

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
Fax (808) 327-3563

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 19, 2018

Dylan Shropshire
AG-ECO Properties
P.O. Box 1005
Hilo, HI 96721

Dear Mr. Shropshire:

SUBJECT: VARIANCE DECISION - VAR-16-000385-SUPPLEMENTAL
Applicant: DYLAN SHROPSHIRE
OWNER: AG-ECO PROPERTIES C/O DYLAN SHROPSHIRE
Request: Variance from Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of-way and Pavement Widths, and Article 6, Division 2, Improvements Required, Section 23-87, Standard for Nondedicable Street
Tax Map Key: 2-8-011:005 (SUB-16-001624)

Upon review of your variance application, the Planning Director certifies the **approval** of this Supplement to Variance VAR-16-000385 subject to variance conditions. The variance grants relief for subdivision SUB-16-001624 from constructing minimum nondedicable roadway improvements for the 6 lots as required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions).

The variance is from the proposed subdivision's minimum requirements pursuant to HCC, Chapter 23 (Subdivisions), Article 3, Division 4, Street Design, Section 23-41, Minimum right-of-way and pavement widths, AND Article 6, Division 2, Improvements Required, Section 23-87, Standard for nondedicable street.

BACKGROUND

1. **Location.** The referenced property, being Lot 3 of FSA-SUB-15-001510, also being portions of Royal Patent 7861, Land Commission Award 130, Apana 2; Royal Patent 7862, Land Commission Award 8520, Apana 5; and Land Patent Grant 1358-B, containing approximately 201.673 acres, is situated in La 'imi, Mālamalama iki 1st & 2nd, South Hilo, Hawai'i.

2. **County Zoning.** Agricultural, twenty acres (A-20a).
3. **State Land Use.** Agricultural (A).
4. **General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as Important Agricultural Lands (ial).
5. **Subdivision Code Requirements.** Hawai'i County Code, Chapter 23, Subdivisions, Section 23-41, requires that subdivisions in the A-20a zoning district be served by minimum right-of-way and paving widths of 50-feet and 20-feet, respectively, and Section 23-87, requires that it shall have a six-inch minimum fine select borrow base course with surface treatment acceptable to the director of public works and director.
6. **Subdivision Request/PPM.** Subdivision application SUB-16-001624 was submitted to subdivide the subject TMK property into 6 lots, with various road easements of 30-foot and 50-foot widths. Action on the subdivision application has been deferred pursuant to Planning Department imposition of strict code requirements for roadway improvements by letter dated June 6, 2017.
7. **Variance Application.** The variance request from water improvements was acknowledged by Planning Department letter dated August 5, 2016 and approved on September 26, 2016. This variance decision supplements the approved water variance. At the time of approval of the water variance, it was erroneously concluded by staff that the roadway portion of the variance request submitted on July 29, 2016 was not required, as no such condition was imposed within the Tentative Approval dated October 4, 2016.
8. **Subdivision Application (SUB-16-001624) Agency Comments:**
 - a. Department of Public Works (DPW): See attached memorandum dated August 29, 2016. **(Exhibit A)**
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence, regarding the posting of a public notification sign on the subject property pursuant to Section 23-17(c) of the Hawai'i County Code (HCC). A picture of the posted sign was also submitted. Evidence received August 15, 2016 and mailing verification forms indicate that a notice of the application was sent to the surrounding property owners as required by Section 23-17(a).

10. **Comments from Surrounding Property Owners or Public.** There were no written comments received from the surrounding property owners or the public.
11. **Existing Road Conditions Requested to Remain in Use.** Access to the property is via Akaka Falls Road, over an improved private road called Lauhulu road that runs 1,500 ft. to the property gate that abuts the property along its northern boundary.

The Lauhulu Road is asphalt paved. The internal property road system is comprised of approximately 12-foot wide compacted gravel surface, built to the standards of an old sugar cane plantation road. These are within 30-foot and 50-foot wide right-of-ways.

Surrounding Property/Users of the present roadway system: There is large agricultural lot located to the north of the property, which is Hawaiian Homelands and is 301 acres in size. There are also three (3) medium sized agricultural lots located to the north of the property. There are two (2) medium sized agricultural lots located to the east of the property, three (3) medium sized agricultural lots located to the south of the property, and two (2) medium sized agricultural lots located to the west of the property. All of which are privately owned (besides the Hawaiian Homelands Parcel) and currently in pasture or farm use.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

- (a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or 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 that property.***

The Variance application meets criterion (a) for the following reasons(s):

The special circumstance that warrants or necessitates the requested variance is primarily related to depriving the owner of the ability to subdivide the property until Lauhulu Road and other roads are constructed to County standards. Together the roads are approximately one and a half (1.5) miles long and if the County required the Applicant to construct one and a half (1.5) miles of roadway to County standards, this alone would make the subdivision unfeasible. The request is reasonable as the existing roadway system has supported large cane haul traffic for an extended period of time.

