

MONOPAK

Action
Jan 21 to Mar 7
(Sed for Feb 26)

Notify →

2-10-71

sent farm visitor & agenda.

Mailing List for Marvin ~~Suddam~~ Budreau

1. Mr. and Mrs. Ned E. Burgess

8-6-07:04 86-641 Pumehulu Road
Kaianae, Oahu, Hi 96792

2. Mr. and Mrs. Tadashi Fukumoto

8-6-07:42 3545 Kamehameha
Honolulu, Hi 96822

3. Mr. and Mrs. Yoshio Nakahara

8-6-07:42 45-449 Puaahuula Place
Kaneohe, Oahu, Hi 96744

4. Mr. Agapito Uata

8-6-07:41 86-615 Pumehulu Road
Kaianae, Oahu, Hi 96792

5. Mr. and Mrs. Nazario D. Rivera

8-6-07:03 94-1496 Kahualoa
Maipahu, Oahu, Hi 96797

6. Mr. Kamewa Nagamine

(notify Mr. Hiroyoshi Sunahara)
8-6-07:40 2310 Ahakapu Street
Pearl City, Oahu, Hi 96782

7. Mr. Osamu Murata

8-6-07:40 91-2106-T Ft Weaver Road
Ewa Beach, Oahu, Hi 96706

8. Mr. Pedro P. Pascua

8-6-08:24 1534 Meyers Street
Honolulu, Hi, 96819

9. Mr. Exequel P. Pascua

8-6-08:24 2468-B North School Street
Honolulu, Hi 96819

10. Mr. and Mrs. Warren H. Nakamoto

8-6-08:27 86-246 Pukawai Road

Haianae, Oahu, Hi 96792

11. Mr. and Mrs. Masanobu Arakawa

8-6-08:22 86-232 Pukawai Road (notify Mr. Ichijo Arakawa)

Haianae, Oahu, Hi 96792

12. Mr. and Mrs. Yoshito Yokono

8-6-07:10 86-629 Pukulu Road

Haianae, Oahu, Hi 96792

13. Mr. James K. L. Bell

8-6-08:01 87-117 Alapaki Street

Haianae, Oahu, Hi 96792

14. Mr. Antonio H. Ganiron

8-6-08:20 86-620 Pukulu Road

Haianae, Oahu, Hi 96792

21. Mr. Wayne K. F. Lee

8-6-08:21 1037 7th Avenue

Honolulu, Hi 96816

22 Jan 1971
per ASL

Please send notification
of action meeting time and
place to:

1. Mr. Marvin Boudreau
690 Old Mokapu Rd
Kailua, Oahu, Hi

2. Mr. Anthony Y. K. Kim
Suite 1410
First Hawaiian Bank Bldg
Honolulu

also

neighboring property
owners - check w/
Pusilla

March 1, 1971

Planning Commission
City & County of Honolulu
629 Pohukaina Street
Honolulu, Hawaii 96813

Attention: Mr. Robert Way, Planning Director

Gentlemen:

At its meeting on February 26, 1971, the Land Use Commission voted to approve a special permit to Marvin E. Boudreau (SP71-91) for the establishment of a commercial dog kennel on a 1.8-acre site described by Tax Map Key 8-6-08: parcel 23, subject to the conditions set forth by the City Planning Commission.

Enclosed for your information is the staff report.

Very truly yours,

RAMON DURAN
Executive Officer

Enclosure: Staff Report

cc: Anthony Y. K. Kim
Marvin Boudreau
Property Assessment, Dept. of Tax.
Property Technical Office, Dept. of Tax.
Tax Maps Recorder, Dept. of Tax.

STATE OF HAWAII
LAND USE COMMISSION
HONOLULU, HAWAII

APPROVED
MAY 21 1971

Minutes of Meeting

Highlands Intermediate School Cafetorium
Pearl City, Oahu

February 26, 1971 - 7 p.m.

Commissioners Present: Goro Inaba, Vice Chairman
Alexander Napier
Sunao Kido
Shelley Mark
Eddie Tangen
Leslie Wung
Tanji Yamamura
Stanley Sakahashi

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Deputy Attorney General
Jean Soma, Stenographer

Vice-Chairman Inaba called the meeting to order and subsequently swore in persons wishing to testify.

ADOPTION OF MINUTES

Commissioner Kido moved that the minutes of the December 11 and 18, 1970, and January 8, 1971, meetings be adopted as circulated to the Commission membership, seconded by Commissioner Sakahashi, and carried unanimously.

HEARING

PETITION BY THE ESTATE OF JAMES CAMPBELL (A70-268) TO RECLASSIFY APPROXIMATELY 690 ACRES FROM AGRICULTURAL TO URBAN AT HONOLIULI, EWA DISTRICT, OAHU

Mr. Leong, staff planner, presented a detailed description of the area in question and of the surrounding areas. Subsequently, the Executive Officer read the staff report.

LEADER TO LEAD

卷之三

mission of the Federal Communications Commission
under Title 47, 47

WILSON, JOHN FREDERICK, JR. (1890-1958)

Common definition of geography: "a science which describes the features of the earth and the distribution of life on it, and which also deals with the physical and political conditions of man and his works."

и вспоминает о том, что
они не хотят, чтобы
они учились в школе, а
они хотят, чтобы
они учились в школе.

Discrepancies between Goldfarb and Goldstein and the results of the present study are probably explained by the different methods used.

SECTION 40. (CONT'D.)

1947-1950

Following is a list of names: names of all the men who were present at the meeting to be held at the school house in the afternoon of the 14th inst.

February 26, 1971

DEFERRAL ACTION ON SP71-90 - COUNTY OF MAUI

Commissioner Kido moved that action on this special permit request be deferred until the Commission's meeting scheduled for March 5 on Maui, as requested by the petitioner, seconded by Commissioner Wung and unanimously carried.

✓ SPECIAL PERMIT APPLICATION BY MARVIN E. BOUDREAU (SP71-91)
TO CONSTRUCT AND OPERATE COMMERCIAL DOG KENNEL AT WAIANAE, OAHU

Mr. Leong presented a detailed account of the subject area and subsequently the staff memorandum recommending approval of the petition as conditioned by the City Planning Commission.

Commissioner Tangen moved that the permit be approved as conditioned by the City Planning Commission, seconded by Commissioner Wung and unanimously carried.

SPECIAL PERMIT APPLICATION BY MAUI CONCRETE & AGGREGATES, INC.
(SP71-93) TO CONSTRUCT AND OPERATE A CONCRETE BATCHING PLANT
AT WAIKAPU, MAUI

The Executive Officer summarized the request and described the area under consideration.

The petitioner reported that the plant height will only be 58 feet and not 85 as indicated in the staff report. Due to a merge, they are now Maui Concrete & Aggregates and not Maui Concrete & Aggregates, Inc. Also, he made reference to a statement that was submitted to the Commission earlier.

Commissioner Yamamura moved that the permit be approved as conditioned by the County, seconded by Commissioner Sakahashi and unanimously carried.

ADJOURNMENT

The meeting was adjourned at 12:25 a.m.

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORDITEM SP71-91 - MARVIN E. BOUDREAUDATE February 26, 1971PLACE Highlands Intermediate SchoolTIME 7:00 p.m.

NAME	YES	NO	ABSTAIN	ABSENT
SAKAHASHI, STANLEY	✓			
WUNG, LESLIE	✓			
YAMAMURA, TANJI	✓			
TANGEN, EDDIE	✓			
NAPIER, ALEXANDER	✓			
MARK, SHELLEY	✓			
KIDO, SUNAO	✓			
INABA, GORO	✓			

COMMENTS:

Approve as/stop recommendation

STATE OF HAWAII
LAND USE COMMISSION

Highlands Intermediate School Cafe.
Peal City, Oahu

February 26, 1971
7 p.m.

STAFF REPORT

SP71-91 - MARVIN E. BOUDREAU

In accordance with the provisions of Act 136, the City Planning Commission has transmitted the records and findings of a special permit application by Marvin Boudreau for the establishment of a commercial dog kennel within the Agricultural District at Lualualei Homesteads, Waianae, Oahu.

The property in question comprises 1.8 acres and is described as TMK 8-6-08: 23. It fronts the north side of Puuhulu Road near its intersection with Puhawai Road and lies approximately 2 miles mauka of Farrington Highway. The lot contains a frontage of 280 feet and a depth of 280 feet. Two dwellings now occupy the front portion of the property. The property is completely fenced with redwood and hollow tile along the side and rear boundaries and a chain link fence along the front. In addition, both houses are enclosed by chain link fencing.

Single-family dwellings in the vicinity generally front both Puuhulu and Puhawai Roads. Lot sizes range from 1 acre to over 10 acres. Many of these parcels are dedicated to agricultural use over a ten-year period by the landowners

2-17-71 sent copy to Attorney Kim

and include activities such as orchards, poultry, and truck farming. The present zoning by the City is Ag-1 Restricted Agricultural District. The City's General Plan also designates agricultural use for the area in question. Soils are rated "A" or very good for overall agricultural use by the Land Study Bureau. Slopes are less than 10 percent, and rainfall varies from 10 to 40 inches annually. The nearest Urban District is Waianae, situated over a mile to the west.

The petitioner proposes to construct a commercial dog kennel facility adequate for 55 dogs. The kennel portion will be set back 100 feet from all property boundaries. An enclosed area for reception, office, and related activities is proposed between the parking lot fronting the road and the kennels. Each kennel will be enclosed with a 40 inch high tile wall topped by 3 feet of chain link fencing. No roofing is proposed except for the walkways between the kennels. In addition to the 55 boarding kennels, there will be 6 kennels for receiving and 1 for isolation.

The City Planning Director advises that conversations with the Hawaiian Humane Society indicate a need for this type of facility on Oahu. The State Animal Quarantine station finds that the location and general layout of the

the proposed kennel is suitable and recommends approval provided the applicant will provide an adequate sewerage system. The Planning Director also notes that the existing fence will visually screen the facility along the sides and rear. A proposed hedge will screen the front portion. In conformance with the zoning code, only one sign not exceeding 12 square feet would be permitted. Business hours are proposed to be limited generally between 10 a.m. and 4 p.m., Monday through Saturday only. The applicant proposes to have a full-time caretaker for continual maintenance of the kennels in order to minimize odors. The applicant has indicated that the 40 inch tile walls will reduce noise problems by visually isolating each animal and containing the barking to some degree.

At the public hearing held by the City Planning Commission, Mr. Joseph Lee, neighboring property owner, testified against the proposal because of:

1. Depreciation of nearby property values.
2. Noise pollution - Only a person who has experienced living next to a dog kennel knows the problem of mental health involved, a situation that only a totally deaf person can tolerate. He lived next to a dog kennel

in Palolo and moved because of the noise problem.

3. If the permit is granted, it should be subject to review annually to review the noise factor.

County Recommendation

At its meeting on January 7, 1971, the City Planning Commission voted to recommend approval of the special permit subject to final approval by the Land Use Commission and subject to further obtaining a conditional use permit from the City & County of Honolulu.

It is noted that the City Planning Commission acted on the Special Permit and the City's Conditional Use Permit concurrently. Should the special permit be approved by the Land Use Commission, the conditional use permit will then be finally decided on by the City Council.

