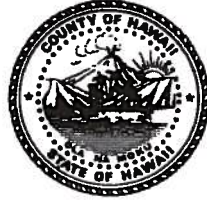


Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
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County of Hawai'i
PLANNING DEPARTMENT

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

June 2, 2017

Akaholo, LLC
48-5357 Kukuihaele Road
Honoka'a, HI 96727-7216

Gentlemen:

SUBDIVISION WITHDRAWN
SUBDIVIDERS: PU'AONO FARMS, LLC
"Pu'aono Farms"

Proposed Consolidation of Lots 1, 2, 14 & 15,
And Resubdivision into Lots 1, 2, 14 through 19, Inclusive,
Āhualoa Homesteads, Hāmākua, Island of Hawai'i, Hawai'i
TMK: 4-6-009:001, 002, 003, 101 (SUB-05-000174)

On October 30, 2015, we requested a status update for the subject application. As of this date, there has been no response to that request.

In view of the above, we are deeming it **withdrawn** and removing it from our active files. A new application, complete with filing fee, must be submitted should the owners wish to subdivide the property.

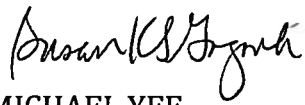
With the withdrawal of this application, approved Water Variance application **VAR-06-000046 is deemed Null & Void** as well.

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(10%) of the fee or fifty dollars (\$50.00), whichever is greater, shall be retained for applications which have been withdrawn or denied before granted tentative approval.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 November 29, 2006, and therefore, no refund is due.

Akaholo, LLC
Page 2
June 2, 2017

Should you have any questions, please feel free to contact Jonathan Holmes of this department.

Sincerely,

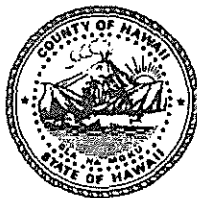

MICHAEL YEE
Planning Director

JRH:lnm

\\COH33\planning\public\Admin Permits Division\Subdivision\2017\2017-2\SUB-05-000174PuaonoFarmsWD 06-02-17.doc

xc: Manager, DWS
 Director, DPW
 District Environmental Health Program Chief, DOH
 Triad Engineering
 VAR-06-000046

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

August 14, 2006

Mr. Steven S.C. Lim, Esq.
CARLSMITH BALL LLP
121 Waianuenue Avenue
Hilo, HI 96721-0686

Dear Mr. Lim:

VARIANCE-VAR 06-046

Applicant: CARLSMITH BALL LLP

Owner: PU'AONO FARMS LLC

Request: Variance from Chapter 23, Subdivisions,
Article 6, Division 2, Improvements Required,
Section 23-84, Water Supply, (1)(2)

Tax Map Key: 4-6-009:001, 002, 003, and 101, (SUB 05-000174)

After reviewing the subject variance application and information submitted, the Planning Director certifies the approval of a variance to permit a proposed 8-lot subdivision (SUB 05-000174) to be created without providing water supply system to 4 proposed lots. The variance request is from Hawaii County Code, Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water Supply, (1)(2).

The Planning Director has concluded that the variance from the minimum subdivision water system requirements be **approved** based on the following findings:

BACKGROUND

1. **Location.** The subject TMK property(s), containing an aggregate area of approximately 41.114 acres, are situated at Ahualoa Homesteads, Hamakua, Hawaii.

Mr. Steven S.C. Lim, Esq.
CARLSMITH BALL LLP

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2. **Zoning.** The subject property is zoned Agricultural (A-5a) by the County and designated Agriculture ("A") by the State Land Use Commission (LUC).
3. **Subdivision Request/PPM.** The applicant/owner submitted a subdivision application (SUB 05-00174) and preliminary plat map (PPM), dated August 12, 2005, proposing to subdivide subject TMK property into 8-lots. Further action on the proposed subdivision application is being deferred according to letter dated October 27, 2005.
4. **Variance Application.** The applicant submitted the variance request and subject variance application on or about June 5, 2006.
5. **Agency Comments and Requirements-VAR 06-046:**
 - a. The State Department of Health (DOH) memorandum is dated June 26, 2006. (Refer to memorandum in variance file).
 - b. The Department of Water Supply (DWS) memorandum in the variance file dated June 28, 2006 was amended by DWS memorandum dated August 8, 2006 which states in part:

"This letter shall amend our memorandum to you dated June 28, 2006.

