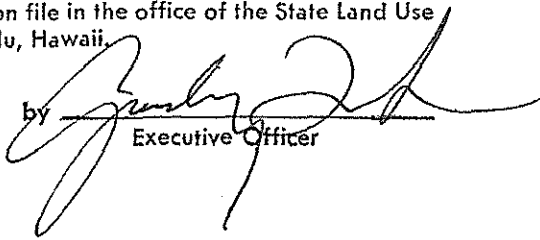


BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit) SP79-339
of WEST HAWAII ASSOCIATES) WEST HAWAII ASSOCIATES
_____)
_____)

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

JUN 28 1979
Date

by 
Executive Officer

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit) SP79-339
of WEST HAWAII ASSOCIATES)
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) DECISION AND ORDER

The Land Use Commission of the State of Hawaii,
having duly considered the entire record in the above entitled
matter, makes the following findings of fact and conclusions
of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by WEST HAWAII ASSOCIATES, to allow the establishment of a veterinary hospital on approximately 3.1 acres of land situated within the State Land Use Agricultural District at Puukapu, Waimea, South Kohala, Hawaii, Tax Map Key 6-4-01: portions of 2 and 125.
2. The subject property is located off the west side of Mana Road, approximately 1,100 feet south of the Mamanalo Highway and Mana Road intersection at Puukapu.
3. The Petitioner intends to utilize an existing 5,000 square foot structure for the proposed veterinary hospital and related improvements. The hospital will contain facilities for small and large animal treatment and hospitalization, and outdoor horse runs and pasture. The existing structure was formerly used for dairy purposes.
4. The subject 3.1 acre flag lot was created through a consolidation/resubdivision approved in January, 1979.

5. Pursuant to Section 205-4.5, Hawaii Revised Statutes, a declaration of covenants and restrictions was made part of the deed at the time of conveyance. The covenants essentially restrict the use of the land to those uses permissible within the State Land Use Agricultural District.

6. The County of Hawaii General Plan Land Use Pattern Allocation Guide Map designates the subject property Intensive Agriculture.

7. The U.S.D.A. Soil Conservation Service's Soil Survey Report dated December, 1973, designates the soils of the subject property as Kikoni, very fine sandy loam. This soil consists of well-drained very fine sandy loam that formed in volcanic ash. The surface layer is very dark brown fine sandy loam about 6 inches thick, while the subsoil is 44 inches thick and consists of dark brown and dark reddish-brown very fine sandy loam and silt loam. The substratum is fragmented Aa lava.

8. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "B" or "Good" for the subject property. The soil has also been classified as "Prime" under the State Department of Agriculture's "Agricultural Lands of Importance to the State of Hawaii" classification system.

9. Surrounding land uses include pasture, diversified agricultural activities, scattered single family dwellings and vacant lands.

10. The subject site fronts on Mana Road which has a 40-foot right-of-way with an additional 10-foot road widening strip set aside along the west side of the road.

11. The existing 5,000 square foot structure is situated approximately 50 feet from the rear property line and 140 to 190 feet from all side property lines.

12. The Petitioner has in part stated that the proposed use would not adversely affect surrounding properties nor unreasonably burden public agencies to provide services and facilities.

13. The U.S.D.A. Soil Conservation Service inquired concerning the disposal of dead animals and organs at the subject site.

14. The Hawaii Electric Light Company, Inc., noted that they have an electric line in the vicinity of the subject site.

15. The County Department of Water Supply had no objection to the permit request but did note that water is available from a 6-inch waterline along Mana Road.

16. The Department of Public Works noted that the Special Permit should not be granted until the road fronting the subdivision is completed. The Hawaii Planning Department received a letter dated January 30, 1979, from the subdivision developer, stating that roadway improvements to Mana Road would be completed.

17. Other government agencies cooperating in the review of the subject request, including the Hawaii Fire Department, Police Department, Department of Agriculture and Department of Health had no objections to the permit request.