Approval of the special permit was made subject to the following conditions which were recommended by the Planning Director:

"1. The provisions indicated on the plans marked Exhibit 'A' shall be adhered to except as

otherwise noted in the conditions hereunder;

"2. There shall be no more than fifty-five (55) dogs boarded on the premises at any time;

- "3. The proposed access driveway shall have a minimum width of 25 feet;
- "4. The proposed cesspool shall be provided in a manner acceptable to the State Department of Health;
- "5. The applicant shall utilize methods and employ practices controlling odor and health nuisances as may be required by the Department of Health. A certified copy of the Department of Health's requirements shall be submitted to the Planning Director prior to obtaining a building permit;
- "6. Within three (3) months following the occupancy of the kennels and thereafter as may be determined necessary by the Planning Director, the applicant shall have a consultant conduct a noise study in a form and under conditions acceptable to the Planning Director. Said study shall be submitted to the Planning Director for his review and approval. Where a noise violation is found, the applicant shall take such corrective actions as may be determined necessary by the Planning Director to abate the noise source including but not limited to

enclosing and sound proofing the facility;

"7. Within one year, the applicant shall properly file an application for a building permit with the Building Department;

"8. The applicant shall submit annually a statement with supporting evidence including photographs showing compliance with all conditions stated herein, to the Planning Director for his review and approval;

"9. In the event the approved use of this permit is terminated by the owner for a period of more than six consecutive months, or land use patterns or zoning within the area have changed from that at the time of approval, the Planning Director may take action to revoke the permit;

"10. The recorded owner of the land encompassed by these permits shall be required to file with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, a declaration of the above-mentioned restrictive conditions;

"11. A certified copy of the documents as issued by the Bureau of Conveyances or Assistant

Registrar shall be presented to the Planning Department as evidence of recordation prior to issuance of a building permit;

"12. Any modifications to the conditions of this permit shall be approved by the City Council; and

"13. If any of the conditions imposed are not met, the Planning Director shall take appropriate action to revoke the permits or suspend the operation until compliance is obtained."

The Commission will recall that a declaratory ruling was requested by Attorney Anthony Kim, representing Mr. Boudreau, on May 12, 1970, on whether a commercial dog kennel is a use permitted within the Agricultural District. At its meeting on June 12, 1970, the Commission referred the matter to the Attorney General for an opinion. By letter dated January 28, 1971, the Attorney General's office advised that a commercial dog boarding kennel is not a use permitted within the Agricultural District under the Land Use Commission's Rules and Regulations.

Staff evaluation of this special permit finds that it substantially meets the criteria established for determining an "unusual and reasonable" use in the Agricultural District.

It therefore concurs with the City Planning Commission in recommending approval of this request subject to the conditions stipulated by the County.

JOHN A. BURNS
GOVERNORKENAM KIM
COMPTROLLER
9322

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P. O. BOX 119
HONOLULU, HAWAII 96810

RECEIVED
FEB 22 1971

State of Hawaii
LAND USE COMMISSION

FEB 19 1971

Mr. Ramon Duran
Executive Officer
Land Use Commission
Department of Planning and
Economic Development
State of Hawaii
Honolulu, Hawaii

Dear Mr. Duran:

Subject: Land Use Commission Applications

This is in response to the following notifications of applications:

✓ SP71-91 - Marvin E. Boudreau

no comments

A71-273 - HKH Ventures

no comments

A70-268 - The Estate of James Campbell

A71-273 - Oceanview Estates

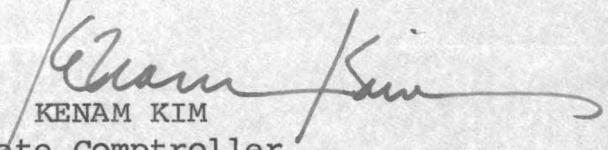
When the developer's plans are firm enough to determine the number and types (number of bedrooms) of housing, estimated purchase or lease cost and construction schedule, the Department of Accounting and General Services should be informed as such. We

Mr. Ramon Duran

Page 2

will at that time be able to determine the need for schools, public libraries and other State public facilities and coordinate our programs with the developer and the City and County. A preliminary subdivision map with contour lines, major utility facilities (water tanks, sewerage treatment plants, drainage channels) and major community facilities (shopping centers, recreation areas, etc.) should be submitted with the above data.

Very truly yours,


KENAM KIM
State Comptroller

JOHN A. BURNS
GOVERNOR

9324
FUJIO MATSUDA
DIRECTOR



E. ALVEY WRIGHT
DEPUTY DIRECTOR
LAWRENCE F. O. CHUN
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

IN REPLY REFER TO:
PMN 7.1369

February 18, 1971

RECEIVED

FEB 22 1971

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii

Dear Mr. Duran:

We have reviewed the following applications filed with your commission:

- ✓ SP71-91 - Marvin E. Boudreau
- SP71-93 - Maui Concrete & Aggregates, Inc.
- A71-271 - Dept. of Land & Natural Resources
- A71-272 - Dept. of Land & Natural Resources
- A71-273 - HKH Ventures
- A71-274 - Dept. of Accounting & General Services
- A71-275 - Oceanview Estates

We are pleased to inform you that we have no objections to any of them.

We appreciate the opportunity to review and comment on the applications.

Very truly yours,
Paul H. Arizumi
PAUL H. ARIZUMI
Property Management Officer

151

9334

UNIVERSITY OF HAWAII

Land Study Bureau

February 18, 1971

RECEIVED

FEB 22 1971

Mr. Ramon Duran
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, HI 96804

State of Hawaii
LAND USE COMMISSION

Dear Mr. Duran

The following comments are in response to your notification of special permit applications SP71-91 and SP71-93, respectively:

✓ SP71-91 Marvin E. Boudreau
Waianae, Oahu
Tax Map Key 8-6-8-23

The lands involved in this request for a special permit are deep, nonstony, well-drained, fine-textured soils on nearly level lands, highly suitable for intensive cropland uses with irrigation. If this permit is granted, care should be taken to insure that all health requirements for disposal of sewage, control of flies, noise and odor are met.

It might be suggested that since kennels do not require deep soils, a less desirable land area may be utilized for this nonagricultural pursuit.

SP71-93 Maui Concrete & Aggregates, Inc.
Waikapu, Maui
Tax Map Key 3-6-04-2
Area: 30,000 sq. ft.

The proposed site for this concrete batching plant is essentially rocky and considered not suited for croplands. These lands are rated as Class E. This site appears reasonably suited for the requested use.

Sincerely yours

Harold L. Baker
Harold L. Baker
Director

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU

630 SOUTH BERETANIA

POST OFFICE BOX 3410

HONOLULU, HAWAII 96801



9349

Members

ROBERT Y. SATO, Chairman

HUGH F. O'REILLY, Vice Chairman

REYNOLDS, BARKER, Secretary

RICHARD H. COX

FUJIO MATSUDA

ROBERT H. ROTZ, Secretary

ALBERT C. ZANE

GEORGE A. L. YUEN

Manager and Chief Engineer

February 23, 1971

RECEIVED

FEB 25 1971

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Duran:

Subject: Special Permit Application

Ref. No. SP71-91

Applicant: Marvin E. Boudreau

Tax Map Key: 8-6-8-23

Thank you for referring the subject application
to us for our comments.

The Board of Water Supply has no objections to
the proposed use within the Agricultural District.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Masami Iwamura".

Masami Iwamura
Land Administrator

February 11, 1971

Mr. Anthony Y. K. Kim
Suite 1410
First Hawaiian Bank Building
Honolulu, Hawaii 96813

Dear Mr. Kim:

The Land Use Commission next meets at 7 p.m., in the Highlands Intermediate School Cafetorium, Pearl City, Oahu, on February 26, 1971.

At that time the application by Marvin Boudreau for a special permit (SP71-91) to construct and operate a commercial dog kennel at Waianae, Oahu, will be heard.

Although there is no requirement for you to be present, should you wish to attend, please feel free to do so.

Very truly yours,

RAMON DURAN
Executive Officer

Enclosure - Agenda

cc: Marvin Boudreau

File

STATE OF HAWAII
LAND USE COMMISSION
P. O. BOX 2359
HONOLULU, HAWAII 96804

February 1, 1971

NOTIFICATION OF SPECIAL PERMIT APPLICATION

SP71-91 - MARVIN E. BOUDREAU

Please be advised that a special permit application has been filed with the Land Use Commission to allow the construction and operation of a commercial dog kennel in the Agricultural District on parcel 23, TMK 8-6-8. This property is generally located at Waianae, on the island of Oahu. The City Planning Commission approved this request on January 7, 1971.

An action meeting on this application is scheduled for February 26, 1971, in the City & County of Honolulu.

We would appreciate any written comments for or against this request, or you or your agent may appear at the meeting. Please do not hesitate to call this matter to the attention of other interested parties.

Should you desire additional information, feel free to contact this office.

Very truly yours,



RAMON DURAN
Executive Officer

Enclosure - Map (see usgs quad.)

STATE OF HAWAII
LAND USE COMMISSION
P. O. BOX 2359
HONOLULU, HAWAII 96804

NOTIFICATION OF SPECIAL PERMIT APPLICATION

SP71-91 - MARVIN E. BOUDREAU

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We would appreciate any written comments for or against this request, or you or your agent may appear at the meeting. Please do not hesitate to call this matter to the attention of other interested parties.

Should you desire additional information, feel free to contact this office.

Very truly yours,

RAMON DURAN
Executive Officer

Enclosure - Map

ADDRESS REPLY TO
THE ATTORNEY GENERAL OF HAWAII
AND REFER TO
INITIALS AND NUMBER

WDYH:jhs

12b



9222
CABLE ADDRESS:
ATTGEN

BERTRAM T. KANBARA
ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
HAWAII STATE CAPITOL
4TH FLOOR
HONOLULU, HAWAII 96813

Reed 1-29-71

January 28, 1971

Mr. Ramon Duran
Executive Officer
Land Use Commission
State of Hawaii
Honolulu, Hawaii

Subject: Whether a commercial dog kennel is a
permitted use within an Agricultural
District?

Dear Sir:

This is in response to your request for an opinion as to whether a commercial dog kennel would be a permitted use within an Agricultural District. It is contended that such a use would fall into the definition of "animal husbandry" and is therefore a permitted use under paragraph 2.14(d) of Sub Part C, Part II, State Land Use District Regulations.

We are of the opinion that under the existing Regulations, a commercial dog kennel is not a permitted use within an Agricultural District.

Paragraph 2.14 of Sub Part C, Part II, State Land Use District Regulations, states, in pertinent part, that:

"Except as otherwise provided, the following land and building uses are compatible and permitted within this district [agricultural district] except when a county ordinance or regulation is more restrictive. Except as otherwise provided, uses not expressly permitted are prohibited.

Mr. Ramon Duran

-2-

January 28, 1971

"(c) Raising of livestock, including but not limited to poultry, bees, fish or other domestic animals.

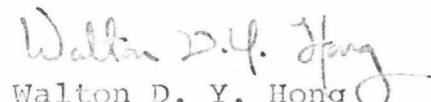
"(d) Farm dwellings, farm buildings, or activities or uses related to farming and animal husbandry."

"Animal husbandry" has been defined as "agriculture; cultivation of the soil for food; farming, in the sense of operating land to raise provisions" (Black's Law Dictionary, Fourth ed.) and as "a branch of agriculture concerned with the production and care of domestic animals; spec: scientific study of the problems of animal production (as breeding and feeding)." (Webster's Third New International Dictionary)

We do not believe that the caring of dogs contemplated in a commercial dog kennel is within the definition of "animal husbandry." The above indicates that the underlining element of animal husbandry is the breeding or production of domestic animals, and that the caring of the same is incidental to the breeding and production.

In Borough of Demarest v. Heck, 201 A.2d 75, 34 N.J.Super. 100 (1964), the Court held that a "hostel for horses" was not an agricultural business allowable under the zoning ordinance, but was in the nature of a commercial enterprise. Likewise, we do not believe that a "hostel for dogs" would be a permitted agricultural use within the scope of "animal husbandry".

Very truly yours,


Walton D. Y. Hong
Deputy Attorney General

APPROVED:



BERTRAM T. KANBARA
Attorney General

PLANNING DEPARTMENT
CITY AND COUNTY OF HONOLULU

629 POHUKAINA STREET
HONOLULU, HAWAII 96813

FRANK F. FASI
MAYOR



ROBERT R. WAY
PLANNING DIRECTOR

GEORGE S. MORIGUCHI
DEPUTY PLANNING DIRECTOR

70/SP-20
70/CUP-18

January 12, 1971

RECEIVED

Jan. 21. 1971

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
State Land Use Commission
State of Hawaii
Kamamalu Building
Honolulu, Hawaii 96813

Dear Mr. Duran:

Special Permit Application
Location: Puuhulu Road--Waianae
Tax Map Key: 8-6-08: 23
Applicant: Mr. Marvin B. Budreau

The Planning Commission held public hearings on November 12, 1970, and December 3, 1970, to consider the application of Mr. Marvin B. Budreau for a Special Permit and Conditional Use Permit to construct a commercial kennel within an area classified as an agricultural district by the State Land Use Commission.