The Applicant is only developing six (6) lots that are 20 acres or larger, specifically for agricultural use. The undeveloped nature of the property, in addition to the surrounding properties, the overall approximately 6% slope, and the current agricultural use of the property is not consistent with the development of roadway system built to County standards. The applicant intends to keep this area compatible with the character surrounding agricultural uses in the area. The applicant will be deprived of its rights to subdivide and sell and otherwise convey the property if required to construct intensive roadway improvements for this large-lot agricultural subdivision.

(b) There are no other reasonable alternatives that would resolve the difficulty.

The Variance application meets criterion *(b)* for the following reasons(s):

The roadways are established roadways having served the sugar industry's intensive use for many years. There is no practical reason to improve these roads to County standards as it only serves a limited number of agricultural lots and is not a through street.

The only alternative would be to construct over one and a half (1.5) miles of roadway from Akaka Falls Road to County standards and this alone would make the subdivision unfeasible.

(c) The variance will be consistent with the general purpose of the district, the intent and purpose of this chapter, and the County general plan and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

The Variance application meets criterion *(c)* for the following reasons(s):

The property is zoned Agricultural 20-acres (A-20a). The proposed subdivision is consistent with zoning for the property, since they are developing lots larger than the minimum lot size allowed under the existing zoning.

The General Plan designation for the Property is "Important Agriculture Lands." The property is in active agricultural use and the property has been historically used for agricultural purposes. Therefore, the proposed subdivision is also consistent with the General Plan.

The proposed roadway variance authorizing use of the existing roadways will not be detrimental to public welfare or burden County resources. The roadways were designed for and is currently used by the applicant, neighboring residents, ranch and farm workers tending to the property and other lands owned by the applicant. Utilizing the roadways, "as is," maintains the rural nature of the area and create less of an impact upon the surrounding area rather than if designed to County standards. Applicant uses similar low volume ranch roads to move throughout this area, as do other ranchers, Kama 'āina, and neighboring residents. The applicant's plans for the property are consistent with the existing land uses and will not have any adverse impact on the area's character or on the neighboring properties.

Therefore, the granting of this roadway variance request will be:

- 1) Consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes, and the County General Plan; and
- 2) Will not cause substantial adverse impact to the area's character and to adjoining properties; and
- 3) Will not be materially detrimental to the public's welfare as it is not intended for general public usage.

DETERMINATION-VARIANCE CONDITIONS

The variance to permit the proposed 6-lot subdivision of the subject TMK property without providing a County dedicable roadway, and in lieu utilizing privately owned non-dedicable roads is hereby **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. 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.
3. The owners, their assigns, or successors shall file a written agreement document with the Planning Department within one (1) year from the issuance of this variance approval. This written agreement shall contain deed language, being covenants, conditions, and restrictions affecting the lots created by the proposed subdivision which

are not serviced by County dedicable roadways and instead utilizing the privately owned alternative roadways. The agreement shall specify that a Homeowners or Maintenance Association be created for purposes of upkeep of, and required repairs to, the roadway improvements. The agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawai'i by and at the cost and expense of the owners. A copy of the recorded document shall be supplied to the Planning Department for our files.

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 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 of the approved subdivided lots.

4. The subdivider and all grantees, successors, and assigns acknowledge that the parcels were created by a variance from the normal subdivision requirements of Hawai'i County, and that there are no longer any special or unusual circumstances applying to the property, and hence, no grounds exist or will exist for another variance from the Subdivision Code to permit further subdivision of the six (6) properties.

It is also understood that they will use and maintain the privately owned roadway on their own without any expectation of governmental assistance to maintain the improvements. They shall also indemnify and defend the State of Hawai'i or County of Hawai'i from any and all liability arising out of vehicular access to and from the subject properties utilizing the private right-of-way.

5. Upon written demand of the County of Hawai'i, the applicant and/or owners, their assigns, or successors shall agree to participate and pay their fair share percentage of any improvement district adopted for the purpose of roadway improvements serving the proposed lots. Should the improvement district require acquisition of any privately owned right-of-ways fronting the lots, such right-of-ways shall be dedicated to the County without cost and the value of the dedication credited to the fair share contribution of the respective lot owner(s).
6. The pending subdivision application's (SUB-16-001624) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code that are not covered by this variance.

