

CERTIFIED MAIL

August 23, 1990

Mr. Masa Nishida
Okahara & Associates
200 Kohola Street
Hilo, HI 96720

Dear Mr. Nishida:

Variance Application (V89-29)
Diamond Head Papaya Company
Tax Map Key 1-6-141:3

After reviewing the subject application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of the subject variance request to allow the construction of an addition to an existing papaya packing plant and related improvements with setbacks of 25, 45, and 70 feet in lieu of the minimum 100-foot requirement within the Agricultural (A-20a) zoned district. The subject property is 2.67 acres in area, identified by tax map key 1-6-141:3 and is located on the east corner of Slaughter House Road/New Volcano Road intersection, 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.

The parcel of land upon which the building is situated is non-conforming as to size, being 2.78 acres in an A-20 acre zone. It is also roughly triangular in shape with dimensions of 144' x 400' and 280' x 359'. So from the building's inception there was never the requisite "100 ft. distance from all property lines" for the initial building which was 100' x 185' in size. Thus, the building was in need of a variance from the setback requirements from the very beginning of its existence.

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To the north across the road is the only single family dwelling in the immediate area and its owner operates a 1420 sq. ft. furniture and woodworking (home occupation) shop complete with floor bolted power tools.

Essentially, the character and uses of the land in this area have been transformed from agricultural to industrial by virtue of 3 special permits and their respective variances. Furthermore, the four parcels which have utilized the special permits are all less than the A-20a size requirements, being 18.7, 2.3, 2.6 and 2.7 acres each.

Because of its lot size and shape, no additions for building expansion can be implemented without a variance being granted for the setback distances for this papaya packing factory. The business cannot be expanded otherwise. Replacement cost of the building is estimated at \$3 million and would involve a complete shutdown of the business which seasonally employs up to 78 people (packers) and scores of suppliers. The Company is the second largest employer in Puna.

Based on the foregoing, it has been determined that there are special and unusual circumstances applying to the subject property which exist to a degree which deprive the owner of substantial property rights that would otherwise be available, or which unreasonably interfere with the best use or manner of development of the property.

ALTERNATIVES

There is no feasible alternative to the direction of the building's expansion because of the lot's dimensions and the building's emplacement.

There is also no alternative to the expansion needs of the business. Papaya treatment methods have been modified with regard to exports to Japan (its primary market) and the company's mechanical "production" line requires the addition to support an improved steam vapor processing of the fruit to prevent insect infestation at the recipient countries (there are strict agricultural export standards imposed by various government agencies).

The alternative to the growth or expansion effort is to remain the same size and not utilize the innovations and new standards of the industry. This would eventually cause the company to stagnate, allowing the competition to expand or improve while it would not. Even another larger site would involve the complete shutdown of this plant which at high season employs 78 factory people at present.

The applicant is willing to acquire additional adjacent land but such is not presently available (The W.H. Shipman company is up for sale; its individual subdivided land is not).

INTENT AND PURPOSE

The intent and purpose of the setback requirements of 100 ft. (instead of the more usual 20 or 30 ft.) for packing and processing uses in an agricultural zone are to generally enable the distance to help minimize any noise, odor and other emanations from those activities involving agricultural products which may disturb or annoy occupants or activities of adjacent properties.

In this case, the properties surrounding the applicant are themselves already industrial in nature or have been vacant for decades.

To the north is a dwelling across the street which contains a 1400 sq. ft. steel shed equipped with woodworking power tools for cabinet and furniture making.

To the east is the kim chee processing and bottling factory which operates 3 or 4 days per week. A former cattle slaughterhouse (long abandoned) is 800 ft. beyond.

To the south is uncultivated, unused vacant land owned by the W.H. Shipman Company.

To the west is the main access road and Volcano Highway.

The kim chee factory emits an equivalent ambient volume of sound as the papaya factory with the exception of the latter's forklifts and diesel trucks, and the processing activities for the papaya emit no odors. The papaya packing activity is basically washing, steam/vapor cleansing and packing, all completely enclosed in an insect proof steel building.

Noise from trucks and forklifts are the only major disturbing elements emanating from the packing and processing activity. Noise suppressing actions are in effect to some degree and are further imposed in the conditions attached to this approval.

The application has elicited no public responses; no complaints have been received regarding this application.

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 request be approved subject to the following conditions:

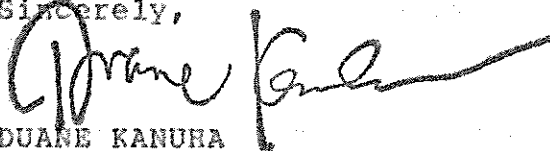
1. The applicants, their assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The construction within the prescribed setbacks permitted by this variance shall be limited to the building addition described in this permit.
3. All parking for vehicles of the company, its employees and visitors shall be accommodated on site on paved parking spaces in the amount required by Plan Approval. Said vehicles shall not park on the main access road nor the public right-of-way.
4. Should noise volume at the east or north property lines be found by the Department to exceed that which is described in recommendation 1c of the report entitled "Noise Problems at Packing Plant" by John Burgess, Ph.D. dated February 8, 1988, then recommendation #4 of said report shall be immediately implemented. The recommendation includes the construction of a roofed storage shed with an east side setback of not less than 20 ft. which is approved by this variance permit, with maximum height of 16 ft. and maximum length of 80 ft. within which all loading and unloading of trucks and all fork lift operations shall be performed.
5. Any equipment or machinery placed along side the building which emit noise measured at 70 decibels or more at the north, south or east property lines shall be muffled by noise suppressing hoods, covers, or other appurtenances (machinery includes the two existing compressors).
6. A building permit for the addition must be secured within one year of the effective date of the variance and shall be completed within two years thereafter.
7. All other applicable State and County rules and regulations shall be complied with.

— Should any of the foregoing conditions not be met, the Director may proceed to declare the variance null and void.

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

Sincerely,



DUANE KANUHA
Planning Director

DT:lm

cc: Diamond Head Papaya Company (P.O. Box 1569, Keaau, 96749)
Robert J. Crudele, Esq. (99 Aupuni St., Suite 108, Hilo, 96720-4258)
Keisuke Horiike (HNL Intl. Airport, P.O. Box 3435, Honolulu, HI 96801)