At its meeting of January 7, 1971, it was the decision of the Planning Commission that a Special Permit be issued subject to final approval of the State Land Use Commission and subject further to obtaining a Conditional Use Permit from the City and County of Honolulu.

We transmit the following:

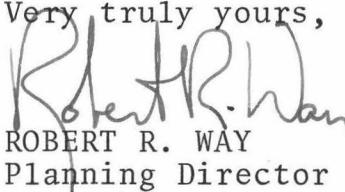
1. Staff report.
2. Special Permit application.
3. Site Plan.

9206
subject to land use
by planning staff -
verified w/ TOSH
1050DA on
Feb 1, 1971
ASL

Mr. Ramon Duran
Page 2
January 12, 1971

4. Minutes of the Planning Commission dated November 12, 1970, and December 3, 1970. The minutes dated January 7, 1971, will be transmitted to you as soon as they have been approved by the Planning Commission.

If you have any questions, please feel free to call Mr. Tosh Hosoda at 5473-621.

Very truly yours,

ROBERT R. WAY
Planning Director

RRW/RL:ec

Attachments

cc: Mayor
Managing Director

January 4, 1971

MEMORANDUM

TO : PLANNING COMMISSION
FROM : ROBERT R. WAY, PLANNING DIRECTOR
SUBJECT : SPECIAL PERMIT/CONDITIONAL USE PERMIT
COMMERCIAL DOG KENNEL - WAIANAE

The Commission will recall that public hearings on this item were held on November 12 and December 3, 1970. Action on the request was deferred to January 7, 1971, in compliance with the requirement of Act 136 that "...the planning commission shall act on the (special permit) petition not earlier than fifteen days after the public hearing..." which was closed on December 3, 1970.

The initial hearing was continued with the idea of having the applicant provide additional information on the noise control aspect of the proposed use. However, no new information was presented at the hearing on December 3rd. The public hearing was closed and the matter was taken under advisement for consideration by the Planning Commission on January 7, 1971.

Since a special permit request is involved, Act 136 requires that findings, in addition to those of the conditional use permit presented in an earlier staff report, must be made. Act 136 states that certain "unusual and reasonable" uses within State Agricultural Districts other than those for which the district is classified may be permitted. In determining whether a commercial dog kennel is an "unusual and reasonable" use, it must be shown that the use is

in general compliance with the established guidelines of the Act.

The following elaborates on the use with respect to the established guidelines:

- a. "Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations."

The State Land Use Law and Regulations, as it relates to Agricultural Districts, permits appropriate uses such as crop farming, raising of livestock and certain other similar uses. It is felt that the proposed kennel, because of its size and the manner in which it is to be operated, will not be a use that is contrary to the State's objectives.

- b. "That the desired use would not adversely affect surrounding property."

The proposed kennel should have no adverse effect on neighboring uses provided sufficient safeguards are undertaken to ensure adequate control of odor and noise. Odor can be controlled through good maintenance practice on the part of the owner. The noise aspect is controlled by the Performance Standards section of the CZC.

- c. "Such use would not unreasonably burden public agencies to provide roads and streets, sewers, water drainage and school improvements, and public and fire protection."

Public agencies have reported that the existing streets and water system are adequate to serve the proposed use. Sewerage facilities are not available, however, the applicant will be

providing a cesspool which, according to the Department of Health, can be adequately provided. The use will not affect school improvements nor will it require added fire and police protection.

d. "Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established."

According to the Hawaiian Humane Society, there is an under-supply of good commercial kennels on Oahu. They have pointed out that during peak vacation periods, it is not unusual for Honolulu residents to have their dogs boarded in facilities on the island of Hawaii.

e. "That the land upon which the proposed use is sought is unsuited for the uses permitted within the District."

At the present time, the subject property is vacant. Because of its size (1.8 acres), it is unlikely that the property could be used for raising of livestock. Crop farming may be an appropriate use, however, it is doubtful that sufficient economic enducement exists for a small farming operation.

f. "That the proposed use will not substantially alter or change the essential character of the land and present use."

In this regard, the proposed use would alter the character of the land since the kennels are proposed for a property that is currently vacant.

g. "That the proposed use will make the highest and best use of the land involved for the public welfare."

As stated by the Hawaiian Humane Society, there appears to be a public need for kennels. It is felt that a kennel use on the subject site would be compatible with and similar to many of the permitted uses in the Agricultural District.

Recommendation

For reasons stated above and in the initial staff report, it is recommended that the special permit and conditional use permit be granted subject to the following conditions:

1. The provisions indicated on the plans marked Exhibit "A" shall be adhered to except as otherwise noted in the conditions hereunder;
2. There shall be no more than fifty-five (55) dogs boarded on the premises at any time;
3. The proposed access driveway shall have a minimum width of 25 feet;
4. The proposed cesspool shall be provided in a manner acceptable to the State Department of Health;
5. The applicant shall utilize methods and employ practices controlling odor and health nuisances as may be required by the Department of Health. A certified copy of the Department of Health's requirements shall be submitted to the Planning Director prior to obtaining a building permit;

6. Within three (3) months following the occupancy of the kennels and thereafter as may be determined necessary by the Planning Director, the applicant shall have a consultant conduct a noise study in a form and under conditions acceptable to the Planning Director. Said study shall be submitted to the Planning Director for his review and approval. Where a noise violation is found, the applicant shall take such corrective actions as may be determined necessary by the Planning Director to abate the noise source including but not limited to enclosing and sound proofing the facility;
7. Within one year, the applicant shall properly file an application for a building permit with the Building Department;
8. The applicant shall submit annually a statement with supporting evidence including photographs showing compliance with all conditions stated herein, to the Planning Director for his review and approval;
9. In the event the approved use of this permit is terminated by the owner for a period of more than six consecutive months, or land use patterns or zoning within the area have changed from that at the time of approval, the Planning Director may take action to revoke the permit;
10. The recorded owner of the land encompassed by these permits shall be required to file with the Bureau of Conveyances or the Assistant Registrar of the Land Court of the State of Hawaii, a declaration of the above-mentioned restrictive conditions;

11. A certified copy of the documents as issued by the Bureau of Conveyances or Assistant Registrar shall be presented to the Planning Department as evidence of recordation prior to issuance of a building permit;
12. Any modifications to the conditions of this permit shall be approved by the City Council; and
13. If any of the conditions imposed are not met, the Planning Director shall take appropriate action to revoke the permits or suspend the operation until compliance is obtained.

Special Meeting of the Planning Commission
Minutes
December 3, 1970

The Planning Commission held a special meeting on Thursday, December 3, 1970 at 8:40 a.m., in the Conference Room of the City Hall Annex with Acting Chairman, Thomas N. Yamabe II, presiding:

PRESENT: Thomas N. Yamabe II, Acting Chairman
Philip T. Chun
Fredda Sullam
Roy R. Bright
Rev. Eugene Connell
Ivanhoe K. Naiwi
James K. Sakai, ex-officio

STAFF PRESENT: Robert R. Way, Planning Director
Andrew Sato, Deputy Corporation Counsel
Bruce Duncan, Staff Planner
Calvin Ching, Staff Planner
Tosh Hosoda, Staff Planner

ABSENT: Richard K. Sharpless, ex-officio

MINUTES: The minutes of November 12, 1970, were approved on motion by Mrs. Sullam, seconded by Mr. Bright.

PUBLIC HEARING
SPECIAL PERMIT/CONDITIONAL USE PERMIT
WAIANAE
PUUHULU ROAD
TMK: 8-6-8: 23
MARVIN B. BUDREAU

The public hearing was held November 12, 1970. At the Planning Director's request, the public hearing was kept open for a period of two weeks to allow the applicant time to submit a noise report.

After this public hearing is closed, in accordance with Chapter 205.6 of the Hawaii Revised Statutes, action cannot be taken earlier than 15 days. Therefore, this matter has been rescheduled for the next regular Planning Commission meeting of January 7, 1970, at 1:30 p.m.

The Director reported the receipt of one letter of protest dated November 1, 1970 from Joseph U. Lee and Wayne Lee, adjoining property owners. (The contents of this letter is summarized under testimony given against the proposal.)

The staff reported that the applicant has not conducted noise tests yet for the reason that the dogs must be present and barking before testing can be done.

Additional public testimony was heard.

Mr. Joseph Lee reiterated his comments contained in his letter AGAINST the proposal:

1. Depreciation of nearby property values
2. Noise pollution - Only a person who has experienced living next to a dog kennel knows the problem of mental health involved, a situation that only a totally deaf person can tolerate. He lived next to a dog kennel in Palolo and moved because of the noise situation.
3. If the permit is granted, it should be subject to review annually to review the noise factor.

The Commission had no questions of Mr. Lee.

Testimony FOR the proposal was given by the applicant, Mr. Marvin B. Budreau, and his attorney, Anthony Kim. Reasons given:

1. Property values will not depreciate inasmuch as the area is already agriculturally zoned with various animals kept either as livestock or pets, i.e. cows, horses, pigs, chickens, ducks, hunting dogs, etc. There is also a drag strip nearby which hot rodders and motorcyclists frequent. In essence, the noise situation already exists.
2. The fact that the applicant must conform to noise standards of the CZC is discriminatory because hunting dogs and other animals kept by neighbors already make a lot of noise.

The Director asserted in a sense, this is a discriminatory approach because the Conditional Use Permit may not be permitted at all by the City Council, and the Commission could recommend that it be denied entirely. The proposal is not an outright permitted use like those ordinarily permitted in agricultural districts. Rather, it is subject to very special consideration, and the staff places what it feels are reasonable conditions to insure its compatibility in the neighborhood.

The Acting Chairman advised the applicant that differences should be cleared with the staff. The Commission bases its action on the staff's report and recommendations. By the staff's representation, the Commission assumes that the applicant is willing to conform to the recommended conditions.

3. The staff's recommendation for a noise consultant at the applicant's expense, three months after the operation is in progress is unreasonable for the following reasons:
 - a. From a practical standpoint, noise controls are established to protect neighbors in the immediate vicinity. However, there have been no complaints from their neighbors. Therefore, to require the applicant to conduct a noise test at his own expense when at this point no complaints have been received, is procedurally unreasonable.

- b. Even if noise tests conducted by the consultant indicates that the applicant has complied with the performance standards of the CZC, there is no assurance that the consultant's report will settle issues on subsequent complaints. The staff would be obligated to verify any complaints following the testing. In this respect, the noise test accomplishes nothing.
- c. A Conditional Use Permit is not something that is purely discretionary with the Commission but rather is based upon the applicant's ability to meet certain conditions.

No other person appeared to speak either FOR or AGAINST the proposal.

The public hearing was closed and the matter deferred to January 7, 1971, on motion by Mr. Bright, seconded by Rev. Connell.

PUBLIC HEARING
GENERAL PLAN
DEVELOPMENT PLAN
(AMENDMENT)
ALA MOANA-MAKIKI-
KEWALO (SEC. A)
C&C OF HONOLULU
DEPARTMENT OF
PUBLIC WORKS

A public hearing was held to consider a proposal to amend a portion of the General Plan, Development Plan for Makiki-Kewalo-Ala Moana, Section "A", by reducing the proposed width for a portion of Pensacola Street between Luanlilo Freeway and South King Street from 80 feet to 76 feet.

Publication was made November 22, 1970. Hearing notices were sent to pertinent governmental agencies and interested parties. No letters of protest were received.

