

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
DECEMBER 4, 2009

A regularly advertised hearing on the application of **HAWAII BREWERY DEVELOPMENT CO., INC.'s SPP 842** was called to order at 11:53 a.m. in the County of Hawai'i, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Chairman Rell Woodward presiding.

PRESENT: Rell Woodward
Takashi Domingo
Andrew Iwashita
Zendo Kern
Wallace Ishibashi

Brandon Gonzalez, Deputy Corporation Counsel
BJ Leithead Todd, Planning Director
Warren Lee, Director of Public Works
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

And 15 people from the public in attendance.

APPLICANT: HAWAII BREWERY DEVELOPMENT CO., INC. (SPP 842)
Amendment to Condition 5 (construction timetable) of Special Permit No. 842, which allowed the establishment of a brewery, water and soft drink bottling facility on 14.5 acres of land within the State Land Use Agricultural District. The property is located east of Highway 11 (Volcano Highway) and north of Highway 130 (Keaau-Pahoa Highway), Keaau, Puna, Hawai'i, TMK: 1-6-141:1.

WOODWARD: We're on what is listed as Item Nos. 6 and 7. Applicant is Hawaii Brewery Development Company. The first is an amendment to Condition 5 of Special Permit No. 842, which allowed the establishment of a brewery, water and soft drink bottling facility. And the second is a Change of Zone, same company, Change of Zone from an Agricultural-5a (A-5a) to a Family Agricultural 2-acre (FA-2a) district for 7.8 acres of land. Jeff.

DARROW: Thank you, Mr. Chairman. If it's okay with you if we could take each of these individually?

WOODWARD: That's fine.

DARROW: Thank you. Our applicant is Hawaii Brewery Development Co. Inc. They are requesting an amendment to Condition No. 5 of Special Permit No. 842. The location of this application is within the Puna District of Hawai‘i, more specifically we’re looking at the general Keaau area. The town center is located in this approximate area on the lower portion of the map. On the upper right-hand or left-hand portion of the map we have Shipman Industrial Park. And then running through the middle of the map we have the Volcano Highway. Additionally we have the Pahoia Bypass that has the main intersection in the middle of the map. The outline of the property is identified in black. The zoning of the property identified in light green is Agricultural 5 acres; and the surrounding darker green is Agricultural 20 acres. We do have several properties in the vicinity that are of different zonings. We have Commercial zoning, some Residential zoning in yellow, as well as some Family Agricultural zoning, Family Ag 1 acre and Family Ag 3 acres, in these general locations.

I apologize for the darkness of the map. This is an aerial photo. We have the Volcano Highway and the Pahoia Bypass, and in the center of it we show the location of this special permit. It does show the existing water bottling facility identified in this area.

The applicant is requesting a five-year time extension to Condition No. 5 which is the condition that requires construction be completed by a certain amount of time for Special Permit No. 842. It was originally approved in 1993 to allow the development of a brewery, water and soft bottle, bottling facility, soft drink bottling facility, on 14.587 acres of land.

The Planning Department’s recommendation is that the Planning Commission approve this with the amended condition, that this timeframe would be from this second amendment with the five-year extension. Are there any questions?

WOODWARD: Questions? Do you want to go on with the second one or you want it one at a time completely separate?

DARROW: Well, I have two presentations.

WOODWARD: Oh, all right. Okay, well, we’ll just do it that way then. Mr. Fuke, I guess you’re in charge of the -. Being the representative, if I can swear you in. Do you swear or affirm to tell the truth today before the Windward Planning Commission?

FUKE: I do.

WOODWARD: Okay, if you’ll give us your name and address, and then your testimony, sir.

FUKE: Okay, thank you very much. My name is Sidney Fuke, I’m a planning consultant. I am representing the applicant, Hawaii Brewery Development Corporation. My business address is 100 Pauahi Street, Suite 212, Hilo, Hawai‘i.

Basically, I’d like to just give a general background because as what the Chair had mentioned, you know, these two applications are definitely related. And so I’d like to give you some general

background, and then maybe it will kind of facilitate your deliberation not only on this application but the subsequent application.

In summary, the staff's recommendation and the proposed conditions on both applications were reviewed by the applicant and found them to be acceptable. The applicant, Hawaii Brewery, the principal is this guy named Marcus Bender. Mr. Bender, you know, he's right now, he apologizes for his absence, he's in Asia right now. And I'll just give you some background as far as like what he has done. He was one of the co-founders of the existing water bottling plant that is currently in operation right now. It's called Hawaiian Springs. He has since sold off that portion. He also was the developer, one of the co-founders and developer of the now defunct restaurant brewery in Honolulu. It was called Blue Moon. Finally, after he sold it, then the new operators, I guess, ran it for about a year; and it just kind of like closed down, maybe given the market conditions or operational inefficiencies, I don't know the reason.

But the other thing that was kind of interesting, you know, over the last couple of years he went to Viet Nam and he did this, he's one of the co-founders of this vodka. It's called KAI vodka. If you see it in the market right now, KAI vodka. So, it's a very good one. It has lychee product and all that kind of stuff. So he's a very interesting person to know. I found him to be very interesting. Anyway, so, you know, he started this project. It was like a 14 some odd acre area. He did the bottling portion; and then subsequently he sold off that portion, you know, he relinquished his interest. There is a very deep well on the property that services the bottling plant. And although the well is situated on the site, that's where the bottling plant is, it's kind of like, you know, it abuts his property, and he reserved also the rights to that same water as well.

