

VAR 508

CERTIFIED MAIL

June 8, 1993

Mr. Kiyoshi Murakami  
P. O. Box 35  
Honokaa, HI 96727

Dear Mr. Murakami:

Variance Application (V 92-5)  
Applicant: Kiyoshi Murakami  
Variance From Minimum Water Requirements  
Tax Map Key: 4-4-03: 15

After reviewing your application and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of your variance request to allow the creation of a 3-lot subdivision of which two lots would be without a water system meeting the minimum water requirements of the County Department of Water Supply as required by Article 6, Division 2, Section 23-84(1) of the Subdivision Control Code. The property is a 16+ acre lot in Kalopa, Hamakua, Hawaii, and is a viable, operating macadamia tree farm.

The approval of the variance request to allow the proposed subdivision without the minimum water requirements is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum requirements to service the proposed 3-lot subdivision. The Department of Water Supply stated, "The Department's existing water system facilities cannot support the proposed subdivision at this time."

The stated purpose for the subdivision is - "divide his land between his wife and two children to allow each to have a farm lot of their own...the property has been in the Murakami family for three generations." The property is also an existing macadamia nut farm utilizing almost the entire acreage.

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Therefore, considering the foregoing issues, it is determined that there are special and unusual circumstances applying to the subject property which exist either to a degree which deprives the applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

#### ALTERNATIVES

There are no reasonable alternatives in resolving the issue. The cost of a standard water system is entirely out of reach of the applicant.

The other alternative would be to drill two wells. The cost of drilling even one well would be exorbitant. And there is no assurance that water would be found beneath the subject property.

Requiring a standard water system in this area for the proposed 3-lot subdivision would be an excessive demand upon the applicant when a more reasonable alternative is available, which is - private roof catchment.

#### INTENT AND PURPOSE

The subject property, consisting of 16+ acres, is located within the County's Agricultural 5 acres (A-5a) zoned district. The applicant is proposing a 3 lot subdivision each with an area of 5+ acres, conforming to the minimum lot size requirement of the Zoning Code.

The intent and purpose of requiring a water system in this case is to assure that adequate water is available for human consumption. In this case the substitute, roof catchment, is considered adequate for this farmland/orchard. Agricultural water for the existing macadamia farm is supplied from the Hamakua Ditch and has been for decades. Each lot would continue as a macadamia orchard owned by family members.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district; the intent and purpose of the Zoning and Subdivision Codes 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 to adjoining properties.

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

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1. The applicant, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The applicant, his assigns or successors, shall file a written agreement with the Planning Department prior to receipt of final subdivision approval containing the following stipulations and covenants which shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Department at the cost and expense of the subdivision:
  - a. The applicant/subdivider agrees and accepts the fact that a County dedicable public water system is not now or in the foreseeable future able to service the subdivision.
  - b. The applicant/subdivider agrees and accepts the fact that the County will not at any time bear the responsibility of supplying public water to the subdivision.
  - c. Any existing and/or future dwellings not serviced by County water system constructed on the property shall have a minimum 5,000 gallon water storage facility for domestic consumption containing a roof area of minimum 1200 square feet for water catchment. This catchment system shall adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.
  - d. Provide a dedicable water supply system sufficient for fire fighting consisting of a minimum 3,000 gallons of water per existing and/or proposed future dwelling on the property meeting with the approval of the Hawaii County Fire Department. If dwellings are spaced closer than 50 feet apart, 4,000 gallons of water per dwelling will be required.
  - e. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant/subdivider shall be responsible for informing the department of the amendments or changes so that the agreement can reflect the amendments or changes; further, the written agreement shall be considered as a

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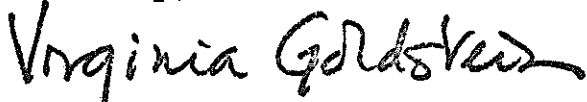
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condition and covenant running with the land and shall be binding upon the applicant/subdivider or owner, his successors and assigns, and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease or other similar documents affecting the title or ownership of each subdivided lot.

- f. In the event that any of the lots are provided by a water service (individual meter) from the Department of Water Supply or an approved private water system, the above covenants for the specific property will no longer be in effect.
- g. Comply with all other applicable State and County rules and regulations.

Sincerely,



VIRGINIA GOLDSTEIN  
Planning Director

EC:mjh  
9068D

cc: Department of Water Supply  
West Isle Properties  
Subdivision No. 91-132