
Daryn Arai
Land Use Planning Consultant

June 1, 2022

Mr. Dean Au, Chairperson
and Members of the Windward Planning Commission
County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720

Dear Chairperson Au:

Subject: Applicant's Response to Comments received from the
Keaukaha-Pana'ewa Farmers Association and the
Department of Hawaiian Home Lands regarding
Special Permit Application PL-SPP-2022-000012
Applicant: Yamada and Sons, Inc.
Request: Proposed quarry and related activities on 37.882 acres
TMK: 2-1-013: 002 (portion); Waiākea, South Hiloaa

On behalf of Yamada and Sons, Inc., the Applicant for the above-described matter, we would like to express our appreciation to the Keaukaha-Pana'ewa Farmers Association (KPFA) and the Department of Hawaiian Home Lands (DHHL) for the informative and productive dialogue regarding the proposed quarry operations that have occurred over the past couple of months, which have brought a greater understanding of the proposed project by the KPFA and DHHL and in turn, a greater understanding of their concerns by the Applicant.

The Applicant offers the following responses to comments received from both the KPFA and DHHL that are requesting a number of conditions to be included as part of the requested Special Permit, recited in full below, should it be recommended for approval by the Windward Planning Commission:

#1 Condition: This Condition shall be included in the Special Use Permit.

The application includes an Exit Plan 2041. Within four months of permit approval, the applicant shall develop an Exit Plan in consultation with KPFA and the Department of Hawaiian Home Lands (DHHL). The Exit Plan shall include mitigation efforts to leave 'āina in non-hazardous condition to ensure that the state property is not degraded. The Exit Plan shall include consideration for Hawaiian Home Commission Act (HHCA) beneficiaries, who reside or will reside in the KPFA community on HHCA lands in Pana'ewa. The site must not negatively impact HHCA lands or current/future beneficiaries. The Exit Plan shall include mitigation efforts to leave 'āina in nonhazardous condition.

Applicant's Response: The Applicant has no objections to developing an exit plan in coordination with the KPFA and DHHL, although developing such an exit plan may take much longer than 4 months since such a plan must also be coordinated with the State of Hawai'i. Applicant recommends that efforts to develop an exit plan commence within 4 months after issuance of the Special Permit. Note that the Condition 23 of the Land License also requires a "closure plan", and is recited below:

"23. Closure plans for the License Area shall require that the remaining quarry face will be stepped back, with a maximum twenty (20) foot rise at 1/4: 1 slope and a minimum ten (10) foot wide benches between each rise. This bench is provided to break up the vertical drop of the pit wall, provide safe access for quarry activities, and to control rockfall. All sides of the quarry shall be required to be left as a clean stabilized slope face without any protruding or perched rocks that may contribute to a rock fall problem."

#2 Condition: This Condition shall be included in the Special Use Permit.

Applicant shall confine all activity and access to the licensed area within normal quarry operation hours, Monday thru Friday, 7:00am to 3:30 pm only. No activities shall be permitted during weekend hours.

Applicant's Response: The Applicant has no objection to restricting the days and hours when noise generating activity will occur within the licensed area. However, we would like to retain the ability to access the licensed area for non-noise generating activity such as planning, surveying, staking, etc. within the hours specified in Condition 4 of the Planning Director's Recommendation.

#3 Condition: This Condition shall be included in the Special Use Permit.

Quarrying shall occur on the eastern most portions of the licensed area only. This area is located the farthest away from the HHCA Pana'ewa residents.

Applicant's Response: The Applicant respectfully objects to restricting quarrying operations within "the eastern most portions of the licensed area". The Applicant is currently paying license fees to the State of Hawai'i for the entire 37.882-acre project site that reside immediately to the east of the Applicant's existing 14.99-acre quarry.

The Applicant's existing quarry is about 80 feet deep. The proposed quarry will also be excavated to a final depth of around 80 feet. Quarrying only the eastern portion of the project site, to whatever extent this actually means, will leave an

80-foot tall perched wall of rock between the two quarries, which the Appantee believes will be counterproductive towards managing both quarry sites in a non-hazardous condition that could potentially support other uses.

Both the Final Environmental Assessment and the Planning Director's recommendation references a vegetative buffer around the periphery of the project site that will help to mitigate any noise and visual impacts, as well as provide an effective means of dust control in addition to watering. As years go by, quarrying activities will excavate deeper and deeper into the project site, creating an additional physical mitigative buffer. Overall, the Applicant believes that these mitigating actions are sufficient to address potential noise, visual and dust impacts caused by the proposed quarrying activities and that restricting quarrying activities to only the eastern portion of the project site is not necessary. Practically speaking, the proposed quarry site is located farther east from HHCA Pana'ewa residents than the Applicant's existing quarry operations, which have not demonstrated, over the course of 12 years of operation, any direct adverse effects upon this community.

#4 Condition: This Condition shall be included in the Special Use Permit.

Clarification language is required for "Transport Between Quarry and Baseyard" so that it is aligned/consistent with the permit application. This condition (sic) requires specific and unambiguous language regarding rock hauling. This condition shall include no transport on Railroad Avenue that borders and/or is adjacent to HCCA communities.

