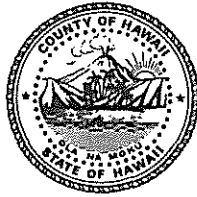


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 416 228 821

July 27, 1995

Tim Lui-Kwan, Esq.  
Carlsmith Ball Wichman Case & Ichiki  
121 Waiuanuenue Avenue  
Hilo, HI 96720

Dear Mr. Lui-Kwan:

Special Permit Application No. 95-5  
Applicant: Sanford's Service Center, Inc.  
Request: Establish a Quarry and Stockpiling Operation  
Tax Map Key: 1-3-1:Portion of 7

The Planning Commission at duly held public hearings on June 7, 1995 and July 13, 1995, voted to approve the above-referenced application. Additionally, the Planning Commission acknowledged receipt of the withdrawal of the contested case hearing requests by Allen and Luisa Sacharov and Pat Rocco. Don May's request for a contested case hearing was denied due to his failure to respond to the Planning Department's June 14, 1995, letter asking for general information regarding said request.

Special Permit No. 906 is hereby issued to establish a quarry and stockpiling operation on a total of 10.78± acres (6.324 and 4.453 acres) of land situated within the State Land Use Agricultural District approximately 1,500 feet mauka of the Pahoa-Kalapana Road and Opihikao Road intersection, Kamaili Homesteads, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would not be contrary to the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, which, for the Agricultural District, seeks to preserve and protect lands of high agricultural potential in agricultural use. The project site is classified as having poor and very poor productivity ratings ("D"/"E") by the Land Study Bureau and is in the category of "Other Important Agricultural Lands" by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. Additionally, the property was inundated by lava in 1955 and has not been used for agricultural activities. Therefore, approval of the requested use will not permanently impact the existing or future agricultural potential of this site.

The desired use will not adversely affect the surrounding properties. All required measures to minimize traffic, dust and noise will be adhered to by the applicant.

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- A. Traffic: Originally, access was proposed from Alaili Road, an unimproved homestead road. Given the concern over the potential burden on the Department of Public Works to maintain Alaili Road, the applicant has changed its access to an existing driveway directly from Pahoa-Kalapana Road to the site. In doing so, quarry traffic along Alaili Road will be eliminated, thereby reducing direct impacts to those adjacent property owners. The removal of about 15 to 20 truckloads of rock material from Monday through Friday (with a possible Saturday schedule for hauling) should not have significant impact on the Pahoa-Kalapana Road. Comments provided by the State Department of Transportation-Highways Division should not change from those provided for the Alaili Road access, except that turning radius will not have to be constructed. The applicant is working with the Department of Transportation to provide any necessary improvements to the existing permitted driveway.
- B. Dust: The applicant will be required to comply with all applicable rules and regulations pertaining to operational procedures and transporting of rock materials. These include rules of the Department of Health for air pollution and the Statewide Traffic Code for transporting materials on highways. The nearest property is located approximately 750 feet from the "Pit Lot" and 2,000 feet from the "Hill Lot." Since prevailing winds are westerly for the most part during the proposed operational hours, the combination of air pollution compliance, wind direction and a natural vegetative buffer should control the fugitive dust from affecting surrounding properties.
- C. Noise: While minimal rock crushing and blasting are planned, it is not anticipated to have significant impacts on surrounding properties because of the distance from the nearest residence. A vegetative buffer currently exists between the homestead properties and the proposed quarry sites. Similar activities were proposed through a previous special permit granted by the Planning Commission. That permit required that property owners within 2000 feet of the blasting site be given 24 hours advanced notification. It is recommended that a similar condition be placed in this permit. Although the applicant is not stating a time limit for the activities, a condition of this permit contains a five-year time limit on the operations. This does not, however, prevent the applicant, its successors or assigns from requesting a change or extension to the life of this permit as the deadline approaches. An annual monitoring report will also be required as a condition of this permit. The monitoring report, which has been imposed on other quarries, will detail the amount of material quarried, a listing of public complaints or problems and their disposition. Further, if the Planning Department determines that the use is having an adverse impact on surrounding properties after complaint, mediation and mitigation, its findings will be forwarded to the Planning Commission to cease the operations.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and police and fire protection. As stated previously, utilizing an existing driveway has eliminated the county's concern over the potential deterioration of the homestead road. Since the applicant will be providing water catchment and portable waste disposal systems for its employees, these agencies should not be burdened

by the establishment of the quarry. The Police and Fire Departments saw no adverse affects on their operations/facilities provided applicable permits are received.

