



DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

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Suite 1795, Pacific Trade Center, 190 S. King Street, Honolulu, Hawaii 96813

September 21, 1977

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#368

Hawaii Planning Commission
25 Aupuni Street
Hilo, Hawaii 96720

GORDAN FURUTANI
Executive Officer

Attention: Mr. Sidney Fuke, Planning Director

Gentlemen:

At its meeting of September 8, 1977, the Land Use Commission voted to approve a Special Permit request by Allied Aggregates Corporation, Hawaii (SP77-272) to allow the establishment of a temporary quarry operation on approximately 25 acres of land situated within the State Land Use Agricultural District at Kaunaloa, Puna, Hawaii, Tax Map Key 1-2-2: portion of 3.

Approval of this Special Permit is subject to the ten (10) conditions imposed by the Hawaii County Planning Commission, with the following modifications:

1. Condition No. 1 was modified to read:

"That the quarrying operation and its allied uses be terminated within five (5) years after the effective date of the Special Permit (effective date to commence as specified in Condition No. 11), or upon expiration of the applicant's contract to supply rock and gravel for the Kalapana By-Pass Road or Chain of Craters Road projects, whichever is sooner."

2. Condition No. 2 was modified to read:

"That the petitioner or his authorized representative(s) shall file with the County Planning Department a map and metes and bounds description of the quarry site prior to commencement of any operation. The quarry site shall be limited to a maximum area of twenty-five (25) acres, as delineated in the attached map showing the metes and bounds description."

3. County's condition No. 10 was shifted to No. 12 and two additional conditions, Nos. 10 and 11, were added to read:

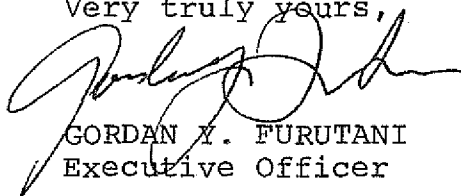
"10. That the Planning Director may issue a cease and desist order if there is any adverse impact upon the surrounding area by reason of the applicant's failure to comply with the State and County's regulations and ordinances relative to noise, dust, and other environmental factors, or with these conditions."

"11. That the Special Permit will not take effect unless the applicant is the successful bidder on either the Kalapana By-Pass Road project or the reconstruction of the Chain of Craters Road; or unless he obtains a sub-contract to supply rock and gravel to the general contractor on either of these projects."

Pursuant to condition No. 11, the petitioner, upon obtaining a contract to supply aggregate materials for either the Kalapana By-Pass Road project or the reconstruction of the Chain of Craters Road, shall notify the Hawaii County Planning Commission and the State Land Use Commission. This date shall be the effective date of the Special Permit.

A copy of the staff report is enclosed for your information.

Very truly yours,



GORDAN Y. FURUTANI
Executive Officer

GYF:jy

Encls.

cc: Allied Aggregates Corporation
Department of Taxation, Hawaii
Tax Maps Recorder, Dept. of Taxation
Property Technical Office, Dept. of Taxation
Real Property Tax Assessor, Dept. of Taxation
Dept. of Planning & Economic Development
Office of Environmental Quality Control
Division of Land Management, DLNR

STATE OF HAWAII
LAND USE COMMISSION

MEMORANDUM

TO: Land Use Commission August 24, 1977
10:00 a.m.

FROM: Staff

SUBJECT: SP77-272 - Allied Aggregates Corporation

The petitioner, Allied Aggregates Corporation, is requesting a Special Permit to allow the establishment of a temporary quarrying operation on approximately 25 acres of land situated within the State Land Use Agricultural District at Kaunaloa, Puna, Hawaii, Tax Map Key 1-2-2: portion of 3. The subject property is located along the mauka side of the Kalapana Chain of Craters Road, approximately .9 miles west of the Kalapana Vacation Lots Subdivision at Kaunaloa. (See attached County Exhibits A-3 and A-4)

The proposed quarrying operation is to include crushing and processing facilities and an asphalt concrete batching plant. Allied Aggregates Corporation intends to enter into a five year lease agreement with the property owners, Edward and Elsie Ching, should they be successful in obtaining the Special Permit.

The aggregate materials from the quarry site are to be principally used for the proposed reconstruction of the Chain of Craters Road and for the proposed Kalapana By-Pass Road project. The petitioner has stated that should Allied Aggregates Corporation not be successful in any of the bids for the construction or supplying of materials for either the Chain of Craters Road or Kalapana By-Pass Road projects, there would be no justification for this Special Permit. At the time of the public hearing, bids for aggregate materials for the two road projects had not been let out.