Dylan Shropshire
AG-ECO Properties
Page 7
June 19, 2018

7. 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.

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

Sincerely,



MICHAEL YEE
Planning Director

JRH:nci
\\COH33\planning\public\Admin Permits Division\Variance\2016\VAR-16-000385 Ag-Eco Water\APVL Road.docx

Encls.: Agency Comments

xc: DPW
HFD
April Surprenant, Long Range CPD (via email)
SUB-16-001624

xc w/encls: Blaine W. Ito, RPLS
True North Surveys, Inc.
P.O. Box 421
Pa'auilo, HI 96776

G. Bailado, GIS Section

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

2016 AUG 30 PM 4 19

PLANNING DEPARTMENT
COUNTY OF HAWAII

DATE: August 29, 2016

Memorandum

TO: Planning Department

B.H.

FROM: FOR: Department of Public Works

SUBJECT: SUBDIVISION: SUB 16-1624
Subdivider: Ag-Eco Properties, LLC
Location: Laimi, Malamalama iki 2nd, South Hilo, Hawaii
TMK: 2-8-011:005
Folder No.: 28108-B

We have reviewed the preliminary plat map dated March 31, 2016 and have the following comments:

§23-64. Show "top-of-bank" of streams and/or gulches and designate areas within as "approximate areas of flood inundation" on the final plat map.

Questions may be referred to Bryce Harada at 961-8042.

BH

EXHIBIT
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William P. Kenoi
Mayor



Duane Kanuha
Director

Joaquin Gamiao-Kunkel
Deputy 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

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

September 26, 2016

Dylan Shropshire
AG-ECO Properties
P.O. Box 1005
Hilo, HI 96721

Dear Mr. Shropshire:

SUBJECT: VARIANCE DECISION - VAR-16-000385

Applicant: DYLAN SHROPSHIRE

Owners: AG-ECO PROPERTIES c/o DYLAN SHROPSHIRE

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

Tax Map Key: 2-8-011:005 (SUB-16-001624)

Upon review of your variance application, the Planning Director certifies the **approval** of Variance VAR-16-000385 subject to variance conditions. The variance grants relief for SUB-16-001624 from constructing minimum County dedicable water supply system improvements for the six (6) lots as required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions).

The variance is from the proposed subdivision's minimum requirements pursuant to HCC, Chapter 23 (Subdivisions), Article 6, Division 2, Improvements Required, Section 23-84, Water Supply, (1)(2).

BACKGROUND

1. **Location.** The referenced property, Lot 3 of FSA-SUB-15-001510, containing approximately 201.673 acres, is situated in La 'imi, Mālamalama iki 2nd, South Hilo, Hawai'i.
2. **County Zoning.** Agricultural, 20 acre minimum building site area (A-20a).
3. **State Land Use.** Agricultural (A).
4. **General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as Important Agricultural Lands (ial).

5. **Subdivision Code Requirements.** The subdivision code requires that subdivisions be served by a water system meeting the minimum requirements of the County Department of Water Supply (DWS) and be provided with water mains and fire hydrants installed to and within the subdivision in accordance with the rules and regulations of the DWS.
6. **Subdivision Request/PPM.** Subdivision application SUB-16-001624 was submitted to subdivide the subject TMK property into 6 lots. Further action on the subdivision application has been deferred pursuant to the variance application received on July 29, 2016.
7. **Variance Application.** The variance request from water supply improvements for the six (6) lots was acknowledged by Planning Department letter dated August 5, 2016. This variance application includes background history and circumstances and information regarding the pending subdivision application.
8. **Variance Application (VAR-16-000385) Agency Comments and Requirements.**
 - a. State of Hawai'i-Department of Health (DOH): See attached memorandum dated August 24, 2016. **(Exhibit A)**
 - b. County of Hawai'i Fire Department (HFD): HFD did not comment on this application as of this date. We have, however, included their typical response to water variance applications. See attached memorandum dated June 8, 2015. **(Exhibit B)**
 - c. Department of Water Supply (DWS): See attached memoranda dated August 23, 2016. **(Exhibit C)** We have also attached their comments in response to the subdivision application. **(Exhibit D).**
 - d. No other agency comments were solicited and none were received.
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence, regarding the posting of a public notification sign on the subject property pursuant to Section 23-17(c) of the Hawai'i County Code (HCC). A picture of the posted sign was also submitted. Evidence received August 15, 2016 and mailing verification forms indicate that a notice of the application was sent to the surrounding property owners as required by Section 23-17(a).
10. **Comments from Surrounding Property Owners or Public.** There were no written comments received from the surrounding property owners or the public.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

