural land and irrigation water is not readily available. There are no current plans to use the site for any agricultural activity. The uses on the processing site, the majority of which consists of "Prime Agricultural Land" and "Other Important Agricultural Land," will be relocated and the site will be returned to landscaped open space uses. At that time, the site will be available for agricultural uses should the City and County's development plan policies for 'Ewa designate the site for agriculture.

8. Any of the proposed findings of fact or conclusions of law submitted by any of the parties not already ruled on by the LUC by adoption or rejected by clearly contrary findings of fact or conclusions of law are hereby denied and rejected. Any conclusion of law that is or should be a finding of fact is to be taken as such notwithstanding its denomination as a conclusion of law; any finding of fact that is or

should be a conclusion of law is to be taken as such notwithstanding its denomination as a finding of fact.

DECISION AND ORDER

Having duly considered the complete record in this matter, the oral arguments presented by the parties in this proceeding, the LUC, through an amended motion having been duly made at a meeting conducted on October 2, 2008, in Honolulu, Hawai`i, and the amended motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the amended motion, hereby APPROVES with modifications the recommendation of the Planning Commission to (1) extend the life of the Makakilo Quarry resource extraction and aggregate processing operations to 2032; and (2) expand the resource extraction and buffer areas of the quarry on the Property for a total special use permit area in this docket of approximately 541.5 acres of land within the State Land Use Agricultural District at Pu`u Makakilo, `Ewa, O`ahu, Hawai`i, identified as TMKs: 9-1-16: 4 and 9-2-03: por. 74 and por. 82,¹⁰ and approximately shown on Exhibit B and described in Table 1, attached hereto and incorporated by reference herein, subject to the following conditions to replace all other conditions imposed by the LUC on March 23, 1973, in this docket that are applicable to the rock quarrying operations:

1. Within six (6) months of the Land Use Commission's Decision and

¹⁰ The approximately 541.5 acres of land also includes that portion of the tunnel located beneath the H-1 Freeway, which is not assigned a TMK parcel.

Order approving the Special Use Permit, the Applicant shall submit:

- a. A new site plan with metes and bounds map and description delineating the approximately 541-acre Property, including the boundaries of the quarry excavation and berming areas, the processing site and conveyor tunnel, and the buffer area to the Director of Planning and Permitting for review and approval. The site plan shall also be submitted to the Land Use Commission.
- b. A fire protection and control plan to Honolulu Fire Department for review and approval. A copy of the approved plan shall be submitted to the Director of Planning and Permitting within 30 days of approval.

2. Within one (1) year of the Land Use Commission's Decision and

Order approving the Special Use Permit, the Applicant shall submit to the Director of Planning and Permitting for review and approval a renaturalization plan in coordination with the proposed Closure Grading Plan for the quarry site and buffer area mauka of the H-1 Freeway showing landscaping details including plant types, sizing and spacing, irrigation facilities and distribution systems.

3. All resource extraction, related aggregate processing and concrete and asphalt production activities, including recycling activities shall cease by December 31, 2032. Final beneficial re-use plans as approved by the Department of Planning and Permitting shall be implemented immediately upon the cessation of said resource extraction and related quarrying activities.

4. The Applicant shall close the processing site on Parcel 4 by relocating all uses on the site into the quarry pit or Campbell Industrial Park by

December 31, 2012, and Parcel 4 shall be returned to landscaped open space use within six (6) years of the date of the Land Use Commission's Decision and Order. A landscape plan shall be submitted to the Director of Planning and Permitting for review and approval on the second anniversary date of the Land Use Commission's Decision and Order and the approved landscape plan shall be implemented within one (1) year of its approval. Landscaping shall be maintained in a natural state for the life of the Special Use Permit.

5. Beginning January 1, 2012, quarry operations shall be limited to the following days/hours:

- a. Quarry excavation, crushing, stockpiling, equipment maintenance, and recycling facility – 6:00 a.m. to 6:00 p.m., Monday to Saturday.
- b. Hot-mix asphalt plant – 6:00 a.m. to 6:00 p.m., Monday to Friday.
- c. Unloading of cold-planed asphaltic concrete during re-paving jobs – 6:00 p.m. to 10:00 p.m., Sunday to Friday.

6. Except for quarry, recycling activities in the quarry, and renaturalization activities, the remainder of Tax Map Key: 9-2-03: 74 shall remain in open space buffer for the life of the quarry and related activities. Minor accessory uses or structures may be permitted on Parcel 74 with the express written consent of the Director of Planning and Permitting. Any other uses shall be processed pursuant to Section 205-6, Hawai'i Revised Statutes.

