

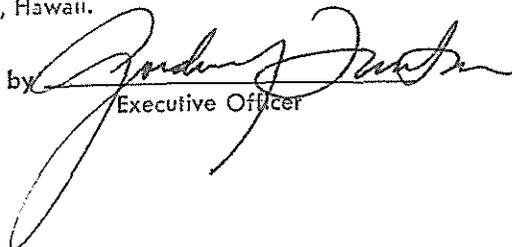
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit)
of YAMADA ENTERPRISES, INC.)
)
)
)

SP78-327
YAMADA ENTERPRISES, INC.

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

APR 20 1979
Date

by 
Executive Officer

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the) SP78-327
Petition for Special Permit)
of YAMADA ENTERPRISES, INC.) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) DECISION AND ORDER

The Land Use Commission of the State of Hawaii,
having duly considered the entire record in the above entitled
matter, makes the following findings of fact and conclusions
of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by
YAMADA ENTERPRISES, INC., to allow the establishment of a
quarry, rock crusher, A.C. plant, and concrete batching plant
on approximately ten acres of land situated within the State
Land Use Agricultural District at Kaimu-Makena Homesteads,
Puna, Hawaii, Tax Map Key 1-2-06: portions of 6 and 25.

2. The subject property is located approximately
2500 feet west of the Pahoia-Kalapana Road at Kaimu-Makena
Homesteads.

3. Quarrying of the ten acre area is intended to
subsequently render the site suitable for agricultural use.

4. Present County Zoning for the subject property
is Agricultural-3 acre (A-3a) for the subject property.

5. The Land Study Bureau's overall master produc-
tivity soil rating for agricultural use is Class "E" or
"Very Poor" for the subject site. The site is classified as
"Other Important Agricultural Land" under the State Department
of Agriculture's Agricultural Lands of Importance to the State
of Hawaii classification system.

6. Soils of the subject area are of the Malama Series which consists of well-drained, thin, extremely stony organic soils over aa lava.

7. The subject property is presently unused and covered with ohia trees and other foliage. The surrounding areas are presently vacant, with the closest dwellings being situated in Kaimu Village, approximately 3,000 feet south of the site.

8. Access to the site will be via private roadways through the Petitioner's lands. The proposed Kalapana Bypass Road would be situated nearly 1,500 feet makai of the quarry site.

9. There are no known historic or archaeological sites in the area.

10. The Petitioner has stated that the proposed use would render the site more suitable for agricultural cultivation, would not adversely affect surrounding properties, nor unreasonably burden public agencies to provide services and facilities.

11. The State Health Department has cited applicable health regulations to which the Petitioner must comply.

12. The County Department of Public Works stated that a plan showing the extent of the work with finished ground elevations should be provided.

13. The State Department of Agriculture noted that the Petitioner should be prepared to take corrective measures against airborne nuisances created by the quarrying operation.

14. The Hawaii County Fire Department, Department of Water Supply, Police Department, Hawaii Electric Light Company, Inc., and U.S.D.A. Soil Conservation Service had no objection to the application for Special Permit.

15. The Hawaii County Planning Department has recommended approval of the Special Permit request.

16. A public hearing on the application for Special Permit was conducted by the Hawaii County Planning Commission on October 26, 1978. At that time, three representatives of the Petitioner spoke in support of the request. Under public testimony, Mr. Aza Summers expressed concern over a possible noise problem from the quarry operation. There were no other persons to testify with regard to the permit request.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in an Agricultural District may be permitted by Special Permit pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the subject request would be consistent with 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 they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The area under consideration is classified as Agricultural by the State Land Use Commission. The Agricultural District includes lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural activities by reasons of topography, soils, and other related characteristics. The subject area consists of a hill, 30 to 40 feet in height, and approximately 10 acres in area. This hill is presently vacant of any use and is overgrown with ohia trees and other foliage. Although the general area is

designated as "Other Important Agricultural Lands" under the Agricultural Lands of Importance classification system, the particular area under consideration for the requested activities is unsuitable for agricultural uses because of topographic constraints. Consequently, it is determined that the use of the subject area for the proposed quarrying and ancillary activities will not adversely affect the agricultural potential of this or surrounding areas.

The Petitioner is proposing to develop the immediately surrounding areas with macadamia nut trees, including approximately 40 acres which have already been planted. The Petitioner intends to use a portion of the quarried and crushed material as base course for the macadamia nut orchards, providing a level surface which will facilitate the harvesting of the nuts. Furthermore, the Petitioner is proposing to level the subject area to the surrounding grade upon completion of the quarrying operation, and furthermore to plant this area with macadamia nuts. Consequently, the granting of this request and the establishment of the quarry will assist to some extent the agricultural production of this area by providing material which will be used for the development of the proposed orchards and by ultimately preparing an additional 10 acres of land for agricultural use.

3. The proposed quarrying operation will not adversely affect surrounding properties or improvements. The subject area is a portion of a larger area owned by the Petitioner. These areas are presently being developed or are proposed to be developed with macadamia nut trees. The nearest residential dwellings are situated in Kaimu Village, approximately 3,000 feet makai of the subject area. It is anticipated that any

adverse impact on these residential areas will be minimal. The proposed quarry site will be further buffered from the residential areas by the construction of the proposed Kalapana Bypass Road. This road will be situated approximately 1,500 feet makai of the subject area, between the quarry site and the residential areas. Construction on this roadway is expected to commence by 1980. In addition, any adverse impact which may occur can be effectively mitigated through the conditions of approval as well as the Department of Health Regulations.