- (a) ***There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or 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 that property.***

The Variance application meets criterion (a) for the following reasons(s):

The subdivision request is for six (6) lots in keeping with the existing A-20a zoning. Although a dedicable water system is a requirement of the code, the subject property is not able to be supported by the present service facilities of the existing DWS system and it would be unreasonable to expect the owners to construct the required service upgrades to serve the six (6) lots. Therefore, it is reasonable that, in lieu of constructing water system improvements to either extend/upgrade the DWS facilities or provide a private water system to DWS standards for the pending 6-lot subdivision, a more reasonable alternative can be allowed through Rule 22, Water Variance.

The above special and unusual circumstances would deprive the applicant from developing this property and interferes with the best use of this property.

Therefore, for this six lot subdivision, the best use and manner of the development allows for individual rain water catchment system in keeping with the large lot, agricultural character of the area.

- (b) ***There are no other reasonable alternatives that would resolve the difficulty.***

The Variance application meets criterion (b) for the following reasons(s):

The DWS has indicated that the property is not served by water services at this time. Constructing water system improvements to either extend/upgrade the DWS facilities or provide a private water system to DWS standards for the pending 6-lot subdivision would be placing excessive demands upon the applicant because of the extensive improvements and additions required to the existing DWS water system facilities. At an elevation of approximately 1,200 feet above sea level, the drilling of wells and construction of other water system improvements to DWS standards would also be unreasonable for a six (6) lot subdivision.

- (c) ***The variance will be consistent with the general purpose of the district, the intent and purpose of this chapter, and the County general plan and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.***

The Variance application meets criterion (c) for the following reasons(s):

Given that there is adequate rainfall (approximately 120 inches to 240 inches of rainfall annually) to support individual water catchment for the six lots, the granting of this variance would be consistent with the general purpose of the district. Water catchment is consistent with the intent of the policies of the general plan in that it will further farming opportunities in this agricultural area. Water catchment will not be materially detrimental to the public welfare as it serves only private parties.

Subject to conditions, granting of the variance will not cause substantial, adverse impact to the area's character or to adjoining properties. The collection of rainwater could help to reduce runoff and may be a benefit to the surrounding area.

Given that the subject area receives sufficient annual rainfall, a water variance would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the Hawai'i County General Plan.

DETERMINATION-VARIANCE CONDITIONS

The variance to permit the proposed 6-lot subdivision of the subject TMK property without providing dedicable water system improvements meeting DWS standards is hereby **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. 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.
3. The owners, their assigns, or successors shall file a written agreement document with the Planning Department within one (1) year from the issuance of tentative subdivision approval. This written agreement shall contain deed language, being covenants, conditions, and restrictions affecting the lots created by the proposed subdivision which are not serviced by a County dedicable public water system.

The agreement shall be duly recorded at the State of Hawai'i Bureau of Conveyances by and at the cost and expense of the owners. A copy of the recorded document shall be supplied to the Planning Department for our files.

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 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 of the existing property or approved subdivided lots.

4. The subdivider and all grantees, successors, and assigns acknowledge that the parcels were created by a variance from the normal subdivision requirements of Hawai'i County, and that there are no longer any special or unusual circumstances applying to the property, and hence, no grounds exist or will exist for another variance from the Subdivision Code to permit further subdivision of the properties.
5. The owners, grantees, successors, and assigns agree and accept the fact that a County dedicable public water system will not be extended to serve the lots within proposed subdivision SUB-16-001624.
6. The owners, grantees, successors, and assigns agree and accept the fact that the County will not bear the responsibility of supplying public water to the subdivided lots. No further subdivision of the lots will be permitted unless County dedicable public water system requirements and other requirements of HCC Chapter 23, Subdivisions, are met.
7. No condominium property regime will be allowed, nor will an Ohana Dwelling Unit be permitted or allowed.
8. Any dwelling constructed on any created lot not served by the DWS shall be provided with and maintain a private rainwater catchment system which includes a minimum 6,000-gallon water storage capacity for domestic consumption or potable uses. This private water storage system shall adhere to the University of Hawai'i's College of Tropical Agriculture and Human Resources' "Guidelines on Rainwater Catchment Systems for Hawai'i" as well as the DOH requirements related to water testing and water purifying devices.
9. Each permitted dwelling on a lot not served by the DWS shall also be provided with a minimum 3,000 gallon water storage capacity dedicated for firefighting and emergency purposes. The location and capacity of the emergency water supply system, including the necessary compatible fire apparatus connector system, shall be as specified by the HFD in the memorandum attached to this permit for reference. The HFD also advises, as a precautionary measure for other uninhabited structures, that consideration be given to the provision of a similar water storage system for firefighting and emergency purposes.
10. In the event that the County notifies the owner(s) of the lot(s) created that the County water system has been upgraded or an improvement district initiated to enable service to the lots, the owner(s) of the lots shall participate in such improvement district or shall pay their pro-rata share of the upgrade and installation of laterals, as determined by the DWS.
11. The pending subdivision application's (SUB-16-001624) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code that are not covered by this variance.

