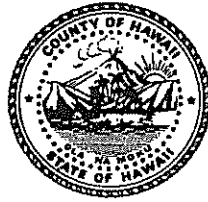


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
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FEB 01 2001

Roy R. Takemoto, Esq.
P.O. Box 10217
Hilo, HI 96721

Dear Mr. Takemoto:

Special Permit Application (SPP 00-046)
Applicant: Puna Rock Co. Ltd., a Hawaii Corporation
Request: Establish a Rock Quarry and Related Uses
Tax Map Key: 1-6-3:Portion of 101

The Planning Commission at its duly held public hearing on January 19, 2001, voted to approve the above-referenced application. Special Permit No. 1096 is hereby issued to allow a rock quarry and related activities on approximately 14.903 acres of land within the State Land Use Agricultural District. The project site is located approximately 1/2 mile east of the Keaau Bypass Road and about 1/3 mile southeast of the 8 1/2 mile Camp, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicant is requesting to establish a rock quarry and related uses. The applicant currently operates a rock quarry in the Shipman Industrial Park and desires to relocate the operations to the project site due to the urbanization of the existing location. The proposed site is in a more remote location with ample land area to buffer the quarrying operations.

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 "D" or "Poor" with some "C" or "Fair", by the Land Study Bureau's Overall

FEB 01 2001

Master Productivity Rating and "Unclassified" by the Department of Agriculture's ALISH Map. The applicant proposes to conduct quarrying operations within a 14.9-acre portion of the subject property. The parcel of over 279 acres in size, therefore the removal of 14.9 acres would not significantly impact the potential for future agricultural use of the project site and the surrounding area.

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 agricultural in nature, yet reasonable in such districts. As such, the legislature has 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 quarry operation will be situated on a 14.9-acre portion of a larger 279 acre parcel. The 14.9 acres of land is vacant and would not significantly affect the agricultural resources or potential of the area nor significantly displace any active agricultural activity. According to the applicant and its tenant, Keaau Banana Plantation, Inc., the soils are very rocky and have produced very poor banana yields. 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 Land Use Pattern Allocation Guide (LUPAG) Map, which designates the area as Orchards with some Extensive Agricultural. Lands surrounding the project site are used for banana cultivation. Across the road, lands are in papaya cultivation. While the project site itself is not proposed for agricultural use, the quarry operations will be limited to 14.9 acres. Further, a condition of approval is included to require the re-vegetation and grading of the project site upon termination. The project would also 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, salutation, 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. Properties immediately surrounding the subject parcel are similarly zoned A-20a. Surrounding properties consist mainly of formerly cultivated sugar cane lands and the former Puna Sugar Company, now the site of Hawaii Electric Light Company, Inc. (HELCO) power plant. Immediate surrounding lands are now cultivated in banana (north), and papaya (south and west). The 8-1/2 mile camp is approximately one-half mile northwest of the subject property. Approximately three-fourths of a mile northwest on the private section of Milo Street is the school site for Hawaii Christian Liberties School. Within that same vicinity is the new papaya irradiation facility (1-6-3:19). Further, approximately one mile northwest, is Urban designated lands zoned MCX-20, which was approved for James McCully. To minimize any impacts to surrounding residents or businesses in the area, conditions will limit the hours and days of operation. Further, the applicant would be required to restore the area upon termination of quarrying activities to a state which would blend with the surrounding topography of the area. As the area itself, has mixed uses – including residential, a school and agricultural uses, a condition is included to require an annual monitoring report to be filed with the Planning Director which includes the identification of all complaints received by the applicant as well as its final disposition. All required measures to minimize traffic, dust and noise will continue to be adhered to by the applicant. Finally, no community comments were received on this application.

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 "D" or "Very Poor" with some "C" or "Fair," for agricultural productivity and unclassified by the ALISH Map. The soils in this area are not suitable for many types of agricultural uses. As previously stated, a requirement that the land be re-vegetated and contoured to a non-hazardous condition will provide for future opportunities for agricultural use.

The use will not substantially alter or change the essential character of the land and the present use. The quarry operations will change activity on a 14.9-acre portion to the subject property. However, the lands have been identified as unproductive by its

current lessee, Keaau Banana Plantation, Inc. Therefore, although removing agricultural lands, it is not anticipated that significant lands would be affected by the quarry operations.

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. Existing quarry operations in the Shipman Industrial Park have been ongoing since the early 1970's. However, the area has been changing and becoming more urbanized. The proposed new area can better accommodate the quarry operations. Through the special permit process, appropriate review of criteria is conducted for considering the granting of this request. No existing or proposed areas for agricultural activities will be curtailed or diminished as a result of allowing the quarrying activities within this portion of the subject 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 Railroad Avenue, which has an existing right of way of 50 feet. The road is presently graveled and approximately 12 feet wide. The applicant proposes to pave the road to a width of 20 feet to help reduce dust and noise.

The applicant proposes to drill a well onsite and construct a reservoir as a water source. If the well becomes too costly, the applicant proposes to connect to the county water system. Water will be trucked to the project site to provide for dust control. Portable toilets will be provided on-site. All other essential utilities and services are or can be made available to support the quarrying operations.

The project site is not a habitat for endangered species of flora or fauna nor are archaeological resources at risk. As the lands have been cultivated, it is not anticipated that flora or fauna nor archaeological resources are at risk. However, the applicant shall be required to submit a letter of clearance from the Department of Land and Natural Resources, prior to any land altering activities.

Based on the above considerations, the establishment of a quarry and related activities 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. Should any of these conditions not be met or complied with in a timely manner, the Director may initiate procedures to revoke the permit.

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. A map and metes and bounds description of the 14.9-acre quarry site shall be filed with the Planning Department within one year from the effective date of this permit.
3. The quarrying activity, including the loading and hauling, shall be limited to between the hours of 6 a.m. and 6 p.m. on Mondays through Saturdays only.
4. The life of this Special Permit shall be co-terminus with the License Agreement with W.H. Shipman, Ltd. or until abandonment, whichever occurs first, with notification to the Planning Director upon termination of activity.
5. Upon termination of the operations or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding areas and revegetated. Further, the site shall be left in a nonhazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Director for review and approval within ninety (90) days from the termination or abandonment date.
6. That all other applicable laws, requirements, rules and regulations, including those of the Department of Health, be complied with.
7. An annual monitoring report shall be submitted to the Planning Director prior to the anniversary date of the approval of the amendment request. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems and their disposition. Should a conflict arise, which cannot be mitigated or mediated, the Planning Commission may revoke the permit, after due notice to the permittee and an opportunity for a hearing, if it finds that the introduced use will have an excessive and unreasonable adverse impact on surrounding properties.
8. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 4, may be granted by the Planning Director upon the following circumstances:
 - a) the nonperformance 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;

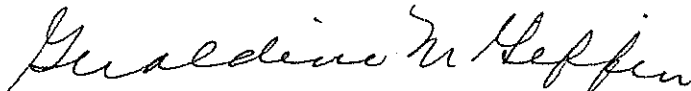
Roy R. Takemoto, Esq.
Page 6

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

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Lpunarock02PC

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
Mr. Russell Kuwaye