7. As may be required by the State Department of Health, the Applicant shall place in service additional dust control measures to control dust generation at the project such that no visible fugitive dust shall cross the combined property boundaries of Tax Map Key: 9-2-03: 74 and 82.

8. The Applicant shall, as a result of modifications to the final grading and beneficial re-use plans, submit an update of the drainage plan, prepared by a qualified civil engineer, as may be required by the Director of Planning and Permitting for review and approval.

9. On each anniversary date of the Land Use Commission's Decision and Order, the Applicant or its successor shall file with the Department of Planning and Permitting and the Land Use Commission a report and supporting documentation demonstrating the status of compliance with each of the conditions of the Special Use Permit approval. Included in the supporting documentation shall be an updated rectified aerial imagery of the quarry, buffer area and processing site and dust control management plan. The following items shall also be a part of the supporting documentation:

- a. Observations of fugitive dust.
- b. A report on replanting activities, including the areas replanted, and the type of vegetation planted.
- c. A report of any citizen's complaints relating to the operation along with the actions taken to ameliorate those complaints.

The Director may present its analysis and recommendations on the annual report to the Planning Commission and the State Department of Health for further action pursuant to the Rules of the Planning Commission.

10. The Applicant shall provide a beneficial re-use plan for lands disturbed by its quarry operations. The plan shall include planning and preparation of design and implementation scenarios for the beneficial re-use of the pit area consistent with established land use policies for the site and surrounding area. The re-use planning document and accompanying scenarios and drawings shall be submitted to the Department of Planning and Permitting, for review and approval within the fifth (5th) year after the date of the Land Use Commission's Decision and Order approving this expansion. An updated re-use plan shall be submitted to the DPP for review and approval every five (5) years thereafter. The beneficial re-use planning and design document shall be an ongoing document prepared by a professional qualified in re-use planning and contain objectives, implementation and funding strategies for reclamation of the pit area for the purpose of achieving the area's long term land use policies. The Applicant will update the plan, as may be required by the Director of Planning and Permitting, to respond appropriately to any changes in the surrounding area's land use policies.

The beneficial re-use plan shall include at least one public access across Tax Map Key: 9-2-03: 74, connecting Tax Map Key: 9-2-03: 81 and the extension of

Makakilo Drive, across the project in which safe pedestrian/bicycling passage can be established. Access requirements, such as but not limited to, subdivision, nature of improvements, routing, hours accessible, shall be established as part of the final beneficial re-use plan. Suggested routing of the public access is shown on Exhibit A.

11. Approval of this Special Use Permit does not constitute compliance with other land use ordinances or governmental agencies' requirements. They are subject to separate review and approval. The Applicant shall be responsible for insuring that the final plans for the project approved under this permit comply with all applicable provisions of the Land Use Ordinance and other governmental agencies' provisions and requirements.

12. The Applicant and/or landowner shall notify the Director of Planning and Permitting and the Land Use Commission of any changes in uses on the Property; termination of any uses on the Property; and/or transfer in ownership of the Property or any uses on the Property. The Planning Commission shall then, in consultation with the Director of Planning and Permitting, determine the appropriate disposition of this Special Use Permit and facilities.

13. In the event of noncompliance with any of the conditions set forth herein, the Director of Planning and Permitting may terminate all uses approved under this Special Use Permit or the Director may declare this Special Use Permit null and void or seek available civil procedures to enforce compliance.

14. The Applicant shall, for the life of the Special Use Permit, establish and disclose to the community, a telephone number dedicated to receiving and recording complaints relating to quarry and recycling operations. A continuous volume of complaints shall warrant reconsideration of the Special Use Permit by the Planning Commission.

15. The uses in the quarry excavation area shall be limited to rock excavation, crushing, stockpiling, a new hot-mix asphalt plant, recycling of concrete rubble, glass, and asphaltic concrete pavement, equipment maintenance, employee support, parking, administration, and a water well and pump. No other uses shall be permitted without the approval of the Land Use Commission.

16. The Applicant shall establish the quarry expansion in substantial compliance with the representations made to the Land Use Commission in obtaining the Land Use Commission Special Use Permit. Failure to do so may result in the revocation of the permit.

IT IS FURTHER ORDERED that the conditions imposed by the LUC on March 23, 1973, in this docket that are applicable to the sanitary landfill operations shall remain in full force and effect.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 6th day of November, 2008. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 6th day of November, 2008, per motion on Nov. 6, 2008.

