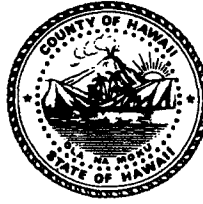


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County of Hawai'i

LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

JAN 16 2019

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

Dear Mr. Fuke:

SUBJECT: Special Permit No. SPP 18-000197
Request: To Establish a Micro-Distillery and Visitor Center with a Tasting Room and Related Accessory Improvements
Applicant: Kuleana Spirits, Inc.
Tax Map Key: 5-5-006:por. 010

The Leeward Planning Commission, at its duly held public hearing on December 10, 2018, voted to approve the above-referenced request to allow the development of a micro-distillery and visitor center with a tasting room and related accessory improvements on approximately 8 acres of a 43.854-acre parcel within the State Land Use Agricultural District. The project site is located on the east side of 'Upolu Road, just south of 'Upolu Airport, about 0.6 miles north of the Akoni Pule Highway-'Upolu Road intersection, Kealahewa 3rd, North Kohala, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The proposed micro-distillery, visitor center with a tasting room, and related accessory improvements shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application dated March 16, 2018, any supplemental material, and the representations made before the Leeward Planning Commission. Any substantial expansion of the facility or uses beyond what is represented in this document shall require an amendment to this permit.

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JAN 16 2019

3. Weddings, concerts, conventions, and other types of special events and activities shall be prohibited.
4. As represented by the applicant, all visitor activities to the site shall occur daily between 9:00 a.m. and 6:00 p.m. or sunset, whichever occurs later.
5. Prior to issuance of Final Plan Approval, the applicant shall provide to the Planning Department a metes and bounds survey of the eight (8)-acre permit area in map and written form, including the area of the access road on the subject property. At no time shall the activities permitted under this Special Permit take place outside of the permit area.
6. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and proposed structures, fences, signage, water sources (potable and non-potable), wastewater systems, fire protection measures, paved driveway access and unpaved parking stalls, outdoor lighting (if any, lighting must be shielded with light directed downwards), landscaping buffer and other improvements associated with the proposed development. Parking stalls do not need to be paved but a material must be used that will eliminate erosion, mud, and standing water. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
7. Prior to issuance of a Certificate of Occupancy, the applicant shall provide fire protection measures appropriate for the proposed use meeting with the approval of the Fire Department, including but not limited to water storage for firefighting purposes, water supply with sufficient fire flow rate, and providing fire department access roads with adequate turning radiuses to support the proposed development.
8. Prior to issuance of Final Plan Approval, the applicant shall provide estimated average daily water usage calculations, prepared by a professional engineer licensed in the State of Hawai'i to the Department of Water Supply (DWS) for review and approval. The water usage calculations must show the estimated

maximum daily demand from the private well and from the DWS water system. The calculations shall also include the estimated peak-flow in gallons per minute from both sources. The applicant shall comply with Department of Water Supply (DWS) requirements by implementing conservation measures in order to limit their water consumption to an average of 400 gallons per day, which is the current water allocation based on the existing water meter size and water availability in the area. As represented by the applicant, any additional potable water needed for the proposed development shall be provided by the private water well.

9. Prior to issuance of a Certificate of Occupancy, the applicant shall install reduced pressure type backflow prevention assemblies within five (5) feet of the existing water meter on private property and have the assembly inspected and approved by the Department of Water Supply.
10. All driveway connections to 'Upolu Road and any work within 'Upolu Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
11. Prior to the issuance of a Certificate of Occupancy, wastewater treatment and disposal system(s) shall be installed, meeting with the standards and requirements of the State Department of Health.
12. The proposed food service operation shall meet the requirements of Chapter 50, Food Safety Code. The applicant shall secure a food establishment permit from the State Department of Health, prior to commencement of any food service to visitors. A copy of the permit shall be provided to the Planning Department prior to issuance of a Certificate of Occupancy.
13. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
14. 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 applicant, 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 M. Fuke
Planning Consultant
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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).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Maija Jackson of the Planning Department at 961-8159.

Sincerely,



Keith F. Unger, Chairman
Leeward Planning Commission

LKuleanaspiritsSPP18-197|pc
Enclosure: PC Findings Report

cc w/enclosures: Steve Jefferson, Kuleana Spirits, Inc.
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
State Department of Health
State Land Use Commission
Plan Approval Section
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

KULEANA SPIRITS, INC.

