

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

YAMADA & SONS, INC.
SPECIAL PERMIT APPLICATION PL-SPP-2022-000012

Upon review of the request against the guidelines for granting a Special Permit and pursuant to Planning Commission Rule No. 6-8 (b), **the Planning Director recommends that this request be approved by the Planning Commission and forwarded to the State Land Use Commission for final determination.** Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This approval recommendation is based on the following findings:

The applicant is requesting a Special Permit to establish a new quarry site on approximately 37.882 acres of land on a portion of a larger, 2,407-acre, State-owned property situated within the State Land Use Agricultural District. The State Board of Land and Natural Resources (BLNR) granted a twenty (20)-year license to the applicant in October 2021 to enter and quarry, stockpile, and remove rock and waste deposits for commercial use on the 37.882-acre permit area. A condition of approval will set the life of the special permit to be co-terminus with this land lease.

The applicant proposes to extract 25,000 tons of raw rock material per month, and with the excavation reaching a proposed depth of eighty (80) feet from existing grade, the quarry is expected to have an active lifetime of roughly thirty (30) years. Excavation of rock will be accomplished through the use of heavy equipment when possible. If impenetrable rock is encountered during excavation activities, drilling and blasting will be performed. As rock material is excavated, the perimeter of the permit area will have engineered fill with a 3:1 slope to avoid a sheer drop and facilitate future use should a suitable use be contemplated. A vegetative buffer will also be provided around the perimeter of the permit area.

The applicant has effectively exhausted its supply of quality rock material from its existing and adjacent 14.99-acre quarry that began operation in November 2010 under Special Permit No. 10-110. This new quarry operation would allow the applicant to

continue harvesting essential rock resources for the manufacture of base course, and components of hot mix asphalt and concrete needed for the construction of many public and private projects. Excavated rock will either be stockpiled on-site or removed and trucked off-site to Yamada & Sons' quarry baseyard located off of Railroad Avenue for crushing/processing and sale.

Hours of operation will be limited to between 6:00 a.m. to 6:00 p.m., daily as specified by the State license. During peak operation, there will be a maximum of ten (10) employees within the permit area at any given time.

No crushing, finish processing or sales activities will occur within the permit area. Instead, excavated, raw rock material will either be temporarily stockpiled within the permit area or immediately removed to applicant's baseyard facilities located along nearby Railroad Avenue via Ho'olaulima Road for crushing and processing into finish products. The applicant anticipates about 4 to 5 rock-hauling trucks, or 8 to 10 tractor trailers will be making about three (3) trips per hour between the proposed quarry and applicant's baseyard and processing facilities. All activities will conform to the State Department of Health regulations.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules of Practice and Procedure. It 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 District; 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 State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes (HRS), 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 Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. In recognizing that lands within the Agricultural district may

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.

Although the property is designated for Agricultural uses by both the State Land Use Commission and the County Zoning Code, its soils are considered very poor and not optimal to support agricultural activities. The request is considered unusual and reasonable in that the proposed quarry area has no direct relationship to any potential agricultural activities that could be conducted upon the property given its proximity to existing quarries and other nearby industrial uses such as the Hilo landfill, County Mass Transit Agency baseyard, County landfill, and airport. Therefore, based on the preceding 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.

In addition to the above listed criteria, the Planning Commission shall also consider the following criteria listed under Section 6-3(b)(5) (A) through (G) of its rules of practice and procedure:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations (Chapter 205, HRS and Land Use Commission Rules). As mentioned previously, approval of this request will not be contrary to the objectives of the State Land Use Law and is considered an unusual and reasonable use of the agricultural land due to the poor soil quality that is not conducive towards agricultural activities. Therefore, the proposed request will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

(B) The desired use would not adversely affect surrounding properties. Surrounding uses include the Hilo International Airport a little over a mile to the north; the County skeet range adjacent to the north; existing Yamada & Sons quarry and former quarries adjacent to the west; the County landfill and related solid waste operations about 600 feet to the northwest; County stockpile area approximately 2,000 feet to the northeast; the County's drag strip about 3,000 feet to the south; and the County's Mass

Transit baseyard about 1,500 feet to the southwest. The nearest dwellings are situated within the Pana'ewa Farm Lots, approximately 2,000 feet to the west of the permit area.