The land upon which the proposed use is sought is unsuited for the uses permitted within the district. As previously mentioned, the lands are classified "Other Important" by the ALISH Maps and are rated "D" and "E" for agricultural productivity. The inundation of portions of the property by a 1955 lava flow further contributes to the unsuitableness of the property for agricultural purposes. It should be noted that the County's Agricultural zoned district permits commercial excavation of natural material.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The State Land Use Commission placed many areas of the county into the Agricultural District without examining site specific characteristics relating to agricultural productivity or potential. In this instance, the lava flow renders the land of questionable use compared to other areas of the county. Moreover, because quarrying is resource-based, alternative sites are locationally restricted. That a special permit for quarrying activities was previously granted in the vicinity of the project site should also be considered in the granting of this request. The standards of review and circumstances have not changed in 15 years. In the meantime, other rules (i.e. Department of Health, Statewide Traffic Code) have been adopted to regulate different components of this type of activity.

The proposed use will not substantially alter or change the essential character of the land and its present use. The proposed quarry should not change the essential character of the land, which is covered by a recent lava flow. However, a Site Restoration Plan will be required as a condition of this permit to assure that the site will be left in a nonhazardous condition.

The request will not be contrary to the General Plan. The project will advance the economic policy of the General Plan which states, "The County shall strive for diversification of its economy by strengthening industries and attracting new endeavors. This approval is consistent with the goal of the Natural Resources and Shoreline Element that says to "Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake" and the "County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse effects on the environment." The project site is not a habitat for endangered species of flora or fauna. Nor is the site listed on the National or State Register of Historic Places. No identified drainageways traverse the affected area.

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 Hawaii 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 Special Permit or relating to or connected with the granting of this Special Permit.

3. Prior to commencing operations, a map and metes and bounds description of the quarry sites shall be filed with the Planning Department and the project sites staked accordingly.
4. Prior to the commencing operations, a Site Restoration Plan, which assures the site will be left in a nonhazardous condition, shall be reviewed by the Department of Public Works and submitted to the Planning Department for review and approval.
5. Prior to commencing operations, the applicant shall obtain all necessary permits and approvals, including but not limited to those from the Fire Department and the Department of Health.
6. Quarrying activities shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on Mondays through Fridays. Machinery operations shall start no earlier than 8:00 a.m. Activities on Saturdays shall be restricted to hauling quarried material.
7. The applicant shall notify property owners and residents within 2,000 feet from any blasting site of such activity. The notification shall be made no less than 24 hours prior to the occurrence.
8. As represented by the applicant, access to the quarry sites be restricted to an existing driveway. Access from Alaili Road shall not be permitted.
9. Should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, paving or walls be encountered, work in the area shall immediately cease and the Planning Department shall be notified. Subsequent work shall proceed only upon issuance of an archaeological clearance from the State's Historic Preservation Division, when it finds that sufficient mitigative measures have been taken.
10. Upon termination or abandonment of the quarry operation, the sites shall be graded to blend with the surrounding area. The sites shall be left in a nonhazardous condition. Documentation which demonstrates compliance with this condition shall be submitted to the Planning Department for review and approval within ninety (90) days from the termination or abandonment date.
11. This Special Permit shall be valid for a period of five (5) years from its effective date, or until the date of completion or abandonment of the proposed quarry activity, whichever comes first.
12. An annual monitoring report shall be submitted to the Hawaii County Planning Director prior to the anniversary date of the approval of this permit. The report shall include, but not be limited to, the amount of material quarried or removed, a detailed listing of public complaints or problems, and their disposition. Should conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the County of Hawaii Planning Commission that the quarry use will have an adverse impact on surrounding properties.
13. Should any of the conditions not be met or substantially complied with, the Director shall initiate procedures to revoke the permit.

