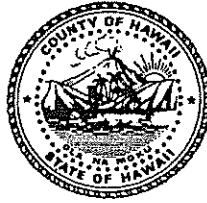


Harry Kim  
Mayor



Geraldine M. Giffin  
Chairperson

## County of Hawaii

### PLANNING COMMISSION

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(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL  
7000 0600 0024 2904 2404

March 29, 2001

Robert E. Bethea, Esq.  
688 Kinoole Street, Suite 105  
Hilo, HI 96720

Dear Mr. Bethea:

Special Permit Application (SPP 01-02)  
Applicant: Yamada & Sons, Inc.  
Request: Establish a Quarry and Related Uses  
Tax Map Key: 2-1-13:portion of 4

The Planning Commission at its duly held public hearing on March 16, 2001, voted to approve the above-referenced application. Special Permit No. 1107 is hereby issued to establish a quarry and related uses on approximately 14.906 acres of land in the State Land Use Agricultural District. The project site is located adjacent to existing quarry sites, to the east of the Hawaii National Guard Site, and northeast of the County's Sanitary Landfill, Honohononui, South Hilo, Hawaii.

Approval of this request is based on the following:

The applicant, Yamada & Sons, Inc. is requesting a Special Permit in order to expand their existing quarry uses. Original quarry uses were established on the subject property on approximately 10 acres of land with approval by the Traffic and Planning Commission in 1962. Subsequently in 1996, the Planning Commission approved Special Permit No. 936, to allow the applicant to expand on an approximately 14.9 acres adjacent to the existing pit in order to quarry basaltic "blue rock" which is good for asphalt/concrete mixing, concrete and landscaping purposes. Yamada and Sons, Inc. is presently requesting that they be allowed to further expand the existing quarry on additional 14.9 acres of land adjacent to the existing pit. The license agreement with Bernice Pauahi Bishop Estate is for approximately 50 acres of land.

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

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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" of "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH Map. In addition, approval of a Special Permit for this quarry, will not introduce a new use that would be detrimental to the County's inventory of Agricultural lands as the project site has previously been quarried and has not been actively used for agricultural activities.

Lands within agricultural districts might not always be best suited for agricultural activities and yet classified as such. Recognizably, there are certain types of uses which may not be strictly 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 proposed quarry operation would be situated on a 14.9-acre portion of a 137.3-acre parcel. The applicant has quarried in this location since 1962, when it first secured a variance from the Planning and Traffic Commission, with expansion of the area in 1996 for another 14.9 acres. The additional 14.9 acres of land proposed to be used will allow the applicant to continue ongoing quarry activities in the area by further obtaining "blue rock" material. Although the State Land Use Commission expressed some concerns regarding a new permit rather than an amendment to the existing permit, the Planning Director had no objections to a separate permit being secured for the additional quarry area. Expansion of the quarry use, is unlike a development, where there is full build-out at some point in time. Rather, in a quarry operation, as the quarry expands, the applicant is actually looking for new areas, leaving behind areas that have been excavated and where the desired materials may no longer be available.

Finally, the additional 14.9 acres 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. There is also another quarry operation on the same subject property for Jas W. Glover on a northeastern portion of the parcel. Allowing continuous use of a quarry on an expanded area by the applicant 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 granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program.

Based on a previous archaeological study submitted by the applicant for an earlier request (SPP 936) for the wastewater treatment plant, and according to the applicant, the parcel has been previously cleared; therefore, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. There is no designated public access to the mountain areas over the property. The subject property is located over one mile from the nearest shoreline and is adjacent to existing quarry and industrial uses. The proposed development will not impact any recreational, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards nor beach erosion. Finally, due to its location, it is not anticipated that the proposed activities would significantly obstruct any ocean (makai) views or significantly affect view planes. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The request is not contrary to the General Plan. The subject request is not contrary to the General Plan Land Use Pattern Allocation Guide Map (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:*

- \* Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- \* 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.
- \* 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.

*Economic:*

- \* The County shall strive for diversification of its economy by strengthening industries and attracting new endeavors.
- \* Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.

- \* The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

*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.

In order to provide for raw construction materials that is vital to our construction industry, quarries must be established in locations where there is an abundance of these raw materials. For this reason, quarries, while industrial in character, cannot be confined to Industrial-designated areas. As evidenced by the issuance of Special Permits for other quarries within the affected area, this particular area contains the raw materials essential to our construction industry. The establishment of the proposed quarry in this particular location will not adversely impact our agricultural resources, as many of the uses are industrial in nature.

