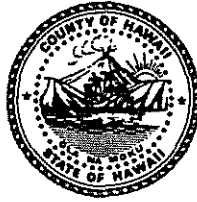


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
Z 095 323 334

NOV 04 1997

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Amendment to Special Permit No. 423 (SPP 423)
Applicant: Silversword, Ltd. and MacFarms of Hawaii, Inc.
Request: Construct and Operate an Activated Carbon and
Co-Generation Power Facility
Tax Map Key: 8-9-12:Portion of 8

The Planning Commission at its duly held public hearing on October 24, 1997, voted to approve the above-referenced request. Special Permit No. 423 allowed the establishment of a macadamia nut processing facility and related improvements on 14.9 acres of land within the State Land Use Agricultural District. The amendment is to allow the expansion of the existing facility with the construction and operation of an activated carbon and co-generation power facility. The property is located on the mauka side of the Hawaii Belt Road approximately 2-3 miles north of the Manuka State Park at Kapua, South Kona, Hawaii.

Approval of this request is based on the following:

Approval of this request would not be contrary to the General Plan or the Zoning Code. The amendment to Special Permit No. 423 would not be contrary to the original reasons for granting the Special Permit. The request is consistent with the Land Use Element of the General Plan by encouraging and strengthening existing and future agricultural activities in the area. It is also a fact that the granting of this request would also complement the Economic goal of the General Plan which states that "The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors." The property has been used as a macadamia nut orchard and processing plant for many years. The proposed use would not displace any agricultural activity nor diminish the agricultural potential of the area. Rather the proposal is directly related to an agricultural activity.

The desired use will not adversely affect the surrounding properties. The surrounding areas are zoned Agricultural (A-5a) and consist of macadamia nut orchards. The nearest residences are MacFarms employee housing located approximately 500 feet makai of the site. Hawaiian Ocean View Subdivision is located 6 miles away to the south. Other sparsely developed agricultural subdivisions are

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located approximately 2 miles to the north of the project site. The proposed activated carbon and co-generation power facility will be located within the 14.955 acre parcel. The facility is not expected to generate any significant noise levels. Noise levels will meet OSHA limits. During the operational phase of the project, there should be little fugitive dust from handling of the macadamia nut shells, as the shells are dense and do not generate much dust, unlike the husks. There will also be reduced air emissions from the generating system as the new process will be burning primarily low-Btu gas and to a lesser extent the oil resulting from the processing of the shells. As such, the impact to immediately adjoining property owners should not be overly significant. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social or other impacts that this activated carbon and co-generation power facility may have on the neighborhood.

The use will not substantially alter or change the essential character of the land and the present use. The proposed activated carbon and co-generation power facility would not be inconsistent with the character of the area. There is an existing macadamia nut processing plant on a portion of the 14.955 acre site. The project will convert the macadamia nut shell from MacFarms processing operations and other macadamia nut farms into higher level products of activated carbon, and relatedly, pyrolysis oil and low-Btu gas. The heat generated in this process, plus the pyrolysis oil and low-Btu gas products will be used to generate between 1 to 7 Mw of electrical power at the MacFarms processing facility. The power will initially be used for MacFarms' irrigation system and processing facility. The balance could be integrated into HELCO's power grid system. The oil is also used by the chemical and pharmaceutical industries. It can also be used by other energy users within the State as a displacement of distillate oil. Thus, the granting of this proposed expansion is not expected to produce any new impacts. The nature of the proposed expansion will not significantly change what is already existing.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, police and fire protection. Access to the project site is off Hawaii Belt Highway which has a pavement width of 24 feet within an 80-foot right-of-way. The 50-foot roadway easement that serves as access to the facility is paved with an 18-20 foot wide pavement. All essential utilities such as electricity, water and telephone are available to the subject property. Traffic would be generated by the activated carbon and co-generation power facility. However, the impacts of the facility is relatively small. No additional road improvements are needed to support the request. All requirements of the Department of Health, Department of Public Works and Fire Department shall be complied with prior to establishment of the proposed use, including that of the State Department of Transportation, Highways Division. Therefore, the proposed activated carbon and co-generation power facility is consistent with the policy and standards set forth in the General Plan.

Based on the above considerations, the construction and operation of an activated carbon and co-generation power facility is considered 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.