Water can be made available from an existing 6-inch waterline within Kahana Drive, fronting Parcels 2 and 3. Water availability in the area allows for one unit of water, at a maximum of 600 gallons per day, per unit, per existing lot of record. As the subject application involves the consolidation of four preexisting lots of record and resubdivision into eight lots, the Department can provide service to four of the lots within the proposed subdivision. The remaining four lots within the proposed subdivision cannot be served by our existing water system until the improvements are completed as stated in our letter dated June 28, 2006.

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CARLSMITH BALL LLP
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August 14, 2006

Therefore, prior to final subdivision approval, the applicant shall designate, in writing, which four of the proposed eight lots shall be provided water service from our existing water system. Please be informed that Parcel 3 is NOT currently served by an existing 5/8-inch meter as was stated in our letter of June 28, 2006. The remaining four lots shall be subject to the conditions of the variance permit, should the application be approved."

6. **Notice to Surrounding Owners/Posted Sign.** The applicant forwarded transmittal letter dated June 16, 2006 together with original Affidavit of Mailing of notice, list of surrounding property owners, and other submittals. Pursuant to the Affidavit of Mailing, it appears that the variance notice was mailed on or about June 16, 2006 to the list of surrounding property owners. In addition, the applicant forwarded transmittal letter dated August 3, 2006, affidavit, and photographs which indicates the required sign was posted on subject property on or about June 14, 2006. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on or about June 18, 2006.
7. **Comments from Surrounding Property Owners or Public.** No other agency comments were received and no objections were received from surrounding property owners or public.

Therefore, after considering the circumstances and variance background information, rainfall information provided by the applicant, agency comments, and other comments from a surrounding property owner, the Planning Director has determined that there are special or unusual circumstances applying to the TMK property which exist either to a degree which deprives the applicant or owners of 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 other reasonable alternatives in resolving the difficulty of the applicant. The first alternative requires the applicant to extend or improve the existing county water system and provide the necessary dedicable water system improvements in accordance with DWS standards.

Mr. Steven S.C. Lim, Esq.
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The second alternative would be to design, drill and develop private wells and install the necessary water system improvements in accordance with DWS standards.

As such, the imposition of improving the existing public water system or providing an approved alternative water system for the proposed subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

INTENT AND PURPOSE-WATER VARIANCE

The intent and purpose of requiring a water system for and within the proposed subdivision is to assure that adequate water is available for human consumption and fire protection.

The State Department of Health has no specific rules or regulations relating to the utilization, construction or inspection of private roof catchment water systems for potable or emergency uses.

The analysis of existing rainfall within the subject property utilizing maps at the Planning Department, DWS, and information provided by the applicant indicate there is adequate rainfall within the subject property and surrounding areas to support individual or separate private rainwater catchment systems for potable and emergency uses for the proposed subdivision. According to information and data available from the Hawaii State Climate Office (HSCO) and recent 1996 publication, by the U.S. Geological Survey, the subdivision is near gage "Paauhau Airstrip" (SKN 216.3) situated at 2075 feet elevation or altitude. The map-PLATE 6 (Active rain-gauging stations and mean annual rainfall) shows "216.3" is located between two "80" isohyet line(s). According to Rainfall Atlas of Hawaii-Report 76 (June 1986) the unadjusted median annual rainfall for "216.30" was 100.27+ inches. The analysis of the applicant's submittals compared with other published sources (historical rainfall, elevation, etc.) indicates the proposed subdivision and surrounding area receives in excess of 80 inches of rainfall annually and meets Rule No. 22-Water Variance.

