



## County of Hawai'i

### WINDWARD PLANNING COMMISSION

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

**JUN 18 2014**

Ms. Dominique Maus  
P.O. Box 377325  
Oceanview HI 96737

Dear Ms. Maus:

Special Permit (SPP 14-000160)

Applicant: Dominique Maus

Request: To Allow the Establishment of a Business Office and Baseyard for a Household  
Rubbish Pick-Up Business (Ka'ū Rubbish Disposal, LLC)

Tax Map Key: 9-2-060:021

The Windward Planning Commission, at its duly held public hearing on June 5, 2014, voted to approve the above-referenced request to allow the establishment of a business office and base yard complex for a household rubbish pick-up business (Ka'ū Rubbish Disposal, LLC) on approximately 460 square feet of land situated in the State Land Use Agricultural District. The property is located in Hawaiian Ocean View Estates approximately 3.5 miles from Highway 11, and approximately 120 feet south from the intersection of Tradewind and Kailua Blvd. in Ka'ū, Hawai'i.

Approval of the request is subject to the following conditions:

1. The applicant, successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall conduct the business substantially in compliance with the representations made within the Special Permit Application dated March 5, 2014 and before the Windward Planning Commission.

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3. The hours of operation for the rubbish pick-up business shall be limited from 7:00 a.m. to 6:00 p.m. and shall be limited to a maximum of three (3) business trucks and two (2) trailers parked on-site.
4. No signage shall be posted on the subject property advertising the rubbish pick-up business.
5. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

Should any of these conditions not be met or substantially complied with in a timely fashion, the 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.

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

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8288, ext 8142.

Sincerely,



Myles Miyasato, Chairman Pro-tem  
Windward Planning Commission

LDMausspp14-160wpc

Enclosure: PC Findings

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

**COUNTY OF HAWAI'I  
PLANNING COMMISSION FINDINGS**

**DOMINIQUE MAUS  
SPECIAL PERMIT APPLICATION NO. 14-000160 (SPP 14-000160)**

The applicant is requesting a Special Permit to allow the establishment of a business office and baseyard complex for a household rubbish pick-up business (Ka'ū Rubbish Disposal, LLC) on approximately 460 square feet of land within a larger, approximately one acre parcel situated in the State Land Use Agricultural District. The property is located in Hawaiian Ocean View Estates approximately 3.5 miles from Highway 11, and approximately 120 feet south from the intersection of Tradewind Boulevard and Kailua Boulevard. in Ka'ū, Hawai'i, TMK: 9-2-060:021. A portion of the existing dwelling will be used as a business office (100 feet) and a portion of the property will be used to park the business truck and trailer (360 feet). There will only be two employees to start, the applicant and business partner, but there may be additional employees added in the future. The business office will operate 3 to 4 hours per day during normal hours of operation. The applicant has obtained a disposal permit from the Department of Environmental Management-Solid Waste Division to commercially dump at either the Kona or Hilo Landfills.

According to the applicant, they are creating a self-employment by starting this business and establishing an important amenity that exists in a majority of other established communities and subdivisions. This may eventually create additional jobs for others in the area. The mission of the business is to provide a service that will help reduce vehicular emissions by eliminating residents from having to individually transport their own rubbish to the dump or transfer stations. Additionally, the business will help reduce accidental roadside litter by properly transporting the rubbish from the customer's home to the State Landfill, thus helping to keep the community clean, green and environmentally friendly.

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 District; 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. Although the one-acre property is zoned Agricultural by the County and designated Agricultural by the State Land Use Commission, its soils are considered very poor and are therefore not optimal for agricultural use. The proposed use is unusual in that it is not agricultural in nature, but is reasonable because it will take place partially within an existing dwelling and a small portion of the existing property, and therefore will not reduce the potential for the land to be used for agriculture in the future. Therefore, the subject request is 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 for those

uses to which they are best suited in the interest of the public 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. The property is situated within an area where soils are classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. The proposed use will be located within a portion of an existing single-family dwelling and on a small portion of land. Therefore, the proposed use will not adversely affect the preservation and agricultural use of the County's prime agricultural lands, 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 the following:

**(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** This criterion has been met because the proposed use is considered an unusual and reasonable use of the agricultural land that will not adversely affect the preservation and agricultural use of the County's prime agricultural lands.

**(B) The desired use would not adversely affect surrounding properties.** The property is approximately one acre in size (43,574 square feet) and is rectangular in shape. The proposed office use will take place within an existing 864-square-foot, 2-bedroom, 1-bathroom dwelling that was constructed with building permits in 2010 along with the storage of the business truck and trailer on 360 square feet of land. Surrounding properties are zoned A-1a and are primarily vacant or in single-family residential use. The nearest dwelling is located over 500 feet to the east across Tradewind Boulevard. It is unlikely that any impacts will be generated by the proposed use as it is a low impact activity and will occur mainly within the existing dwelling. A majority of the proposed operations will occur off-site providing a rubbish pick-up service throughout the subdivision. Therefore, it is not anticipated that the requested use will have an adverse affect on 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.** Access to the property is via private subdivision roadways that are owned collectively by the subdivision lot owners and maintained by the Hawaiian Ocean View Estates Road Corporation. Electricity and telephone service is available to the property through solar and cell phone service. The applicant will utilize an existing septic system for wastewater and an existing water catchment system for potable water. Based upon the above, the proposed use will not burden public agencies to provide additional services.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. Since then the Hawaiian Ocean View Estates subdivision has become more residential in nature; however, the property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various "non-agricultural" services may be allowed. The request to allow a business office and parking area for a household rubbish pick-up business

(Ka'ū Rubbish Disposal, LLC) on approximately 460 square feet of land is in line with the intent for allowing the issuance of a Special Permit. Based on the above discussion, the applicant has met this criterion.

**(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.** The property is situated on land classified as "E" or "Very Poor" by the Land Study Bureau's Overall Master Productivity Rating and is unclassified by the Department of Agriculture's ALISH Map. The property is currently not being used for agricultural purposes. However, as the proposed use will be conducted within the existing dwelling and a small portion of the property, the use of the property for agricultural purposes in the future will not be diminished.

**(F) The use will not substantially alter or change the essential character of the land and the present use.** The character of the land in this area is scattered residential and agricultural in nature, with a majority of the area in vacant land. The business office and parking area for the household rubbish pick-up business will be located on a small portion of one-acre of land will not substantially alter or change the essential character of the land or its present use.

**(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 Rural in the General Plan. This category includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a *significant residential component*. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The business will be conducted within a portion of the existing dwelling and parking for a business truck and trailer will be located on a small portion of the property, the request will not be contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area. Additionally, the approval of the subject request would support the goals and policies of the Land Use and Economic elements of General Plan.

#### Land Use Element

- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

#### Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.

Approval of the proposed request will allow the applicant an opportunity to improve her quality of life while providing a service to residents in the community.

**The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai'i Revised Statutes, relating to the coastal zone management**

**program.** In a letter dated April 16, 2014, the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) has stated that no historic properties will be affected by this project. The subject property is located over nine (9) miles to the nearest shoreline and therefore will not cause beach erosion or affect marine resources, coastal ecosystems, and coastal recreational opportunities. Nor will the property be affected by coastal hazards. Additionally, there is no designated public access to the mountain areas over the property. There is no record of traditional Hawaiian rights being practiced on the property. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above considerations, the proposed business office and baseyard complex for a household rubbish pick-up business is approved.