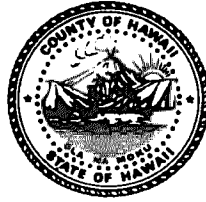


Harry Kim
Mayor

Wil Okabe
Managing Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

Duane Kanuha
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

October 18, 2019

Robert K.Y. Lee, President & LPLS
Towill, Shigeoka & Associates, Inc.
2153 North King Street, Suite 308
Honolulu, HI 96819

Dear Mr. Lee:

SUBDIVISION WITHDRAWN

SUBDIVIDER: Ka'ū Agribusiness

Proposed Subdivision of Lot 7, Being a Portion of Grant 2646
Into Lots 7-A & 7-B,

Ka'alāiki, Ka'ū, Island of Hawai'i, Hawai'i

TMK: 9-5-016:017 (SUB-90-000003)

Our last action on the subject application dated December 8, 1993, was to defer action until after an evidentiary hearing. The subject property has changed ownership a number of times since then. As we have not heard anything otherwise, we are deeming the file **withdrawn** and removed it from process. We will also deem related variance file, VAR 536 (VAR-93-000005) **null & void**.


Should an election to pursue the subdivision at a later date be made, a new application complete with filing fee must be resubmitted to this department.

Pursuant to Article 4, Section 23-60(c), Chapter 23, Subdivision Control Code, a portion of the filing fee equivalent of ten percent (10%) of the fee or fifty dollars (\$50.00), whichever is greater, shall be retained for applications which have been withdrawn or denied before granted tentative approval. However, tentative approval was issued to the preliminary plat map on October 25, 1993, and therefore, no refund is due.

Robert K.Y. Lee, President & LPLS
Towill, Shigeoka & Associates, Inc.
October 18, 2019
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Should you have any questions, please feel free to contact Hans Santiago or Jonathan Holmes of this department.

Sincerely,


MICHAEL YEE
Planning Director

JRH:tb

\\coh33\planning\public\Admin Permits Division\Subdivision\2019\2019-4\SUB-90-000003KauAgribusiness WD 10-18-19.docx

xc: Manager, DWS
 Director, DPW
 District Environmental Health Program Chief, DOH
 Native Hawaiian Legal Corp.
 Alston, Hunt, Floyd & Ing
 G. Bailado, GIS Section (VAR N/V)
 VAR 536 N/V

C
VAR 536

October 14, 1993

Mr. Donahue Fujii
c/o Austin Tsutsumi &
Associates, Inc.
820 Pililani Street, Suite 102
Hilo, HI 96720

Dear Mr. Fujii:

Variance Application (VAR 93-5)
Applicant: Kau Agribusiness
Variance from Water Standards
Tax Map Key: 9-5-16: 17 and Roadway

After reviewing your application and the information submitted in behalf of it including comments received from consulting agencies, the Planning Director by this letter hereby certifies the approval of your variance request to allow the creation of a two (2) lot subdivision 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 42 acre parcel on the west side of Old Government Road north of the Mamalahoa Highway in Kaalaiki, Kau, Hawaii.

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 water requirements to service the proposed two (2) lot subdivision. The Department of Water Supply stated: "The proposed subdivision is not within the service limits of the Department's existing water system facilities." As such, the two (2) lots will be substituted with water catchment systems because of the above.

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Mr. Donahue Fujii
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Therefore, considering the foregoing issues, it has been 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 required water system requirements. To upgrade the existing County water system by the individual applicant would not be economically feasible.

The other alternative would be to drill wells to create a private water system. However, due to the limited nature (2-lot subdivision) of the subdivision would also be cost prohibitive. Also there is no assurance the adequate water would be found.

As such, the imposition of upgrading the existing public water system or the creation of a private water system in this area for the proposed two (2) lot subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

In addition, the area receives approximately 50-100 inches of rain annually which will more than adequately support a private water catchment system. The applicant can also purchase water if necessary for the private water catchment system.

Intent and Purpose

The subject property consisting of approximately 42 acres is located within the County's Agricultural 20-acre zoned district. Under this zoning designation, the minimum building site area is 20-acres. The applicant is proposing a two (2) lot subdivision with area exceeding the minimum 20-acre 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 and fire protection. In this situation, the substitute private catchment water system is considered adequate for this agricultural land.

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 Control Codes and the County General Plan, and 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.

Mr. Donahue Fujii
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The variance request is therefore approved, subject to the following conditions:

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 subdivider:
 - 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 dwelling not serviced by County water system constructed on the property shall have a minimum 6,000 gallon water storage facility shall domestic consumption 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 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

Mr. Donahue Fujii
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agreement can reflect the amendments or changes; further, the written agreement shall be considered as a 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
1205D

xc: Fire Department
Department of Water Supply
Subdivision No. 90-3
Mr. Eben Dale