



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii'i 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

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Coastal Zone
Management
Program

August 26, 2022

Environmental Review
Program

TO: Daniel Orodener, Executive Officer
Land Use Commission

Land Use Commission

Land Use Division

FROM: Mary Alice Evans, Director
Office of Planning and Sustainable Development

Special Plans Branch

State Transit-Oriented
Development

SUBJECT: SP22-414 (PL-SPP-2022-000012)
Applicant: Yamada and Sons, Inc.
Request: To Establish a Quarry and Related Activities
TMK: (3) 2-1-013:002 (por.)
Waiakea, South Hilo, Island of Hawaii

Statewide Geographic
Information System

Statewide
Sustainability Branch



The Office of Planning and Sustainable Development (OPSD) recommends the Land Use Commission (LUC) approve the application for a Special Permit, SP22-414, as transmitted by the County of Hawaii, pursuant to the Windward Planning Commission's (WPC) recommendation for approval, including the conditions of approval, dated July 7, 2022.

OPSD provides the following in support of the County's recommendation.

Factual and Procedural Background

Yamada and Sons, Inc. (Applicant) seeks to expand an existing quarry operation on a 37.882-acre portion (Permit Area) of a larger 2,407-acre parcel owned by State of Hawaii. The larger parcel is under the jurisdiction of the Department of Land and Natural Resources (DLNR) and is within the State Land Use Agricultural District. In order to operate a quarry in the Permit Area, a license from the DLNR and a Special Permit from the County of Hawaii and the LUC is required.

The Applicant is a construction material supplier and general contracting company that specializes in construction, asphalt paving, excavating, and grading. The Applicant currently operates a 14.99-acre quarry adjacent to the Permit Area under a DLNR license and a Special Permit approved by the County in 2011 that enables the Applicant to provide all types of quality aggregate, asphalt concrete, and ready-mixed concrete. The supply of rock from this quarry has been exhausted and the Applicant seeks a new supply.

In the immediate vicinity of the Permit Area is the current Yamada quarry, the County landfill, County skeet shooting range, a County stockpile site, and former quarries. (Special Permit Application, Figure 2.) Also nearby is the County recycling station and the County Mass Transit Baseyard. Lands to the east and south of the Area are vacant State-owned lands, including an existing forest of Ohia trees with sparse understory of Uluhe fern southeast of the site. The nearest non-industrial use is the Department of Hawaiian Home Land's (DHHL) Panaewa Farm Lots on the east side of Railroad Avenue, 2,000 feet west of the Permit Area.

The use life of the Permit Area quarry is estimated at 20-30 years. The term of the special permit is set at the low end of the quarry's useful life, i.e., 20 years. Approximately 25,000 tons of rock material will be excavated per month, with excavation reaching a maximum depth of approximately 80 feet from the existing grade. The quarry operation will consist of heavy equipment excavation and, if necessary, drilling and blasting. Operating hours are restricted by license to 6:00 a.m. to 6:00 p.m. daily, but Applicant's normal hours of operation are 7:00 a.m. to 3:30 p.m. The Permit Area will only be used for quarrying. Quarry material will be transported to the Applicant's existing baseyard and processing facility nearby via Hoolaulima Road. This will involve four to five rock-hauling trucks or eight to 10 tractor trailers making three trips per hour. The Applicant will provide a vegetation buffer on the perimeter of the quarry to minimize the impact on adjacent uses.

On January 21, 2020, DLNR transmitted a Final Environmental Assessment and Finding of no Significant Impact (FEA-FONSI) to the Office of Environmental Quality Control for the proposed sale of a quarry license at public auction for the Permit Area. On October 28, 2021, the State Board of Land and Natural Resources granted a quarry license to the Applicant for the Permit Area for a period of 20 years, from October 1, 2021 through September 30, 2041.

Subsequently, pursuant to Hawaii Revised Statutes (HRS) § 205-6 and Hawaii Administrative Rules (HAR) §15-15-95 (b), the Applicant applied to Hawaii County for a Special Permit, PL-SPP-2022-000012, to allow quarry use in the State Agricultural District. On July 7, 2022, the Hawaii County Windward Planning Commission (WPC) voted to approve the Special Permit for a period co-terminus with the duration of the DLNR quarry license. Finally, on August 15, 2022, the LUC received the minutes of the 7/7/22 WPC meeting and the meeting transcript approved by the WPC on August 4, 2022, thus completing the record for SP22-414.

Special Permit Guidelines

The guidelines for Special Permits are contained within HAR §15-15-95, which allows certain "unusual and reasonable" uses within Agricultural and Rural Districts other than those for which the district is classified. HAR §15-15-95 lists five (5) guidelines for determining whether a proposed use is "unusual and reasonable". OPSD assessed the Special Permit application in relation to these guidelines and found as follows:

A. The use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, HRS, and the rules of the Commission.

Hawaii Revised Statutes (HRS) Chapter 205, among other things, seeks to protect good agricultural lands and ensure their continued availability for agricultural use. It provides that the Agricultural District shall include lands with a high capacity for agricultural production, grazing, or other agricultural uses. Chapter 205 recognizes that some lands in the Agricultural District may not be suitable for the uses permitted in the District and therefore other uses may be allowed with a Special Permit. Particularly where the use is time-limited and within a larger agricultural area where small, urbanized pockets should be discouraged, a Special Permit for a particular use is appropriate.

In this case, the Permit Area contains soils of mostly poor quality. According to the Land Study Bureau (LSB), the soils on the site have been classified as having an overall (master) productivity rating of “E” (“Very Poor”). Consequently, allowing a Special Permit for a non-agricultural use would not conflict with Chapter 205’s goal of protecting good agricultural land. The operation of the quarry is necessary to ensure that the Hawaii Island construction industry has an on-island source of base course material and is an “unusual and reasonable” use.