Staff Planner, Calvin Ching, reviewed the proposal with assistance from Mr. William Ling of the Public Works Department, Division of Engineering. Questioned by the Commission, Mr. Ling stated the following:

1. The widening affects both sides of Pensacola Street, but it varies to avoid the demolition of a number of buildings that would be affected.
2. The possibility of decreasing the sidewalk width to avoid some of the structures is unlikely. The proposed 8-foot sidewalk is already nominal in size and fully utilized by a 3½-foot planting strip including existing trees in the area.
3. This reduction from the original 80-foot right-of-way to 76-foot right-of-way considerably lessens the land cost to provide improvements by over 50 percent.

Public testimony was heard.

The following people testified AGAINST the proposal:

1. Mr. Francis Chun and Mrs. Marilyn Maruyama, property owners of that portion of land situated on the makai-ewa corner of the Lunalilo Freeway

2. Mr. Francis Izumi, Attorney and owner for that parcel of land situated on the ewa side of Pensacola Street bounded by Beretania and Young Streets.

Reasons given:

1. They were unaware of the 80-foot roadwidening adopted June 26, 1969 and questioned notification procedures to property owners conducted at that time. They feel they are at a loss since the ordinance has already been adopted.

The Director commented that the 80-foot widening was subjected to all procedures that apply to adoption of such a plan which includes, among other things, publication of the proposal in our local newspaper, a public hearing at the Planning Commission level, and three readings with the City Council.

2. The garage portion of their apartment structure and the parking area will be eliminated entirely, creating a hardship for them and for their tenants.
3. The staff's representation that no timetable is available as to the construction date of the proposed realignment (since the improvement is not budgeted in the City's 6-year CIP program) makes it difficult for property owners to determine the extent of repairs which should be done to existing structures knowing that their buildings will be acquired.

Mr. Ling pointed out that appraised values will reflect the condition of buildings affected so that maintenance of these structures remains optional to the property owner. Concerning Mr. Izumi's parcel, acquisition will be less on Beretania Street but more on Young Street.

Before closing the public hearing, the Commission expressed concern whether proper notification had been given to adjoining property owners. Discussion followed as to who should be notified, and the procedures which should be applied. However, Deputy Corporation Counsel Andrew Sato reminded the Commission that the Charter only requires that hearing notices be published "in a daily newspaper of general circulation in the city." Problems may arise if the Commission deters from this regulation to the extent of an amendment to the City Charter. The staff was directed to study the matter.

It was moved by Rev. Connell, seconded by Mr. Chun and carried, that the public hearing be closed.

ACTION: Based upon the Director's recommendations, the Commission recommended approval of the proposed amendment, on motion by Mr. Chun, seconded by Rev. Connell.

AYES - Yamabe, Chun, Sullam, Bright, Connell, Naiwi
NAYES - None
ABSENT - None

PUBLIC HEARING
ZONING H-1 RESORT
HOTEL DISTRICT
WAIANAE
MAKAHA VALLEY
MAKAHA VALLEY,
INC.
(FILE #70/Z-9)

The Commission again considered an application for a change in zoning from R-6 Residential District to H-1 Resort Hotel District for an area of land comprising 11.201 acres situated in Makaha Valley in Waianae and identified as Tax Map Key 8-4-02: portion of Parcel 5.

The staff presented various photographs of the valley taken from various points along Kamehameha Highway and enlarged with the eight-story structure superimposed to show the relationship.

Mrs. Sullam commended the developer for a fine development but still felt that highrise buildings should be placed along the mountainside rather than obstruct the valley range and vertical view plain in the center of the valley.

Mr. Dean Ho, Manager of Makaha Inn, when questioned on this point indicated two ways in which the expanse of the valley could be developed; one by having a highrise structure with acres of open ground, and another with low structures which would completely obliterate the ground but preserve the vertical view plain. They felt the latter approach was too confined, and that the closeness of low structures tends to invade upon the privacy of individuals.

There were no further questions.

ACTION: Based upon the Director's recommendations, the Commission recommended approval of the applicant's request on motion by Mr. Chun, seconded by Mr. Bright and carried.

AYES - Yamabe, Chun, Sullam, Bright, Connell, Naiwi
NAYES - None
ABSENT - None

CAPITAL IMPROVEMENT
PROGRAM
AMENDMENT TO THE
1971 CIP
KANEOHE STP
DEPT. OF PUBLIC
WORKS
Kailu

The Commission reviewed the staff's recommendations recommending approval of \$220,000 for the Kaneohe Sewage Treatment Plant. The proposed project is for the installation of approximately 15,000 linear feet of sewage transmission lines plus the construction of pump stations and force mains necessary for redirecting the effluent from the Kaneohe STP towards Kailua Bay. The new lines will replace the existing Kaneohe Bay STP outfall sewer which is currently discharging its effluent into the southern portion of Kaneohe Bay.

Mr. Mike Moriarty representing Save Our Surf, was permitted to make a short presentation and called to the Commission's attention the ecological effects

the outfall system is having on coral life in Kaneohe Bay, and on adjoining beach recreational areas. He presented for the Commission's information and perusal, a report entitled "Coral Reefs and Pollution" by R. E. Johannes, Department of Zoology, University of Georgia, Athens, Georgia, U.S.A.

Concerning technical questions relating to the operation of the STP, the Chairman referred Mr. Moriarty to Mr. Chew Lum Lau, Division of Sewers, Planning Section, Department of Public Works, who was in attendance.

The Chairman thanked Mr. Moriarty for his concern and interest on this matter.

ACTION: On motion by Mr. Bright, seconded by Rev. Connell, the Commission recommended approval of the staff's recommendations.

* * * * *

The Commission, on motion by Mr. Bright, seconded by Rev. Connell and carried, moved that the Planning Director be authorized to establish dates for public hearings on the following items:

PLANNED DEVELOPMENT
HOUSING-DISTRICT
KAALAEA
WAILEHUA ROAD
TMK: 4-7-14: 2 &
4-7-43: 1
TYRELL & SCHRADER
CORPORATION

1. The proposal is the development of 180-dwelling units and construction of a sewage treatment plant.

PLANNED DEVELOPMENT
SHOPPING CENTER
DISTRICT
ALIAMANU
SALK LAKE BLVD. &
ALA LILIKOI ST.
BRADLEY INVESTMENT
CORPORATION
BY: MORIO OMORI

2. The proposal is the construction of a planned shopping center providing convenient shopping establishments, including a Safeway Market, a variety store, service station, restaurant, and other service shops. Total building area will be approximately 77,000 sq. ft.

ZONING B-2 COMM.
BUSINESS DISTRICT
PEARL CITY
KAM. HIGHWAY &
LEHUA STREET
(SITE OF PEARL
CITY TAVERN)
TMK: 9-7-22: 7&21
RICHARD C. MASSEN

3. The existing restaurant facilities are nonconforming.

ZONING AG-1
RESTRICTED
AGRICULTURAL DIST.
KALAUAO
MAKAI OF MOANALUA RD.
(NEAR THE SUMIDA
WATERCRESS FARM)
TMK: 9-8-13: 9
B.P.BISHOP ESTATE

4. The request is in conformity with the Detailed Land Use Plan. The entire parcel is presently being used as a taro farm.

ZONING B-2 COMM.
BUSINESS DISTRICT
PEARL CITY
SOUTHEAST CORNER
OF LEHUA AVE. &
THIRD STREET
TMK: 9-7-21: 3&52
WALTER JOHNSON, ET AL

5. The applicant proposes construction of three 2-story commercial structures.

CONDITIONAL USE
PERMIT
A-3 APT. DIST.
EWA BEACH
FORT WEAVER RD.
TMK: 9-1-01: 19
QUALPAC, INC.

6. The proposal is for a 175,000 gallon per day sewage treatment plant to service 210 two- and three-bedroom townhouse units under the FHA 235 program.

ZONING AG-2
AGRICULTURAL DIST.
WAIANAE
MIKILUA VALLEY
TMK: 8-7-09, 10, 18,
19, 21, 22, AND
PORTIONS OF 3 & 4
PLANNING DIRECTOR

7. The major difference between the AG-1 and AG-2 districts is that the AG-2 district, in addition to all the uses permitted in the AG-1 district, permits the raising of bees and swine.

GENERAL PLAN
DETAILED LAND USE
MAP AMENDMENT
MAUKA-HONOLULU
CORNER OF THE INTER-
SECTION OF KUNIA RD.
& THE H-1 HIGHWAY
TMK: 9-4-02: 17
HSM VENTURES

8. The applicant proposes to develop the area for urban uses, primarily residential. Development will consist of 2,000 units of single-family housing and 1,000 apartment units. In addition to a neighborhood shopping center and two school-park complexes are also proposed.

ADJOURNMENT:

There being no further business, the meeting adjourned at 11:14 a.m.

Respectfully submitted,

Henrietta B. Lyman

Henrietta B. Lyman
Secretary-Reporter II

Meeting of the Planning Commission
Minutes
November 12, 1970

The Planning Commission met in regular session on Thursday, November 12, 1970, at 1:30 p.m., in the Conference Room of the City Hall Annex with Acting Chairman, Thomas N. Yamabe II, presiding:

PRESENT:

Thomas N. Yamabe II, Acting Chairman
Philip T. Chun
Fredda Sullam
Rev. Eugene Connell
Richard K. Sharpless, ex-officio

STAFF PRESENT:

Robert R. Way, Planning Director
Andrew Sato, Deputy Corporation Counsel
Tosh Hosoda, Staff Planner
Henry Eng, Staff Planner

ABSENT:

Arthur A. Rutledge, Chairman
Roy R. Bright
Ivanhoe K. Naiwi
James K. Sakai, ex-officio

MINUTES:

The minutes of October 29, 1970, were approved on motion by Mr. Chun, seconded by Mrs. Sullam. *seconded*

PUBLIC HEARING
SPECIAL PERMIT/CONDITIONAL USE PERMIT
WAIANAE
PUUHULU ROAD
TMK: 8-6-8: 23
MARVIN B.-BUDREAU

A public hearing was held to consider a request for a Special Permit under the Hawaii Revised Statutes, Section 205-6, and a Conditional Use Permit under Article 2, Part E of the Comprehensive Zoning Code, to construct a dog kennel facility adequate to handle 55 dogs on an 1.8-acre parcel of land situated on the Makaha side of Puuhulu Road, approximately 300 feet mauka of Puhawai Road, and identified as Tax Map Key 8-6-8: 23.

Publication was made November 1, 1970. Hearing notices were sent to pertinent governmental agencies and interested parties. No letters of protest were received.

The staff's report was reviewed. Questioned by the Commission, the staff indicated that there is a distance of approximately 200 feet from homes in the area to the proposed site.

Public testimony was heard. No one spoke AGAINST the proposal.

Testimony FOR the proposal was given by:

1. Anthony Kim, Attorney for the applicant
2. Mrs. Lois Matthews, President of the Hawaii Council Dog Club, and a member of the Board of Directors for the Hawaiian Humane Society
3. Mrs. Mary Leser, Secretary-Treasurer of the Hawaii Council Dog Club, and member of the Board of Directors for the Hawaiian Humane Society

Reasons given:

1. No kennel facilities are available on Oahu. The applicant solicited and received letters from the following individuals confirming that there is a definite need for dog kennels on Oahu:
 - a. Mrs. Mary Scott, owner of the past Pine Hedge Kennels, 623 Ehukai Street, Waimanalo. Because of age, Mrs. Scott retired from the business although offers were made to persuade her to continue her operation.
 - b. Mr. Arthur P. McCormack, Manager, Hawaiian Humane Society
 - c. Mr. Wallace T. Nagao, Chief, Livestock Disease Control Branch, Quarantine Station, Department of Agriculture, State of Hawaii
2. The applicant requested a declaratory ruling from the State Land Use Commission ruling that kennels are permissible uses in agricultural districts rather than subject to a special use permit. The SLUC submitted the matter to the Attorney General's Office for an opinion approximately a month and a half ago.

Comment was made that even though this proposal might be a permissible use in the State Agricultural District, it is still subject to the Comprehensive Zoning Code of the City and County with respect to Agricultural Districts 1 and 2.