Applicant's Response: While the Applicant has no objections to the condition since it will not utilize Railroad Avenue for rock hauling between the proposed quarry and the Applicant's processing facilities, it is a redundant condition because the Director's recommended Condition No. 2 limits uses and activities to that represented in the Special Permit application, which expressly disclosed that rock hauling will be limited to that portion of Ho'olaulima Road between the proposed quarry and the Applicant's existing processing facilities.

#5 Condition: This Condition shall be included in the Special Use Permit.

Within two months of permit approval, the applicant shall prepare a water source plan for dust suppression and the plan shall be shared with KPFA and DHHL.

Applicant's Response: The Applicant has no objection to this condition, although we think that a "plan" is not necessary to define a "water source" for dust suppression. Water for dust suppression is obtained from the Applicant's existing

facilities outside of the proposed quarry site. No new water source will be established within the project site.

#6 Condition: This Condition shall be included in the Special Use Permit.

The Application states that the County of Hawai'i General Plan classifies the project site as "Important Agricultural Lands." The permit shall state that the project site is on "Important Agricultural Lands." In addition, the permit must include legend/key for Figures 4, 5, and 6; State Land Use, Zoning and LUPAG.

Applicant's Response: Figures identifying State Land Use, Zoning and LUPAG map designations for the project area is a part of the Special Permit application that is part of official record regarding this proceeding, with the respective land use designations narrated both within the application as well as the Planning Director's background report. The Applicant will defer to the Commission if additional clarification to the Figures contained within the record is necessary.

#7 Condition: This Condition shall be included in the Special Use Permit.

The permit shall describe the adjacent affected HCCA (sic) community of Pana'ewa with data and a map identifying number of residences and population of Ag and residential lots and include detail regarding distance between the project site and adjacent DHHL lands.

Applicant's Response: The Applicant will defer to the Windward Planning Commission regarding how best to respond to this proposed condition and how to acquire the requested information, although the Applicant did earlier provide the attached map to the KPFA President at her request. The Applicant does not have access to any population data specific to the DHHL agricultural and residential lots. We would believe that DHHL would be the repository for such information if deemed necessary for the purposes of this proceeding.

#8 Condition: This Condition shall be included in the Special Use Permit.

The permit shall include an acknowledgment that environmental injustices due to industrial and commercial development has impacted the surrounding HHCA communities adjacent and near the project area.

Applicant's Response: As this proposed condition seeks a specific statement to be made by the Windward Planning Commission, the Applicant must defer any decision on this matter to the County.

#9 Condition: This Condition shall be included in the Special Use Permit.

The permit shall include dates of public participation and which adjacent property owners were sent permit application notices.

Applicant's Response: The Applicant has provided the Planning Department with affidavits on when service was made to surrounding property owners within 1,000 feet of the project site as well as posting of a public notice sign fronting the project site. The listing of all property owners served by mail was included with the affidavits. The Applicant has had dialogue with the KPFA on the following dates:

- nn April 12, 2022 – Zoom meeting between Applicant and KPFA Ann
- nn April 17, 2022 – On-site inspection of project site by KPFA membersnn
- nn May 16, 2022 – Second on-site inspection by KPFA membersnn
- nn April 13, 2022 to present – a number of emails and phone discussions withnn KPFA President and member Nako'olani Warrington.nn

Notice of the filing of the Special Permit application with the County was served upon landowners within 1,000 feet of the project site on March 21, 2022. Notice of the Windward Planning Commission meeting on this matter was similarly served on May 16, 2022.

#10 Condition: This Condition shall be included in the Special Use Permit.

The permit shall include the date of the most recent General Plan and the date and name of the official Community Development Plan referenced in the Special Permit Use. The permit shall clearly indicate which Community Development Plan is being referenced, and if in fact, the referenced CDP has been adopted into the County Code.

Applicant's Response: The General Plan referenced within the Special Permit application was dated February 2005 and adopted by Ordinance No. 05-025 with an effective date of February 9, 2005, as subsequently amended. No CDP was referenced within the Special Permit application since there is no updated CDP for the South Hilo District beyond the 1975 Hilo Community Development Plan (HCDP). The Planning Director's Background Report did note that the HCDP does identify the permit area as Agricultural-5 acres (A-5a).

#13 Condition: This Condition shall be included in the Special Use Permit.

Prior to start of quarry operation, the applicant shall obtain all applicable state Department of Health (DOH) Clean Air Branch Permits for the proposed use.

Applicant's Response: This requested condition is address by Director-recommended Condition No. 7.

#14 Condition: This Condition shall be included in the Special Use Permit.

Prior to start of quarry operation, the applicant shall develop an air quality monitoring plan in collaboration with KPFA and DHHL and the air quality monitoring plan shall be approved by the state DOH Clean Air Branch.

Applicant's Response: The Applicant has no objection with working with both KPFA and DHHL regarding the development of an air quality monitoring plan, if one is required by the DOH Clean Air Branch, as long as such a plan conforms to applicable DOH standards and is specific to conditions within the project site and the Applicant's proposed quarry operations.