In support of the request, the petitioner has in part stated the following:

"Applicant desires to establish a temporary quarrying operation, aggregate crushing and processing facilities, and if feasible and allowable, an asphaltic concrete batching plant on the land in question which is zoned and classified as Agriculture. Pursuant to the State Land Use Law, more specifically, Chapter 205-5, Hawaii Revised Statutes, as amended, Special Use Permit may be allowed. Chapter 205-6, Hawaii Revised Statutes, as amended, specifically grants the Planning Commission the authority to issue Special Use Permit for certain unusual and reasonable use within agricultural district.

"Chapter 8, Article 7 of the County Code governs the regulations for agricultural district. Article 7, Section 3(Q) which

governs permitted use within an agricultural district states:

'Commercial excavation or removal of natural building material or minerals.'

"As such, since this proceedings involves a permitted use by the County Zoning Code, and since the Planning Commission under the State Land Use laws are authorized to issue Special Use Permit within agricultural district, this application is not contrary to the objective sought to be accomplished by the Land Use laws and regulations.

"The proposed quarry site will be located approximately 32 miles from Hilo. A portion of the land for which this Special Use Permit is being requested had previously been utilized for almost identical purposes during the construction of Kalapana-Chain of Craters Road. (State portion of the Chain of Craters Road) The area upon which the former facilities were located was at one time devoided of its natural foliage, but presently it is over grown with grass, shrubs, lantana, christmas-berry trees, scattered growths of lauhala, kukui and guava, blending naturally with the surrounding environment.

"The establishment of the proposed facilities will not adversely affect the surrounding properties and/or property owners. Any alterations to the physical characteristic and appearance can be adequately landscaped to blend and render it compatible with its surroundings upon termination of the quarry use.

"There are no commercial establishments or religious institutions within miles of these proposed facilities.

"It is Applicant's intention to use aggregates from the quarry site for the proposed reconstruction of the Chain of Craters Road (Federal project) and/or the proposed Kalapana By-Pass Road (State project). In addition thereto, Applicant presently contemplates selling aggregates to property owners within the Kalapana areas. However, sales to residents is contingent on whether Applicant is successful in selling aggregates to the larger projects; otherwise, the quarry operation would not be economically feasible. The proposed Chain of Craters Road is approximately 12 miles from the quarry site and the proposed Kalapana By-Pass Road is approximately 3 miles away. The approximate distance from the proposed quarry site to the nearest inhabited dwelling on the Kalapana side is 5,000 L.F. and to the Volcano side is 2,000 L.F. Pacific Paradise Ocean Front Estates Subdivision is approximately 4,500 L.F. away and there are two residence within the subdivision but are located in the rear portion of the subdivision. Queens bath located on the Volcano side of the proposed quarry site is approximately 1.15 miles away.

Between the first inhabited dwelling for the quarry site to Queens bath, there are only six dwellings. It should be noted, however, that all inhabited dwellings noted herein were by visual inspection of the surrounding areas. Furthermore, the properties surrounding the proposed quarry site are all 'virgin land', untouched by any type of development.

"The rocks found on the land in question are suitable for road construction and will meet the specifications imposed by governmental agencies responsible for public highways.

"The land in question abuts an improved public highway (Chain of Craters Road) and there is a County water system adjoining the land. While it is recognized that there will be the probability of potential air pollution from dust particles in operating the quarry and related facilities, these conditions will be kept at a minimum since as quarry operators, we will have to comply with Chapter 43 of the Public Health Regulation of the Department of Health, State of Hawaii. Failure to comply with the Public Health Regulation would prevent the Applicant from receiving the necessary authorization from the Department of Health to operate such facilities.

"As to the problems of noise pollution, we know from previous use of the land for quarrying that noise will be less than is customary for a general quarry operation. Generally, the rocks to create aggregates will be recovered by using bulldozers to push and scrape the land. Blasting, if any, will be minimum.

"Furthermore, any sound or dust from the operational area will generally be dissipated and be carried away from the inhabited areas by the winds that normally blows from the southwesterly direction.

"The Applicant's operation will in no way unreasonably burden public agencies since roads, streets, sewers, water, drainage, school improvements, and police and fire protection are either already available or are not needed or necessary for the proposed use.