Special Permit No. 423 is amended as follows (Material to be deleted is bracketed and material to be added is underscored):

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- [1.]2. [That plans for the first phase of development shall be submitted for plan approval and be approved within one (1) year from the effective date of approval of the Special Permit. The first phase shall include the husking operation and related facilities.] Construction of the activated carbon and co-generation power facility shall be completed within five (5) years from the effective date of this amendment to the Special Permit. Prior to the start of construction, the applicant shall secure Final Plan Approval, in accordance with Chapter 25-2-70 (Zoning Code), from the Planning Department. Plans shall identify structures, landscaping around the perimeter of the parking area, fire protection measures and parking stalls in accordance with Chapter 25 (Zoning Code).
- [2. That construction of the proposed facilities planned for Phase I shall commence within one (1) year from the date of receipt of final plan approval and be completed within two (2) years thereafter.]
- [3. That the remaining facilities shall be constructed within five (5) years from the date of completion of the improvements within the first phase.]
- [4.] 3. That the proposed [processing] facilities and storage buildings shall be set back a minimum of 90 feet from all property lines. Other structures such as the administration building, with the approval of the Planning Director, may use the normal setback requirements of the Agricultural zoned district.
4. The applicant shall comply with Department of Health requirements, which shall include applicable air quality, noise level and health standards.
5. [That t]The requirements of the State Department of Transportation, [Land Transportation Facilities Division,] and the State Department of Health shall be complied with.
6. [That p]Plans for the private water system shall be submitted to the Department of Water Supply for its review.
7. [That a]All other applicable rules, regulations, and requirements shall be complied with.
8. 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 applicants, 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.

Mr. Sidney Fuke
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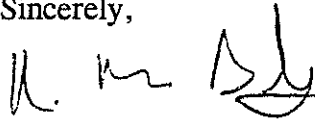
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

It should be noted that failure to comply with the above-stated conditions, particularly those related to time, may be reason for termination of the Special Permit by the Planning Commission.

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

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

LMacFa01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
State Land Use Commission
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. Kenneth Schweers

June 22, 1979

Mr. Lonnie Brown
Mac Farms of Hawaii, Inc.
P.O. Box 24, Star Route
Capt. Cook, HI 96704

Dear Mr. Brown:

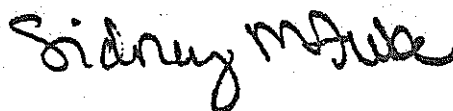
Special Permit Application
Establishment of Macadamia Nut Processing
Facilities and Related Improvements
Tax Map Key 8-9-12: Portions of 8, 9 & 18

This is to inform you that the Governor of the State of Hawaii recently signed House Bill No. 1232 into law. In essence, the law states that the final approval of any Special Permit requests which involve less than fifteen (15) acres rests with the County.

Based on the above, we are pleased to inform you that the Planning Commission's action of May 31, 1979, is hereby declared final. On this basis, you may submit your construction plans with our office.

Should you have any questions on the matter, please feel free to contact us.

Sincerely,



Sidney Fuke
Planning Director

NH/lgv

cc State Land Use Commission
Planning Commission

June 6, 1979

Mr. Lonnie Brown
Mac Farms of Hawaii, Inc.
P. O. Box 24, Star Route
Capt. Cook, HI 96704

Dear Mr. Brown:

Special Permit Application
Tax Map Key 8-9-12:portions of 8, 9, & 18

The Planning Commission at its regular meeting of May 31, 1979, considered your application for a special permit to allow the establishment of a macadamia nut processing facility and related improvements on 14.9 acres of land situated within the State Land Use Agricultural District at Kapua, South Kona, Hawaii.

The Commission voted to forward a favorable recommendation to the Land Use Commission subject to the following conditions:

1. That plans for the first phase of development shall be submitted for plan approval and be approved within one (1) year from the effective date of approval of the Special Permit. The first phase shall include the husking operation and related facilities.
2. That construction of the proposed facilities planned for Phase I shall commence within one (1) year from the date of receipt of final plan approval and be completed within two (2) years thereafter.
3. That the remaining facilities shall be constructed within five (5) years from the date of completion of the improvements within the first phase.

EXHIBIT CC JUN 6 1979