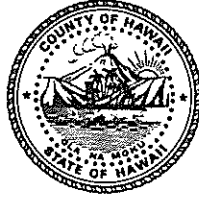


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL

SEP 19 1994

Mr. Robert Warne, Project Manager
Kiewit Pacific Co.
75-5595 Palani Road, #6-438
Kailua-Kona, HI 96740

Dear Mr. Warne:

Use Permit Application (USE 94-7)

Applicant: Kiewit Pacific Co.

Request: Establish Explosive Storage Facility Within an Existing
Quarry for the Storage of Explosives to be Used On-Site

Tax Map Key: 7-4-08:26 and 49

The Planning Commission at its duly held public hearing on August 24, 1994, voted to approve the above-referenced application. Use Permit No. 127 is hereby issued to store explosives in approved magazines at the quarry behind West Hawaii Concrete on approximately 5.5 acres of land in a General Industrial (MG-5a) zoned district. The property is located approximately 3500 feet mauka of the Queen Kaahumanu Highway approximately 500 feet north of its intersection with Kealakehe Parkway, Honokohau 2nd, North Kona, Hawaii.

Approval of this request is based on the following:

The granting of the proposed use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, and the County General Plan: The proposed explosives storage magazines will be constructed on the site of an existing quarry, in a General Industrial (MG-5a) zoned district. According to the Zoning Code, the purpose of this district is provide a zone "for uses that are generally considered to be offensive or have some element of danger." Bulk storage of explosives is permitted only in this district, and only with a Use Permit. In this case, the explosives will be used solely on-site, for excavation work at the quarry. The applicant has requested that this permit be valid for a period of 3 years only, since there is a possibility that the quarry

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may be moved to a new location. There are presently no residential areas in the vicinity of the site, and the 3-year time limit on the permit will ensure that the proposed use does not conflict with the Kealahou residential community, which will be developed to the south of the site. The Land Use Element of the General Plan specifies the following course of action for the North Kona district: "Industrial development should be in harmony with surrounding uses and the environment." Surrounding properties are currently used for limited industrial uses or are vacant land; therefore, the proposed construction of temporary explosives storage magazines at this site will not be in conflict with surrounding land uses.

The granting of the proposed use will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties: A quarry has been in operation at this site for nearly 20 years. The applicant is currently using explosives to excavate material from the quarry. The proposed storage facilities will enable the applicant to store the necessary explosives on site, and eliminate the cost involved in purchasing explosives from a middleman. The proposed storage facilities should have no impact on the frequency of use of explosives at the quarry, which will remain at the current level of approximately once a week. By transporting, storing, and handling their own explosives, the applicant will have greater control over the quality of the materials used and the safety of their entire operation. The proposed use should cause no change to the existing character of surrounding businesses, which are currently operating around the quarry. The use and storage of explosives at the site will be closely monitored by the appropriate State and federal agencies, to ensure that there are no significant adverse impacts on the community.

The granting of the proposed use will not adversely affect similar or related existing uses within the surrounding area, community, or region: The explosives stored at the site will be used in the operation of the existing quarry. Material excavated from the quarry is crushed on site and sold as fill to various private businesses. West Hawai'i Concrete purchases some of this material for use in their concrete batching plant, which is located approximately 2,000 feet west of the quarry. The proposed use will therefore complement existing uses in the project area.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection, and other related infrastructure: Roads on the quarry site are privately maintained by the applicant and are not open to the public. A

security gate blocks entrance to the site when the quarry is not in operation. Police and fire protection are available at the site. No additional infrastructure improvements are required for construction of the proposed explosives storage magazines, and all concerned agencies had no objections to the applicant's request.

Approval of this request is subject to the following conditions:

1. The applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant, successors, or assigns shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors, or agents under this permit or relating to or connected with the granting of this permit.
3. The applicant, successors, or assigns shall secure Final Plan Approval from the Planning Department, as specified in Section 25-242 of the Zoning Code, within one year from the effective date of this Use Permit. Plans should indicate all existing and proposed structures on the project site, 12-foot high safety berms around the proposed storage magazines, exterior signs, roadway access and parking stalls associated with the quarry and storage magazines.
4. Blasting activity shall be limited to the hours of operation of the quarry, or between 7:00 a.m. to 4:00 p.m. on Mondays through Fridays.
5. This permit shall be valid for a period of three (3) years from its effective date.
6. Should the quarry cease operations at the site prior to the expiration date of this permit, the applicant, successors, or assigns shall remove the explosives storage facilities and restore the site to a nonhazardous condition. Proof of compliance with this condition shall be submitted to the Planning Director within ninety (90) days of the termination of quarry operations.
7. The applicant, successors, or assigns shall comply with all other applicable County, State, and Federal regulations.
8. An extension of time for the performance of conditions may be granted by the Planning Director only when a) the

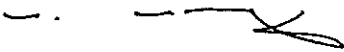
Mr. Robert Warme, Project Manager
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non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successor, or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the original reasons for granting of the permit; c) granting of the time extension would not be contrary to the General Plan or Zoning Code; and d) the time extension granted does not exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). If any of the conditions are not met or substantially complied with in a timely fashion after the Planning Director has given the permittee notice, this permit may be voided by the Planning Commission.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please feel free to contact Rodney Nakano or Linda Copman of the Planning Department at 961-8288.

Sincerely,


Wilton Wong, Vice Chairman
Planning Commission

RKN:jdk
LKiewi01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Corporation Counsel
Department of Public Works
Department of Water Supply
County Real Property Tax Division -Kona
West Hawaii Office
Plan Approval Section