The existing quarry mining that has occurred since 2010 on the property adjacent to the permit area has been ongoing with existing levels of noise, dust and fumes generated by the operation. The proposed quarry site and surrounding areas have been subject to quarrying activities under licenses issued by the State and Special Permits issued by the County Planning Commission and State Land Use Commission over the past 26 years. The Planning Department is not aware of any complaints that have been generated by these on-going quarrying activities in this particular area.

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. Furthermore, as required by the State land license, the applicant will maintain a vegetative buffer around the permit area. Finally, 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. The preceding will be added as a condition of approval.

The past 26 years of quarrying activities have demonstrated that this particular location, and the project site in particular, is well-suited to support quarrying activities with minimal adverse impact to the surrounding community. Therefore, the proposed use is not anticipated to adversely affect surrounding properties.

(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 the permit area is provided by Ho'olaulima Road, a two-lane road within State land that the County maintains, with a meandering pavement width of about 30 feet that ranges in condition from excellent to poor. Ho'olaulima Road is an extension of Leilani Street that also serves the County's Hilo landfill, its sort station, greenwaste, and other county-operated facilities within the immediate area. According to the application, all quarry associated traffic will be accommodated solely by Ho'olaulima

Road, thereby keeping all traffic generally within the County's solid waste processing complexes and internal roadway network.

The applicant anticipates about 4 to 5 rock-hauling trucks, or 8 to 10 tractor trailers will be making about three (3) trips per hour between the proposed quarry and applicant's baseyard and processing facilities. However, due to the damage to the roadway and safety concerns between regular vehicle traffic to solid waste facilities and other recreational facilities in the area, the Department of Environmental Management has required that the current use of rock haulers cease once quarrying operations of the permit area commences. Instead, the applicant must use highway legal vehicles to haul quarried materials from the quarry site to the applicant's processing facilities. Furthermore, DEM requires that the applicant inform them of the starting date of the quarry operations. The preceding will be added as a condition of approval.

According to the State DOT, the proposed project will have no anticipated impact to State highways.

While the proposed permit area is situated 1.75 miles from the Hilo International Airport, the proposed use does not underlie any approach or departure flight tracks. Furthermore, due to the nature of the proposed quarry operations as an extension of an existing and adjacent quarry, there does not appear to be any situation that would be cause for concern upon airport operations, such as creating a wildlife attractant, visual glare due to standing water or any aerial obstructions. However, DOT-Airport's Division requested that the applicant coordinate with the Hawai'i Airports District Manager to ensure compliance with existing regulations. The preceding will be added as a condition of approval.

If applicable, the applicant will be required to secure an Air Pollution Control Permit, a National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit from the State Department of Health before the commencement of quarry activities.

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.

Based on the preceding, the proposed use will not unreasonably burden public agencies to provide services or infrastructure.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964.

The property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various "non-agricultural" services may be allowed. There are many areas in the County where lands within the Agricultural District are not in active agricultural productivity. As mentioned below, the conditions in the area are not optimal for agricultural uses and there is no evidence that agricultural activity has occurred on the subject property for decades.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The subject property is rated "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and Other Important Agricultural lands by the ALISH Map. The soils in this area are not suitable for many types of agricultural uses. Surrounding parcels are also in quarry use and industrial-related activities.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed permit area is vacant of any structures or improvements, however, due the area includes past stockpiling and baseyard activities within its eastern portion has left the land partially barren with the remainder consisting primarily of an albizia and weedy forest with few native trees. With the exception of a required vegetative buffer, the trees will be cleared, and the area will be quarried. Given

the historic use of the property and surrounding areas for quarry uses the proposed quarry use will not substantially change the character of the land.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan (GP) is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County.