APPROVED AS TO FORM


Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

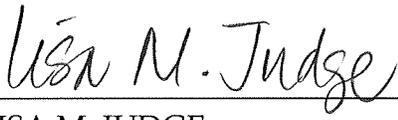

DUANE KANUHA
Chairperson and Commissioner

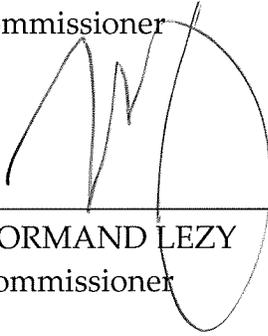
ABSENT
RANSOM PILTZ
Vice-Chairperson and Commissioner


VLADIMIR PAUL DEVENS
Vice-Chairperson and Commissioner

ABSENT
KYLE CHOCK
Commissioner

ABSENT
THOMAS CONTRADES
Commissioner

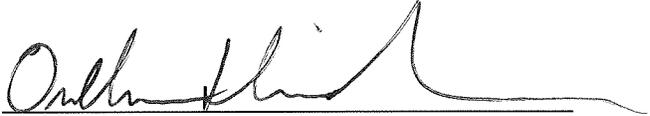

LISA M. JUDGE
Commissioner


NORMAND LEZY
Commissioner


NICHOLAS W. TEVES, JR.
Commissioner

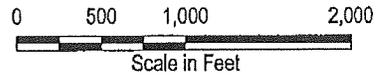

REUBEN S.F. WONG
Commissioner

Filed and effective on: November 7, 2008

Certified by:

ORLANDO DAVIDSON
Executive Officer



Approved Special Use Permit Area



Scale in Feet



Suggested Public Access

Expansion of Buffer Area

Expansion of Pit & Berm

Existing Approved Area

Expansion of Process Site

Existing Approved Area

SP73-147 GRACE PACIFIC CORPORATION
(formerly Pacific Concrete & Rock Co., Ltd.)
Pu`u Makakilo, `Ewa, O`ahu, Hawai`i
TMKs: 9-1-16: 4 and 9-2-03: por. 74 and por. 82

EXHIBIT A



Aerial Imagery Flight Date - April 26, 2008

Table 1

Acreege of Existing Quarry and Proposed Expansion Areas

Description of Area	Existing Acreage	Proposed Additional Acreage	Total	TMKs Affected
Quarry Excavation & Berming (including landscaping and grading)	78.4	105.8 (including 20.6 acres of quarry expansion & 44 acres of landscaping and grading in Parcel 74 and 41.2 acres in Parcel 82)	184.2	9-2-03: por. 74 & por. 82
Processing Site & Conveyor Tunnel	54.6 (comprising 53.6 Parcel 4, 0.6 flag-strip connecting to Parcel 10, 0.3 road remnant, and 0.1 tunnel)	0.00	54.6	9-1-16: 4
Buffer Area Surrounding Quarry (Passive Open Space)	188.0	114.7	302.7	9-2-03: por. 74 & por. 82
Offsite Stilling Basin (to be abandoned)	1.4	(1.4)	0.00	9-1-16: por. 108
Access Road	0.00	0.00	0.00	9-2-02: por. 6
Total	322.4	219.1	541.5	

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In The Matter Of The Application Of) DOCKET NO. SP73-147
)
GRACE PACIFIC CORPORATION) CERTIFICATE OF SERVICE
(Formerly Pacific Concrete & Rock Co.,)
Ltd.))
)
To Extend The Life Of The Makakilo)
Quarry Resource Extraction And)
Aggregate Processing Operations To)
2032 And To Expand The Resource)
Extraction And Buffer Areas Of The)
Quarry On Approximately 541.5 Acres)
Of Land Within The State Land Use)
Agricultural District At Pu`u Makakilo,)
'Ewa, O`ahu, Hawai`i, Tax Map Keys:)
9-1-16: 4 And 9-2-03: Por. 74 And Por. 82)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER APPROVING WITH MODIFICATIONS THE RECOMMENDATION OF THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION TO (1) EXTEND THE LIFE OF THE MAKAKILO QUARRY RESOURCE EXTRACTION AND AGGREGATE PROCESSING OPERATIONS TO 2032; AND (2) EXPAND THE RESOURCE EXTRACTION AND BUFFER AREAS OF THE QUARRY was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

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 Honolulu, Hawai'i 96804-2359

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Deputy Attorney General
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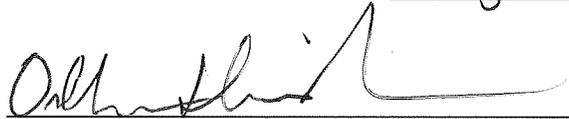
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Attorney for City and County of Honolulu

DATED: Honolulu, Hawai'i, Nov. 7, 2008



ORLANDO DAVIDSON
Executive Officer