Tim Lui-Kwan, Esq.  
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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 Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Wilton K. Wong, Chairman  
Planning Commission

AK:syw  
LSanfo02.PC

cc: Honorable Stephen K. Yamashiro, Mayor  
Planning Director  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Plan Approval Section  
Sanford's Service Center, Inc.  
Mr. Don May  
Allen and Luisa Sacharov  
Pat Rocco, President/Black Sands Beach Homeowners Association  
Fire Department  
Department of Health

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

P 101 317 927

DEC 09 1999

Tim Lui-Kwan, Esq.  
c/o Ms. Joan Castberg  
Carlsmith Ball  
121 Waianuenue Avenue  
Hilo, HI 96720

Dear Mr. Lui-Kwan:

Special Permit (SPP 906)  
Applicant: Sanford's Service Center, Inc.  
Request: Amendment to Condition No. 11 (Extend Life for 5 Years)  
Tax Map Key: 1-3-1:7

The Planning Commission at its duly held public hearing on November 16, 1999, voted to approve the above-referenced request. Special Permit No. 906 allowed the establishment of a quarry and stockpiling operation. The amendment is to extend the permit for a five-year period. The project site is located in Kamaili Homesteads, on the mauka side of the Pahoa-Kalapana Road and approximately 1,500 feet from the Pahoa-Kalapana Road and Opihikao Road intersection, Kamaili, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request to continue quarry and stockpiling operation would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations, for the Agricultural District, seeks to preserve and protect lands of high agricultural potential in agricultural use. The project site is classified as having poor and very poor productivity ratings ("D" and "E") by the Land Study Bureau and is in the category of "Other Important Agricultural Lands" by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The inundation of the property by the Iilewa Lava Flow in 1955, has rendered the parcel unsuitable for farming. As a result, the parcel has not been used for agricultural activities and remains barren. Excavation of rock materials is the only feasible permitted use for such lands

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Tim Lui-Kwan, Esq.  
c/o Ms. Joan Castberg  
Page 2

located within the Agricultural District. Special Permit No. 906 was issued for the establishment of a quarry and stockpiling operation in 1995. The applicant is presently requesting an amendment to Condition No. 11 of Special Permit No. 906 to allow a five-year extension of time to continue quarry and stockpiling operations. Since no active agricultural activity is being conducted on the subject property, the continued use as a quarry and stockpiling operation will not permanently impact the existing or future agricultural potential of this site and surrounding properties.

The continuation of the quarry and stockpiling operation will not adversely affect the surrounding properties. The two quarry sites, when comprised together, total less than 11 acres (10.78±). They are situated within a larger 500+ acre parcel, thereby providing ample buffer areas between the subject and surrounding properties. The applicant will be required to comply with all applicable rules and regulations pertaining to operational procedures and transporting of rock materials. These include rules of the Department of Health for air pollution. Since prevailing winds are westerly for the most part during the operational hours (7:00 A.M. to 5:00 P.M. Monday through Friday, with Saturday restricted to hauling quarried materials), the combination of air pollution compliance, wind direction and a natural vegetative buffer should control the fugitive dust from affecting surrounding properties.

While minimal rock crushing and blasting are planned, it is not anticipated to have significant impacts on surrounding properties because of the distance from the nearest residence. The nearest residence from the "Pit Lot" is 750 feet and the nearest residence from the "Hill Lot" is 2,000 feet. A vegetative buffer currently exists between the homestead properties and the quarry sites.

Furthermore, in accordance with Condition No. 7, the applicant must notify property owners and residents within 2,000 feet from any blasting that will take place on-site. The notification shall be made no less than 24 hours prior to occurrence. An annual monitoring report in compliance with Condition No. 12 of the Planning Commission's approval letter dated July 27, 1995, is a requirement of this permit. The annual monitoring report details the amount of material quarried, a listing of public complaints or problems, and their disposition. In the 4 years that the applicant has been operating the quarry and stockpiling operation, no official complaints have been filed with the Planning Department. However, if the Planning Department determines that the use is having an adverse impact on surrounding properties after complaint, mediation and mitigation, its findings will be forwarded to the Planning Commission to cease the operations.

The continuation of the quarry and stockpiling operation will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school

improvements, police and fire protection. Access to the quarry site is restricted to an existing driveway directly from the Pahoa-Kalapana Road. Access from Alaili Road shall not be permitted. In doing so, quarry traffic along Alaili Road is eliminated, thereby reducing direct impacts to adjacent property owners. The removal of about 15 to 20 truckloads of rock material per day from Monday through Friday, with Saturday restricted to hauling quarried materials, should not have significant impact on the Pahoa-Kalapana Road. The applicant will be required to comply with all applicable rules and regulations of the Statewide Traffic Code for transporting rock materials on highways. Moreover, since the applicant will be providing water catchment and portable waste disposal systems for its employees, these agencies should not be burdened by the continuation of the quarry.

