

CERTIFIED MAIL

December 30, 1987

Mr. and Mrs. Steven Moore-Sayre  
P.O. Box 452  
Kurtistown, HI 96760

Dear Mr. and Mrs. Moore-Sayre:

Variance Application (V87-54)  
Variance from Minimum Side Yard Setback Requirements  
Tax Map Key 1-6-40:17

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 goat milking facilities (processing, storage, packing, shipping, etc.) with a side yard setback of 20 feet in lieu of the minimum 100 foot requirement within the Agricultural zoned district. The subject property is 3 acres in area, identified by tax map key 1-6-40:17 and is located on the east side of Road 6, Lot 4357, of Hawaiian Acres Subdivision, 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 applicant of substantial property rights that would otherwise be available, or which interfere with the best use or manner of development of the property.

This lot is extremely long and narrow, being 150 feet wide by 871 feet long, which are the dimensions of most of these Hawaiian Acres lots, created in 1958.

The current Zoning Code now requires a width of 160 feet for a 3-acre lot, 10 feet wider than the subject property.

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While most agriculture pursuits and buildings are able to be sited on lots with these dimensions, the Zoning Code stipulates that "100 ft. from all property lines" is the setback requirement when an agricultural building is proposed to be used for "processing, packing, storing, . . . of products produced on the premises." In order for a 22 foot wide building (as proposed) to be established, a lot would have to theoretically be at least 220 feet wide, according to the Code.

The applicant proposes to produce goat cheese and related products from the milk of about 30 animals raised on the farm. Strict sanitary requirements are imposed by the State Department of Health for the commercial processing of milk products. The size of the operation will be small; the building is designed for the milking of 8 goats only at a time and all the processing will be done by hand. The only equipment markedly different from a large domestic kitchen will be a pasteurizer, which operates quietly. About 30 to 50 gallons of milk will be processed daily.

The Department of Health imposes extremely strict health standards especially for milk processing operations and facilities, and spot inspections are frequently conducted by them. Violations of these health standards result in the closure of the operation. Complete screening of windows, double closing doors, separate cesspool and washdown requirements are imposed by the Department of Health. No open sewage disposal is allowed. These controls all contribute to the sanitary conditions and odor-insect free characteristics of the facility.

#### ALTERNATIVES

There are no alternatives for the placement of a milking facility (or any food processing plant) on lots with less than a 200 foot dimension plus building width other than the requesting of a variance from the setback requirements.

#### INTENT AND PURPOSE

The intent and purpose of the 100 foot setback requirements are to obtain a greater than usual building setback distance from adjacent properties for any food processing activities. The rationale is--food processing generally involves noise, smell, insect attraction, machinery/vehicular activity--all to an extent which could disturb adjacent properties.

However, in this case, the goat milking facility, 22 feet by 36 feet in size will be, first of all, smaller (792 square feet) than a modest residential dwelling. Secondly, because of

the Department of Health requirements, no animal waste smells or attraction of insects will be caused. No open sewage trenches or settling ponds are allowed. Instead, a separate cesspool is required for the facility. The building will also be fully screened and any waste from the animals or milk products are to be channeled by pipe into the cesspool. The layout of the building, and scope and method of operations are such that no extraneous noises or odors should emanate from the operation to an extent which would be disturbing to any neighbors 20 feet away from the building. A field inspection resulted in a finding that even the existing goat shed, now housing 15 animals, was not a smelly, fly-infested place.

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.

Therefore, the Planning Director has concluded that this variance request be approved subject to the following conditions:

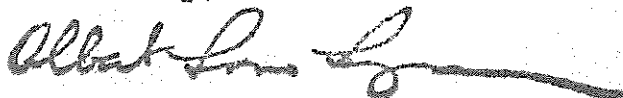
1. The applicant, its assign or successors, shall be responsible for complying with the all stated conditions of approval.
2. The milk processing building shall be constructed basically as shown on the construction drawings dated November 23, 1987, received on December 2, 1987 by this office.
3. Any future expansion of this building, if for this same use, shall maintain no less than the 20-foot side yard setback granted by this variance permit.
4. A building permit for the <sup>structure</sup> dwelling must be secured within one year of the effective date of this variance and shall be completed within two years thereafter.
5. All other applicable State and County rules and regulations, more specifically those of the State Department of Health, shall be complied with.

Should any of the foregoing conditions not be met, this variance permit shall be deemed null and void.

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

Sincerely,



ALBERT LONO LYMAN  
Planning Director

DT:lv

cc: Cecelia St. Clair