Dylan Shropshire
AG-ECO Properties
Page 6
September 26, 2016

12. 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.

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

Sincerely,



DUANE KANUHA
Planning Director

JRH:nci

\\COH33\planning\public\Admin Permits Division\Variance\2016\VAR-16-000385 Ag-Eco Water\APVL.docx

Encls: Agency Comments, Exhibits A-D

cc: DWS-Engineering Branch
HFD
April Surprenant, Long Range CPD (via email)
SUB-16-001624

cc w/encls: Blaine W. Ito, RPLS
True North Surveys, Inc.
P.O. Box 421
Pa'auilo, HI 96776

G. Bailado, GIS Section (via email)

William P. Kenoi
Mayor



HAWAII FIRE DEPARTMENT
Darren J. Rosario
Fire Chief
Renwick J. Victorino
Deputy Fire Chief

County of Hawai'i
HAWAII FIRE DEPARTMENT
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720
(808) 932-2900 • Fax (808) 932-2928

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

2016 AUG 25 PM 12 17
STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916
PLANNING DEPARTMENT
COUNTY OF HAWAII

June 8, 2015

TO : DUANE KANUHA, PLANNING DIRECTOR
FROM : DARREN J. ROSARIO, FIRE CHIEF
SUBJECT : Variance – VAR [REDACTED]
Applicant: Sydney Fuke, Planning Consultant
Owners: [REDACTED]
Request: Variance from Chapter 23, Subdivisions, Article 6, Division 2,
Improvements Required, Section 23-84, Water Supply
Tax Map Key: [REDACTED]

MEMORANDUM

DATE: August 24, 2016
TO: Mr. Duane Kanuha
Planning Director, County of Hawaii
FROM: Eric Honda *EH*
District Environmental Health Program Chief
SUBJECT: Application: VARIANCE VAR-16-000385
Applicant: DYLAN SHROPSHIRE
Owners: AG-ECO PROPERTIES c/o DYLAN SHROPSHIRE
Request: Variance from Chapter 23 Subdivisions Article 5, Division 2,
Improvements Required, Section 23-84, Water Supply
TMK: 2-8-011:005 (SUB-16-001624)

In regards to the above-mentioned Variance application, the following shall be in accordance:

NFPA 1. UNIFORM FIRE CODE, 2006 EDITION
Note: Hawai'i State Fire Code, National Fire Protection Association 2006 version, with County of Hawai'i amendments. County amendments are identified with a preceding "C" of the reference code.

Chapter 18 Fire Department Access and Water Supply

18.1 General. Fire department access and water supplies shall comply with this chapter.

For occupancies of an especially hazardous nature, or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, or areas where there is an inadequate fire flow, or inadequate fire hydrant spacing, and the AHJ may require additional safeguards including, but not limited to, additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved.

The Department of Health's Safe Drinking Water Branch authority on drinking water quality recommend the subdivision lots be connected to an existing public water system. Concerns on water quality for lead, copper, algae and microbiological and chemical contaminations in private water systems have identified the need for self monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking water purposes since the quality may not meet National Primary Drinking Water Standards for potable drinking water for human consumption. The U.S. Environmental Protection Agency (EPA) defines human consumption to include drinking, bathing, showering, cooking, dishwashing, maintaining oral hygiene and includes hand washing.

EXHIBIT
B

099203



Hawai'i County is an Equal Opportunity Provider and Employer.

VAR-16-000385.eh

EXHIBIT
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18.2.3.1.2 Fire Department access roads shall consist of roadways, fire lanes, parking lots lanes, or a combination thereof.