18. Hawaii County Planning Department has recommended approval of the application for Special Permit.

19. The Hawaii County Planning Commission conducted a public hearing on the application for Special Permit on February 22, 1979. A representative of the Petitioner was the only person to testify concerning the request at that time.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in an Agricultural District may be permitted by Special Permit pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the subject request will be consistent with the Land Use Law and Regulations. The intent of the Land Use Law and Regulations is to preserve, protect, and encourage the development of lands in the State for those uses to which these lands are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The subject property and much of the land in the surrounding area is situated within the State Land Use Agricultural District. In establishing the boundaries for the Agricultural District, one (1) of the adopted standards, in part, states, "Lands with significant potential for grazing or for other agricultural uses shall be included in this District..." Due to the soil and climatic conditions present on the subject property and other areas in the northern portion of the island of Hawaii, there exists a high potential for grazing and the raising of livestock. In fact this potential is being, to an extent, realized by the agricultural industry in this area. The proposed use is to establish a veterinary hospital and related facilities suitable for the care and treatment of both large and small animals. Thus, the requested use would be able to provide needed services to the livestock industry in the area. Based on these considerations, it is determined that the granting of the Special Permit request would be supportive of the objectives sought to be accomplished by the Land Use Law and Regulations as it would enhance the agricultural activity and potential of the

region.

3. The subject request is not anticipated to adversely affect surrounding properties. The existing 5,000+ square foot structure is approximately 50 feet from the rear property line and 140 to 190 feet from all side property lines. Given these distances, it is not anticipated that the use of the existing structure for veterinary purposes would adversely affect the surrounding properties. Further, the non-structural uses proposed, namely horse runs and corrals, are permitted uses within the State Land Use Agricultural District.

4. The requested use will not unreasonably burden public agencies to provide roads, and streets, sewers, water, drainage, and police and fire protection. Mana Road will be improved with a 20-foot wide pavement and drainage improvements. Sewage and solid waste disposal will be the responsibility of the petitioner and will be in compliance with the applicable rules and regulations. Police and fire protection are available from their respective stations located approximately 2 miles away.

5. The use described in the Petition is an unusual and reasonable use pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 79-339 for the establishment of a veterinary hospital on approximately 3.1 acres of land situated within the State Land Use Agricultural District at Puukapu, Waimea, South Kohala, Hawaii, Tax Map Key 6-4-01: portions of 2 and 125 be approved subject to the following conditions:

1. That the petitioner shall establish the proposed use on the subject property within two (2) years from the effective date of the Special Permit.

2. That the petitioner shall submit plans and secure final plan approval prior to the establishment of the use on the subject property.

3. That all driveways, parking areas, and loading areas be provided with an all weather dust-free surface meeting with the approval of the Planning Director.

4. That the requirements of the State Department of Health and the Department of Public Works shall be complied with.

5. That the petitioner shall file an amended agreement to the Bureau of Conveyances which was previously filed, relative to Section 205-4.5 of the Hawaii Revised Statutes.

6. That all other rules, regulations and requirements shall be complied with.

7. Failure to comply with any of the delineated conditions of approval, particularly those relative to time commencement and expiration, shall be reason for termination of the Special Permit, unless an extension is requested prior to the expiration date and approved.

DATED: Honolulu, Hawaii, June 26, 1979.

LAND USE COMMISSION

BY C. W. Duke
C. W. DUKE
Chairman and Commissioner

BY Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George R. Pascua
GEORGE R. PASCUA
Commissioner

By Carol B. Whitesell
CAROL B. WHITESELL
Commissioner

By Edward Yanai
EDWARD YANAI
Commissioner



Planning Commission

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

LORRAINE R. INOUE
Mayor

CERTIFIED MAIL

April 15, 1991

Dr. William Bergin
P. O. Box 839
Kamuela, HI 96743

Dear Dr. Bergin:

Amendment to Special Permit No. 417
Tax Map Key: 6-4-01:02

The Planning Commission at its duly held public hearing on April 4, 1991, voted to approve an amendment to your Special Permit No. 417, which allowed the establishment of a veterinary hospital on approximately 3.1 acres of land situated within the State Land Use Agricultural District. The amendment request is to allow the conversion of a portion of an existing barn into an animal health supply outlet. The property is located off the west side of Mana Road, approximately 1,100 feet south of the Mamalahoa Highway-Mana Road intersection at Puukapu, Waimea, South Kohala, Hawaii.

Approval of this request is based on the following:

The granting of the animal health supply outlet will promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law Rules and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii.

In the case of the Agricultural districts, the intent of the State Land Use Law Rules and Regulations is to preserve or keep lands of high agricultural potential in agricultural use. The land on which the proposed development is located is classified as "B" or "Good" by the Land Study Bureau for agricultural productivity and "Prime" by the ALISH Map. The applicant proposes the conversion of an existing vacant barn structure to accommodate the proposed use with no additional land to be taken out of existing or potential agricultural use.

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The request is not contrary to the General Plan. The proposed use is consistent with the following goals, policies, and standards of the General Plan:

Land Use

"Designate and allocate land uses in appropriate proportions and mix in keeping with the social, cultural, and physical environments of the County.