The Permit Area is zoned “Agricultural (A-20a)” under County zoning and is classified as “Important Agricultural Lands” on the County’s General Plan Land Use Pattern Allocation Guide (LUPAG) map. However, the General Plan 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.” In this case, the special permit area has poor soil quality and is surrounded by other industrial uses. Furthermore, quarry use of the Permit Area supports other industrial land use, economic, and natural resources goals and policies of the County General Plan. (Permit Application, pg. 5, and County Planning Department Recommendation, pgs. 7-8.) Consequently, when looking at the details of the particular parcel, the special permit area is not consistent with the broad IAL description on the LUPAG map.

As part of the Final Environmental Assessment (FEA) prepared by the Applicant for the quarry, an Archaeological Inventory Survey (AIS) and a Cultural Impact Analysis (CIA) was conducted. The AIS found no impact to historic properties and the CIA found that no impact on traditional and customary native Hawaiian cultural activities. (Permit Application, pgs. 10–11.)

Also included in the FEA is a biological survey that found no rare, threatened or endangered species of plants or animals or habitats in the Permit Area. In response to DLNR-Division of Forestry and Wildlife comments, the Applicant will avoid impacts to

the endangered Hawaiian hawk and the Hawaiian hoary bat by refraining from activities in the Permit Area that will disturb or remove vegetation taller than 15 feet between June 1 and September 15, and if land clearing occurs between March and September, a pre-construction hawk nest search will be conducted. If Hawaiian hawk nests are present, no land clearing will be done until October after hawk nestlings have fledged. In addition, any exterior lighting will be shielded to minimize the potential impact on seabirds. Finally, as the Permit Area contains a few isolated Ohia trees, the Applicant will implement mitigation protocols to minimize the spread of Rapid Ohia Death. (Permit Application, pgs. 9-10.)

Regarding the objectives of HRS Chapter 205A, the quarry use is not contrary to Coastal Zone Management program objectives and policies. The Permit Area is approximately 2.9 miles from the shoreline, does not contain streams or waterways that connect with the ocean, and is not within the Special Management Area or tsunami evacuation zone. (County Planning Department Recommendation, pg. 8.)

B. The desired use would not adversely affect surrounding property.

The Permit Area is within an area historically used for public and private industrial facilities and is surrounded by existing industrial uses. Agricultural lands to the east and south of the Permit Area are vacant and LSB-rated "E". There would be no adverse effect on these uses.

The nearest area with residences to the Permit Area is DHHL's Panaewa Farm Lots. The Applicant, DHHL, and the Keaukaha Panaewa Farmers Association (KPFA) agreed on several conditions to minimize any adverse impacts to the current and future residents of the KPFA community. (DHHL and KPFA Testimony Before the WPC, July 7, 2022.) Two are particularly noteworthy:

1. The development of an Exit (closure) Plan in consultation with KPFA and DHHL to leave the Permit Area in a non-hazardous condition and not adversely impact Hawaiian Homes Commission Act lands or current or future beneficiaries.
2. Active quarrying, including transport, shall be restricted to the period from Monday through Friday, between the hours of 7:00 a.m. to 3:30 p.m. All non-active, low-noise generating quarry-related activities, such as site planning, surveying, staking, mobilization of equipment between the Permit Area and Applicant's processing facilities, etc. shall be limited to the hours of 6:00 a.m. to 6:00 p.m. daily.

Thus, the quarry will have no adverse effect on the Panaewa Farm Lots.

C. The use would not unreasonably burden public agencies to provide streets, sewers, water, drainage, schools, fire, and police resources.

Hawaii County has determined that the quarry use will not unreasonably burden County services or infrastructure. The Applicant has an existing quarry operation adjacent to the

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Permit Area and no additional traffic impacts are anticipated. Electrical and telephone service is not required for the quarry operation. The only need for water is for dust suppression and this will be either brought to the site by truck or provided by a catchment tank. Portable toilets will be provided. Medical, police and fire services are available nearby in Hilo. (County Recommendation, pgs. 4-6.)

The Permit Area is approximately 1.75 miles from the Runway 8/26 centerline at Hilo International Airport. Consequently, the State Department of Transportation (DOT), Airports Division advised the Applicant to avoid any potential impacts on aircraft operations such as aerial obstructions and hazardous wildlife attractants. However, the proposed quarry is in effect an extension of an existing and adjacent quarry and therefore should not have any negative impacts on the Airport or aircraft operations. The Applicant has agreed to coordinate with the Airports Division Hawaii District Manager to ensure compliance with existing regulations. (DOT Comment Letter, April 20, 2022; County Planning Department Recommendation, pg. 5.)

The DOT, Highways Division has stated that the proposed quarry will have no expected impact on State Highways facilities.

Thus, the quarry use would not unreasonably burden public agencies.

D. Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established.

As noted earlier, the quarry is necessary to ensure that the Hawaii Island construction industry has an on-island source of base course material and is an “unusual and reasonable” use. Base course material is a necessary and critical component of the various types of construction activity without which the industry cannot function.

E. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

As noted earlier, the site contains soils of mostly poor quality. The LSB classifies the soils on the project site as having an overall (master) productivity rating as “E”.

Recommendation

Having reviewed the application and applied the available information to the applicable Special Permit guidelines, OPSD supports the Special Permit for a 20-year period to be co-terminus with the duration of the DLNR license as approved by the WPC and recommends that the LUC concur with the WPC’s decision and approve the Special Permit.

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If you have any questions, please contact Aaron Setogawa of our Land Use Division at email aaron.h.setogawa@hawaii.gov.