18.2.3.1.3* When not more than two one- and two-family dwellings or private garages, carports, sheds, agricultural buildings, and detached buildings or structures 400ft² (37 m²) or less are present, the requirements of 18.2.3.1 through 18.2.3.2.1 shall be permitted to be modified by the AHJ.

18.2.3.1.4 When fire department access roads cannot be installed due to location on property, topography, waterways, nonnegotiable grades, or other similar conditions, the AHJ shall be authorized to require additional fire protection features.

18.2.3.2 Access to Building.

18.2.3.2.1 A fire department access road shall extend to within in 50 ft (15 m) of at least one exterior door that can be opened from the outside that provides access to the interior of the building. Exception: 1 and 2 family dwellings.

18.2.3.2.1.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.1 shall be permitted to be increased to 300 feet.

18.2.3.2.2 Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads as measured by an approved route around the exterior of the building or facility.

18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 450 ft (137 m).

18.2.3.3 Multiple Access Roads. More than one fire department access road shall be provided when it is determined by the AHJ that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access.

18.2.3.4 Specifications.

18.2.3.4.1 Dimensions.

18.1.1 Plans.

18.1.1.1 Fire Apparatus Access. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

18.1.1.2 Fire Hydrant Systems. Plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

C 18.1.1.2.1 Fire Hydrant use and Restrictions. No unauthorized person shall use or operate any Fire hydrant unless such person first secures permission or a permit from the owner or representative of the department, or company that owns or governs that water supply or system. Exception: Fire Department personnel conducting firefighting operations, hydrant testing, and/or maintenance, and the flushing and acceptance of hydrants witnessed by Fire Prevention Bureau personnel.

18.2 Fire Department Access.

18.2.1 Fire department access and fire department access roads shall be provided and maintained in accordance with Section 18.2.

18.2.2* Access to Structures or Areas.

18.2.2.1 Access Box(es). The AHJ shall have the authority to require an access box(es) to be installed in an accessible location where access to or within a structure or area is difficult because of security.

18.2.2.2 Access to Gated Subdivisions or Developments. The AHJ shall have the authority to require fire department access be provided to gated subdivisions or developments through the use of an approved device or system.

18.2.2.3 Access Maintenance. The owner or occupant of a structure or area, with required fire department access as specified in 18.2.2.1 or 18.2.2.2, shall notify the AHJ when the access is modified in a manner that could prevent fire department access.

18.2.3 Fire Department Access Roads. (*may be referred as FDAR)

18.2.3.1 Required Access.

18.2.3.1.1 Approved fire department access roads shall be provided for every facility, building, or portion of a building hereafter constructed or relocated.

18.2.3.4.6 Grade.

C 18.2.3.4.6.1 The maximum gradient of a Fire department access road shall not exceed 12 percent for unpaved surfaces and 15 percent for paved surfaces. In areas of the FDAR where a Fire apparatus would connect to a Fire hydrant or Fire Department Connection, the maximum gradient of such area(s) shall not exceed 10 percent.

18.2.3.4.6.2* The angle of approach and departure for any means of fire department access road shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m) or the design limitations of the fire apparatus of the fire department, and shall be subject to approval by the AHJ.

18.2.3.4.6.3 Fire department access roads connecting to roadways shall be provided with curb cuts extending at least 2 ft (0.61 m) beyond each edge of the fire lane.

18.2.3.4.7 Traffic Calming Devices. The design and use of traffic calming devices shall be approved the AHJ.

18.2.3.5 Marking of Fire Apparatus Access Road.

18.2.3.5.1 Where required by the AHJ, approved signs or other approved notices shall be provided and maintained to identify fire department access roads or to prohibit the obstruction thereof of both.

18.2.3.5.2 A marked fire apparatus access road shall also be known as a fire lane.

18.2.4* Obstruction and Control of Fire Department Access Road.

18.2.4.1 General.

18.2.4.1.1 The required width of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles.

18.2.4.1.2 Minimum required widths and clearances established under 18.2.3.4 shall be maintained at all times.

18.2.4.1.3* Facilities and structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations.

18.2.4.1.4 Entrances to fire departments access roads that have been closed with gates and barriers in accordance with 18.2.4.2.1 shall not be obstructed by parked vehicles.

C 18.2.3.4.1.1 FDAR shall have an unobstructed width of not less than 20ft with an approved turn around area if the FDAR exceeds 150 feet. **Exception:** FDAR for one and two family dwellings shall have an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within 150 feet of the structure being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

C 18.2.3.4.1.2 FDAR shall have an unobstructed vertical clearance of not less than 13ft 6 in.