While the GP LUPAG Map designates the permit area as “Important Agricultural Land”, the GP it also notes that, *“Because of the scale of the Land use Pattern Allocation Guide maps used to designate Important Agricultural Land, the location of these lands should be verified by more detailed mapping when considering specific land use decisions.”* Thus, given the poor soil quality and the historic use of the property for similar quarry purposes, the subject request is not contrary to the General Plan LUPAG Map. The project will 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.
- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawai‘i

Natural Resources and Shoreline Elements:

- The County of Hawai‘i should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse impacts on the environment.

- 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.

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 subject property and surrounding 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 proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai‘i Revised Statutes, relating to the coastal zone management program. The permit area is located approximately 2.9 miles from the nearest coastline and does not contain streams or waterways that empty into the sea and therefore will not cause beach erosion or affect marine resources, coastal ecosystems, and coastal recreational opportunities, nor will the property be affected by coastal hazards.

The property is located well outside of the Special Management Area (SMA) and tsunami evacuation zone. Additionally, there is no designated public access to the shoreline areas or mountain areas over the property. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

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: 1) An archaeological inventory survey (AIS) of the permit area was conducted by ASM affiliates and detailed in a report dated September 2019; 2) a cultural impact assessment (CIA) of the permit area was conducted by ASM affiliates and detailed in a report dated September 2019; 3) as part of the EA process, the Office of Hawaiian Affairs, the Keaukaha-Pana'ewa Farmers Association, and the Sierra Club were also consulted by mail to determine whether they had any information on natural or cultural resources that might be present or affected; and 4) as part of the EA process, a walk-through biological survey of the entire permit area was performed over the course of five days in April and July 2019.

The valuable cultural, historical, and natural resources found in the permit area: The AIS concluded that, "...*the Yamada & Sons, Inc. quarry and stockpiling project will not impact any known historic properties*" and that "*no further work needs to be conducted within the [project site]...*" The draft AIS was submitted to SHPD as part of the EA process in 2019, however, they did not provide any concurrence to the "no impact" determination contained therein. The draft AIS was submitted to SHPD as part of this Special Permit review, however at the date of this writing, we have not received any comments.

The CIA concluded that there are no known customary or Native Hawaiian cultural rights exercised within the permit area.

According to the EA, there are no caves, springs, pu'u, native forest groves or other natural features. Combined with the highly disturbed vegetation that is dominated by invasive, weedy species and secondary growth in most areas, the permit area does not contain the quality of resources that would be important for native gathering. The EA concludes that, "*While the gathering of natural resources from the Pana'ewa forest remains an important part of the cultural practices of this community, no explicit reference was made to such practices occurring in the actual area proposed for the quarry license, which has experienced extreme disturbance, is dominated by invasive trees, and other than isolated 'ohi'a and hala trees does not contain other native trees or*

‘āwa. Because of the proposed location outside intact ‘ōhi‘a forest, it is not anticipated that the proposed quarry project will impact these cultural practices, based on the information obtained through the consultation efforts.”

The biological surveys, as detailed in the EA, concluded that it is “...*unlikely that many other species of native forest birds would be expected to use the project site due to its low elevation, alien vegetation, and lack of adequate forest resources. However, it is not inconceivable that Hawai‘i ‘amakihi are sometimes present, as some populations of this native honeycreeper appear to have adapted to the mosquito-borne diseases of the Hawaiian lowlands. The common migratory shorebird Pacific golden plover, which is often seen inland in grassy areas, may occasionally be present.*” In summary, the surveys found no rare, threatened, or endangered species of plants or animals or their habitats within the permit area. However, as the Hawaiian Hawk, Hawaiian Hoary Bat, and Hawaiian Seabirds may be found in the vicinity of the project site, the applicant proposed mitigation measures in the EA. Furthermore, as the permit area contains a few isolated ‘Ōhi‘a trees, the applicant proposed to implement mitigation protocols to minimize the spread of Rapid ‘Ōhi‘a Death (ROD).

In their memo dated April 22, 2022, the DLNR Division of Forestry and Wildlife (DOFAW) concurred with the proposed mitigation measures outlined above. In addition, they identified the State listed Hawaiian Goose as having the potential to occur in the vicinity of the permit area, thus they recommended mitigation measures to protect that species.

