



## County of Hawai'i

### WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

January 31, 2011

Yamada & Sons, Inc.  
733 Kanoelehua Avenue  
Hilo, HI 96720

Gentlemen:

Special Permit Application (SPP 10-000110)

Applicant: Yamada & Sons, Inc.

Request: To Establish Quarry and Related Uses on 14.99 Acres in  
State Land Use Agricultural District

Tax Map Key: 2-1-13:portion 2

The Windward Planning Commission at its duly held public hearing on January 6, 2011, voted to approve the above-referenced special permit to allow for the establishment of a quarry and related uses on a 14.99-acre portion of a larger 2,500±-acre parcel situated within the State Land Use Agricultural District. The project site is located to the south of the Hilo Sanitary Landfill and adjacent to the east of existing quarries within the district of Waiākea, South Hilo, Hawai'i.

Approval of the request is based on the following:

The applicant, Yamada & Sons, Inc., is requesting a Special Permit in order to establish and operate a quarry and related uses on a 14.99-acre portion of a 2,407-acre parcel. The applicant has quarried three other properties nearby in the past but these sites are now inactive because either the supply of material has been exhausted or the license to quarry materials at these sites has expired. Quarrying of the new site would allow the applicant to supply aggregate materials, concrete, and hot-mix asphalt for its general contracting business and for sale to the general public. Quarried material would be transported to the applicant's crusher site which is located off Railroad Avenue, within the industrial area. All material would be hauled by the applicant's trucks. Quarry operations would be from 6:00 a.m. to 6:00 p.m., daily. During peak operation periods, there will be a maximum of ten (10) employees on-site. There will be no retail sales on-site.

*Hawai'i County is an Equal Opportunity Provider and Employer*

The criteria for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. Rule 6-6 states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

**The proposed use is an unusual and reasonable use of land situated within the Agricultural District.** In recognizing that lands within the Agricultural district might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. Based on the poor soil conditions of the project site for agricultural activities, the proposed request is considered an unusual and reasonable use of agricultural land in this location within the State Land Use Agricultural District.

**The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.** The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. Soils on the project site are identified by the USDA Soil Survey Report as Paipai series (rPae), which consist of well-drained, thin, extremely stony organic soils over fragmented a'a lava. The Land Study Bureau's Overall Master Productivity Rating for the site is "E" or "Very Poor" for agricultural production. Additionally, the property is classified as Other Important Agricultural Land by the Department of Agriculture's ALISH system. As the site is currently vacant and is not in active agricultural use, the use will not displace any existing agricultural activity or diminish the agricultural potential of the site. Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

**(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** The request is considered an unusual and reasonable use of agricultural lands. The requested use will not adversely affect the preservation and agricultural use of the County's prime agricultural land; thus, the request is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

**(B) The desired use would not adversely affect surrounding properties.** The project site is a 14.99-acre portion of an approximately 2,407-acre State-owned parcel. Lands to the north, east and south are vacant and heavily vegetated. Immediately west of the site is a quarry operated by Jas W. Glover. Additional quarries are located further west and the County's transfer station and landfill site are located northwest of the site. The County's *Integrated Resources and Solid Waste Management Plan* identifies these quarry sites as a potential location for future expansion of the South Hilo landfill. The plan does not identify any conflict with the proposed quarry, and in fact Exhibit 9-1 of the plan already identifies the subject site as a "future quarry." The closest dwellings are located about half a mile from the proposed quarry site. Potential impacts typically associated with quarry operations include dust and noise. However, these impacts can be mitigated by the applicant complying with Department of Health rules and regulations related to air quality and noise. A condition of approval will also limit hours of operation to between 6:00 a.m. to 6:00 p.m., daily.

**(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.** Access to and from the site is via Ammunition Dump Road, which is a two-lane road that meanders over County, State and Department of Hawaiian Home Lands property. The paved portion of the road varies in width but is mostly 30 feet wide and ranges in condition from excellent to poor. The applicant estimates that the quarry operation will require use of 4 to 5 rock-hauling trucks making about three trips per hour between the quarry and the applicant's crusher site at its base yard which is located between Railroad Avenue and Ammunition Dump Road on TMK's 2-1-025:001, 041, and 042. Traffic will not increase on the Ammunition Dump Road since the new quarry site is replacing other sites presently used by the applicant that are also accessed via the same road using the same trucks and frequency of travel. Electrical and telephone are not required for the quarry operation. Water for dust suppression will either be trucked to the site or provided by catchment tank. Portable toilets will be provided and maintained for employees to use at the site. Medical, police and fire services are all available nearby in Hilo.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** Since the district boundaries and regulations were established in the 1960's and 1970's, the State DLNR has issued several

land licenses in the area for quarry operations because this area has proven to be a valuable source of raw material used in the construction industry. Through the issuance of a Special Permit, a community may establish various “non-agricultural” services that are reasonable but unusual in nature such as quarries.