3. Concerning the noise factor:

- a. The applicant consulted Mr. Robert Hamilton, a mechanical and acoustical engineer. Although noise tests were not conducted, Mr. Hamilton reviewed the applicant's plans and in a letter to the applicant stated that practical modifications and remedial action can be implemented at a future date should it be necessary to do so to meet the technical performance standards of the CZC.
- b. Some preventive measures against noise have been taken.
 - (1) The design of the kennels with 3½-foot hollow-tile barriers blocks the view of each animal and eliminates cause for them to bark at one another.
 - (2) Music by Muzak will be provided for the dogs. This approach is to keep outside noises down, and to quiet the animals.
 - (3) The applicant's contract will contain conditions that permit him to take whatever measures may be necessary to prevent barking; i.e., muzzling the dog or admitting it to an animal hospital.

(4) In addition to Mr. Budreau residing on the premises, there will also be a 24-hour attendant.

c. Relating to noise pollution, animal noises are rated very low.

Questioned by the Commission, Mrs. Lois Matthews informed the Commission of the following:

1. Dogs are kept mainly because they give a warning and bark at the intrusion of a stranger. Perpetual barkers must be placed in a sound-proof animal hospital. There is a veterinary process for perpetual barkers called debarking which is rarely used, and reduces the voice of the dog to a low squeak.
2. The presumption that one dog makes less noise than a kennel of dogs is not necessarily true. One perpetual barker or unattended dog chained to a fence can be more of a problem than a kennel of dogs under proper supervision.

Due to procedural requirements under Section 21-241(d) of the CZC whereby the Commission must submit its recommendation to the City Council within 30 days after the public hearing, the attorney for the applicant stated that they are willing to waive the 30-day requirement inasmuch as the special permit has to be acted upon by the State Land Use Commission.

Comment was also made that the Commission could not act on this matter until 15 days after the public hearing, according to State Land Use Regulations.

The Director suggested that the public hearing be kept open for more definitive and expertise information regarding noise.

MOTION: Mr. Chun moved, seconded by Rev. Connell, that the public hearing remain open for a period of three weeks.

PUBLIC HEARING
GENERAL PLAN
DLUM & DP AMENDMENT
TO WAIKIKI (SEC. A)
WAIKIKI
WAI NANI WAY, KUHIO
AVE., KAPAHULU AVE.
& ALA WAI BLVD.
STATE OF HAWAII,
DEPT. OF ACCOUNTING
& GENERAL SERVICES

A public hearing was held to consider a proposal to amend a portion of the General Plan, Detailed Land Use Map and Development Plan for Waikiki (Section "A"), by expanding the boundary of the Jefferson Elementary School to include a 4.16-acre site located on the makai side of the school presently designated for Apartment use and a 0.75-acre site Diamond Head of Makee Road designated for Park use. A change in the street pattern is also proposed by eliminating a portion of Kaneloa Road, connecting Wai Nani Way to Kaneloa Road, and retaining Makee Road.

The staff's report was reviewed, and there were no questions concerning the report.

Public testimony was heard.

Senator Percy Mirikitani representing the Parkview tenants, testified FOR the proposal:

1. This proposal is their original recommendation which they favored in October, 1969. It eliminates a previous traffic problem which would have created more intense traffic flow and a hazardous condition for school children.
2. The school benefits by usage of the 4.16-acre site on the makai side of the school. This area is already grassed and extensively used.
3. The school will utilize Kapahulu and Makee Avenues during morning and afternoon hours for parents to discharge and pick up their children. Another access point off Pualani Way will be provided for delivery trucks.

No one testified AGAINST the proposal.

The public hearing was closed and the matter taken under advisement on motion by Rev. Connell, seconded by Mr. Chun.

ACTION: Based upon the Director's recommendations, the Commission recommended approval of the proposed amendment, on motion by Rev. Connell, seconded by Mr. Chun and carried.

AYES - Yamabe, Chun, Sullam, Connell
NAYES - None
ABSENT - Rutledge, Bright, Naiwi

PUBLIC HEARING
PLANNED DEVELOPMENT
HOUSING
KAILUA
ENCHANTED LAKES
ESTATE, UNIT 8-B2
MAKAI TERMINUS OF
KEOLU DRIVE
ISLAND-GENTRY
JOINT VENTURE
(FILE #69/PDH-8)

The public hearing held October 15, 1970, was kept open for a period not to exceed 30 days to permit various community organizations time to analyze the proposal.

The staff reported that subsequent to the public hearing of October 15, 1970 the developers have made revisions in an effort to satisfy the staff's recommendations regarding the site plan. (These are specifically outlined in the report.)

Questions raised by the Commission related to the following:

1. Condition 8.2(a) - Common open areas and private roadways shall be so arranged that hazardous inter-relationships now existing are greatly reduced, or omitted altogether. Open space within the two major portions of the project shall interconnect throughout, without penetration of roadways through pedestrian circulation areas. Attachment 2 indicates recommended site-planning guidelines.

The applicant wishes to contest this recommendation and contends that the site plan has already undergone several major changes. The staff

feels that too many roadways cut the site, and in this connection has provided guidelines which would eliminate various roadways and furnish more open space. This is a general condition which relates to the entire site rather than to one specific area. This condition is also the one remaining area of disagreement between the staff and the applicant.

2. Condition 8.15 - All conditions set forth herein shall be subject to amendment only by the City Council.

Whether amendments to an Ordinance which adopt PUDs can be made only by the City Council upon recommendation of the Director and the Planning Commission?

Deputy Corporation Counsel Andrew Sato advised the Commission that the City Council need not refer the matter back to the Planning Commission. Questioned by the Commission, Mr. Sato stated that this condition is not necessary.

3. Whether the 4.5 acres of land for an alternate ponding area was examined by the Public Works Department and whether it will be used as such?

The staff referenced letter dated November 11, 1970, from Albert C. Zane, Director and Chief Engineer, Department of Public Works, which states in part:

"Please be informed that we have met with Mr. Joseph Pao to clarify his proposals on the Enchanted Lake Boundaries. We are agreeable to the developer's proposal to utilize approximately 4.5 acres of land presently within the 125 acres of land presently within the 125 acre ponding area for the subject development and to replace a like amount of area upon completion of negotiation with the Robert Wong el al Trust. We have informed Mr. Joseph Pao that all new areas to be included within the 125 acre ponding area must conform to the conditions agreed upon by the 'letter of agreement,' dated February 19, 1970.... We also recommend that the construction plans for the Town House Project not be approved until the new ponding area satisfies the drainage requirements."

Public testimony was heard.

Testimony AGAINST the proposal was given by the following people:

1. Mr. Alan T. Sanborn, Planning Director, Windward Citizens Planning Conference (submitted letter dated November 11, 1970)
2. Mr. Clyde Cox, representing the Kailua Community Council (submitted letter, undated)

Reasons given:

1. There is concern that presentations made by the developers have not been sufficient in scope to indicate the impact of the development on the community.

2. The proper relationship of the project to streets, schools, parks and other community facilities, and the adequacy of these facilities to handle a major increase in use, has not been demonstrated.
3. They suggest a thorough documentation of the way in which the proposed project would relate to the surrounding residential neighborhood and to future CIP projects which might be necessary to support this development, inasmuch as density would be increased 55% over single-family residences similar to those which now exist.
4. This PDH approach opens the door to developers to put in other types of uses such as union halls, neighborhood commercial, and medical offices and clinics under conditional use permits.
5. Very little information has been provided to indicate how the developers plan to provide greater concentrations of open space which is one of the purposes of the PUD approach.
6. Existing school facilities in the area already exceed their capacity plus the fact that projected figures for additional facilities do not include the proposed development.
7. The Traffic Department indicated that the internal street system is adequate; however, external street systems in relation to the surrounding vicinity should be recognized in view of a similar development proposal for the immediate adjacent 200 acres, understood to be controlled by the same developer. Additional traffic arteries in and out of the site, particularly Hamakua Road which was proposed for development two months ago, should be considered.

Testimony FOR the proposal was given by:

1. Tom Gentry, the applicant
2. Joseph Ramia, Project Manager for the applicant
3. Henry Alves, President, Hawaiian Pacific Industries

Mr. Ramia asserted one correction concerning Condition No. 7.8(d), page 16, last paragraph: "Townhouses are proposed on concrete slab bases, as timber framed structures with shake roofs. Multi-family structures are proposed as reinforced concrete structures." Mr. Ramia stated that the structures will be built on reinforced concrete foundations but as woodframe buildings.

Reasons given FOR the proposal are:

1. Concerning Condition 8.2(a) relative to hazardous inter-relationships existing in the subdivision, Condition 6.2(b)(page 8) made by the Traffic Department indicates that the internal street system appears to be adequate for the proposal and that drop driveways be constructed where they connect with proposed public streets. There is no mention that there are hazardous inter-relationships of road systems.

2. Concerning Mr. Cox's statement that internal traffic systems were realized rather than the relationship of the project to external road systems, while the comments by the Public Works Department, under routine subdivision review, are restricted to internal road systems, it must also consider proposed developments in relation to external traffic problems. In this relation, they are aware of the influx of population from proposed subdivisions and developments in the area, and alter proposals accordingly.
3. Request modification of Condition No. 8.11 in view of FHA requirements. Suggest that this condition be subservient to FHA conditions. The condition reads: "The developer shall be required to incorporate all of the restrictive conditions set forth herein as part of the restrictive covenants running with the land and made a part of the sales agreement with future owners."
4. The developer on the adjacent 200 acres is not the same developer making this submission. One developer in this joint venture will continue with the adjoining development.
5. With due respect to the staff, several changes have already been made in accordance with the staff's recommendations. The applicant feels that further changes are not justifiable. Development plans for this project have been continuously reviewed and altered for a 20-month period.

The Director commented that various plans were submitted to the staff within the 20-month period. In November 1969, 132 units were proposed; in June, 1970, new land computation figures and densities were submitted with approximately 270 units. Site boundaries brought up by the State Land Use Commission were reconciled during the last 30 days. Drainage problems which concerned the Public Works Department (now resolved), may also have affected the site plan arrangement and layout. Substantial change in the area of the site itself plus the total number of units involved caused a re-examination of the proposal by various governmental agencies.

6. Relative to Mr. Sanborn's comment relating to inadequate school facilities, experience-wise, townhouses depict a different style of living which has resulted in a substantial decrease in the number of children per townhouse unit. There is a reduction of school children by type of dwelling unit. For example, there are less children in the higher income single-family style living than in the lower and moderate income single-family living.

Questioned by the Director as to the use of the new area to replace the filled area, Mr. Alves stated that the substitute portion of land which is now swamp, will be used as a ponding area.

There were no further questions, and no other person appeared to speak either FOR or AGAINST the proposal. The public hearing was closed and the matter taken under advisement on motion by Mr. Chun, seconded by Mrs. Sullam.

ACTION: Based upon the Planning Director's recommendations, the Commission recommended the approval of this Planned Unit Development, on motion by Mr. Chun, seconded by Rev. Connell.

AYES - Yamabe, Chun, Sullam, Connell

NAYES - None

ABSENT - Rutledge, Bright, Naiwi

PUBLIC HEARING
ZONING B-5 RESORT
COMMERCIAL
WAIKIKI
HOBRON LANE BETWEEN
ENA ROAD AND ALA
WAI BOULEVARD
MAGOON ESTATE, LTD.
(FILE #69/Z-9)

The public hearing was closed and action was deferred at the October 8, 1970 meeting to permit the Planning Commission to meet with the Mayor's Planning Advisory Committee on Waikiki-Diamond Head in order that they might have some indication of the direction in which the Mayor's Committee is proceeding.

Mr. Rick Rainalter, Planning Consultant for the applicant, was permitted to present additional design plans of the development which he reviewed for the benefit of the Commission. No questions were raised concerning his presentation.

ACTION: Based upon the Director's recommendations, the Commission recommended approval of the applicant's request on motion by Rev. Connell, seconded by Mr. Chun and carried.