So his ultimate plan is, and so the special permit required the complete development of the entire project, you know, not only the bottling but there was going to be a brewery and the visitor facility. So he applied for the, a plan approval for the visitor facility and the brewery in, I believe was in April of 2006, thereabouts. He got the approval. He was getting ready to apply for the permit. But I think everybody knows over the last two or three years, you know, that the market kind of fell off. So, and that's the reason why he needed this extension.

The reason why he's going for the change of zone, he wanted to create like 2-acre size properties, so that his plan is to, of the remaining area that he controls which is like about 7 acres, he eventually wants to have like three different operational entities. One of which would be, and it started at 10 o'clock, this is full but it's gone now. It's like this Vita-water that you guys can kind of all see. You know, it's sold at different markets. So that's one of the kinds of components, you know, vitamin type of water. The other one would be like his really heart, and that is the standard brewery, the beer brewery, with the visitor facility. And the third one, he is also thinking about doing the alcoholic beverage portion, which conceivable could be something like this, you know, with alcohol inside or something along the line of his distillery, like the vodka or like a sake. So he's looking at all these different options. But as he develops each component, you know, with other investors, then there is a potential for him to be able to sell off a portion. And so to be able to do that you need to have the land subdivided. But we can't subdivide it under the current situation cause it's zoned five acres. With the 2-acre zone that would make that possible.

And we've reviewed also the conditions relative to the proposed change of zone, and the applicant found them to be acceptable.

WOODWARD: Very good. Thank you, Mr. Fuke. Do we have any questions from Commissioners? Commissioner Iwashita.

IWASHITA: Thank you, Mr. Chair. I'm not real clear on how the subdivision and the special permit -. Are they supposed to work together?

FUKE: Oh, okay.

IWASHITA: I don't know -. How is that?

FUKE: See, the special permit was for a 14.5-acre area, and that was for a bottling facility, a brewery and a distillery. And after the bottling facility was developed and he wanted to sell off that portion, he came in for the change of zone from Ag-20 to Ag-5 so that, and created this 5-acre parcel so that he could then sell off that portion. Now he has this remaining area which is about like 7 acres in size. And his plan is to also do the same, his business plan is the same way, you know, to co-develop the different components of the facility and be able to sell off portions of it. But the only way you can sell off, you have to have the land subdivided. You can't get the subdivision without the change of zone.

IWASHITA: I guess my question is then based upon your explanation, I still can't understand like how, and maybe it's just limitation, lack of creativity, but how is it that you can, will the special permit go with each separate parcel now?

FUKE: My understanding is the special permit applies to all 14.5 acres of land.

IWASHITA: Yeah, but he doesn't own all 14.5 acres of land.

FUKE: But the new owner is aware of like all of the restrictions. Fortunately the restrictions attendant, you know, restrictions imposed by the special permit for the bottling facility, those conditions have all been complied with. If you look at the conditions for the special permit, it kind of like relate more to the visitors component and -.

IWASHITA: Yeah, I see that. But I guess my, what I'm trying to understand is how, if you do this subdivision are we approving a special permit to allow all these different uses on, you know, in the end, on three different parcels of land?

LEITHEAD TODD: Mr. Chair?

WOODWARD: Madam Director, yes.

LEITHEAD TODD: Since special permits run with the land it runs with the whole 14.9 acres. Irrespective of whether you subdivide it out the permit covers all 14.9 acres. I guess the question I had is -. Jeff, could you go back to the earlier map that shows the zoning of the other

properties? You know I'm just wondering whether there was any analysis made, Mr. Fuke, by your client given the fact that there was some recent Industrial zoning for, I think, a water bottling company on that side of the highway, whether that would have been, perhaps, a more appropriate route to go rather than the Family Ag 2.

FUKE: That was a consideration. However, that would have required like a General Plan Amendment and perhaps some amendment to the Puna Community Development Plan.

The other thing too is that in the, well, unlikely event that the project does not materialize then having these two acre lots could still be used like Residentially Ag, Family Agricultural, you know, which would be generally consistent with that area. Cause that area on the General Plan as I understand is presently designated Low Density Urban.

WOODWARD: All right, any further questions? Okay, we have nobody signed up to testify. Okay, do we have a motion? Commissioner Iwashita.

IWASHITA: With regard to Item No. 6 on the Agenda, Hawaii Brewery Development Co., Inc., SPP 842, amendment to Condition 5 (construction timetable) of Special Permit No. 842, which allowed the establishment of a brewery, water and soft drink bottling facility on 14.5 acres of land within the State Land Use Agricultural District, I move that the application be approved.

WOODWARD: Okay, thank you.

DOMINGO: Second.

WOODWARD: Second?

DOMINGO: Yes.

WOODWARD: All right. We have a motion and a second. Any discussion? Okay, Jeff.

DARROW: Thank you, Mr. Chairman. The motion before us is to approve this amendment request for Special Permit 842. With that I'll take the roll. Commissioner Iwashita?

IWASHITA: Yes.

DARROW: Commissioner Domingo?

DOMINGO: Aye.

DARROW: Commissioner Ishibashi?

ISHIBASHI: Aye.

DARROW: Commissioner Kern?

KERN: Aye.

DARROW: And Mr. Chairman?

WOODWARD: Aye.

DARROW: The motion passes five to zero.

WOODWARD: All right. Thank you.

The discussion ended at 12:06 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary
Windward Planning Commission