**(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.** The proposed quarry site is currently not used for agricultural purposes. As previously mentioned the lands are rated "E" or "Very Poor" for agricultural productivity and classified as Other Important Agricultural Land by the ALISH Map. Other Important Agricultural Land is land other than Prime or Unique Agricultural Land that is of statewide or local importance for the production of food, feed, fiber and forage crops. The lands in this classification are important to agriculture in Hawai'i yet they exhibit properties, such as seasonal wetness, erodibility, limited rooting zone, slope, flooding, or droughtiness, that exclude them from the Prime or Unique Agricultural Land classifications. The soils in this area are not suitable for many types of agricultural uses, which may explain why the site has not historically been used for agricultural purposes although it is classified for such use.

**(F) The use will substantially alter or change the essential character of the land and the present use.** The character of the property is vacant land that has been recently grubbed of vegetation. Thus, removal of raw materials from the site will substantially alter the essential character of the land. However, there are several quarries located to the west and other industrial-type land uses to the northwest in close proximity to the project site. Therefore, although the character of the 14.99-acre site will be substantially altered, the proposed use is consistent with other land uses in the nearby area. Additionally, the DLNR land license for the site requires that upon closure or abandonment of the quarry, the applicant leave the site in a non-hazardous condition.

**(G) The request will not be contrary to the General Plan.** Although the request is not consistent with the General Plan LUPAG Map “Important Agricultural Land” designation, it does meet several of the goals and policies of the General Plan, including the following:

*Land Use:*

- 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.
- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.

*Natural Resources and Shoreline Elements:*

- Ensure that alteration 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 are vital to the 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 the construction industry. The establishment of the proposed quarry in this particular location will not adversely impact agricultural resources, as many of the uses are industrial in nature. 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 restricted in location by the availability of raw materials. 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 to establish a quarry.

**The request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.** The project site is not proximate to the shoreline and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. Thus, the request is consistent with the objectives and policies of HRS, Chapter 205A.

**The request will not have a significant adverse impact to traditional and customary Hawaiian Rights.** In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: An intensive on-foot archaeological survey of the property was conducted by Rechtman Consulting in May 2006. Also in 2006, Dr. Ron Terry of Geometrician Associates made an effort to obtain information about any potential cultural properties and associated practices occurring on the site. A walk-through botanical survey of the site was conducted in April 2006 by botanist Layne Yoshida.

The valuable cultural, historical, and natural resources found in the permit area: No valuable cultural, historic, or natural resources related to traditional and customary practices were identified on the site. In a letter dated November 20, 2006, the State Historic Preservation Division determined that no historic properties will be affected by the proposed quarry.

Possible adverse effect or impairment of valued resources: Native plants may be destroyed by quarry operations. There is no evidence that the flora in the area are particularly desired or used for cultural practices. The site is not adjacent and/or proximate to the shoreline. As such, gathering of marine life, fishing and coastal access is not an issue.

Feasible actions to protect native Hawaiian rights: To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and no action is necessary to protect these rights. A condition of approval will be included to require the applicant to notify the DLNR-SHPD should any unidentified sites or remains be encountered, and proceed only upon an archaeological clearance from the DLNR-SHPD.

Based on the above considerations, the approval of the request would support the objectives sought to be accomplished by the Land Use Laws 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 life of this permit shall be co-terminus with the Department of Land and Natural Resources land license issued to Yamada & Sons, Inc. for quarrying activities on the subject property.

3. Quarrying activities shall be limited to the hours of 6:00 a.m. and 6:00 p.m., daily.
4. Adequate dust control and noise mitigation shall be implemented for the duration of the operation in accordance with Department of Health requirements. The applicant shall provide an on-site water storage tank or truck water to the site to be used for dust control.
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 Department of Land and Natural Resources - State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
6. Within ninety (90) days after termination of the quarry operation or abandonment of the project site, the applicant shall submit to the Planning Department appropriate documentation which demonstrates compliance with the DLNR approved closure/site reclamation plan.
7. The applicant shall comply with all applicable County, State, and Federal laws, rules, regulations and requirements, including the United States Department of Labor's Mine Safety and Health Administration (MSHA) and Occupational Safety and Health Administration (OSHA).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedure 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.

Yamada & Sons, Inc.

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Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zendo Kern', with a long horizontal line extending to the right.

Zendo Kern, Chairman  
Windward Planning Commission

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cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources-Honolulu  
Department of Land & Natural Resources-HPD  
✓ Mr. Gilbert Bailado