AYES - Yamabe, Chun, Sullam, Connell

NAYES - None

ABSENT - Rutledge, Bright, Naiwi

CAPITAL IMPROVEMENT
PROGRAM
SUPPLEMENTARY NOS.
4 & 5, BILLS 128
& 129 (DRAFT NO. 3)

C.I.P. Supplementary No. 4

Amendment to Capital Budget Ordinance and Program for Fiscal Year July 1, 1970 to June 30, 1971. Supplementary appropriation request totalling \$2,000,000 for partial payment for the acquisition of the Honolulu Rapid Transit Company.

C.I.P. Supplementary No. 5

Amendment to Capital Budget Ordinance and Program for Fiscal Year July 1, 1970 to June 30, 1971, Supplementary appropriation request totalling \$1,000,000 for the purchase of 20 new buses as part of the City's mass transit program.

The staff's report was circulated prior to the hearing. There were no questions concerning the report.

ACTION: On motion by Rev. Connell, seconded by Mrs. Sullam, the Commission recommended approval of the staff's recommendations.

AYES - Yamabe, Chun, Sullam, Connell
NAYES - None
ABSENT - Rutledge, Bright, Naiwi

ADJOURNMENT: There being no further business, the Commission adjourned at 5:01 p.m.

Respectfully submitted,

Henrietta B. Lyman

Henrietta B. Lyman
Secretary-Reporter II

file

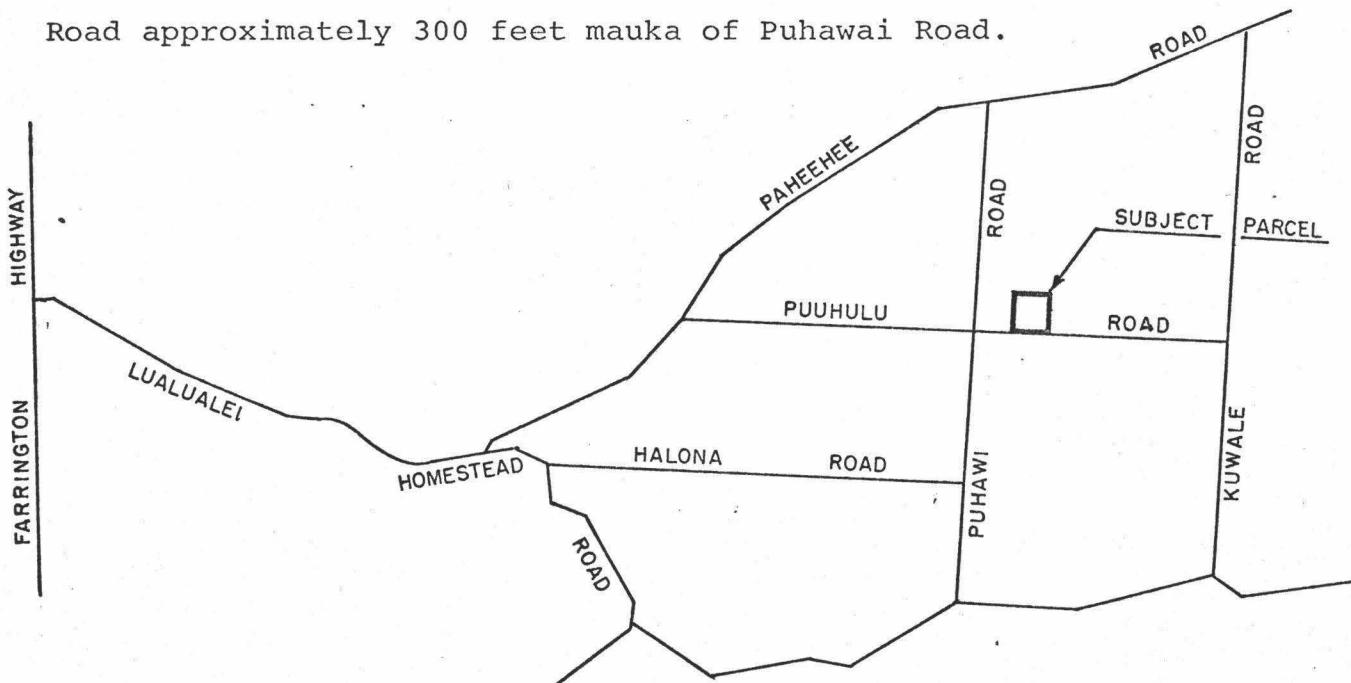
November 10, 1970

MEMORANDUM

TO : PLANNING COMMISSION
FROM : ROBERT R. WAY, PLANNING DIRECTOR
SUBJECT: SPECIAL PERMIT/CONDITIONAL USE PERMIT
DOG KENNEL--WAIANAE

APPLICANT: MARVIN B. BUDREAU
OWNER: WILMAY, INC.
TAX MAP KEY: 8-6-8: 23
AREA: 1.8 ACRES

Location: Mauka Lualualei area--on the Makaha side of Puuhulu Road approximately 300 feet mauka of Puhawai Road.



General Plan: Agriculture; Ordinance No. 2443; May 7, 1964.

Detailed Land Use Map: Agriculture; Ordinance No. 2473; July 29, 1964.

Development Plan: (None.)

Planning Commission
November 10, 1970
Page 2

Present Zoning: AG-1 Restricted Agricultural District. The purpose of this district is to "protect and preserve agricultural lands for the performance of agricultural functions and to encourage concentration of such uses in areas where potential friction with urban uses will be minimized" (Section 21-400). In this district, kennels are permitted as a conditional use.

Description of Subject Property: The subject property measures 280 feet by 280 feet and contains 1.8 acres. Two single-family detached dwellings occupy the front portion of the property. The house on the mauka end is a relatively new structure and is occupied by the applicant; the other, on the makai end, is an older, two-bedroom tenant occupied house. The lot is completely fenced with solid redwood boards and hollow block concrete posts on the side and rear property lines and a chain-link fence along the front property line. In addition, each of the two houses is enclosed by chain-link fencing on the interior portion of the lot. The remainder of the property (the rear half and the middle third along the street frontage) is vacant.

Surrounding Land Uses: The surrounding area is rural in character. Areas immediately Makaha, mauka, and directly opposite Puuhulu Road are larger parcels devoted to agricultural uses. Single-family detached dwellings are located makai of the property as well as on the opposite side of Puuhulu Road beginning approximately 100 feet from the mauka property line and extending mauka.

Planning Commission
November 10, 1970
Page 3

Applicant's Proposal: The applicant proposes to construct a dog kennel facility adequate to handle 55 dogs. The submitted plans show an 80-foot by 90-foot rectangular building situated in the middle of the property. The building will be located 100 feet from the side and rear lot lines and 90 feet from Puuhulu Road.

The front 10 feet of the building is designated as an enclosed area for reception, office, storage, and grooming activities. The remaining 80 feet contains 62 kennels of which 1 will serve as an isolation kennel, 6 as receiving kennels, and 55 as boarding kennels. These kennels will be arranged in 4 rows (2 with 16 kennels and 2 with 15) projecting toward the rear of the property and will be served by two walkways.

The kennels themselves will be of the open air type. Each kennel (or run) will be enclosed with a 40 inch high hollow concrete block wall topped with an additional three feet of chain-link fencing. No roofing of the kennel portion of the building is proposed except for the access walkways.

Access to the property is from Puuhulu Road. A parking area consisting of 16 spaces is designated for the front portion of the property.

Background of Permit Application: It should be noted that the subject application involves concurrent requests for both a conditional use permit and a special permit. Prior to enactment of Act 136 of the Hawaii Revised Statutes, as amended, special permits such as that requested by the applicant were petitioned through the Zoning Board of Appeals. The new law, effected on June 22, 1970, transferred the special permit review process to the Planning

Planning Commission
November 10, 1970
Page 4

Commission and thus, makes it procedurally possible for the Planning Commission to hold concurrent public hearings and consider action on both permits at the same time.

Comments Received from Various Government and Other Agencies:

Board of Water Supply: Adequate water facilities are available. It also reports that public and private water facilities will not be affected by the proposed cesspool.

Department of Public Works states that public sewerage facilities are not available and that acquisition of easements or title to the land in fee over the subject property for sewers is not anticipated. Puuhulu Road has an approximate right-of-way width of 38 feet with 18 feet of asphaltic concrete pavement. The pavement is in fair condition; sidewalks, curbs, and gutters are not provided.

Department of Traffic: Department of Traffic feels that Puuhulu Road has the capacity to adequately serve anticipated traffic and the parking arrangement appears adequate. It recommends that the access driveway have a minimum width of 25 feet to facilitate movement to and from the parking lot.

State Department of Health feels that the general location for the proposed use is acceptable. They suggest that rainfall drainage from roofs and walkways be prevented from entering the waste disposal

Planning Commission
November 10, 1970
Page 5

system (cesspool) in order to eliminate the possibility of surcharging. Multiple cesspools or additional leaching pits may be required for a satisfactory system.

It further indicates that the applicant must practice basic sanitary control measures to control odor and insect problems; these include daily scrubbing and disinfecting, prompt removal of fecal matter and food scrape, preventing breeding of vermin by eliminating harborages, etc. They also urge that noise control measures be utilized to minimize adverse neighborhood reaction to the proposed kennels. Prior to the issuance of a building permit, the applicant should have the State Department of Health's approval on the final plans.

Animal Quarantine Station, State Department of Agriculture, states that the general location is suitable for a commercial kennel and the parcel size and arrangement of the kennels are adequate for the proposed use. It recommends approval of the use subject to the applicant providing an adequate sewage disposal system.

Hawaiian Humane Society has reviewed the proposal and feels that the kennels are adequate. It suggests that the applicant use waterproof flooring in the kennels to facilitate cleaning and, thus, minimizing the possibility of disease.

Analysis:

Need. There appears to be a general need for the type of facility proposed by the applicant. Discussions with the Hawaiian Humane Society reveal that adequate kennel facilities are not available to meet demands on Oahu especially during the vacation period between May and August. Except for one or two facilities, most existing kennels are provided as accessory uses to veterinary hospitals. Because of the lack of good and adequate kennel facilities, some dog owners have relied on boarding their dogs in Kona on the Big Island where facilities are available. This situation is not only inconvenient to dog owners but is also expensive.

Location. The proposed location of the dog kennels is considered to be appropriate. The general area is agriculturally oriented and it is felt that kennels can operate in a manner that is compatible with the surrounding uses. However, to minimize its effect on neighboring properties and residents, the applicant should employ measures which would effectively control health and noise conditions.

Site Plan. The proposed site plan was reviewed with respect to the requirement in the Comprehensive Zoning Code that "...the proposed conditional use will have no more adverse effect on the health, safety, or comfort of persons living or working in the

Planning Commission
November 10, 1970
Page 7

area, and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district." (Section 21-242, a.).

The following items are considered germane to this proposal:

1. Traffic Flow and Control: The subject property is located approximately 2 miles mauka of Farrington Highway. General access to the property from Farrington Highway will be provided by Mailiili Road and Lualualei Homestead Road. These are rural 2-lane roadways which have no improvements as to sidewalks, curbs and gutters. The existing street system is adequate to serve the agricultural uses of the area and the proposed kennels.
2. Access to and Circulation within the Property. Vehicular and pedestrian circulation on the property is adequate; however, vehicular access can be improved by increasing the width of the proposed access driveway from the 20 feet shown on the plan to 25 feet as recommended by the Department of Traffic.
3. Off-street Parking and Loading. The applicant proposes to provide sixteen (16) parking spaces, eight on either side of a single driveway. The number of spaces proposed meets the minimum requirement of the CZC. In this instance, it is felt that the 16 spaces and the manner in which they are proposed are adequate for the use.

