

CERTIFIED MAIL

March 3, 1988

- Mr. Roy Tokuyama  
Diamond Head Papaya Company, Ltd.  
P. O. Box 1569  
Keaau, Hawaii 96749

Dear Mr. Tokuyama:

Variance Application (V87-45)  
Diamond Head Papaya Company, Ltd.  
Tax Map Key 1-5-141:3

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the construction of an addition to an existing papaya packing plant and related improvements with setbacks of 36+ and 60+ feet in lieu of the minimum 100 foot requirement within the Agricultural (A-20a) zoned district at Keaau, Puna, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which deprive the petitioner of substantial property rights that would otherwise be available, or which interfere with the best use or manner of development of the property.

This existing 2.778 acre property was approved for agricultural packing purposes by Special Permit No. 599 in 1985, and concurrently granted a setback variance allowing the building to be situated 50, 60 and 70 ft. from its property lines. The permit allowed the packing to consist of papayas brought in from outside properties and it presently ships its bulk of fresh fruit to Japan.

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The addition being requested would bring the activity and the visual impact closer to the east property owner, Keaau Kim Chee, who had initially objected, on the grounds of the loud noises emanating from the papaya packing activities (and later identified as the diesel vehicles).

Expansion of this facility is necessary for the growth of this agriculture industry's export products which are a significant element of Hawaii's economy. The Zoning Code's setback requirements are 100 ft. from all property lines for food packing/processing plants. The basic reason for this particular distance is to minimize noise, odors and to a lesser degree, incompatible visual effects for the agricultural district and neighboring properties.

Forklift activities throughout the day and loading a diesel truck trailer about twice a day are the sources of high volume noise since the plant machinery is indoors, muffled and quieter.

The unusual aspect in this case is that there are 3 special permit approved uses within 500 ft. of each other. They are 1) Miko Slaughterhouse and meat packing plant (1980); 2) Keaau Kim Chee (1981); and 3) Diamond Head Papaya (1985). The latter two were constructed on lots which were too small to contain the required 100-ft. setback from all property lines, and thus variances were approved for them in conjunction with the siting of their buildings. Keaau Kim Chee was permitted to be 50 ft. from its side property line. The applicant's expanded building would be 60 ft. from the shared property line with the kim chee factory.

Based on the foregoing, it has been determined that there are special and unusual circumstances applying to the subject property.

#### ALTERNATIVES

Because of the lot configuration and processing plant layout, the plant can only be expanded in one direction, southward. The property's configuration southward will cause the future setback to be 60 ft. A covered canopy to shield the papaya deliveries from sun and rain, would be 20 ft. from the

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east boundary. However, existing plantings and future planned planting screens will obscure the visual impact of this proposed open shed from the adjoining neighbor.

Disallowing the requested variance will mean no expansion of the business of papaya exports at this site. As an alternative, the \$3 million plant's recourse would be to rebuild elsewhere, duplicating the present facility elsewhere with the addition being proposed. This alternative is deemed unreasonable, particularly given the character of the surrounding facilities and the recent infrastructure improvements of roadway and waterline and tanks, besides the building and reefers and machinery.

#### INTENT AND PURPOSE

The intent and purpose of the setback requirements is, in this case, to help control any noise and odors caused by a packing or processing plant from annoying ones neighbors. In this case, with the withdrawal of objections from the one neighbor, and an agreement by the applicant to further control noise by adopting the recommendation of the noise control consultant whom they consulted with, and the absence of other disturbing elements, the variance to the setback requirement does not represent an unreasonable action.

Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and adjoining properties.

The variance request is approved, subject to the following conditions:

1. The applicants, their assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The construction within the standard setback will be limited to what is shown on the site plans attached to the variance application dated as received by the department on July 13, 1987.

3. A building permit for the <sup>building</sup> ~~lot~~ must be secured within one year of the effective date of the variance and shall be completed within two years thereafter.

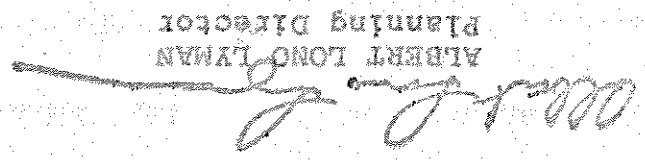
4. Immediate and specific compliance with Recommendation No. 1 described in the February 6, 1988 report "Noise Problem at Backing Plant" by John C. Burgess, Ph.D. (Acoustics and Noise Control consultant) and the February 18, 1987, advisement by consulting engineers Okahara and Associates regarding the installation of governors on the forklifts.

5. Completion of the heavy landscape planting requirement imposed as Condition No. 5 of Special Permit No. 599.  
6. Compliance with items described in the October 8, 1987 letter to the applicant from the Department with regard to the amplified exterior telephone bell.

7. All other applicable State and County rules and regulations shall be complied with.  
Should any of the foregoing conditions not be met, the variance shall be deemed null and void.

If you have any questions on this matter, please feel free to contact us.

Sincerely,

  
ALBERT LONO LYMAN  
Planning Director

DL:dh  
cc: Okahara & Associates, Inc.  
bcc: Plan Approval