C 18.2.3.4.1.2.1 Vertical clearances may be increased or reduced by the AHJ, provided such increase or reduction does not impair access by the fire apparatus, and approved signs are installed and maintained indicating such approved changes.

18.2.3.4.1.2.2 Vertical clearances shall be increased when vertical clearances or widths are not adequate to accommodate fire apparatus.

C 18.2.3.4.2 Surface. Fire department access roads and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shall be comprised of an all-weather driving surface.

18.2.3.4.3 Turning Radius.

C 18.2.3.4.3.1 Fire department access roads shall have a minimum inside turning radius of 30 feet, and a minimum outside turning radius of 60 feet.

18.2.3.4.3.2 Turns in fire department access road shall maintain the minimum road width.

18.2.3.4.4 Dead Ends. Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

18.2.3.4.5 Bridges.

18.2.3.4.5.1 When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with county requirements.

18.2.3.4.5.2 The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

18.2.3.4.5.3 Vehicle load limits shall be posted at both entrances to bridges where required by the AHJ.

18.3.2* Where no adequate or reliable water distribution system exists, approved reservoirs, pressure tanks, elevated tanks, fire department tanker shuttles, or other approved systems capable of providing the required fire flow shall be permitted.

18.3.3* The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on a fire apparatus access road on the site of the premises or both, in accordance with the appropriate county water requirements.

18.3.4 Fire Hydrants and connections to other approved water supplies shall be accessible to the fire department.

18.3.5 Private water supply systems shall be tested and maintained in accordance with NFPA 25 or county requirements as determined by the AHJ.

18.3.6 Where required by the AHJ, fire hydrants subject to vehicular damage shall be protected unless located within a public right of way.

18.3.7 The AHJ shall be notified whenever any fire hydrant is placed out of service or returned to service. Owners of private property required to have hydrants shall maintain hydrant records of approval, testing, and maintenance, in accordance with the respective county water requirements. Records shall be made available for review by the AHJ upon request.

C 18.3.8 Minimum water supply for buildings that do not meet the minimum County water standards:

Buildings up to 2000 square feet, shall have a minimum of 3,000 gallons of water available for Firefighting.

Buildings 2001- 3000 square feet, shall have a minimum of 6,000 gallons of water available for Firefighting.

Buildings, 3001- 6000 square feet, shall have a minimum of 12,000 gallons of water available for Firefighting.

Buildings, greater than 6000 square feet, shall meet the minimum County water and fire flow requirements.

Multiple story buildings shall multiply the square feet by the amount of stories when determining the minimum water supply.

18.2.4.2 Closure of Accessways.

18.2.4.2.1 The AHJ shall be authorized to require the installation and maintenance of gates or other approved barricades across roads, trails, or other accessways not including public streets, alleys, or highways.

18.2.4.2.2 Where required, gates and barricades shall be secured in an approved manner.

18.2.4.2.3 Roads, trails, and other accessways that have been closed and obstructed in the manner prescribed by 18.2.4.2.1 shall not be trespassed upon or used unless authorized by the owner and the AHJ.

18.2.4.2.4 Public officers acting within their scope of duty shall be permitted to access restricted property identified in 18.2.4.2.1.

18.2.4.2.5 Locks, gates, doors, barricades, chains, enclosures, signs, tags, or seals that have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with, or otherwise vandalized in any manner.

18.3 Water Supplies and Fire Hydrants

18.3.1* A water supply approved by the county, capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities or buildings, or portions thereof, are hereafter constructed, or moved into or within the county. When any portion of the facility or building is in excess of 150 feet (45 720 mm) from a water supply on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the AHJ. For on-site fire hydrant requirements see section 18.3.3.

EXCEPTIONS:

1. When facilities or buildings, or portions thereof, are completely protected with an approved automatic fire sprinkler system the provisions of section 18.3.1 may be modified by the AHJ.
2. When water supply requirements cannot be installed due to topography or other conditions, the AHJ may require additional fire protection as specified in section 18.3.2 as amended in the code.
3. When there are not more than two dwellings, or two private garage, carports, sheds and agricultural. Occupancies, the requirements of section 18.3.1 may be modified by AHJ.