4. Refuse and Service Areas. No such areas are shown on the plans, however, adequate land area is available to provide the necessary refuse and service areas.
5. Utilities. Utilities are available except for a public sewerage system. The applicant plans to provide a cesspool directly behind the proposed building. The location and design of the cesspool must be in conformance with health regulations and must have the approval of the Department of Health.
6. Screening and Buffering. The proposed use will be visually screened from adjacent properties by an existing fence on the side and rear property lines. The fence is constructed of hollow block concrete posts with solid redwood boards. No materials other than a hedge between the proposed structure and the parking area are proposed for the front yard portion of the property.
7. Signs and Yards. The submitted plans do not provide for any signs. However, it is anticipated that an identification sign will be needed, and if so, only one (1) sign not exceeding 12 square feet in area is permitted. The sign should not be directly illuminated or mounted closer than 10 feet to the front property line or be higher than 8 feet above the ground. The 100-foot side and rear yards and the 90-foot front yard are in keeping with the requirements of the code.

8. Height, Bulk, and Location of Structures. The two existing residences on the front portion of the property are single-story structures. The proposed kennel building will also be a single-story structure. It will be approximately 80 feet by 90 feet in size and will be centrally located on a lot that measures 280 feet wide and 280 feet deep.
9. Hours and Manner of Operation. The nature of the proposed use will require that a responsible person be on the premises at all times to care for the dogs, clean the kennels, and provide general maintenance. According to the applicant, the required care will be provided by himself and a full-time caretaker who will also be living on the premises. It is proposed that business hours will be limited generally between 10 a.m. and 4 p.m., Monday through Saturday.
10. Noise and Odor. The items which would be of greatest concern to neighboring properties are the possibilities of excessive odor and noise from the proposed use. To minimize odors, the applicant intends to have a full time caretaker who would be responsible for continual maintenance of the kennels. In terms of noise control, the applicant feels that the 40-inch high solid wall that would surround each kennel will help reduce possible noise problems in two ways: one is that each dog would be visually isolated from the others, therefore,

the likelihood of a dog bark setting off a chorus of barking will be reduced. The other is that the solid wall will to some degree, contain the barks emanating from within. While these measures may provide some control of noise, there is still doubt as to whether the proposed use can operate within the noise requirements of the Comprehensive Zoning Code.

Conclusions:

1. There is sufficient demand for dog kennels to ensure full use of the proposed facilities.
2. The general location is appropriate for the proposed use.
3. The site plan is adequate for the proposed use provided sufficient noise and odor control measures are employed.
4. The sixteen (16) parking spaces provided meet the minimum requirement as specified in the Comprehensive Zoning Code and are sufficient to serve the proposed use.

Recommendation:

The two main concerns of the proposed use are those of odor and noise. It is felt that odor can be effectively controlled through daily practice of basic sanitary control measures by the owner. On the other hand, there is a question as to whether or not the proposed open-air type kennels can effectively control noise so that the use can operate within the performance standards required by the Comprehensive Zoning Code. For this reason, the applicant

Planning Commission
November 10, 1970
Page 11

was requested to have a noise expert evaluate the subject proposal and render an opinion as to the probable noise level that can be anticipated from the use. As of this writing, the consultant had not submitted his opinion. The staff feels that his opinion should be considered in the Commission's deliberation, therefore, it is recommended that the public hearing on this request be continued.

RRW/TH:ww

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for official use

Date Application and Fee
received by LUC

APPLICATION FOR SPECIAL PERMIT

(I) ~~XXX~~ hereby request approval of a special permit to use certain property located in the County of Oahu, Island of Oahu, Land Use Commission Temporary District Boundary map number and/or name unk, for the following-described purpose:

RECEIVED

70 APR 29 PM 1:22

PLANNING DEPARTMENT
CITY AND COUNTY
OF HONOLULU

Description of property:

Address: 86-626 Puuhulu Street
TMK: 8-6-8:23

Petitioner's interest in subject property:

Fee Simple Owner

Petitioner's reason(s) for requesting special permit:

The property described is located in an Agricultural District. It is believed that a special permit is required to use said property for a commercial kennel. A line drawing of the proposed use is submitted herewith. Justification for the granting of the permit will be submitted later. If further information is desired please contact attorney for petitioner, Anthony Y. K. Kim, Suite 1410, First Hawaiian Bank Bldg., Honolulu. Telephone 536-1002.

Signature(s) _____

Attorney for Petitioner,
Marvin B. Boudreau

Fee Simple Owner

Address: 690 Old Mokapu Road
Telephone: Kailua, Hawaii

This space for official use

The property is situated in a(n) _____ district, whose regulations adopted by the Land Use Commission prohibit the desired use.

Signature(s) _____

For (agency) _____

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for official use

Date Application and Fee
received by LUC

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Signature(s) _____

Attorney for Petitioner,
Marvin B. Boudreau

Fee Simple Owner

Address: 690 Old Mokapu Road
Telephone: Kailua, Hawaii

This space for official use

The property is situated in a(n) _____ district, whose regulations adopted by the Land Use Commission prohibit the desired use.

Signature(s) _____

For (agency) _____

Tash Hosoda -
547-3671
547.3621

re/Banduan
SP
dog kennel

PLANNING DEPARTMENT
CITY AND COUNTY OF HONOLULU

629 POHUKAINA STREET
HONOLULU, HAWAII 96813

fcv at the W.Hono
PL 1.11.10
JLW 1.11.10

2660

FRANK F. FASI
MAYOR



ROBERT R. WAY
PLANNING DIRECTOR

GEORGE S. MORIGUCHI
DEPUTY PLANNING DIRECTOR

70/SP-20
70/CUP-18

RECEIVED

July 20, 1970

JUL 24, 1970

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
Executive Officer
State Land Use Commission
State of Hawaii
Honolulu, Hawaii

Dear Mr. Duran:

Special Permit/Conditional Use Permit - Waianae

For your information, we have received an application from Mr. Marvin B. Budreau for use permits under the provisions of Chapter 205.6 of the Hawaii Revised Statutes, as amended, and the Comprehensive Zoning Code (Conditional Use Permit).

The applicant wishes to construct and operate a boarding kennel for dogs on a 1.8-acre parcel of land designated for Agricultural use, situated at 86-626 Puuhulu Street in Waianae and identified as Tax Map Key 8-6-8: 23.

Should you have any questions, please contact Mrs. Lorrie Chee of our department at 5473-598.

Very truly yours,

WILLIAM E. WANKET
Assistant Planning Director
Implementation Division

WEW/BAM: jja

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM REQUEST FOR DECLARATORY RULING DATE June 12, 1970
BOUDREAU
PLACE Kona Hilton Hotel, Kona TIME 1:00 p.m.

NAME	YES	NO	ABSTAIN	ABSENT
NAPIER, ALEXANDER				
TANGEN, EDDIE				
MARK, SHELLEY				✓
KIDO, SUNAO				✓
INABA, GORO				
WUNG, LESLIE				
SAKAHASHI, STANLEY				
YAMAMURA, TANJI				
CHOI, WILBERT				

COMMENTS:

After - refer to legal
W. H. Wong

STATE OF HAWAII
LAND USE COMMISSION

MEMORANDUM

June 12, 1970
1 p.m.

TO: LAND USE COMMISSION

FROM: STAFF

SUBJECT: REQUEST FOR DECLARATORY RULING - Marvin Boudreau

Mr. Marvin Boudreau, represented by attorney Anthony Kim, has submitted a request for a declaratory ruling as to the applicability of Section 2.14 (d) of the Land Use District Regulations to the proposed use of Mr. Boudreau's property as a commercial dog kennel. The property is situated within the State's Agricultural District at Waianae, Oahu.

Section 2.14 Permissible Uses Within the "A" Agricultural District states: "Except as otherwise provided, the following land and building uses are compatible and permitted within this District except when a county ordinance or regulation is more restrictive. Except as otherwise provided, uses not expressly permitted are prohibited."

The applicable subsections are:

"(c) Raising of livestock, including but not limited to poultry, bees, fish or other domestic animals.

"(d) Farm dwellings, farm buildings, or activities or uses related to farming and animal husbandry."

Mr. Kim submits that the term "animal husbandry" is commonly defined to include the breeding and care of domestic

5-22-70 enc copy to Kim

animals and has been held to extend to a mink ranch operation in an Ohio court case. He states that the raising and caring of dogs would fall within a proper definition of "animal husbandry", and that such use would be compatible with neighboring uses and be in line with the intents of the Land Use Law.

Webster defines animal husbandry as "a branch of agriculture concerned with the production and care of domestic animals, or specifically, the scientific study of the problems of animal production, as breeding and feeding".

Domestic animal is defined "as any of various animals which have been domesticated by man so as to live and breed in a tame condition".

In response to our request for an opinion on this matter, our consultants, Eckbo, Dean, Austin & Williams, state that: ". . . although dog kennels are not specifically included in a legal interpretation of Section 2.14, they should be considered from a planning and zoning point of view as a permissible use in an agriculture district. Except as a potential noise problem, they are certainly no less compatible than piggeries and poultry farms which are uses permissible in an Agriculture District". A copy of this letter was circulated to the Commission.

The staff concurs with the opinion of our consultants. Our regulations are the minimum requirements only. The regulation of this use should properly rest with the various Counties through their zoning ordinance.

The City of Honolulu Comprehensive Zoning Code provides that animal hospitals, pounds, shelters and commercial kennels be allowed in its Agricultural Districts but only as a "conditional use" and requires action by the Planning Director, Planning Commission and the City Council. Another requirement is that no structure or area occupied by such animals will be within 100 feet of the property line of any adjacent lot, except where animals are kept in sound-proofed, air-conditioned structures.

Less restrictive provisions are contained in the zoning ordinances of Maui and Hawaii Counties concerning this use. (Kauai County's has not yet been adopted). However, should the County concerned determine a need, more stringent provisions are possible through amendment of existing ordinances.

Therefore, it is recommended that the Commission rule that a commercial dog kennel is a use permitted in the Agricultural District.

2789
X-DLW-Sub 626-626-626
H. B. HENSHAW
HAROLD W. CONROY
DON C. HAMILTON
FRANK D. GIBSON, JR.
HAROLD W. NICKELSEN
DWIGHT M. RUSH
WILLSON C. MOORE, JR.
H. THOMAS KAY, JR.
ANTHONY B. CRAVEN
EDMUND BURKE
WILLIAM R. LOOMIS
WAYNE M. SAKAI
ANTHONY Y. K. KIM
MICHAEL F. McCARTHY
KEN HARIMOTO

HENSHAW, CONROY & HAMILTON

5-18-70

ATTORNEYS AT LAW

1410 FIRST HAWAIIAN BANK BUILDING
HONOLULU, HAWAII 96813

CABLE AND WIRELESS ADDRESS:
"LAWYERS HONOLULU"
TELEPHONE: (808) 536-1002

May 12, 1970

RECEIVED

13, 1970

State Land Use Commission
State of Hawaii
Honolulu, Hawaii

State Land Use Commission
Honolulu, Hawaii

Gentlemen:

We represent as attorneys Marvin Boudreau who owns property at 86-626 Puuhale Street, TMK: 8-6-8-23, located in an Agricultural District.

Mr. Boudreau proposes to use the property as a commercial dog kennel and hereby petitions the State Land Use Commission for a declaratory ruling as to whether such use is permitted under paragraph 2.14 (d) of Sub Part C, Part II, State Land Use District Regulations which lists as a permitted use, "activities or uses related to.....animal husbandry." The term "animal husbandry" is commonly defined to include the breeding and care of domestic animals and has been held to extend to a mink ranch operation, Davidson v. Abele, 206 NE 2d 583, 584, 2 Ohio App. 2d 106.

It is submitted that the raising and caring of dogs would fall within a proper definition of "animal husbandry" and also that such use of the property would be compatible with neighboring uses and would be in keeping with the intent and purposes of the Land Use Law.