SPECIAL PERMIT APPLICATION NO. 18-000197 (SPP 18-197)

Based on the following findings, Special Permit No. 18-000197 is hereby issued to allow for development of a micro-distillery, visitor center with a tasting room, and related accessory improvements on approximately 8 acres of a 43.854-acre parcel of land situated in the Special Management Area and State Land Use Agricultural District. The subject property is located on the east side of ‘Upolu Road, just south of ‘Upolu Airport, about 0.6 miles north of the Akoni Pule Highway-‘Upolu Road intersection, Kealahewa 3rd, North Kohala, Hawai‘i, TMK (3) 5-5-006: por. 010.

The applicant is requesting to establish a micro-distillery to produce rum, visitor center with a tasting room, and related accessory uses on about 8 acres. The applicant proposes to construct the following buildings within the 8 acres, on the mauka eastern corner in order to minimize impacts to surrounding properties:

- An approximately 2,560-square foot micro-distillery processing facility, similar in height (less than 20 feet tall) and size as the storage shed. This structure would also include an office, mechanical room and restroom.
- An approximately 2,560-square foot building to accommodate tasting and sampling, and retail sales of the beverages and associated promotional products like T-shirts, hats, etc. This structure would include a tasting area, approximately 300-square foot kitchen for preparation of pupus to accompany the beverage tastings, an office and restrooms. The kitchen and tasting will not operate independent of the micro-distillery processing facility.

All of the structures would be less than 20 feet in height. Parking areas for employees, visitors, and loading and unloading will be provided in accordance with the Zoning Code. The preliminary site plan shows 14 parking stall, including two stalls that will be ADA accessible and two loading zones adjacent to the proposed tasting room area. There will approximately 15 employees. Visitor hours would be daily from 9:00 a.m. to sunset, or roughly 6:00 p.m. The planned opening is fall of 2019 and the estimated construction cost is \$2.5 million.

The applicant originally proposed to construct an approximately 2,560-square foot storage shed to house agricultural equipment such as tractors, and include an area to extract sugar cane juice within the 8-acre permit area. However, at the December 10, 2018 Planning Commission hearing, the applicant informed the Commission that this structure would be built outside of the 8-acre permit area, in the southwest corner of the property near ‘Upolu Road, as an agricultural shed structure which is a permitted use in the State Land Use Agricultural District without the need for a Special Permit.

At least 20 acres on the west side of the property will be planted in heirloom-variety sugarcane, which would then be harvested and distilled into rum. An additional 8 acres will be set aside for non-sugar cane agricultural crops, such as citrus fruits,

Hawaiian Sweet potato ('uala), breadfruit ('ulu) or ti (kī), which can be imported and blended with the rum to produce a different product. The applicant may also secure some of its sugarcane off-site.

The grounds for approving a Special Permit are based on Rule 6-7 in the Planning Commission Rules. 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 or Rural District, whichever the case may be; 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 the State Land Use Law and Regulations and Chapter 205, HRS, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public 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.

The property is currently used for cattle grazing. The proposed use would support the objectives of Chapter 205, HRS in that the property has high agricultural potential and the majority of the property will be used to grow sugarcane and other crops to be used in the rum distilling process. Thus, the proposed use is an unusual and reasonable use of land situated in the State Land Use Agricultural District.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. As evaluated above, the applicant's request is considered an unusual and reasonable use of agricultural land that 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 properties are similarly zoned A-20a. Lands makai of the subject property, including the 'Upolu Airport are situated in the State Land Use Conservation District. A wind farm is located on the property mauka of the subject property. Other surrounding land uses include livestock pasturing. The closest dwelling is located about 1,000 feet west of the proposed project site, just across 'Upolu Road. The applicant intentionally sited the proposed use in the southeast corner of the property furthest away from the closest dwelling in order to minimize impacts to surrounding residents. Some construction-related impacts related to dust, noise and traffic may occur; however, a condition is recommended to have the applicant and its contractors implement best management practices and comply with Department of Health regulations in order to minimize these potential construction-related impacts. Once the proposed use is

established an increase in traffic will occur on 'Upolu Road. The Planning Department has not received any testimony in opposition to the proposed use at this time. Therefore, it is not likely that the proposed use would adversely affect the 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. Vehicular access to the property is from 'Upolu Road, which is a one-lane County maintained roadway with 11 feet of pavement width with grass shoulders. The applicant anticipates a minor increase in traffic from the proposed development. The Department of Public Works does not recommend any road improvements to accommodate the proposed use.

The subject property is currently served by County water through one 5/8-inch water meter, which is limited to an average usage of 400 gallons per day. The applicant is also proposing to install a water well and draw approximately 20,000 gallons of water per day. The new private well is intended to be a non-potable water well but can provide potable water through a reverse osmosis water treatment process. The Department of Water Supply, has requested water usage calculations and has indicated that current water availability in the area cannot provide any additional water beyond the current water allocation; therefore, any water required to support the project beyond the current allocation will need to be provided by other means, i.e. either the water well or Kohala Ditch. Based on this information, the Planning Director recommends a condition be added to the permit to limit use of the County potable water to an average of 400 gallons per day and provide any additional potable water from the private well.

