

October 16, 1990

CERTIFIED MAIL

Mr. George Fujino
P. O. Box 173
Kealahoukua, HI 96750

Dear Mr. Fujino:

Variance Application (V90-28)
Variance from Minimum Roadway and Water Requirements
Tax Map Key: 8-4-15: 15

After reviewing your application and the information submitted on behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the waiver from the minimum roadway and water requirements of the Subdivision Code.

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.

The two parcels to be created are large, one being 20.+ acres which contains the macadamia nut farm and the other 24.4 + which contains the macadamia nut farm, two farm dwellings and the macadamia nut husking plant. There is presently a partially improved and unimproved access from the Mamalahoa Highway which serves the macadamia nut farm. It is contained within a 20 to 40 foot wide road easement and is asphalt paved to a 10-foot width at its beginning and remainder of the roadway is either in concrete or unpaved conditions. It presently serves the existing agricultural activity established on the subject property.

The purpose of the subdivision is to create two separate parcels which would be under the jurisdiction of the Bishop Estate. The property is owned by Bishop Estate with a 45 year lease with the petitioner. The lease with Bishop Estate is for agricultural purposes, so the proposed subdivision is not intended to remove any portion of the macadamia nut farm for other uses. The agricultural lease requirements are a standard covenant of the Bishop Estate leases for agricultural lots. Therefore, the agricultural use of the property will not be forfeited by the approval of this variance.

Mr. George Fujino
October 16, 1990
Page 2

In addition, the subject property is not within the service limits of the Department of Water Supply. Even under this condition, the existing macadamia nut farm was developed and has been a productive farm business. Therefore, the lack of any water system in the area has not limited the development of any agricultural activity on the subject property. The macadamia nut farm was established in 1962 under the present conditions. The lack of water also has not inhibited the development of the farm labor dwellings for the farming activity on the subject property. Rainfall in the area has been adequate enough as evidenced by the rainfall data provided in the Rainfall Atlas of Hawaii, Report R76, prepared by the State of Hawaii, Department of Land and Natural Resources, Division of Water and Land Development. The history of rainfall in the area shows between 75 to 100 inches annually. This amount will be adequate to serve both the agricultural and domestic water needs for this two-lot subdivision.

In addition, the roadway leading to the property, though not up to County standards, does provide access to the property. The proposed subdivision will permit the petitioner to construct only one additional single family dwelling. Therefore, the granting of the variance from the minimum roadway standards will not be severely affected by this two-lot subdivision. Furthermore, it will be made a condition of approval that no further variances shall be granted for the future subdivision of the two lots. The petitioner understands and agrees that any further subdivision will require conformance with road standards of the Subdivision Code.

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

The alternative to the road standard variance request is to require interim improvements or build the roadway to Subdivision Code standards. The length of roadway to be improved for a two lot subdivision is unreasonable considering the existing conditions for which the proposed subdivision is being requested. The existing roadway already exists for the farm's operations and is essentially "grandfathered" in, having served the farm adequately since 1962. The applicant is aware, nevertheless, that any further subdividing of the property served by this access will not be permitted unless the road standards of the Subdivision Code are met; meaning no further variance will be considered for the roadway.

Mr. George Fujino
October 16, 1990
Page 3

The alternative to the water variance request requirement is to provide a County water system from the Mamalahoa Highway to the subject property. This, however, would be a multi-million dollar project involving pumps, and there is no indication from the Department of Water Supply that the source is adequate to be pumped. This cost is considered not feasible and unreasonable to impose. Digging a well would, likewise, involve unreasonable costs. Again, the applicant is aware that further subdivision beyond the two 20+ acre parcels will require water standards in conformance with the Subdivision Code. A condition of approval will be included which will prohibit any further subdivision of the two lots unless the minimum standards of the Department of Water Supply will be complied with.

INTENT AND PURPOSE

The intent of the roadway standard in the subdivision Code is to help provide adequate and safe access to the property involved. In this case, the existing roadway has served the farm adequately for 18 years. Since the intent of the subdivision is for land management and not development, and since the owners/applicant are aware that the granting of this variance is predicated upon their statement that they will not subdivide or develop further without meeting the standards of the Subdivision Code, this variance request to permit the existing road to serve the newly created parcel is granted, with conditions.

The intent of the water standards in the Subdivision Code is, likewise, to provide the residents an adequate and dependable supply of potable water. Again, in this case, the farm has been operating for 18 years on its roof and ground catchment system without hardship, and this proposed subdivision of the property will not lead to an increase in water consumption.

Therefore, this variance request to permit the subdivision to proceed without its road and water system meeting the standards of the Department of Water Supply is granted, with conditions.

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 Subdivision Code, 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.

Mr. George Fujino
October 16, 1990
Page 4

The variance request is approved subject to the following conditions:

1. The petitioner, his assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. No further subdivision utilizing the subject road shall be permitted unless said roadway meets Subdivision Code requirements without variances.
3. No further subdivision will be permitted unless the minimum water requirements of the Subdivision Code are complied with.
4. The road connection to the State Highway shall meet State Department of Transportation requirements as a condition of final subdivision approval.
5. All other applicable State and County rules and regulations shall be complied with.
6. Should any of the foregoing conditions not be met, the Director may proceed to declare the variance null and void.

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

Sincerely,



DUANE KANUB
Planning Director

RHY:aeb

cc: Sub. No. 90-68