

## County of Hawai'i

### PLANNING COMMISSION

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October 21, 2008

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

Dear Mr. Fuke:

Special Permit Application (SPP 08-000066)

Applicant: Robert Hamilton

Request: Water and Beverage Bottling Plant and Related Uses

Tax Map Key: 1-6-3:portion 104

The Planning Commission at its duly held public hearing on October 3, 2008, voted to approve the above-referenced application to allow the establishment of a water and beverage bottling plant and related improvements on approximately 14 acres of land situated within the State Land Use Agricultural District. The property is located across from the Keaau HELCO substation (formerly Puna Sugar Company Mill) and east of the Keaau Bypass Road (Highway 130), Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicant proposes to use tropical fruit products grown on the property and surrounding areas to produce alcoholic and non-alcoholic tropical fruit drinks that may include vitamin supplements, to be sold commercially. There are no plans to sell the products on a retail basis on the site; as such, no visitor facility is planned. When fully developed, the project will consist of two 40,000-square foot warehouses and two approximately 60,000-square foot separate bottling facilities. Although the potable water operation will be separate from the beverage facility operation, there is a possibility that the two uses may be combined under one warehouse. The existing 7,500-square-foot fruit packing facility will be retained and continued to be utilized for packing. All proposed structures will be less than 45 feet in height. Parking and loading/unloading areas will be provided, consistent with the Zoning Code. The first phase will include a

bottling facility and a warehouse, while the second phase will include the other warehouse and bottling plant.

The existing 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, Hawaii 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 Hawaii. 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 districts 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.

Soils on the property are classified as "C" or "Fair" and Unclassified for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The proposed use will be restricted to a portion of the 31.174-acre parcel and will displace approximately 10 acres of fruit trees. As the trees are important to the operation, the applicant intends to remove the trees only as the project expands, and proposes to expand the fruit farm within the undeveloped approximately five-acre area. Upon completion, there will be nearly 20 acres of cultivated fruit trees on the site. Currently, approximately 25 acres are planted with rambutan, longan and lychee. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

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 does not abut the shoreline and will not be impacted by coastal hazard and beach erosion. Although no formal studies were conducted, the applicant believes that no rare or endangered resources are likely to be found on the site. The property has been replanted with a variety of fruit-bearing trees such as mango, lychee, longan, rambutan, macadamia nut and eucalyptus trees. None are considered rare or endangered. The site is not known to be a habitat for rare or endangered animal life. According to the applicant, there is no evidence of traditional and customary Native Hawaiian rights currently being practiced on the site.

The applicant has included a study titled *Archaeological Assessment TMK: (3)1-6-03: 104, Land of Keaau, Puna District, Island of Hawaii*, as Appendix A of the application. The study concluded that there were no archaeological sites or features on

the site due to current and prior agricultural use of the property, and no further archaeological work is necessary.

The desired use will not adversely affect surrounding properties. Surrounding properties are zoned A-20a, and the property is bound by vacant or orchard use to the north and east. To the west across Shipman Road is the former Puna Sugar Mill (MG-10a), and to the south is an agricultural irradiation facility. Within approximately 2,000 feet of the site are warehouses, the Christian Liberty School, a greenhouse retail store, a former plantation camp, and a bank within a MCX-zoned subdivision. There are no residences abutting the property. As a condition of approval, the applicant, successors or assigns will be required to provide adequate landscaping to mitigate any potential adverse noise or visual impacts to surrounding areas.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the property is from Shipman Road, a private roadway that intersects with the extension of Milo Street makai of the Keauu Bypass Highway. This section of Shipman Road has a varying right-of-way width of 40 to 100 feet with a pavement width of approximately 20 feet.

There is a County water line fronting the private Shipman Road. However, with the proposed potable well, the applicant does not anticipate a need for additional water service from the County. The applicant proposes to construct a septic or enhanced septic system to address the wastewater requirements of the project. The system will be designed and constructed in accordance with the requirements of the State Department of Health. All essential utilities are available to the site.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The project site and surrounding areas are designated for agricultural uses by both State and County land use laws. However, through the issuance of a Special Permit, various "non-agricultural" services and uses may and have been established. The Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted. The establishment of a water and tropical fruit beverage facility would allow the applicant to provide employment opportunities for local area residents. Although it may be small, this project will provide additional employment opportunities in the Puna district, and help to decrease traffic to the employment base in Hilo. In addition, with other countries providing and promoting similar crops historically cultivated in Hawaii, new marketing efforts of agricultural based commodities would serve to aid the agricultural industry. This project clearly supports the local agricultural industry by providing a new outlet for locally-grown fruits. It is operated in conjunction with an active commercial fruit growing business.

The request will conform to, among others, the Land Use and Economic elements of the General Plan and is not contrary to the goals, policies and standards of the General Plan. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan 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. The property is designated Industrial for the portion of the site proposed to be used for the water and beverage bottling facility. The remainder of the property, already in agricultural use, is designated Extensive Agricultural.

The proposed use does not fit one of the criteria for a Special Permit, Rule 6-3(b)(5)(E), which states, "The land for which the proposed use is sought is unsuited for the uses proposed within the district." The land can be used for agricultural purposes, such as growing fruit trees. However, a Special Permit need not conform to all listed criteria in section 6-3(b)(5)(A), as long as it meets the overall requirement that the Special Permit is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be, and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. In this case, the request is clearly an unusual and reasonable use, and it promotes the objectives of Chapter 205 by providing value-added products using locally-grown agricultural commodities.

Based on the above, the approval of the request to establish a water and tropical fruit beverage facility would support 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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. A metes and bounds description (written and map) of the Special Permit area shall be submitted at the time of Plan Approval review.
3. Construction of the proposed structures shall commence within 5 years from the effective date of this permit. Prior to construction, Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, parking stalls, and other improvements associated with the proposed development. Landscaping shall be identified on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. The applicant, successors

or assigns shall retain or provide enough vegetation or landscaping to screen the proposed development from surrounding properties.

4. All exterior signs shall conform to Section 3-12 of the Sign Code, Chapter 3 of the Hawaii County Code, relating to signs in the Agricultural district.
5. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
6. The method of sewage disposal shall meet the standards and requirements of the State Department of Health.
7. A Solid Waste Management Plan shall be submitted for review and approval to the Department of Environmental Management, prior to the issuance of a Certificate of Occupancy.
8. 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 mitigative measures have been taken.
9. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide, in writing, a final status report to the Planning Director.
10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
11. An initial extension of time for the performance of conditions may be granted by the Planning Director upon the following circumstances:
  - A. 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.
  - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.

Mr. Sidney Fuke  
Page 6

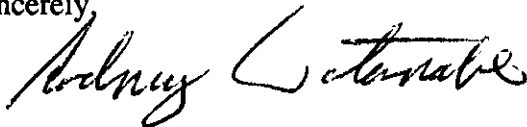
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

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.

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 contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Rodney Watanabe, Chairman  
Planning Commission

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cc: Mr. Robert Hamilton  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources-HPD  
DOT-Highways, Honolulu