"The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

The granting of the request will also complement the General Plan policy of supporting and encouraging agricultural activities. The proposed use would supplement the existing veterinary clinic on the subject property by providing specialized, professional products for the care, treatment and maintenance of sick or injured animals that are not readily available through a general distributor. Although the granting of the proposed use will allow the establishment of a non-agricultural use on the property, it is determined that this use will supplement the services offered by the existing veterinary clinic in supporting the existing livestock industry in the surrounding area. Thus, the proposed facility would also promote the objectives of the State Land Use Law Rules and Regulations by helping to preserve, protect, and encourage the development of agricultural lands.

The proposed use will not have any significant adverse effects on the surrounding properties. This request involves the conversion of a portion of an existing barn structure for retail purposes. Other than the installation of interior panelling and driveway and parking lot improvements, no other construction is anticipated. The proposed facility will be located a minimum of 80 feet from all property boundaries. Furthermore, the limiting of the proposed use to the sale of products directly related to the services provided by the veterinary clinic would ensure that no additional traffic would be generated by the sale of items not related to the treatment and health maintenance of small and large animals. It is not anticipated that the proposed use will greatly intensify visual or noise impacts beyond what is currently generated by the existing veterinary clinic. The applicant's principal business will continue to be the existing veterinary clinic. As the proposed use is being requested to supplement the services being

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provided by the clinic, it is recommended that no signage be permitted advertising the retail use approved by this amended permit. The proposed retail activity shall be limited to a floor area of 400 square feet. In addition, all activities associated with the retail operation shall be limited to a floor area not to exceed 1,650 square feet. With the adoption of the conditions of approval, the proposed use is not expected to directly compete with other animal supply stores in the general area.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. Consulted agencies had no objection to the request. Water is available to the property. In addition, the applicant has agreed to provide two water tanks for fire protection and this will be made a condition of approval. The volume of traffic is not expected to greatly increase beyond that which is currently generated by the veterinary clinic.

Approval of this request is subject to the following conditions: (material deleted is bracketed and material added is underscored):

1. That the petitioner shall establish the proposed use on the subject property within two (2) years from the effective date of the Special Permit.
2. That the petitioner shall submit plans and secure final plan approval prior to the establishment of the use on the subject property.
3. That all driveways, parking areas, and loading areas be provided with an all weather dust-free surface meeting with the approval of the Planning Director.
4. That the requirements of the State Department of Health and the Department of Public Works shall be complied with.
5. That the petitioner shall file an amended agreement to the Bureau of Conveyances which was previously filed, relative to Section 205-4.5 of the Hawaii Revised Statutes.
6. That all other rules, regulations and requirements shall be complied with.

7. Failure to comply with any of the delineated conditions of approval, particularly those relative to time commencement and expiration, shall be reason for termination of the Special Permit, unless an extension is requested prior to the expiration date and approved.]
1. The applicant, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Final Plan Approval of the proposed animal health supply outlet and related improvements shall be secured from the Planning Department within one year from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, fire protection measures and paved driveway and parking area associated with the outlet.
3. Building permit(s) for the conversion of a portion of the barn to allow a change of occupancy shall be secured within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within one year thereafter.
4. The proposed outlet shall be limited to 1,650 square feet of gross floor area.
5. A list of items (general categories) to be sold at the animal health supply outlet shall be submitted to and approved by the Planning Department prior to the issuance of the occupancy permit. The items shall supplement the veterinary activity. The items offered for sale shall not compete with existing commercial and retail uses.
6. There shall be no signage on the premises advertising the sale of retail items.
7. The hours of operation for the animal health supply outlet shall be only during the established hours for the veterinary clinic.

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8. The applicant shall provide fire protection measures meeting with the approval of the Fire Department prior to the issuance of a certificate of occupancy.
9. The applicant shall comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health and Public Works.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
11. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

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

Dr. William Bergin
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Please feel free to contact the Planning Department if there are any questions on this matter.