4. The proposed quarrying operation is not anticipated to create unreasonable demands on public facilities and utilities. All infrastructures essential to the operation of the quarry and ancillary activities are or will be available to the subject area.

5. The use described in the Petition is an unusual and reasonable use pursuant to HRS Chapter 205-6 and State Land Use Commission District Regulation, Part V.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 78-327 for the establishment of a quarry, rock crusher, A.C. plant, and concrete batching plant on approximately ten acres of land situated within the State Land Use Agricultural District at Kaimu-Makena Homesteads, Puna, Hawaii, Tax Map Key 1-2-06: portions of 6 and 25, be approved subject to the following conditions:

1. That the quarrying operation and its allied uses shall be terminated within ten (10) years after the effective date of approval of the Special Permit.

2. That the Petitioner or its 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 ten (10) acres.

3. That the Petitioner shall obtain a grading permit from the Department of Public Works prior to commencement of the operation.

4. That the access road to the site shall be improved with an oil-treated surface to a width of 10 feet. The roadway shall be maintained by the Petitioner throughout the life of the Special Permit.

5. That the Petitioner or its authorized representative(s) shall receive the necessary permits from the State Department of Health prior to commencement of operation.

6. That every precaution shall be taken by the Petitioner so as not to create any inconvenience to surrounding properties in regards to traffic, noise, and dust problems during the quarrying operations. Upon receipt of any complaint which is accompanied by documented evidence relative to the impact of the quarrying operations, the Planning Director shall investigate the complaint. If the Planning Director finds the complaint to be valid, he shall so notify the Petitioner by certified mail; and the Petitioner shall then have 30 days in which to take appropriate mitigating actions.

7. That the operation, including loading and hauling during regular working hours, shall be limited to between 7:00 a.m. and 5:00 p.m. on Monday through Friday only.

8. That an archaeological walk-through survey of the site shall be conducted prior to the issuance of a grading

permit. The Petitioner/representative(s) shall notify the 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.

9. That all other applicable rules, regulations, and requirements shall be complied with.

10. That should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

DATED: Honolulu, Hawaii, April 18, 1979.

LAND USE COMMISSION

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George R. Pascua
GEORGE R. PASCUA
Commissioner

By Carol B. Whitesell
CAROL B. WHITESELL
Commissioner

By Edward K. Yanai
EDWARD K. YANAI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
for Special Permit of)
YAMADA ENTERPRISES, INC.)
_____)
)
)
)

SP78-327
YAMADA ENTERPRISES, INC.

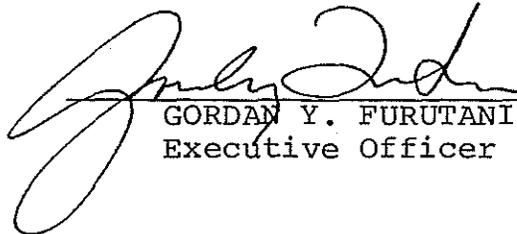
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by certified mail:

SIDNEY FUKU, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

TERENCE T. YOSHIOKA
Nakamoto, Yoshioka and Chillingworth
80 Pauahi Street, Room 203
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 20th day of April, 1979.



GORDAN Y. FURUTANI
Executive Officer

November 24, 1978

Mr. Terence T. Yoshioka
80 Pauahi Street, Room 203
Hilo, HI 96720

Dear Mr. Yoshioka:

Special Permit Application
Petitioner: Yamada Enterprises, Inc.
Tax Map Key 1-2-06:portions of 6 & 25

The Planning Commission at its regular meeting of November 16, 1978, considered the above application for a special permit to allow the establishment of a quarry, rock crusher, A. C. plant and concrete plant on approximately 10 acres of land situated within the State Land Use Agricultural District at Kaimu-Makena Homesteads, Puna, Hawaii.

The Commission voted to forward a favorable recommendation to the Land Use Commission subject to the following conditions:

1. That the quarrying operation and its allied uses shall be terminated within ten (10) years after the effective date of approval of the Special Permit.
2. That the petitioner or its 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 ten (10) acres.
3. That the petitioner shall obtain a grading permit from the Department of Public Works, prior to commencement of the operation.

Mr. Terence Yoshioka
November 24, 1978
Page 2

4. That the access road to the site shall be improved with an oil-treated surface to a width of 10 feet. The roadway shall be maintained by the petitioner throughout the life of the Special Permit.
5. That the petitioner or its authorized representative(s) shall receive the necessary permits from the State Department of Health prior to commencement of operation.
6. That every precaution shall be taken by the petitioner so as not to create any inconvenience to surrounding properties in regards to traffic, noise, and dust problems during the quarrying operations. Upon receipt of any complaint which is accompanied by documented evidence relate to the impact of the quarrying operations, the Planning Director shall investigate the complaint. If the Planning Director finds the complaint to be valid, he shall so notify the petitioner by certified mail; and the petitioner shall then have 30 days in which to take appropriate mitigating actions.
7. That the operation, including loading and hauling during regular working hours, shall be limited to between 7:00 a.m. and 5:00 p.m. on Monday through Friday only.
8. That an archaeological walk-through survey of the site shall be conducted prior to the issuance of a grading permit. The petitioner/representative(s) shall notify the 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.
9. That all other applicable rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Special Permit may be deemed null and void.

In the meantime, should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,



Chairman, Planning Commission

lgv
cc Yamada Enterprises, Inc.
State Land Use Commission
Land Use Division, DPED