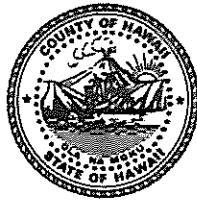


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 323 437

July 25, 1996

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Special Permit Application (SPP 96-8)  
Applicant: Yamada & Sons, Inc. dba YS Rock  
Request: Establish a Quarry and Related Use  
Tax Map Key: 2-1-13:Portion of 4

The Planning Commission at its duly held public hearing on July 11, 1996, voted to approve the above-referenced application. Special Permit No. 936 is hereby issued to allow the establishment of a quarry and related uses on approximately 14.90 acres of land situated within the State Land Use Agricultural District. The property is located adjacent and to the east side of the Hawaii National Guard Site, approximately 3,000 feet east of the County's Sanitary Landfill Site at Honohonouui, South Hilo, Hawaii.

Approval of this request is based on the following:

The proposed 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.

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 may not be strictly agricultural in nature, yet reasonable in such districts. As such, the legislature has

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provided for the Special Permit process to allow for certain unusual and reasonable uses within the Agricultural district. 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 14.9 acre portion of a 137.3 acre parcel. The proposed 14.9 acres of land that will be taken out of the agricultural inventory for this area will not significantly affect the agricultural resources or potential of the area nor displace any active agricultural activity since this parcel has not been in agricultural use. The establishment of a quarry on the subject property would be an unusual and reasonable use of the land. 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 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 Industrial and Orchard uses. The project would complement the following goals and policies of the General Plan:

*Land Use - Industrial Element:*

- \* Industrial activities may be located close to raw material or key resources. The ability of the subject property to provide the needed raw material vital to the construction industry while able to absorb the noxious nature of quarries speaks to the appropriateness of the area for such uses.

*Economic:*

- \* The County shall strive for diversification of its economy by strengthening industries and attracting new endeavors.

*Natural Resources and Shoreline Elements:*

- \* 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 desired use will not adversely affect the surrounding properties. The surrounding properties include the County of Hawaii landfill sites, other quarrying operations and vacant State-owned lands. There are no dwellings or urban developments within the area. Existing uses surrounding the property include other quarry activities, wastewater treatment plant, the landfill site, the airport, a skeet range and the Hawaii National Guard training facility. Dust and air-borne particles will be mitigated by watering down the roadway and complying with regulations of the Department of Health. From a visual and public safety standpoint, a condition will be included to require 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 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 soils in this area are not suitable for many types of agricultural uses. The project site is presently being quarried and the request is to continue quarry activities in an expanded area. Surrounding parcels are also in quarry use and industrial-related activities.

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 submit photographs of existing conditions and submit restoration plans, including landscaping of the land to be altered. This condition of approval will ensure that the restoration, visual and public safety concerns will be mitigated to the best extent possible.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. There are many areas in the County where lands within the Agricultural District are not in active agricultural productivity. Because quarrying is resource-based, sites are locationally restricted. Other previous and existing quarrying activities have occurred in the vicinity of the project site which makes this an appropriate site. Through the special permit process, appropriate review of criteria is conducted for considering the granting of this request. As such, no existing or proposed areas for agricultural activities will be curtailed or diminished as a result of establishing this activity on the property.

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 the existing paved landfill access road onto State land, of which the applicant has been granted permission to use. The existing section of the access road is hard-packed gravel approximately 20 feet wide. The road then widens to 25-30 feet wide and partially paved. For dust mitigation, the applicant will bring in tanker trucks to water down the roadway. Portable restrooms will be brought to the property. Agencies reviewing the request had no objections to the quarry.

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.

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. Prior to commencing operations, Final Plan Approval for the quarry operation shall be secured from the Planning Department within two years from the effective date of the Special Permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of 45 days prior to the date by which plan approval must be secured. Plans shall identify structures, explosive storage area and parking associated with the proposed quarry operation.
4. In conjunction with submitting plans for Final Plan Approval, a map and metes and bounds description of the 14.9 acre area for the quarry shall be filed with the Planning Director.
5. Within four (4) months of receipt of Final Plan Approval, a Site Restoration and Revegetation Plan, which assures the site will be left in a nonhazardous condition, shall be submitted to the Planning Director. The Plan shall include photographs of the area and a topography map of the project site and its related surroundings. This Plan shall be reviewed by Bernice Pauahi Bishop Estate, the Natural Resources Conservation Service and the Department of Public Works and submitted to the Planning Director for review and approval.
6. A written notification of commencement of quarry activity shall be submitted to the Planning Department.
7. Quarrying activities shall be limited to the hours of 7:00 a.m. and 6:00 p.m. daily.
8. The life of this Special Permit shall be co-terminus with the Bernice Pauahi Bishop Estate License Agreement.
9. Within ninety (90) days after termination of the quarry operation or abandonment of the project site, appropriate documentation which demonstrates compliance with the Site Restoration and Revegetation Plan shall be submitted to the Planning Department.
10. 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 Department of Land and Natural Resources - Historic Preservation Division (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.
11. Comply with all applicable laws, rules, regulations and requirements of affected agencies.
12. 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.

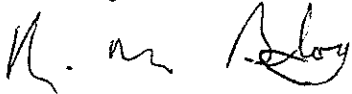
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- B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be 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).

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

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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  
Yamada & Sons, Inc.