"The land upon which Applicant seeks to operate the proposed quarry has never been used for what it is presently zoned; namely, agriculture. The only previous use was that of a quarry. As to whether the land is in fact suitable for agricultural use is questionable. The 'Detailed Land Classification - Island of Hawaii' prepared by the Land Study Bureau, University of Hawaii, on Map No. 662 shows that the land is classified as E262. On page 27 of this study, Table 1 tells us what the figure '262' represents. On soil series it indicates 'Aa'; Depth-'No Soil Materials'; Color-'Dark Brown to Nearly Black'; Parent Material-'Aa'; Drainage-'Excessively Drained'; Slope (per cent)-'0 to 35, generally under 20'; Climate-'Subhumid'; Mean Annual Rainfall (inches)-'40 to 60';

Elevation (feet)-'Sea Level to 2000'; Machine Tillability-'Unsuited'. On Page 45 of this study, under the heading Land Class Acreages, it states as follows:

'The Big Island Agriculture lands have been grouped into suitability classes based upon the master productivity rating presented in Table 3. Descriptively these classes are as follows: A-very good; B-good; C-fair; D-poor; E-very poor.'

"On the basis of agricultural productivity, E is the lowest classification given to land in the detailed land study classification. In this instant case, the land in question is classified as E, meaning that the land is unsuitable for agriculture use. From the above data, it can be seen that the use of the land for a temporary quarry will not take land away from agriculture. In fact, after the completion of this quarry operation, the land may become better suited for agriculture since the land will be leveled. Additionally, the previous quarry use shows that a portion of this once sparsely vegetated land now supports a larger vegetation. From the above facts, the proposed use will not substantially alter or change the essential character of the land and the present use.

"The construction of the proposed restoration of the Chain of Craters Road, presently rendered inaccessible by the recent lava flow, is scheduled for sometime in June or July of this year. The construction of this road will require thousands of tons of crushed aggregates. The Volcanoes National Park regulation definitely prohibits any quarrying operations within its boundaries and authorization to permit crushing and processing within its confines is very unlikely.

"Therefore, all project requirements of these material will have to be furnished and hauled from sources outside the 'Park' boundary. The nearest commercial source for these types of material is located in Hilo, approximately 40 miles away from either terminals of this project; the terminals being the Volcano side or the Kalapana side.

"If the application for a quarry site is denied, it would necessitate the hauling of road materials from Hilo which is 40 miles away. This would create additional usage of hauling vehicles, and consequently, the unnecessary consumption of petroleum products which would be contrary to the present goal set by President Carter to conserve energy. In addition, hauling of materials from Hilo would place an unreasonable burden either on the Keaau-Volcano Road or the Keaau-Paho-Kalapana Road. In using the Keaau-Volcano Road, the trucks would have to pass through areas which are heavily traveled creating traffic hazards. Furthermore, upon reaching the National Park, the trucks would have to travel through narrow winding roads. If the Keaau-Paho-Kalapana Road is used, similar traffic hazard conditions would be present especially

through Pahoia Village and through Kaimu Beach.

"If the Applicant's Special Use Permit is granted, we would be operating in an area which is presently not heavily utilized due to the Chain of Craters Road being blocked by lava causing a dead end road. Furthermore, vehicular traffic from the quarry operation would not create any hazard since from the proposed quarry site to the project site residential dwellings are at a minimum.

"Another proposed project within the vicinity of the proposed facilities is the Kalapana By-Pass Road which should be under construction before September 1979. The crush aggregates requirements for this project will be similar to those required for the restoration of the Chain of Craters Road. This road will create similar conditions as have already been mentioned for the completion of the National Park Chain of Craters Road.

"Based on the above reasons, we respectively ask that the Planning Commission favorably consider the Applicant's petition for a Special Use Permit to operate a quarry. Such approval will be in the best interest of the public welfare."

In the Special Permit application to the Hawaii County Planning Department, the petitioner indicated that the permit request was to encompass all of parcel 3, an area of approximately 198.06 acres. It was later clarified at the public hearing, however, that the petitioner intends to utilize only 25 acres of parcel 3 for the proposed quarrying operation.

A representative of the petitioner indicated at the hearing that this 25 acre site would generally be the area fronting the Chain of Craters Road and toward the Kalapana side (eastern portion) of the parcel. The precise delineation of this 25 acre area was not provided. The Hawaii County Planning Commission thus stated as a condition precedent to the establishment of the quarry:

"That the petitioner or his authorized representative(s) shall file with the County Planning Department a map and metes and bounds description of the quarry site prior to commencement of any operation. The quarry site shall be limited to a maximum area of twenty-five (25) acres."

The County's General Plan Land Use Pattern Allocation Guide Map designates the subject site for Extensive Agricultural uses (pastorage and range lands). The County's Zoning designation is Agriculture with a 3-acre minimum lot size (A-3a).

The U.S. Department of Agriculture Soil Conservation Services' Soil Survey Report of 1973 classifies the subject land as Lava Flows, Aa, which is described as a miscellaneous land type. This lava is rough and broken with practically no soil covering.

The Land Study Bureau's overall master productivity rating for agricultural use is Class "E" or Very Poor.

The subject site receives an annual rainfall of between 60 to 90 inches.

The subject property is presently vacant of any structures or use. The area is overgrown with grass, shrubs, and scattered growths of lauhala, kukui, and guava. According to a land use survey conducted by the Planning Department, there are existing dwellings on properties situated diagonally across from the subject property (makai of the Kalapana Chain of Craters Road). The majority of surrounding lands are presently vacant.

Pertinent comments from governmental agencies:

1. Department of Water Supply

The Hawaii County Department of Water Supply had no adverse comments to offer with regard to the subject request. It did note, however, that there is an 8-inch waterline along the Kalapana Chain of Craters Road to serve the site.

2. Department of Public Works

The Hawaii County Department of Public Works provided the following comments:

- "1. The grading work shall conform to the grading ordinance.
- "2. The applicant shall obtain a grading permit."

3. State Department of Transportation

The State Department of Transportation supplied the following comments:

- "1. Crushing and processing facilities should be located to provide a buffer or screening zone along the State Highway frontage.
- "2. Access to proposed site shall be confined to existing paved access."

4. Fire Department

The Hawaii County Fire Department had the following comment: "This is more a health and pollution hazard rather than fire."

5. State Department of Health

The State Department of Health stated the following with regard to the permit request:

"Each and every quarry operation is required to obtain from the Department of Health:

1. Authority to Construct permit
2. Permit to Operate Crushers and/or Batch Plants.

"Public Health Regulations, Chapter 43, Air Pollution 'Control is the reference document."

6. State Department of Agriculture

"The Department of Agriculture has no objections to the subject application. For the record, however, it should be noted that land with a Land Study Bureau "E" master productivity rating can be utilized for agricultural production and, in fact, such lands are utilized for papaya and vanda orchid production in the Kapoho area."

7. State Department of Land and Natural Resources

The Historic Preservation Office of the Department of Land and Natural Resources provided the following comments:

"Existing records have been checked for archaeological and historical sites that may be affected by this undertaking. The following information and recommendations are for your consideration in processing this application:

"Although no significant sites are known for these lands, sites are quite likely to be present.

"This application should be approved with the following stipulations:

"It will be necessary to make investigations of both the background materials and the land parcel itself before final recommendations can be made. The applicant should contract a professional archaeologist to carry out research within the guidelines of a scope of work that can be prepared by this office."

All other cooperating agencies, including the Hawaii Electric Light Company, Hawaii County Department of Research and Development and Hawaii County Police Department had no comments on or objections to the subject request.

At the public hearing held by the Hawaii County Planning Commission on June 16, 1977, five persons testified in opposition to the permit request. Concerns regarding dust and noise pollution, increased traffic, and adverse visual impact of the proposed project were raised. A letter in opposition to the subject permit

request was received by the Planning Commission on June 16, 1977. (See attached County Exhibit Q) Two representatives of the petitioner provided testimony to clarify and substantiate the permit request. A copy of the hearing transcript is attached. (County Exhibit S)

On July 21, 1977, the Planning Commission voted to recommend approval of the Special Permit to the Land Use Commission based upon the following findings:

- "1. That the proposed use would not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which these lands are best suited in the interest of public health and welfare of the people.

The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural district does include lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soil and other related characteristics. The subject property's dominant soil type is a'a lava, which is in the USDA, Soil Conservation Service's capability Class VIII. Class VIII Soils have severe limitations that preclude their use for commercial plants. This class is the lowest in the Soil Conservation Service's ranking system for agricultural activity. The Land Study Bureau's rating for this land for overall agricultural productivity is also very poor as they are classified as Class "E". However, although it is still possible that some agricultural activities may be conducted on the subject property, it is determined that approval of the subject request would not be contrary to the objectives of the State Land Use Law and Regulations given the capability class rating of the subject property for agricultural productivity and above-cited criterion for determining the Agricultural District classification.