The subject variance application was acknowledged by letter dated June 8, 2006. Additional time was requested by the applicant to submit additional information and allow the DWS to submit further comments. The applicant agreed to extend the decision date to on or before August 15, 2006.

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Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance requested 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.

VARIANCE DECISION-CONDITIONS

The variance request to allow proposed 8-lot subdivision of the subject TMK property(s) without providing a water system to 4-lots meeting DWS standards is **approved** subject to the following variance conditions:

1. The applicant, owners, their assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant or subdivider shall confer with the DWS and designate which four (4) lots of the proposed 8-lot subdivision shall be provided with a DWS water service prior to issuance of final subdivision approval to SUB 05-000174.
3. WATER VARIANCE: The owners, their assigns, or successors shall file a written agreement or approved written document with the Planning Department within one (1) year from the issuance of tentative subdivision approval and prior to receipt of final subdivision approval of SUB 05-000174. This written agreement shall contain the following deed language, being covenants, conditions, and restrictions affecting 4-lots not serviced by a County water system of the pending 8-lot subdivision application and shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Planning Department at the cost and expense of the owners:
 - a. The owners agree and accept the fact that a County dedicable public water system is not now able to service the proposed subdivision SUB 05-000174. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- b. The owners agree and accept the fact that the County will not, at this time, bear the responsibility of supplying public water to the proposed or affected additional lots created by SUB 05-000174 not serviced by a County water system. No further subdivision of the lots created by SUB 05-000174 will be permitted unless county water system requirements and other requirements of Chapter 23, Subdivisions, are met.
- c. Any lots created by SUB 05-000174 may not be made subject to a condominium property regime.
- d. Any dwelling constructed on a proposed lot not serviced by a County water system shall be provided with and maintain a private potable rain catchment system which includes a minimum 6000-gallon water storage capacity for domestic consumption or potable uses. This private water 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.
- e. Each permitted dwelling shall be provided with and maintain a private water supply system which includes an additional minimum 3,000 gallon water storage capacity for fire fighting and emergency purposes. The location and capacity of the emergency water supply system, including the necessary compatible connector system, shall meet with the approval of the Hawaii County Fire Department. The Hawaii County Fire Department also advises as a precautionary measure for other uninhabited agricultural structures that consideration be given to the provision of a similar water storage system for fire fighting and emergency purposes.
- f. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. Further, the written or recorded agreement shall be binding upon the owner(s), their successors or assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or similar documents affecting the title or ownership of the existing property or approved subdivided lots.

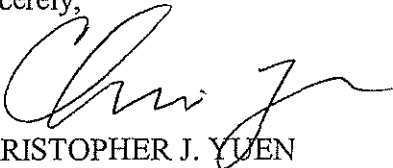
- g. In the event that the County notifies the owner(s) of the lot(s) created by SUB 05-000174 that the County Water System has been upgraded or an improvement district initiated to enable service to the lots created by SUB 05-000174, the owner(s) of the lot(s) created by SUB 05-000174 shall participate in such improvement district or shall pay their pro-rata share of the upgrade and installation of laterals, as determined by the Department of Water Supply.
- h. The subdivider and all grantees, successors, and assigns acknowledge that the parcel was created by a variance from the normal subdivision requirements of Hawaii County, and that there are no special or unusual circumstances applying to the property which deprive the owner of substantial property rights or to a degree which obviously interferes with the best use or manner of development of the property, and hence, no grounds exist or will exist for a variance from the subdivision code to permit further subdivision of the property, and that changes in the owner's personal or financial situation after acquiring the property also will not constitute grounds for a variance from the subdivision code to permit further subdivision of the property.

- 4. The subdivision's (SUB 05-000174) final plat map shall meet all the requirements of the Hawaii County Zoning Code and the Subdivision Code not covered by this variance. No other variance from Chapter 23, Subdivisions, shall be granted to permit subdivision application SUB 05-000174.
- 5. The subdivider, owner(s), their assigns or successors shall pay any outstanding real property taxes and comply with all other applicable State statutes and County ordinances pertaining to building improvements and land use.

