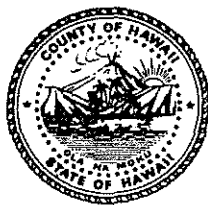




EXHIBIT 4



County of Hawai'i

PLANNING COMMISSION

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

August 14, 2009

Robert Jordan, DVM & Jenny Chartier, DVM
73-4730 Māmalahoa Highway
Kailua-Kona, HI 96740

Dear Dr. Jordan and Dr. Chartier:

Special Permit (SPP No. 780, Docket No. 91-000006)

Applicant: Robert Jordan, DVM & Jenny Chartier, DVM

Request: Amendment to Condition Nos. 4 and 5 of Special Permit No. 780

Tax Map Key: 7-3-8:1

The Leeward Planning Commission at its duly held public hearing on July 24, 2009, voted to approve the above-referenced request for an amendment to conditions relating to extension of time limit, increase in square footage of the building, and related conditions of Special Permit No. 780, which allowed a veterinary office and clinic on 1.64 acres of land within the State Land Use Agricultural District. The property is located adjacent to and north of the Māmalahoa Highway-Onaona Drive-North Kona Belt Road intersection, Kaloko, North Kona, Hawai'i.

Approval of this request is based on the following:

Special Permit No. 780 was approved by the Planning Commission on July 2, 1991 for the establishment of an office/outpatient clinic to support a mobile veterinary service on 1.64 acres of land. Condition 4 of the permit limited the number of clinic staff to three and Condition 5 limited the size of the clinic to 900 square feet of gross floor area. The applicant is requesting to amend these conditions to allow a total of eight (8) clinic staff (two doctors and six support staff) and increase the square footage of the clinic by converting 800 square feet of the attached single-family dwelling to clinic space, thus creating a total of 1,700 square feet of gross floor area for the office/outpatient clinic. The applicant's are requesting the proposed amendments because demand for veterinary services has grown since the permit was originally granted.

Approval of this request would not be contrary to the General Plan or the Zoning Code. The project site will continue to be used as an office/outpatient clinic for the applicants' mobile veterinary service as proposed in the original request. The property is located on lands designated Agricultural by the State Land Use Commission and zoned Agricultural-1 acre (A-1a) by the County. Since the permit was originally granted, the General Plan LUPAG Map designation for the property has changed from Extensive Agriculture to Low Density Urban, which allows for residential uses with ancillary community and public uses and neighborhood and convenience-type commercial uses. Soils on the property are unclassified by the ALISH map, and the Land Study Bureau's Soil Rating for the property is "C" or "Fair" for agricultural activity. The proposed amendments would not diminish the agriculture use of the land as expansion of the clinic would occur by converting 800 square feet of the attached single-family dwelling into clinic space. The County Zoning Code considers veterinary establishments a permitted use on agriculturally zoned lands; however, State Land Use Law continues to not allow veterinary establishments on lands designated Agricultural by the State Land Use Commission without securing a special permit. The minimum number of parking stalls for the expanded clinic has been provided by the applicant.

Approval of this request would not be contrary to the original reasons for granting the Special Permit. The permit was originally granted to provide outpatient veterinary services to the surrounding residential and agricultural community. Demand for these services has grown since the permit was originally granted. To avoid adverse noise impacts to surrounding neighbors, a condition of the permit will continue to prohibit boarding or kenneling of animals on the property. Additionally, the Department of Environmental Management has requested a Solid Waste Management Plan for the expanded clinic. This will be included as a condition of approval.

Based on the above, the request to amend Special Permit No. 780 to increase the office/outpatient clinic staff size and gross floor area is an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations or the original reasons for approving this permit. Approval of this request is subject to the following conditions. Material to be added is underscored; material to be deleted is bracketed and struck through.

1. The applicant(s), its successors, or assigns shall be responsible for complying with all stated conditions of approval.

~~{2. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. Plans shall identify structures, landscaping and paved driveway and parking area associated with the clinic.~~

~~Landscaping shall be provided along the property's perimeter boundaries for the purpose of mitigating any adverse visual and noise impacts associated with the proposed use. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured.]~~

2. The applicant shall install a reduced pressure type backflow prevention assembly within five feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply.

~~[3. Construction of the office/outpatient clinic and single family dwelling and related improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed (Certificate of Occupancy) within two years thereafter.]~~

3. The applicant shall secure and finalize any required permits from the Building Division for the change of use and complete construction related to the expansion of the office/outpatient clinic within five (5) years from the effective date of this amended permit.

4. The office/outpatient clinic shall be limited to the hours of 8:00 a.m. to 5:00 p.m. daily. The clinic shall be staffed by no more than ~~[two]~~eight people, ~~[excluding the applicant]~~to include two doctors and six support staff.

5. The office/outpatient clinic shall not exceed ~~[900]~~1,700 square feet of gross floor area.

6. No boarding or kenneling of animals will be permitted on the subject property.

7. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval within ninety (90) days from the effective date of this amended permit.

8. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

9. 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.

- ~~7. The applicant shall provide a minimum 16-foot wide pavement within that portion of the North Kona Belt Road (Old Mamalahoa Highway) from the North Kona Belt Road-Onaona Drive intersection to and including the driveway access to the proposed development.~~
- ~~8. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walks be encountered, work in the immediate area shall cease, and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.~~
- ~~9. Comply with applicable laws, rules, regulations, and requirements including those of the Department of Public Works and Health.~~
- ~~10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval area being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.~~
- ~~11. An 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 area beyond the control of the applicant(s), 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; and 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.]~~

This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Robert Jordan, DVM & Jenny Chartier, DVM
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

A handwritten signature in cursive script that reads "Rodney Watanabe".

Rodney Watanabe, Chairman
Leeward Planning Commission

Ljordan01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division-Kona
Planning Department - Kona
State Land Use Commission
DOT-Highways, Honolulu
Mr. Gilbert Bailado ✓