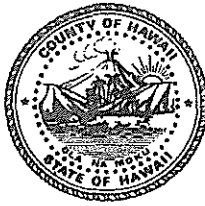
Sincerely,

Mike Luce

Mike Luce, Pro Tem Chairman
Planning Commission

6228d
jdk

xc: Mr. Sidney Fuke
West Hawaii Office
Department of Public Works
Department of Water Supply
Department of Health
Fire Department
County Real Property Tax Division
State Land Use Commission



County of Hawai'i

LEEWARD PLANNING COMMISSION

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

JAN 13 2011

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

Dear Mr. Fuke:

Special Permit (SPP 417)

Applicant: Lextron Animal Health – Hawai'i

Request: To Amend SPP 417 to Allow the Sale of Ranching, Farming, and
Veterinary and Animal Supplies

Tax Map Key: 6-4-001:002

The Leeward Planning Commission at its duly held public hearing on December 15, 2010, voted to approve the above-referenced request for an amendment to Special Permit No. 417, which allowed the establishment of a veterinary hospital and animal health supply outlet on approximately 3.1-acres of land situated within the State Land Use Agricultural District. The amendment request is to allow the sale of ranching, farming, and veterinary and animal supplies in addition to the previously approved activities. The property is located off of the west side of Mana Road, approximately 1,100 feet south of the Māmalahoa Highway-Mana Road intersection at Pu'ukapu, Waimea, South Kohala, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting an amendment to Special Permit No. 417 to allow the sale of ranching, farming and veterinary and animal supplies in addition to the previously approved activities. The amendment would allow additional items to be sold within the animal health supply outlet including, but not limited to, fencing material, water containers or troughs, fertilizer, horseshoes, livestock handling equipment, feed, and other similar items. Currently, there is a veterinary hospital, an animal health supply outlet within a portion of an existing barn, and a telecommunication tower approved by Special Permit on the subject property. There are many ranches and small scale

agricultural farms in the area and the site would be convenient. Additionally, many who frequent the veterinary hospital would also find it convenient to pick up supplies or materials related to their animal husbandry activity.

The grounds for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the Agricultural District. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the Legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. The subject property is 3.136 acres in size and situated within the State Land Use Agricultural District and the County's Agricultural (A-3a) zoned district. Even though the soil type and classification for the property are good for agricultural uses, the property has been approved and used for a veterinary hospital and animal health supply since 1979 under Special Permit No. 79-339 (SPP No. 417). Animal husbandry is a branch of agriculture concerned with the production and care of domestic animals. The proposed request to sell ranching, farming, veterinary and animal supplies will continue to support animal husbandry for ranchers and farmers in the area and continues to be considered an unusual and reasonable use of the agricultural land.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. This property is situated on soil classified as KfA (Kikoni very fine sandy loam, 0 to 3 percent slopes), which is used for truck crops. The soils are classified as "B" or "Good" by the Land Study Bureau's Overall Master Productivity Rating and designated as "Prime Agricultural Land" by the Department of Agriculture's ALISH Map. The use will mainly be located within an existing barn structure along with a small portion of the property to store fencing materials. The veterinary hospital, the animal health supplies outlet and the addition of ranching and farming supplies supports animal husbandry and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

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

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. Based on the above discussion, the subject request is considered an unusual and reasonable use of the agricultural land. Additionally, the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations but supports animal husbandry for local ranchers and farmers.

(B) The desired use will not adversely affect surrounding properties. The project area is within a portion of the approximately 3.136-acre parcel of land. The project site is located approximately 1,100 feet south of Mamalahoa Highway/Mana Road intersection, and 560 feet west of Mana Road. The property includes the existing veterinary hospital facility, animal health supply outlet, barn structures, telecommunication tower, and a single family dwelling.

Adjacent lands to the north, east and south are similarly zoned A-3a and the existing uses include scattered residences and agricultural uses. Lands across of Mana Road to the east are zoned A-1a and A-5a and are pasture land. To the west, the lands are zoned A-5a and are presently vacant of any structures. The nearest dwelling is located on the adjacent property to the east.

There are rows of large trees along the western and southern boundaries of the property as well as to the east on the adjoining property to minimize any potential noise and/or visual impacts. There may be some increase in traffic based on the additional items available for sale but these impacts are anticipated to be non significant and will occur during non-peak hours. Additionally, there will be sufficient on-site parking for the proposed request.

Therefore, based on the above information the proposed amendment request will not adversely affect the surrounding properties.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The proposed request will not unreasonably burden public agencies to provide the additional services. Access to the project site is from Mana Road, which has a County owned and maintained road with a 20-foot wide pavement and 4-5 feet grass shoulders within a 40-foot right-of-way. The privately maintained driveway (Kauka Lane) has a 19-foot pavement within the 30-foot wide pole (about 350 feet in length) and

leads from Mana Road to the animal health supply outlet and veterinary clinic. Water and other essential utilities are available to the property.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. The project site and surrounding areas are designated for agricultural uses by both State and County land use laws. However, through the issuance of a Special Permit, various “non-agricultural” services and uses may be established.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The land on which the proposed use is located is classified as Prime Agricultural Land by the Agricultural Lands of Importance to the State of Hawai‘i (ALISH) Map and on “B” or “Good” soil according to the Land Study Bureau Soil Rating classification. Although the land upon which the proposed use is sought has good soil, the use will be located within an existing barn structure and a small portion of the property. The proposed amended uses should not diminish any agricultural potential of the property.