The existing County waterline is inadequate to provide the required 2,000 gallons per minute fire-flow required for the proposed use. The applicant will be required to comply with Fire Department regulations related to fire apparatus access, and fire suppression.

The applicant tentatively proposes to install a septic system to address the wastewater needs of the non-distillery functions such as the office, kitchen and restrooms. The applicant has identified three options for disposing of wastewater from the distilling process: 1) use the 135 gallons of residuals or dunder as a compost substrate for the sugar cane stalks; 2) use an evaporator to boil away the 135+/- gallons of dunder; or 3) use a four vessel system to screen, equalize, settle and treat the dunder before being discharged into a septic system. The applicant is currently using the evaporator method at their Kawaihae facility. The applicant's preferred method is the first option. In their memo dated, May 16, 2018, the State Department of Health (DOH) indicated that distillery wastewater is not a domestic wastewater and may not be treated and disposed by an individual wastewater system, such as a septic system. DOH indicates the wastewater that is generally produced from distillery operations can produce extremely high biochemical oxygen demand in the range of 5,000 to 20,000 mg/l and that a wastewater treatment works is required for the treatment and disposal of the distillery process wastewater from the proposed distillery facility. The applicant will be required to install a wastewater treatment and disposal system that meets the requirements of the DOH.

The applicant proposes to compost byproducts of the distillery process onsite. Solid waste from the commercial component of the project will be disposed of by commercial haulers to the landfill in South Kohala. The property is situated within an area designated as Flood Zone X, an area determined to be outside the 500-year flood plain. Electricity, telephone, police, fire, and medical services are available to the property. A condition of approval is included to require that the applicant meet all applicable County, State and Federal laws, rules, regulations and requirements.

(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. Since then, new industries have emerged, such as the proposed micro-distillery, that were not anticipated when the district boundaries were created. Micro-breweries and micro-distilleries are becoming more common throughout the islands as a method of reusing lands that were formerly cultivated in sugarcane.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property is situated on soil identified as Hawi series soils which consists of well-drained silty clay used primarily for irrigated sugarcane cultivation and pasture. The west half of the property is classified as "B" of "Good" and the east half is classified as "C" or "Fair" for agricultural productivity by the Land Study Bureau's Detailed Land Classification System. The property is also considered Prime Agricultural Land by the Department of Agriculture's ALISH Map. A micro-distillery is similar to other agricultural processing facilities which are typically situated in the Agricultural District; however, it is slightly different in that the final product is an alcoholic beverage. The micro-distillery and visitor center will be situated on about 8 acres of a 43-acre property and 28 acres of the property will be cultivated with sugarcane and other crops that will be used in the rum distilling process.

(F) The use will not substantially alter or change the essential character of the land and the present use. The essential character of the area is pastoral with adjacent properties to the east and west in cattle grazing. The 'Upolu Airport is located just north of the property and a wind farm is located to the south (mauka). About eight (8) acres in the southeast portion of the property will be graded to accommodate construction of the proposed use; however, the majority of the property will be used to grow crops to support the micro-distillery use. Additionally, the proposed structures will be less than 20 feet in height in order to better blend in with the surrounding area.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The County of Hawai'i's General Plan is the policy document for the long range comprehensive development of the island of Hawai'i. One of the purposes of the General Plan is to guide the pattern of future development in this County based on long-term goals. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as Important Agricultural Land. The majority of the subject property will be used to grow crops in support of the proposed use. Thus, the proposed use will support many of the agricultural land use policies of the General Plan and North Kohala CDP including the following policies:

General Plan-Land Use- Agricultural Policy

- Ensure that development of important agricultural land be primarily for agricultural use.

North Kohala CDP Strategy 1.4

- Promote and support a community of diversified agriculture.

Thus the request will not be contrary to the General Plan and Community Development Plan.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to coastal zone management program. The SMA is part of the Coastal Zone Management Program regulated by the County. The subject property is located in the SMA and the applicant has concurrently applied for an SMA Use Permit for the proposed use for which the Planning Director is also recommending approval because the proposed use meets the criteria for granting an SMA Permit.

This approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Lastly, at the December 10, 2018 hearing, the applicant requested and the Commission voted to approve, a revision to Condition Nos. 7 and 9, to change the timing of implementation of fire protection measures and installation of a backflow prevention assembly to prior to issuance of a Certificate of Occupancy.