The desired use will not adversely affect the surrounding properties. The surrounding properties include the County of Hawaii landfill sites, the airport, skeet range, other quarry operations, the Hawaii National Guard training facility and vacant State-owned lands. There are no dwellings or urban developments within this immediate vicinity. Dust and air-borne particles will be mitigated by watering down the roadway and complying with regulations of the Department of Health. Further, the property is of sufficient size, 137+ acres, to minimize any physical, social or other impacts that the activity may have on the surrounding area. 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. Finally, as a condition of approval, hours of operation shall be limited to the hours between 6:00 a.m. to 6:00 p.m. daily.

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 physical character of the area has already been altered due to previous and ongoing quarry activities. The applicant originally secured a variance from the Planning and Traffic Commission in 1962 to conduct quarry activities in this vicinity. There is a separate quarry permit for Jas W. Glover (SPP No. 1008) further north on the same subject parcel. Special Permits were also secured for quarry activities in 1996 on TMK: 2-1-13:2, southwest of the area, by Jas W. Glover, Yamada and Sons, Inc. and Kiyosaki Tractor Works. Further, the applicant would be required to submit an Erosion Control and Site Restoration Plan as a requirement of the permit. 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 operations are resource-based, sites are locationally restricted. Other previous and ongoing quarry activities in the vicinity of the project site have shown that the materials are available in this area, which makes this an appropriate site. Although quarry operations, due to its noisy, dusty and hazardous conditions, are typically permitted on Industrial-zoned lands, raw material may not always be available on industrial-zoned sites. With a vast amount of Agricultural-designated lands within the County of Hawaii, it can be anticipated that many of these resource sites will be discovered on these Agricultural-designated lands. Through the special permit process, however, appropriate review of criteria is conducted for considering the granting such requests. In this particular situation, 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 quarry is approximately one mile from the landfill access road. The beginning section of the access road is hard-packed gravel approximately 20 feet wide. The road then widens to approximately 40 feet wide and is paved. For dust mitigation, the applicant will bring in tanker trucks to water down the roadway. Agencies reviewing the request had no objections to the quarry.

The subject parcel was originally cleared by the applicant. Previous archaeological surveys in the area determined that there are no significant sites or resources that are endangered. Further, it was determined that the area is not listed on the Hawaii or National Register of Historic Sites. However, due to concern by the Department of Land and Natural Resources regarding the Puna Trail, a condition is included to require a letter of clearance.

Based on the above considerations, the proposed expansion of an existing 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.

We should note that the prior Special Permits approved by the Planning Commission included a condition that limited the life of the permit to a specific time period or which ran co-terminous with the terms of the license agreement between the landowner to the applicant. Upon re-evaluation, due to the nature of a quarry with its limited life based on availability of material, there will not be a condition to limit the life of the Special Permit for this quarry. In this particular case, there is no concern regarding the impact to surrounding properties or communities, no adverse impact to traffic or public services, and no adverse impact to the environment. However, a condition will be included to require the applicant to notify the Planning Department upon termination/abandonment of the quarry operation.

Approval of this request is subject to the following conditions. However, should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Quarry operations shall commence within two (2) years from the effective date of this permit with a written notification to be submitted to the Planning Department. Photographs of the area and a description of the topography of the project site and its related surrounding areas, reflecting the area prior to commencing operations, shall also be submitted with the notification.
3. Prior to any land clearing activities or commencing operation of the quarry, the applicant shall submit to the Planning Department a written letter of clearance regarding the Puna Trail from the Department of Land and Natural Resources – Na Ala Hele Program.

4. Prior to commencing construction of any structures, Final Plan Approval for those structure(s) shall be secured from the Planning Department in accordance with Chapter 25-2-70 (Zoning Code). Plans shall identify any proposed structures and parking associated with the proposed quarry operation.
5. Quarrying activities shall be limited to the hours of 6:00 a.m. and 6:00 p.m. daily.
6. An Erosion Control and Site Restoration Plan shall be submitted for review and approval by the Planning Director, in consultation with the Department of Public Works, one year prior to the termination of quarry activities.
7. Upon termination of the quarry operation or abandonment of the quarry activities, the land shall be graded to blend with the surrounding area and rehabilitated as approved in the Erosion Control and Site Restoration Plan. The affected site shall be left in a non-hazardous condition. Appropriate documentation, including photographs, which demonstrates compliance with this condition shall be submitted to the Planning Department and the Department of Public Works for review and approval within 90 days after termination and/or abandonment of the quarry operations.
8. Should any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, walls, or lava tubes 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.
9. Comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the expanded use.
10. An initial 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.

Robert E. Bethea, Esq.

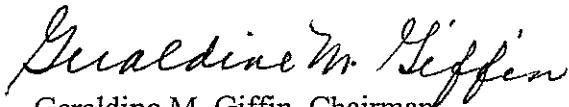
Page 8

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

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Lyamada&sonssp01-002PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Brian Minaai, Director/DOT-Highways, Honolulu  
Yamada & Sons, Inc.