(F) The proposed use will not substantially alter or change the essential character of the land and present use. The proposed use will not substantially alter or change the character of the land and its present use as it will be located mainly within an existing barn structure with a small area used for the storage of fencing materials.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The property is located in area identified as Important Agricultural Land and Low Density Urban in the General Plan. Important agricultural lands are those with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. Low Density Urban allows for residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses; overall residential density may be up to six units per acre. The request will not be contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area and would support the goals and policies of the Land Use and Economic elements of General Plan.

Land Use Element

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Land Use-Agriculture

- Encourage other compatible economic uses that complement existing agricultural and pastoral activities.
- Preserve and enhance opportunities for the expansion of Hawai'i's Agricultural Industry.

Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

The official community development plan for the area is the South Kohala Community Development Plan, which was adopted by Ordinance No. 08-159. The project site is located in an area identified as small farms and ranches preservation program in the SKCDP, Figure 4.4 - Waimea Town Conceptual Plan. The plan has discusses strategies for preserving small farms, small ranches, and open spaces in East Waimea and expanding farming activities. These strategies include 1) acquisition of fee interest or of conservation easements, and 2) internal transfer of development rights. In this case, the property has already been developed and these strategies would not be applicable. It should be noted that the intended outcome for the acquisition of fee interest or conservation easements was for the preservation of most of the remaining small farms and ranches in East Waimea as open space for farming and ranching. This particular property has been developed and is conducting activities that are directly supportive of farming and ranching. Therefore, the proposed request is consistent with the South Kohala Community Development Plan.

Based on the above considerations, the request to allow the sale of ranching, farming, veterinary and animal supplies in addition to the previously approved activities is approved by the Leeward Planning Commission subject to the following conditions (new material is underscored and material to be deleted is struck through and bracketed):

- ~~1. The applicant, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval.~~
- ~~2. Final Plan Approval of the proposed animal health supply outlet and related improvements shall be secured from the Planning Department within one year from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, fire protection measures and paved driveway and parking area associated with the outlet.~~
- ~~3. Building permit(s) for the conversion of a portion of the barn to allow a change of occupancy shall be secured within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within one year thereafter.~~
- ~~4. The proposed outlet shall be limited to 1,650 square feet of gross floor area.~~
- ~~5. A list of items (general categories) to be sold at the animal health supply outlet shall be submitted to and approved by the Planning Department prior to the issuance of the occupancy permit. The items shall be directly related to veterinary services. The items offered for sale shall not compete with existing commercial and retail uses.~~
- ~~6. There shall be no signage on the premises advertising the sale of retail items.~~
- ~~7. The hours of operation for the animal health supply outlet shall be only during the established hours for the veterinary clinic.~~
- ~~8. The applicant shall provide fire protection measures meeting with the approval of the Fire Department prior to the issuance of a certificate of occupancy.~~
- ~~9. The applicant shall comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health and Public Works.~~
- ~~10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.~~
- ~~11. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:~~

- a. ~~the non performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence;~~
- b. ~~granting of the time extension would not be contrary to the General Plan or Zoning Code;~~
- c. ~~granting of the time extension would not be contrary to the original reasons for the granting of the permit; and~~
- d. ~~the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).~~

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

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval of the proposed ranching, farming, veterinary and animal health supply outlet and related improvements shall be secured from the Planning Department within one year from the effective date of this amendment in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development.
3. Building permit(s) to allow a change of occupancy for the conversion of the portion of the barn to be used for the additional uses shall be secured within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within one year thereafter.
4. The hours of operation for the supply outlet shall be limited to 7 a.m. to 5 p.m., daily.
5. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
6. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence.

Mr. Sidney Fuke
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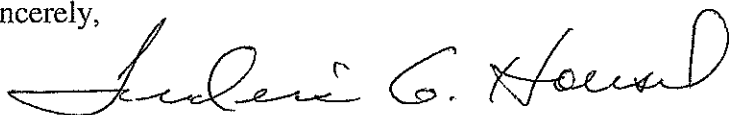
- B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

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

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

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Frederic Housel, Chairman
Leeward Planning Commission

Llextronanimalhealthspp417

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