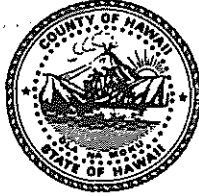


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL

Z 179 517 341

DEC 16 1997

Dr. and Mrs. William C. Bergin  
62-2279 B Kanehoa Road  
Kamuela, HI 96743

Dear Dr. and Mrs. Bergin:

Revocation of Special Permit No. 866  
Initiator: Planning Director  
Permit Issued to: William and Patricia Bergin  
Permitted Use: Establish a Veterinary Facility  
Tax Map Key: 7-3-8:73

The Planning Commission, at its duly held public hearing on December 4, 1997, voted to approve the revocation of Special Permit No. 866 granted to Dr. William and Patricia Bergin, which allowed the establishment of a veterinary facility within the State Land Use Agricultural District. The property is located on the makai side of Mamalahoa Highway approximately 400 feet south of its intersection with Kaloko Drive at Kaloko, North Kona, Hawaii.

The revocation of Special Permit No. 866 is hereby approved as the applicants have not proceeded with the establishment of the veterinary facility and the subject property was conveyed to the present owner on October 21, 1994.

Should you have questions regarding this matter, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,

Kevin M. Balog, Chairman  
Planning Commission

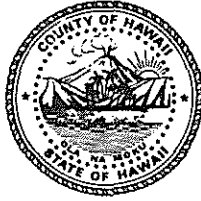
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cc: Mark Van Pernis, Esq.  
Mr. R. Lee Armbruster  
West Hawaii Office  
Land Use Commission

DEC 16 1997

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Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 Fax (808) 961-9615

#### CERTIFIED MAIL

March 1, 1994

Mr. and Mrs. William C. Bergin  
PO Box 839  
Kamuela, HI 96743

Dear Mr. and Mrs. Bergin:

Special Permit Application (SPP 93-15)  
Applicant: William C. and Patricia C. Bergin  
Request: Veterinary Facility for Large and Small Animals  
Tax Map Key: 7-3-8:73

The Planning Commission at its duly held public hearing on February 17, 1994, voted to approve the above application. Special Permit No. 866 is hereby issued to establish a veterinary facility within the State Land Use Agricultural District. The property is located on the makai side of Mamalahoa Highway approximately 400 feet Kau (south) side from its intersection with Kaloko Drive, Kaloko, North Kona, Hawaii.

Approval of this request is based on the following:

In considering a Special Permit 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) Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

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MAR 1 1994

Mr. and Mrs. William C. Bergin  
March 1, 1994  
Page 2

The Planning Commission shall also consider the following criteria:

- (A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- (B) The desired use shall not adversely affect 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;
- (D) Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- (E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district;
- (F) The proposed use will not substantially alter or change the essential character of the land and the present use; and
- (G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.

The request is (a) a reasonable use of land situated within the Agricultural or Rural District, and (b) would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law lists as Permissible uses within the agriculture districts: "The raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use." Many users of the proposed facility are ranchers and owners of animals propagated in the surrounding agricultural districts. The small and large animal veterinary facility would complement and support the agricultural practices.

Although the site is classified as "other important agricultural lands", it is also classified by the Land Study Bureau as being "Poor" or "Very Poor" lands. No agricultural activity is currently conducted on this site. Although the site would be removed as a potential for agricultural production, the service provided to the agricultural industry would far outweigh its loss.

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 proposed use will not have any significant adverse effects on the surrounding properties. The closest structure will be 20 feet from the south property line. The adjoining property's side yard will also be 20 feet, thus, the closest buildings between neighbors would not be less than 40 feet. The applicant's acoustical consultant's review of the construction plans and the siting of the facility concluded that noise generated by barking dogs at the facility should not have adverse impacts on the existing neighboring residences. To mitigate any adverse noise impacts as well as visual impacts associated with the facility extensive landscaping is recommended along the perimeter boundaries of the property.

The comments from cooperating review agencies show that the proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, school improvements, police and fire protection.

Based on the above, a small and large animal veterinary facility is an unusual and reasonable use of land which would not be contrary to the objectives sought to be accomplished by the State Land Use Law.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.
2. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.

3. The applicant shall receive Final Plan Approval for the proposed facility within three (3) years from the effective date of the Special Permit. The applicant shall receive Final Plan Approval for the proposed facility within three (3) years from the effective date of the Special Permit. The effective date shall be when the applicant submits a copy of the covenants for this property recorded with the Bureau of Conveyances prohibiting vehicular access from the 40-foot Private Road and limiting vehicular access for the entire parcel from the driveway approved in accordance with Condition No. 5 below. The structures shall be constructed as reviewed by the acoustical consultant. An overall landscaping master plan, which includes landscaping along the property's perimeter and a program for the maintenance of the landscaping master plan, shall be submitted to the Planning Director for review and approval prior to the issuance of final plan approval.
4. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
5. Access to the property shall meet with the approval of the Department of Transportation, Highways Division and the driveway(s) shall comply with the roadway standards of the Department of Public Works.
6. Comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, and the Department of Water Supply.
7. An annual progress report shall be submitted to the Planning Director prior to the anniversary date 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.
8. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) the

Mr. and Mrs. William C. Bergin  
March 1, 1994  
Page 5

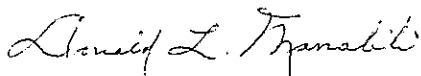
non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; 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); and e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate proceedings 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 feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman  
Planning Commission

RKN:smn  
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xc: Honorable Stephen K. Yamashiro, Mayor  
Planning Director  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
State Land Use Commission  
Department of Land & Natural Resources  
State Department of Transportation, Highways  
State Department of Health  
Fire Department  
Plan Approval Section