Further, the use of the subject property for non-agricultural purposes is not expected to have any adverse effect on the overall agricultural potential of the region of the County and State as the land is not presently being used for any agricultural activity.

It is also felt that the granting of the quarrying activity will not be in conflict with the County of Hawaii's land use policies as expressed in the Zoning Code. Quarrying operations and the commercial excavation or removal of natural building materials are conditionally permitted uses within the County's Agricultural zoned districts.

"2. That the requested use at its particular location would be a reasonable one as the area under consideration is deemed to be suitable for quarrying activities. A quarrying activity constitutes an unusual use inasmuch as it must locate in an area which has the appropriate geological raw materials for the products which will eventually be produced. At the same time, such activity must be located in an area within which it will not cause significant disruption to nor have significantly adverse impacts on surrounding land uses. Although there are some single-family dwellings in the vicinity, adverse effect which might possibly occur can be minimized by taking a number of mitigating measures. The effects of fugitive dust and noise can be controlled at the site by present regulations. Prior to commencement of the quarrying operation, an Authority to Construct permit and a permit to operate crushers and/or batch plants must be obtained from the State Department of Health in accordance with Public Health Regulations, Chapter 43, Air Pollution Control. The Department of Health has the responsibility of enforcing the Air Quality Standards to assure that the proposed use will not diminish the air quality.

"3. That the proposed use will not substantially alter or change the essential character of the land and the present use. Although the land is presently vacant of any use, it was formerly used as a quarry site. The types of materials extracted from the area in the past have proven to be suitable for the intended purpose. The petitioner's intention is to use the aggregates from the quarry site for the proposed reconstruction of the Chain of Craters Road and for the proposed Kalapana By-Pass Road project. Aggregates will also be offered for sale to residents in the area.

Presently, the nearest commercial source of crushed aggregates is located in Hilo, a distance of approximately 30 to 35 miles from the Kalapana area. In light of present circumstances, it is determined that the requested use at its proposed location can make the highest and best use of the land involved, and would also benefit the general public by providing materials needed for construction activities, such as roads, lot improvement, or otherwise.

"4. That the proposed use will not unreasonably burden public agencies to provide roads, water, and other infrastructures and services. All essential services and facilities are available to the subject area."

It was a further finding of the Planning Commission that:

"Upon reviewing and analyzing the subject request, various areas of concern which could lead to potential problems were

raised. These concerns, however, can be alleviated and problems can be prevented through the imposition of specific conditions of approval."

The favorable recommendation was subject to the following conditions:

- "1. That the quarrying operation and its allied uses be terminated within five (5) years after the effective date of approval of the Special Permit.
- "2. That the petitioner or his authorized representative(s) shall file with the County Planning Department a map and metes and bounds description of the quarry site prior to commencement of any operation. The quarry site shall be limited to a maximum area of twenty-five (25) acres.
- "3. That the operation, including loading and hauling be limited to the hours between 7:00 a.m. and 5:00 p.m. on Monday through Friday only.
- "4. That a landscaped buffer or screening zone be provided along the main highway fronting the subject property. The landscaping plan shall be submitted to the Planning Department for review and approval prior to the commencement of operation.
- "5. That only one (1) access from the main highway will be permitted. The access road to the site shall be improved with an oil-treated surface to a width of ten (10) feet. The roadway shall be maintained by the petitioner throughout the life of the Special Permit. Should the oil-treated surface prove insufficient in alleviating fugitive dust problems, the petitioner may be required to pave the roadway.
- "6. That the petitioner/representative(s) shall receive the necessary permits from the State Department of Health prior to commencement of operation.
- "7. That upon termination of the operation, the land shall be graded to blend with the surrounding areas and revegetated. Further, the site shall be left in a nonhazardous condition, subject to the approval of the Planning Department.
- "8. That a Grading Permit be secured from the Department of Public Works prior to commencement of operation.
- "9. That an archaeological walk-through survey of the site shall be conducted prior to issuance of a grading permit. The petitioner/representative(s) shall notify the

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Planning Director in writing before the survey is undertaken and shall submit a full report of the survey to the Director prior to obtaining the grading permit.

"10. That all other applicable rules and regulations be complied with."