



EXHIBIT 5



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

JUN - 8 2016

Michael Matsukawa, Esq.
Attorney at Law
75-5751 Kuakini Highway, Suite 201
Kailua-Kona, HI 96740

Dear Mr. Matsukawa:

SUBJECT: Special Permit No. 780 (Docket No. SPP 91-000006)
Applicant: Kona Veterinary Service (formerly Robert Jordan DVM & Jenny Chartier DVM)
Request: Amendment to Increase the Size of the Veterinary Clinic and Increase the Number of Employees from 8 to 12
Tax Map Key: 7-3-008:001

The Leeward Planning Commission, at its duly held public hearing on May 19, 2016, voted to approve the above-referenced request to amend Special Permit No. 780 to increase the number of staff from 8 to 12 and increase the square footage of the clinic from 1,700 square feet to approximately 3,100 square feet. SPP No. 780 allowed the establishment of a veterinary office and clinic on 1.64 acres of land within the State Land Use Agricultural District. The project site is situated adjacent to and north of the Māmalahoa Highway-Onaona Drive-North Kona Belt Road intersection, Kaloko, North Kona, Hawai'i.

Approval of this amendment is subject to the following amended conditions:

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 (1) 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.

3. The applicant shall secure and finalize any required permits from the Building Division for the change of use to accommodate the office and clinic expansion within one (1) year from the date of issuance of Final Plan Approval.
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 twelve full and part time staff.
5. The office/outpatient clinic shall not exceed 3,177 square feet of gross floor area.
6. No boarding or kenneling of animals will be permitted on the subject property.
7. The applicant shall verify compliance with and comply with applicable Environmental Protection Agency (EPA) rules regarding large capacity cesspools prior to issuance of Certificate of Occupancy.
8. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements, including those of the Department of Water Supply and the State Department of Health.
9. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:
 1. 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.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 4. The time extension 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).

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Attorney at Law
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5. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

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.

[Note: Ramseyer version available upon request.]

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

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

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,


Keith Unger, Chairman
Leeward Planning Commission

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Enclosure: PC Findings Report

cc: /Kona Veterinary Service
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
State Department of Health
State Land Use Commission
Mr. Gilbert Bailado
West Hawaii Division, Planning Department

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

KONA VETERINARY SERVICE
AMENDMENT TO SPECIAL PERMIT NO. 780

Based on the following considerations, amendments to condition No. 4 and 5 of Special Permit No. 780 to increase the number of staff from 8 to 12 and to increase the square footage of the clinic from 1,700 square feet to approximately 3,100 square feet is approved.

KONA VETERINARY SERVICE has submitted a request to amend Special Permit No. 780, which allowed the establishment of a veterinary office and clinic on 1.64 acres of land within the State Land Use Agricultural District. The amendment request seeks to increase the number of staff from 8 to 12 and increase the square footage of the clinic from 1,700 square feet to approximately 3,100 square feet. The property is located adjacent to and north of the Māmalahoa Highway-Onaona Drive-North Kona Belt Road intersection, Kaloko, North Kona, Hawai'i, TMK: 7-3-008:001.

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.

On August 14, 2009, the Planning Commission approved an amendment to Special Permit No. 780 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 (hereinafter First Amendment).

The applicant is currently requesting to further amend Condition 4 to allow a total of twelve (12) staff (part time and/or full time). The hours of operation as articulated in Condition 4 will remain the same. The applicant is also requesting to further amend Condition 5 by increasing the size of the clinic and administrative offices to 3,177 square feet of gross floor area by converting an existing 1,446 square foot, 3-bedroom dwelling located on the subject property for additional clinic and office space.

The conversion will accommodate increased office/ desk space, a functional break room for staff, storage (files and documents that are now currently stored off- site) and a consultation room to discuss test results with clients.

The applicant is requesting the proposed amendments to improve administrative efficiency and to meet the growing demand for veterinarian services in the Kona region which has increased since the Special Permit and First Amendment were 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 and First Amendment. 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 an existing 1,446 square foot, 3-bedroom dwelling on the parcel clinic and office 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. Based on the submitted site plan, a total of 11 parking stalls (5 additional stalls) would be required. This required increase will be managed through the Plan Approval process which will be included as a condition of approval.

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 continued to grow since the permit was originally granted and amended. 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 Water Supply (DWS) has requested the applicant submit estimated maximum daily water usage calculations for the proposed uses. Based on the results of those calculations, the DWS will determine the need for additional meters and/or other water system improvements. Finally, the State Department of Health (DOH) has required that the applicant verify compliance with the Environmental Protection Agency (EPA) large capacity cesspool rules. According to DOH, if a non-residential facility is using an existing cesspool which serves 20 or more persons per day, the cesspool is considered a large capacity cesspool (LCC). Should the existing cesspool be determined to be an LCC, the applicant may be required to upgrade to a septic system. The DWS and DOH requirements will be included as conditions of approval.

Lastly, 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 properties. 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.