The land upon which the quarry operation is situated is unsuited for the uses permitted within the district. As previously mentioned, the lands are classified "Other Important" by the ALISH Maps and are rated "D" and "E" for agricultural productivity. The inundation of portions of the property by a 1955 lava flow further contributes to the unsuitableness of the property for agricultural purposes. It should be noted that the County's Agricultural zoned district permits commercial excavation of natural material with the securing of a special permit.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The State Land Use Commission placed many areas of the County into the Agricultural District without examining sites specific characteristics relating to agricultural productivity or potential. In this instance, the lava flow rendered the land in question unsuitable for farming. However, through a Special Permit, agricultural lands may be used for commercial excavation of natural material. Moreover, because quarrying is resource-based, alternative sites are locationally restricted.

The continued quarry operation use will not substantially alter or change the essential character of the land and its present use. The continuance of the quarry should not change the essential character of the land, which was covered by a lava flow in 1955. Furthermore, Condition No. 4 states the following:

"Prior to commencing operations, a Site Restoration Plan, which assures the site will be left in a nonhazardous condition, shall be reviewed by the Department of Public Works and submitted to the Planning Department for review and approval."



The request will not be contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the area as Orchards. The project complement's the following goals and policies of the General Plan Economic and Natural Resources and Shoreline Elements:

- The County shall strive for diversification of its economy by strengthening industries and attracting new endeavors.
- Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.
- The County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse impacts on the environment.

The project site is not a habitat for endangered species of flora or fauna, nor is the site listed on the Hawaii or National Register of Historic Places. No identified drainageways traverse the effected area. Based on the above goals and policies, the quarry operation within the project site is an unusual and reasonable use of land, which would not be contrary to the objectives sought to be accomplished by the Land Use law and Regulations.

To be consistent with quarry permits recently approved, the Planning Department is recommending that Condition No. 11 of the permit be amended to state that quarry operations shall be valid until termination or abandonment of the activity; rather than be limited to 5 years.

Approval of this request is subject to the following conditions (bracketed material is deleted and underlined material is added). Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

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 Hawaii 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 Special Permit or relating to or connected with the granting of this Special Permit.

3. Prior to commencing operations, a map and metes and bounds description of the quarry sites shall be filed with the Planning Department and the project sites staked accordingly.
4. Prior to the commencing operations, a Site Restoration Plan, which assures the site will be left in a nonhazardous condition, shall be reviewed by the Department of Public Works and submitted to the Planning Department for review and approval.
5. Prior to commencing operations, the applicant shall obtain all necessary permits and approvals, including but not limited to those from the Fire Department and the Department of Health.
6. Quarrying activities shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on Mondays through Fridays. Machinery operations shall start no earlier than 8:00 a.m.. Activities on Saturdays shall be restricted to hauling quarried material.
7. The applicant shall notify property owners and residents within 2,000 feet from any blasting site of such activity. The notification shall be made no less than 24 hours prior to the occurrence.
8. As represented by the applicant, access to the quarry sites be restricted to an existing driveway. Access from Alaili Road shall not be permitted.
9. Should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, paving, or walls be encountered, work in the area shall immediately cease and the Planning Department shall be notified. Subsequent work shall proceed only upon issuance of an archaeological clearance from the State's Historic Preservation Division, when it finds that sufficient mitigative measures have been taken.
10. Upon termination or abandonment of the quarry operation, the sites shall be graded to blend with the surrounding area. The sites shall be left in a nonhazardous condition. Documentation which demonstrates compliance with this condition shall be submitted to the Planning Department for

Tim Lui-Kwan, Esq.  
c/o Ms. Joan Castberg  
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review and approval within ninety days from the termination or abandonment date.

11. This Special Permit shall be valid [for a period of five years from its effective date, or completion] until termination or abandonment of the [proposed] quarry activity, [whichever comes first] with written notice to the Planning Department upon termination of activity.
12. An annual monitoring report shall be submitted to the Hawaii County Planning Director prior to the anniversary date of the approval of this permit. The report shall include, but not be limited to, the amount of material quarried or removed, a detailed listing of public complaints or problems, and their disposition. Should conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the County of Hawaii Planning Commission that the quarry use will have an adverse impact on surrounding properties.
13. Should any of the conditions not be met or substantially complied with, the Director shall initiate procedures to revoke the permit.

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 contact Susan Gagorik or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman  
Planning Commission

Lsanford01PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Sanford's Service Center