Very truly yours,

HENSHAW, CONROY & HAMILTON

By Anthony Y. K. Kim
Anthony Y. K. Kim

AYKK:bjk

5-27-66 copies to Conroy

ECKBO
DEAN
AUSTIN &
WILLIAMS

ASC
acceptance
is sufficient
to accept the
agreement
2782

28, 1970

May 27, 1970

U.S. MAIL 2:15 PM CN

Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii

Attention: Ramon Duran, Executive Officer

Subject : Request for a declaratory ruling by Henshaw, Conroy & Hamilton, Attorneys, representing Marvin Boudreau as to whether a commercial dog kennel is a permitted use within a State Agriculture District.

Gentlemen:

In our opinion, Section 2.14, Permissible Uses Within the "A" Agriculture Districts of the State Land Use District Regulations does not specifically permit commercial dog kennels in Agriculture Districts.

Paragraph (c) cites as permissible uses "raising of livestock, including but not limited to poultry, bees, fish or other domestic animals. It does not include the boarding or care of domestic animals, which we feel is the primary function of a commercial dog kennel.

Paragraph (d) specifies "farm dwellings, farm buildings, or activities or uses related to farming and animal husbandry." Although animal husbandry could be extended to include the breeding of dogs, we again feel that boarding and care of dogs would be the major purpose of a kennel.

However, we feel that although dog kennels are not specifically included in a legal interpretation of Section 2.14, they should be considered from a planning and zoning point of view as a permissible use in an agriculture district. Except as a potential noise problem, they are certainly no less compatible than piggeries and poultry farms which are permissible uses in an Agriculture District.

We believe, therefore, that the Commission, by interpreting the regulations to include dog kennels as an acceptable use in an agriculture district,

Land Use Commission
May 27, 1970
Page - 2

would not need to amend the district regulations.

As you know, this procedure was recently followed in the Hawaiian Telephone request for a declaratory ruling on a proposed service facility in Kona.

Very truly yours,

ECKBO, DEAN, AUSTIN & WILLIAMS

Howard B. Altman

Howard B. Altman
Senior Associate

HBA:em

June 16, 1970

Honorable Bertram T. Kanbara
Attorney General
State of Hawaii
State Capitol
Honolulu, Hawaii

Dear Mr. Kanbara:

We respectfully request an opinion from your office in regard to Section 2.14 permissible Uses Within the "A" Agricultural District of the State Land Use District Regulations, as it applies to the situation described in the attached letter from Mr. Anthony Y. K. Kim. Also, please find enclosed a copy of a letter from Mr. Howard Altman, Eckbo, Dean, Austin & Williams, consultant to the Land Use Commission, and a copy of the staff memorandum in this regard.

Thank you for your cooperation.

Very truly yours,

RAMON DURAN
Executive Officer

Enclosures - 4

June 16, 1970

Mr. Anthony Y. K. Kim
Henshaw, Connroy & Hamilton
Attorneys at Law
1410 First Hawaiian Bank Building
Honolulu, Hawaii 96813

Dear Mr. Kim:

At its meeting on June 12, 1970, the Land Use Commission voted to defer rendering a declaratory ruling on Mr. Marvin Boudreau's request, pending an opinion on this matter from the Attorney General's office.

We will keep you informed of the developments with respect to this matter.

Very truly yours,

RAMON DURAN
Executive Officer

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Approved 9-11-70

Discovery Room, Kona Hilton Hotel
Kailua, Kona, Hawaii

June 12, 1970 - 1:00 p.m.

Commissioners Present: Wilbert Choi, Chairman
Goro Inaba, Vice-Chairman
Alexander Napier
Eddie Tangen
Leslie Wung
Tanji Yamamura
Stanley Sakahashi

Commissioners Absent: Shelley Mark
Sunao Kido

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Legal Counsel
Jean Soma, Stenographer

All those wishing to testify before the Commission were sworn in by Chairman Choi.

Adoption of Minutes

Minutes of the January 9, 1970, meeting were approved as circulated to the Commission membership.

HEARINGS

PETITION BY THE LAND USE COMMISSION (A70-248) TO REZONE 94 ACRES FROM CONSERVATION TO URBAN AND 1 ACRE FROM URBAN TO CONSERVATION AT HONOKOHAU AND KEAHUOLU, NORTH KONA, HAWAII

The Executive Officer presented a detailed description of the area under consideration and read the staff report recommending approval of the reclassification as initiated. Upon questioning by the Commission, he confirmed that an

June 12, 1970

Status of Vacant Urban Land on Oahu - 1970

Chairman Choi apprised Commissioner Tangen of the subject at hand by stating that inquiries were sent to landowners (specifically, James Pfleuger, Atherton Richards, and Hawaiian Land Company) to determine the disposition of their vacant land located in the State's Urban District (said properties were previously zoned Conservation). Subsequently, Commissioner Tangen moved that unless a definite development plan is received from each within the next 90 days, the Commission will redesignate these properties to the former classification, that of Conservation. This motion was seconded by Commissioner Inaba and carried by six votes. An abstention was announced by Commissioner Napier. It was also agreed that the three property owners would be notified of the Commission's action.

✓Request for Declaratory Ruling - Marvin Boudreau

Mr. Duran, Executive Officer, informed the Commission of a request for a declaratory ruling from Mr. Marvin Boudreau.

In summarizing the memorandum circulated to the Commissioners, Mr. Duran stated staff recommended that dog kennels should be a permitted use in the Agricultural District. The consultants (EDAW) were also of this opinion and submitted a letter recommendation to this effect.

At this time Commissioner Tangen moved that action be deferred on this matter pending a legal opinion from the Attorney General's office.

Action to Initiate Rezoning of Pukoo Area by LUC

Commissioner Tangen moved that the Commission initiate the proceedings to amend the zoning for the area makai of the highway beginning with the Ah Ping property down to Ualapue from the Rural District to the Urban District. Motion was seconded by Commissioner Inaba, and the Commissioners were polled as follows:

Ayes: Commissioners Yamamura, Napier, Tangen, Inaba, and Chairman Choi;

Nays: Commissioners Sakahashi and Wung.

May 28, 1970

MEMORANDUM

TO: Mr. Anthony Y. K. Kim

FROM: Ramon Duran, Executive Officer

SUBJECT: Staff Memorandum on Marvin Boudreau's Request

The attached staff memorandum will be presented at the Land Use Commission meeting on June 12, 1970, relative to Mr. Marvin Boudreau's request for a declaratory ruling.

ECKBO
DEAN
AUSTIN &
WILLIAMS

May 27, 1970

RECEIVED

28, 1970

Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii

Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii

Attention: Ramon Duran, Executive Officer

Subject : Request for a declaratory ruling by Henshaw, Conroy & Hamilton, Attorneys, representing Marvin Boudreau as to whether a commercial dog kennel is a permitted use within a State Agriculture District.

Gentlemen:

In our opinion, Section 2.14, Permissible Uses Within the "A" Agriculture Districts of the State Land Use District Regulations does not specifically permit commercial dog kennels in Agriculture Districts.

Paragraph (c) cites as permissible uses "raising of livestock, including but not limited to poultry, bees, fish or other domestic animals. It does not include the boarding or care of domestic animals, which we feel is the primary function of a commercial dog kennel.

Paragraph (d) specifies "farm dwellings, farm buildings, or activities or uses related to farming and animal husbandry." Although animal husbandry could be extended to include the breeding of dogs, we again feel that boarding and care of dogs would be the major purpose of a kennel.

However, we feel that although dog kennels are not specifically included in a legal interpretation of Section 2.14, they should be considered from a planning and zoning point of view as a permissible use in an agriculture district. Except as a potential noise problem, they are certainly no less compatible than piggeries and poultry farms which are permissible uses in an Agriculture District.

We believe, therefore, that the Commission, by interpreting the regulations to include dog kennels as an acceptable use in an agriculture district,

5-28-70 eam

6-16-70 copy to AG

Landscape Architecture, Urban Design, Environmental Planning San Francisco, Los Angeles and Honolulu
401 Kamakee Street, Honolulu, Hawaii 96814 Telephone (808) 536-1074

ASG
acceptable
is defining
aspects of new bill 2782
against AGC

Land Use Commission
May 27, 1970
Page - 2

would not need to amend the district regulations. *fb*

As you know, this procedure was recently followed in the Hawaiian Telephone request for a declaratory ruling on a proposed service facility in Kona.

Very truly yours,

ECKBO, DEAN, AUSTIN & WILLIAMS

Howard B. Altman

Howard B. Altman
Senior Associate

HBA:em

May 27, 1970

Mr. Anthony Y. K. Kim
Henshaw, Conroy & Hamilton
Attorneys at Law
1410 First Hawaiian Bank Building
Honolulu, Hawaii 96813

Dear Mr. Kim:

This is to acknowledge receipt of your letter dated May 12, 1970. Please be advised that the Land Use Commission next meets at 1 p.m., in the Discovery Room, Kona Hilton Hotel, Kailua, Kona, Hawaii, on June 12, 1970.

On or about that time the Commission will review Mr. Marvin Boudreau's request and render a declaratory ruling as to whether a commercial dog kennel is a permitted use in the Agricultural District.

Although there is no requirement for you to be present, should you wish to attend, please feel free to do so.

Very truly yours,

RAMON DURAN
Executive Officer

Enclosure - Agenda

M. B. HENSHAW
HAROLD W. CONROY
DON C. HAMILTON
FRANK D. GIBSON, JR.
HAROLD W. NICKELSEN
DWIGHT M. RUSH
WILLSON C. MOORE, JR.
H. THOMAS KAY, JR.
ANTHONY B. CRAVEN
EDMUND BURKE
WILLIAM R. LOOMIS
WAYNE M. SAKAI

ANTHONY Y. K. KIM
MICHAEL F. McCARTHY
KEN HARIMOTO

HENSHAW, CONROY & HAMILTON

5-18-70

ATTORNEYS AT LAW

1410 FIRST HAWAIIAN BANK BUILDING
HONOLULU, HAWAII 96813

CABLE AND WIRELESS ADDRESS:
"LAWYERS HONOLULU"
TELEPHONE: (808) 536-1002

May 12, 1970

RECEIVED

13, 1970

State Land Use Commission
State of Hawaii
Honolulu, Hawaii

State Land Use Commission
State of Hawaii
Honolulu, Hawaii

Gentlemen:

We represent as attorneys Marvin Boudreau who owns property at 86-626 Puuhale Street, TMK: 8-6-8-23, located in an Agricultural District.

Mr. Boudreau proposes to use the property as a commercial dog kennel and hereby petitions the State Land Use Commission for a declaratory ruling as to whether such use is permitted under paragraph 2.14 (d) of Sub Part C, Part II, State Land Use District Regulations which lists as a permitted use, "activities or uses related to.....animal husbandry." The term "animal husbandry" is commonly defined to include the breeding and care of domestic animals and has been held to extend to a mink ranch operation, Davidson v. Abele, 206 NE 2d 583, 584, 2 Ohio App. 2d 106.

It is submitted that the raising and caring of dogs would fall within a proper definition of "animal husbandry" and also that such use of the property would be compatible with neighboring uses and would be in keeping with the intent and purposes of the Land Use Law.

Very truly yours,

HENSHAW, CONROY & HAMILTON

By

Anthony Y. K. Kim
Anthony Y. K. Kim

AYKK:bjk

5-27-66 copies to Com.



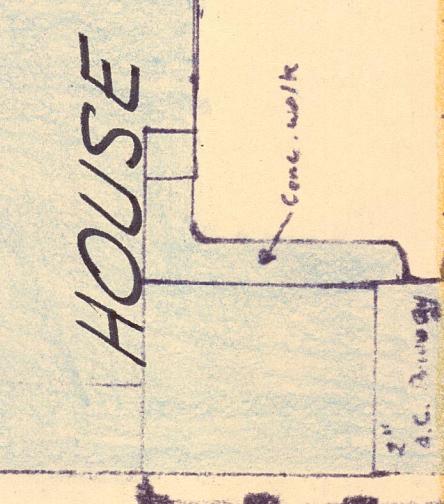
SP71-91 BUDREAU

Plot Plan

Scale 1" = 20'

Plot Plan

Scale 1" = 20'



HOUSE

chain link fence

cone walk

ac. 20'

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