Possible adverse effect or impairment of valued resources: Historic and cultural resources may inadvertently be discovered during quarry operations. 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. Endangered and threatened plant and animal species may be adversely affected during vegetation clearing and ongoing quarry operations.

Feasible actions to protect native Hawaiian rights and valued resources: 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 the permit will require the applicant to stop work and notify the DLNR-SHPD should any unidentified sites or remains be encountered and proceed with quarry activities only upon receiving an archaeological clearance from the DLNR-SHPD.

Further conditions of approval will address mitigation protocols to protect any endangered or listed animal and plant species that may be found within the permit area.

Based on the preceding considerations, the quarry operation and accessory uses within the project site are 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 successors or assigns (Applicant) shall comply with all of the stated conditions of approval.
2. The proposed quarry operation shall be developed and conducted in a manner that is substantially representative of Land license No. S-359 and plans and details contained within the Special Permit Application dated November 23, 2022, any supplemental material, and the representations made before the Windward Planning Commission. Any expansion of uses beyond what is represented in this document shall require an amendment to this permit.
3. The life of this permit shall be co-terminus with the expiration date of Land license No. S-359 issued to Yamada & Sons, Inc. for quarrying activities within the Special Permit area.
4. Quarrying activities shall be limited to the hours of 6:00 a.m. to 6:00 p.m. daily.
5. Prior to commencement of quarrying activities, the Applicant shall notify the Department of Environmental Management of the starting date of quarrying operations. Upon commencement of quarrying operations within the permit area, the Applicant shall only use highway legal vehicles to haul material from the quarry site to the Applicant's processing site.
6. The method of sewage disposal shall meet with the requirements of the Department of Health.
7. An Air Pollution Control Permit, if required, shall be secured from the State Department of Health before the commencement of quarry activities. Adequate

dust control mitigation measures shall be implemented for the duration of the quarry operation in accordance with Department of Health requirements. An adequate supply of water shall be made available for dust control.

8. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of quarry activities.
9. To protect any Hawaiian hoary bats in the vicinity of the property, woody vegetation over 15 feet in height shall not be removed during bat breeding season of June 1st to September 15th.
10. To protect any Hawaiian hawk in the vicinity of the property, vegetation clearing shall not occur within the permit area during hawk breeding season of March to September without first conducting surveys for hawk and goose nests and coordinating with US Fish and Wildlife Service if nests are found. Surveys shall be conducted by a qualified ornithologist. Additionally, no clearing or quarry activities shall occur within 1,600 feet of any active Hawaiian hawk nest during the breeding season until the young have fledged.
11. To protect any Hawaiian goose in the vicinity of the property, all quarry activities within 100 feet shall cease, and the bird should not be approached. Work may continue after the bird leaves the areas. If a nest is discovered at any point, the Applicant shall contact the Hawaii Island Branch DOFAW Office at (808) 974-4221.
12. To protect any seabirds (Hawaiian petrels and Newell's shearwaters) in the vicinity of the property, the Applicant shall install shielded outdoor lights to direct light downwards.
13. To protect 'ōhi'a trees from Rapid 'Ōhi'a Death (ROD) on the subject property, the Applicant shall comply with the following protocols: 1) Prior to clearing the edges of the quarry, any isolated 'ōhi'a trees on the boundary will be identified. Any such trees that are not planned for removal on the edges of the quarry will be protected from disturbance entirely or cut and chipped or buried to ensure that they do not present a ready target for ROD infection that could spread to other

- trees; 2) treat any unavoidable scars on ‘ōhi‘a trees that result from clearing to prevent infestation of the fungus; 3) stack all removed ‘ōhi‘a trees and dispose of by burying or chipping; do not remove from project site; and 4) decontaminate boots and work tools before and after working in an area with ‘ōhi‘a trees.
14. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the land clearing or quarry operations, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
 15. 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.
 16. The Applicant shall comply with all applicable laws, rules, regulations, and requirements of other affected agencies.
 17. Should any of these conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate procedures to revoke this permit.