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Should any of the foregoing stated conditions not be complied with, the Planning Director may proceed to declare the subject Variance Permit null and void.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

WRY/CJY:cd
P:\WP60\WRY\FORMLETT\VAR06-046WATERSUB05-000174.LIM-CBLLP

xc: Manager-DWS
SUB 05-000174

Task List

SLU/Rez Ord (Change of Zone)- Map Creation Step 1-- First page ordinance, with meets and bounds, verify that it matches map and if not then email with discrepancy. Will also need applicant, request from to for zone, Tax map key, and size of property. Map template is located on desktop under \\coh01\planning\public\USERS\AlexGerken\PlanningCommission\2021. Follow previous maps for template etc. These are time sensitive. **In this task, it will involve updating the Rez Ord and Zoning data layers. Sometimes, it's an SLU ordinance amendment which will involve the SLU Ord and SLU Boundary data layers. And sometimes, it will involve updating all four of these data layers.**

Change in GIS Layer.

1. Extract files in file location. App and Request.
2. Laserfiche- council records- ordinances- year- 2021 (ETC)- locate and download file- save to desktop as PDF according to naming convention- place into two folder locations.
3. Open up Arcpro and create polygon and attribute. Check links to make sure operational.
4. If not done so update the parcel data in zoning project. To do this delete current topology then parcels now you can build new topology. New- topology-rename to zoning topology-leave default for cluster-next-select all-rank(default)-add rule-feature class-drop down zoning under rule- select following 3- 1). Must not overlap 2). Must not have gaps. 3). Area boundary must not be covered by boundary. – feature- COH parcels-summary of application-Finish. Validate-complete!
5. Open zoning project. Rebuild remove all files and bring in topology this will replace zoning, parcels and topology. Change symbol for roads to show. Make sure data shows as needed in properties zone names etc.
6. Before making edits make sure to backup zoning layer. Arc Catalog-zoning edits-reclass-zoning-export to geodatabases (Multiple)-input leave-output-folder-temp.gdb.-reclass add.-back to temp.gdb rename the copy to that days date- keep copy in case mistakes that cannot fix.
7. To change the zoning layer, you will have to locate the stated TMK and do a split if part of a bigger piece of zoning. Split and then re attribute to your stated zoning according to application.
8. Attribute changes will be as follows.

Change Zone: To & Fr.

Date: This will be effective date on app.

Tax Acres: On Map

Ordinance #:

Upload data will have to copy to COH as coming from outside geodatabase, 1st.

ArcMap to ArcPro

\\coh146\Planning\Geodatabases

For all tasks with point, polygon updates without file in both folder locations, ARCGIS Files and PHhyperlinks you will need to follow naming convention and add to appropriate location. Files names must match in GIS or else the hyperlink will not work.

DPW Building Permits- Point data. Open building permits template and folder location with permits. Follow excel template. If needed create a folder for mislabeled/clarification projects.

Variances- Point data. Open pdf document and populate according to template in excel. Make sure to follow naming convention for files. Ex. (21-638)

PUD- Check document and attribute according to template in excel. Ex. (15-33)

Subs/Cons- Check document and attribute according to template in excel. Use SLUboundary.lyr. for land use code determination. If r following it is a revision and should only need attribute table update and scan. Double check maps for any changes to polygon. Be wary of duplicates! List emailed by Grace with subs and cons scanned.

SMA (major/minor)- Check document and attribute according to template in excel. Ex. Minor- (SMM_21-447) Major- (SMA_21-080)

Planning Enforcement- Check logs (West (Kona) and East (Hilo) for new points to be added to GIS layer. Check attribute table for last entry and add according to new violations. Attribute according to template information. Closures will be email from inspectors.

Special/Use Permits- Check document and attribute according to template in excel. Map symbol W- Withdrawn, D-Denied, F-Final. Ex. Special-(21-0222) Use-(21-088)

Dropped TMK- \\coh146\Mapping\Tax Maps\Current\TMK Maps check for zone and area according to zone map on desk look to your left! X is old circled in new. Make sure this is in attribute table if not already.