

IEM Committee

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Wednesday, June 21, 2017 1:42 PM
To: IEM Committee
Cc: David Goode; David Raatz; John Rapacz; Rowena Dagdag-Andaya; William Spence; Gary Saldana
Subject: IEM-33, comments on sand mining bill
Attachments: IEM 33 sand mining edits.docx

Aloha IEM Committee,

Please accept our comments on the latest version of the proposed sand mining bill.

1. Attached are suggested revisions to the proposed bill's definitions of "sand" and "sand mining." Below are explanations of these proposed revisions:

- "Sand" is currently defined in chapter 20.08 or section 20.08.020, but not "chapter 20.08.020" as written.
- We suggest that "sand mining" be worded in a more straight-forward way.
- The exceptions all relate to mining; therefore, we suggest they the exceptions don't need to repeat the words "mining" or "excavation."
- We suggest that exceptions 1, 2 and 3 should be immediate and/or related to the excavation. It would not be effective to allow excavation for future, undetermined uses, locations or quantities, because that can be what is happening now. If the purpose is to allow sand mining for sand dunes or water lines, for example, then the sand mining should occur in conjunction with the sand dune or water line work, and that can be specified in the grading permit.
- We believe that beach nourishment should be an exception, along with dune restoration.
- We suggest that the grading of sand along with onsite construction should specify that any material that is moved on-site or to an adjacent property shall be used as fill only (otherwise, it would likely be staged for another use).
- The grading ordinance requires a grading permit for 100 cy or more, or for 50 cy or more in the SMA; we suggest that this parallels the exemption in the bill. Alternatively, the grading ordinance (20.08.031.B) could be amended to require a grading permit for 100 cy or more of any material other than sand, or 50 cy or more of sand. For reference, 50 cy is 2 dump trucks.
- HRS 205A-44(a) lists several exceptions; we suggest that all should be included here, not just item 1.

2. We continue to believe that this issue would be better addressed by amending the existing grading ordinance and other provisions of Chapter 20.08, as many of the other comments above indicate. The bill creates a page-long definition of "sand mining" in the zoning code when the heart of the issue could be addressed at the grading permit stage in terms of quantities and purpose. If someone applies for a grading permit and the material is not sand, then the current process continues. If the material is sand, then there are restrictions on the use of the sand and the grading permit can be conditioned accordingly; if the applicant wants to go beyond these restrictions, then they would need some sort of use permit from Planning.

RECEIVED AT IEM MEETING ON 06/22/17

Mahalo for your consideration of these comments. John Rapacz, David Raatz and I will be available at your June 22 meeting if you have any questions.

-Michele.

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"Sand," means the same as defined in chapter 20.08.020.

"Sand mining" means ~~activities related to~~ the extraction or removal of sand from its original natural location and ~~transported, processed, stored, or used~~ its transport, processing, storage or use for any purpose except the following:

1. ~~Sand extracted and used for purposes of r~~Rebuilding or enhancing the protective capacity and environmental quality of coastal dunes, as defined in ~~chapter~~section 20.08.020, and beach restoration or nourishment projects in accordance with applicable governmental requirements, provided that the location, timeframe and quantity of sand are identified by a grading permit.

2. ~~Mining of sand used for activities such as e~~Emergency operations, land management for agriculture, and related uses as described in sections 20.08.030.A and 20.08.030.C, provided that the location, timeframe and quantity of sand are identified by a grading permit.

3. ~~Mining of sand for use in s~~Subsurface infrastructure such as bedding for water, drainage or sewer lines, provided that the location, timeframe and quantity of sand are identified by a grading permit.

4. ~~Excavation or g~~Grading of sand directly related to on-site construction ~~for purposes other than mining or quarrying, where n~~provided that such sand ~~is~~shall not be transported outside the same or an adjacent tax map key parcel and shall only be used as fill.

5. Exploration solely for purposes of determining the quality or potential quantity of subsurface sand, provided that ~~during and as a result of such exploration,~~ no materials shall be extracted and removed beyond ~~that~~those reasonably required for testing and analysis.

6. ~~Mining~~Extraction of not more than ~~50 cubic yards of sand~~the quantity that requires a grading permit from an area of five acres or less in any ~~12~~ twelve-month period.

7. ~~Sand extracted pursuant to~~Uses permitted under a valid county special use permit, state special permit or county conditional ~~use~~ permit issued prior to the effective date of this ordinance.

8. Sand extracted from the shoreline area pursuant to the exceptions in section 205A-44.(a).-1, Hawaii Revised Statutes."