#15 Condition: This Condition shall be included in the Special Use Permit.

Prior to start of quarry operation, the applicant shall collect air quality samples to use as baseline information for future reference.

Applicant's Response: While the Applicant understands the intent of this request, it is unsure how this information will be managed since air quality can be influenced by a number of uses and factors within the project area, such as emissions from landfill and recycling activities, the drag strip, mass transit facility, and other quarries. A more appropriate approach would be to explore whether the DOH currently maintains baseline information regarding air quality in the general area and if not, whether they will be able to create such a baseline due to the broad range of activities within the general area extending from the airport to dragstrip. It would be unreasonable to require the Applicant to conduct baseline air sampling when it has committed itself to implementing best management practices to control dust generated by quarrying activities and to adhere to all DOH regulations.

#16 Condition: This Condition shall be included in the Special Use Permit.

Prior to start of quarry operation, the applicant shall install wind barriers around the area being mined and areas used for stockpiling.

Applicant's Response: The Applicant would prefer that in lieu of wind barriers, the maintenance of the existing vegetative barrier along the perimeter of the

project site be maintained, which is a much more effective wind barrier than a fabric fence that is less than 10 feet tall. A fabric wind barrier within an active quarry site also presents a safety concern as it limits views of within the quarry where large machines and personnel are present. Also, we are concerned about how the installation of a wind barrier will affect native wildlife, specifically birds and bat, identified to be present in the area.

#17 Condition: This Condition shall be included in the Special Use Permit.

During quarry operation, the applicant shall implement best management practices including but not limited to: regular watering of area being mined and stockpile areas.

Applicant's Response: The Applicant has no objection to this condition as it represents the Applicant's best management practices applied to its existing quarry operations that will be extended into the new quarry site. Note that Director's Condition No. 2 requires the Applicant to adhere to all representations made before the Windward Planning Commission and within its application, which speaks to implementing best management practices such as:

- Maintain a buffer of existing vegetation around the perimeter of the quarry site that will help to mitigate both noise and fugitive dust;
- Phasing of the project to disturb the minimum area of soil at a particular time;
- Establish slope protection as soon as possible to promote natural vegetation growth and increase perimeter vegetation buffer;
- Maintain on-site travel routes to minimize dust and runoff;
- On-site dust will be monitored by Yamada and Sons, Inc. supervisory personnel and dust suppression measures will be implemented as needed;
- A stabilized construction entrance/exit will be installed and maintained to help eliminate vehicle tracking from the license area onto Ho'olaulima Road;
- All quarry-related traffic between the license area and our baseyard facility will be limited to one haul route via Ho'olaulima Road; and

- aa The haul route will also be monitored by Yamada and Sons, Inc.aa supervisory personnel. If their haul vehicles track shoulder materialaa onto Hoolaulima Road, they can deploy our water truck(s) and/oraa pavement sweeper(s) equipped with dust suppression systems to cleanaa off the haul route as needed.aa

#18 Condition: This Condition shall be included in the Special Use Permit.

The applicant shall purchase at least two air quality monitoring stations and coordinate with KPFA and DHHL the installation of these stations on DHHL lands. Ownership of the monitoring stations shall be transferred to KPFA. KPFA shall will check and regularly monitor air quality.

Applicant's Response: The Applicant is concerned that its purchase of air quality monitoring stations to be donated to the KPFA is an exaction that attempts to address air quality concerns beyond the scope of the Applicant's proposed quarry operations within the 37.882-acre site. The Applicant has committed to implementing best management practices as discussed above and to comply with DOH regulations regarding air quality standards as well as collaborating with the KPFA and DHHL on an air quality monitoring plan, if required, in compliance with DOH standards. The Applicant is more than willing to implement measures to address impacts that its proposed quarry operations will generate, but if best management practices and adherence to all applicable government standards will be implemented, it is unfair to require the Applicant to purchase air quality monitoring equipment that is not intended to address specific air quality issues directly caused by the Applicant within this specific project site.

#19 Condition: This Condition shall be included in the Special Use Permit.

During operation, the applicant shall cease quarry operations should air quality monitoring detect levels of pollutants higher than DOH accepted levels. Operations shall cease until additional mitigation measures that are satisfactory to KPFA and DHHL are implemented.

Applicant's Response: The Applicant cannot agree to this condition as written as it cannot be assured that any detectable levels of pollutants that exceed DOH standards were specifically generated by the Applicant's quarry operations. The Applicant recommends that any protocols in response to excessive air pollutant levels be developed as part of the air quality monitoring plan, which, if required, will be developed in collaboration with the KPFA and DHHL in accordance with DOH standards and requirements.

Mr. Dean Au, Chairperson
and Members of the Windward Planning Commission
Page 9 of 9
June 1, 2022

Thank you for the opportunity to provide the Applicant's response to these comments and for the Commission's thoughtful consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daryn Arai', with a stylized flourish at the end.

DARYN ARAI
Land Use Planning Consultant

copy via email: Shellbylynn Yamada, President, Yamada and Sons, Inc.

