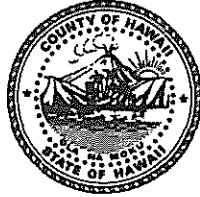


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 301

March 8, 1996

Mr. Ken Kiyosaki
Kiyosaki Tractor Works, Inc.
1703-C Ainaola Drive
Hilo, HI 96720

Dear Mr. Kiyosaki:

Special Permit Application (SPP 96-2)
Applicant: Kiyosaki Tractor Works, Inc.
Request: Establish a Rock Quarry
Tax Map Key: 2-1-13:Portion of 2

The Planning Commission at its duly held public hearing on February 23, 1996, voted to approve the above-referenced application. Special Permit No. 930 is hereby issued to allow the establishment of a quarry, stockpile and rock crushing operation on approximately 13.333 acres of land situated within the State Land Use Agricultural District. The property is located to the south of the County's solid waste transfer station and sanitary landfill sites at Waiakea, South Hilo, Hawaii.

Approval of this request is based on the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. 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. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The project site is located within an area whose soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH Map. In addition, the project site was previously quarried 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.

Lands within agricultural districts might not always be best suited for agricultural activities and yet classified as such. Also, there are certain types of uses which might not be strictly agricultural in nature, yet reasonable in such districts. As such, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district.

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The subject property is situated within the County's Agricultural-20 acres (A-20a) zone district. The proposed quarry operation would be situated on a 13.333 acre portion of a 2,759 acres of land. The proposed 13.333 acres of land that will be taken out of the agricultural inventory for this area will not significantly affect the agricultural resource of the area. The proposed quarry operation would not displace any active agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in agricultural use. Therefore, based on the above circumstances, approval of the request would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions.

The desired use will not adversely affect the surrounding properties. The surrounding properties include the County of Hawaii solid waste transfer station and landfill sites, other quarrying operations and vacant State-owned lands. There are no dwellings or urban developments within 300 feet of the perimeter of the boundary of the project site. Dust and air-borne particles will be mitigated through the application of rules and regulations pertaining to operational procedures and transporting of rock materials, including regulations of the Department of Health. From a visual and public safety standpoint, a condition of the State Land License requires the applicant to restore the area to a state which would blend with the surrounding topography of the area. All required measures to minimize traffic, dust and noise will be adhered to by the applicant.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage and police and fire protection. Access to the proposed quarry will be from an existing 50-foot road that borders the south side of the quarry site and connects to the landfill access road. The length of the road is approximately one mile long. Three-tenths of a mile of the roadway is crushed rock approximately 30 feet in graded width. The other seven-tenths is paved approximately 24 feet in the center with 15 feet wide graded crushed rock shoulders. Since the applicant will be providing onsite water catchment and portable wastewater disposal systems, these agencies should not be burdened by the establishment of the quarry.

The land upon which the proposed use is sought is unsuitable for the uses permitted within the district. As previously mentioned, the lands are rated "E" or "Very Poor" for agricultural productivity and unclassified by the ALISH Map. The project site was previously quarried. It should be noted that the County's Agricultural zoned district permits commercial excavation of natural material.

The use will not substantially alter or change the essential character of the land and the present use. The proposed quarry use should not change the essential character of the land, which was previously quarried. However, the applicant will be required to comply with the terms and conditions of the State Land License which includes a quarry and stockpiling plan prior to commencement of the quarry operations. In addition, two (2) years prior to the license expiration date or termination of the use, a site reclamation plan would need to be submitted and approved by the Board of Land and Natural Resources.

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. Because quarrying is resource-based, alternative

sites are locationally restricted. Other previous and existing quarrying activities occurring 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 request is not contrary to the General Plan. The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Orchard uses. The project would complement 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 Registers of Historic Places. No identified drainageways traverse the affected area.

Based on the above considerations, the proposed 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.

Approval of this request is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant 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 and agents under this permit or relating to or connected with the approval of this permit.
3. Quarry activity shall commence within two (2) years from the effective date of this permit. A written notification of commencement of quarry activity shall be submitted to the Planning Department.
4. Quarrying activities shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. daily.

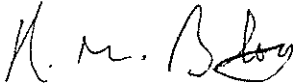
5. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease, and the DLNR-HPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
6. The life of this Special Permit shall be co-terminous with the State Department of Land and Natural Resources Land License.
7. Within ninety (90) days after termination of the quarry operation or abandonment of the project site, appropriate documentation which demonstrates compliance with the Department of Land and Natural Resources' approved site reclamation plan shall be submitted to the Planning Department.
8. An annual monitoring report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and the progress in complying with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and/or the Planning Director acknowledges that further reports are not required.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors 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 General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - D. The time extension granted shall be for a period not to 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).

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

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LKiyos01.PC

cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources