

County of Hawai'i

PLANNING COMMISSION

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

September 17, 2008

Mr. Satoru Stewart Maeda
P.O. Box 1225
Mountain View, HI 96771

Dear Mr. Maeda:

Special Permit Application (SPP 08-000056)
Applicant: Satoru Stewart Maeda
Request: Establish Commercial Boarding Kennel and Office,
Quarantine Kennel, and Certified Kitchen
Tax Map Key: 1-8-6:por 193

The Planning Commission at its duly held public hearing on September 4, 2008, voted to approve the above-referenced application to allow the establishment of a commercial boarding kennel, a quarantine kennel, office, and certified kitchen on 4 acres of land situated within the State Land Use Agricultural District. The property is located off the south side of Ihope Street, approximately 0.7 mile southwest of the Ihope Street – North Peck Road intersection, Olaa Reservation Lots, Olaa, Puna, Hawaii.

Approval of this request is based on the following:

The applicant requests the Special Permit to establish a commercial boarding kennel; office, certified kitchen, and a quarantine kennel for future expansion. The applicant's current request is to establish a small boarding kennel containing 22 kennels. Proposed future uses include:

- an office
- certified kitchen to be used for baking dog treats as well as to process, clean and package fruits and vegetables grown on the site.
- quarantine kennel (approximately 5 kennels) to operate as a State quarantine station.

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The applicant will be the sole operator of the facility. Pick up and drop off services will be provided to clients. Clients will be allowed on the site by appointment only between 9:00 a.m. to 5:30 p.m. Monday through Friday and 10:00 a.m. to 3:00 p.m. on Saturday. According to the applicant, no more than two clients will visit the kennel on any given day.

The existing use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), 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 Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. In recognizing that lands within the 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.

Soils on the property are classified as "C" or "Fair" and "D" or "Poor" for agricultural productivity by the Land Study Bureau and is designated "Unclassified" towards the northeastern portion of the property and "Prime" for the remainder of the property by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. As only a four-acre portion of the approximately 24-acre parcel will be used for the project, the use will not displace any agricultural activity nor diminish the agricultural potential of the area. Thus, this request is not contrary to the objectives of the State Land Use Law for the Agricultural District.

The request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The project site does not abut the shoreline and will not be impacted by coastal hazard and beach erosion. No professional flora and faunal surveys were conducted of the site, since the property is currently improved. It is not anticipated that endangered or threatened candidate species of flora or fauna are located in the immediate project area. The project site has not been identified as a significant botanical or biological habitat. The property has been improved with a single-family dwelling. According to the applicant, there are no traditional and customary Native Hawaiian rights currently being practiced on the site.

The parcel is not listed on the Hawaii Register or the National Register of Historic Places. By letter dated March 17, 2008, the DLNR Historic Preservation Division has stated that no historic properties will be affected by this project because intensive

cultivation and previous grubbing/grading has altered the land. It is not anticipated that the proposed request will have an adverse impact on cultural or historical resources in the area.

The desired use will not adversely affect surrounding properties. Surrounding properties are zoned A-5a and are vacant or in single-family residential or agricultural uses. According to Building Permit records, there is a single-family dwelling and a horse barn on parcel 192 immediately adjacent to the north of the property; parcel 112 to the west is improved with a single-family residence constructed in 1941, and parcels 110 and 88 to the east and south of the property respectively, are vacant. Parcel 109 fronting Ihope Street is improved with a single-family dwelling. As only a small portion of an approximately 24-acre property is proposed for the commercial boarding kennel and related uses, it is not anticipated that the project will adversely impact surrounding properties. As a condition of approval, the applicant will be required to provide landscaping to mitigate any potential adverse noise or visual impacts to surrounding areas.

The establishment of a commercial boarding kennel; office, certified kitchen, and a quarantine kennel for future expansion will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the site is from Ihope Road, a County-maintained paved roadway of approximately 50 feet. Water is provided by catchment. Sewage disposal will be via cesspool for the office and kitchen and septic tank for the kennel. All essential utilities are available to the site.

Unusual conditions, trends, and needs have arisen since the 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 and have been established. The establishment of the proposed uses would allow the applicant to operate a small commercial boarding kennel on the site. While dog kennels are permitted in the County's Agricultural zoned district, the State Law forbids such uses on Agricultural designated lands. The applicant requests the Special Permit for the commercial kennel as well as the certified kitchen.

The request will conform to, among others, the Land Use and Economic elements of the General Plan and is not contrary to the goals, policies and standards of the General Plan. 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 designated Important

Agricultural Lands but the property is not in active agricultural use. The Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted.

Based on the above, the approval of the request to establish a commercial boarding kennel; office, certified kitchen, and a quarantine kennel for future expansion would support the objectives sought to be accomplished by the Land Use Law and Regulations. Approval of this request is subject to the following conditions.

1. The applicant(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The kennels shall be located approximately as shown on the site plan and shall be built with solid doors and cinder block walls as stated in the application.
3. Construction of the commercial boarding kennel, office, certified kitchen and quarantine kennels shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, parking stalls, and other improvements associated with the proposed use in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25, (Zoning Code), Hawaii County Code for a commercial area adjoining a residential area, where it abuts residential lots.
4. The applicant shall submit metes and bounds of the approximate four-acre project site, by a registered surveyor, prior to the receipt of Final Plan Approval. The proposed activities shall be limited to this permitted area.
5. The hours of operation shall be limited to 9:00 a.m. to 5:30 p.m. Monday through Friday and 10:00 a.m. to 3:00 p.m. on Saturday.
6. All exterior signs shall conform to Section 3-12 of the Sign Code, Chapter 3 of the Hawaii County Code, relating to signs in the Agricultural district.
7. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
8. The method of sewage disposal shall meet the standards and requirements of the State Department of Health.

9. A Solid Waste Management Plan shall be submitted for review and approval to the Department of Environmental Management, prior to the issuance of a Certificate of Occupancy.
10. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigative measures have been taken.
11. Upon compliance with all conditions of approval and prior to the start of the operation, the applicant shall provide, in writing, a final status report to the Planning Director.
12. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
13. An initial extension of time for the performance of conditions 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 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.
 - 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).

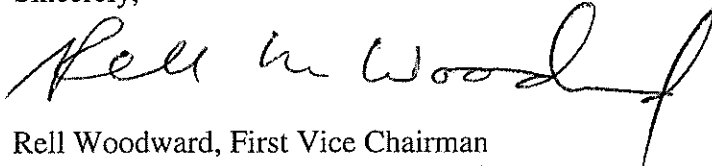
Should any of these conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate procedures to revoke this permit.

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.

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

Sincerely,

A handwritten signature in black ink that reads "Rell Woodward". The signature is written in a cursive style with a long, sweeping underline.

Rell Woodward, First Vice Chairman
Planning Commission

Lsatorumaeda02PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources
Department of Health