Duane Kanuha
June 8, 2015
Page 9

EXCEPTIONS TO SECTION 18.3.8:

- 1) Agricultural buildings, storage sheds, and shade houses with no combustible or equipment storage.
- 2) Buildings less than 800 square feet in size that meets the minimum Fire Department Access Road requirements.
- 3) For one and two family dwellings, agricultural buildings, storage sheds, and detached garages 800 to 2000 square feet in size, and meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 1000 feet.
- 4) For one and two family dwellings, agricultural buildings, and storage sheds greater than 2000 square feet, but less than 3000 square feet and meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 500 feet.
- 5) For buildings with an approved automatic sprinkler system, the minimum water supply required may be modified.

If there are any questions regarding these requirements, please contact the Fire Prevention Bureau at (808) 932-2911.



DARREN J. ROSARIO
Fire Chief

RP:nac

Duane Kanuha
June 8, 2015
Page 8

Commercial buildings requiring a minimum fire flow of 2000gpm per the Department of Water standards shall double the minimum water supply reserved for firefighting.

Fire Department Connections (FDC) to alternative water supplies shall comply with 18.3.8 (1)-(6) of *this code*.

NOTE: In that water catchment systems are being used as a means of water supply for firefighting, such systems shall meet the following requirements:

- 1) In that a single water tank is used for both domestic and firefighting water, the water for domestic use shall not be capable of being drawn from the water reserved for firefighting;
- 2) Minimum pipe diameter sizes from the water supply to the Fire Department Connection (FDC) shall be as follows:
 - (a) 4" for C900 PVC pipe;
 - (b) 4" for C906 PE pipe;
 - (c) 3" for ductile iron;
 - (d) 3" for galvanized steel.
- 3) The Fire Department Connection (FDC) shall:
 - (a) be made of galvanized steel;
 - (b) have a gated valve with 2-1/2 inch, National Standard Thread male fitting and cap;
 - (c) be located between 8 ft and 16 ft from the Fire department access. The location shall be approved by the AHJ;
 - (d) not be located less than 24 inches, and no higher than 36 inches from finish grade, as measured from the center of the FDC orifice;
 - (e) be secure and capable of withstanding drafting operations. Engineered stamped plans may be required;
 - (f) not be located more than 150 feet of the most remote part, but not less than 20 feet, of the structure being protected;
 - (g) also comply with section 13.1.3 and 18.2.3.4.6.1 of *this code*;
- 4) Commercial buildings requiring a fire flow of 2000gpm shall be provided with a second FDC. Each FDC shall be independent of each other, with each FDC being capable of flowing 500gpm by engineered design standards. The second FDC shall be located in an area approved by the AHJ with the idea of multiple Fire apparatus conducting drafting operations at once, in mind.
- 5) Inspection and maintenance shall be in accordance to NFPA 25.
- 6) The owner or lessee of the property shall be responsible for maintaining the water level, quality, and appurtenances of the system.



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
 345 KEKĀNĀO'A STREET, SUITE 20 • HILO, HAWAII 96720
 TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 8, 2016

TO: Mr. Duane Kanuha, Director
 Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Preliminary Plat Map and Defer Action
 Subdivider – Ag-Ego Properties, LLC
 Tax Map Key 2-8-011:005 (SUB 16-001624)

2016 AUG 8 pm 4 07
 PLANNING DEPARTMENT
 COUNTY OF HAWAII

We have reviewed the subject application and have the following comments and conditions.

Please be informed that the subject property is not within the service limits of the Department's existing water system facilities.

Therefore, the Department's existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions, which may include, but not be limited to source, storage, booster pumps, transmission, and distribution facilities, would be required.

Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,

Keith K. Okamoto, P.E.
 Manager-Chief Engineer

TS:dfg

copy – True North Surveys, Inc.
 Ag-Ego Properties, LLC

EXHIBIT
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... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

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The Department of Water Supply is an Equal Opportunity provider and employer.



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 345 KEKĀNĀO'A STREET, SUITE 20 • HILO, HAWAII 96720
 TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 23, 2016

TO: Mr. Duane Kanuha, Director
 Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Variance Application (VAR-16-000385)
 Subdivision Application No. SUB-16-001624
 Subdivider – Ag-Ego Properties, LLC
 Tax Map Key 2-8-011:005

2016 AUG 24 pm 2 45
 PLANNING DEPARTMENT
 COUNTY OF HAWAII

We have reviewed the subject application and our comments from our August 5, 2016, letter regarding the subject subdivision application still stand.

The applicant has indicated that they will utilize private rainwater catchment systems for the proposed lots. We have no objection to the use of rainwater catchment systems; however, we cannot approve or comment as to the adequacy of those systems as they do not meet the requirements of the Department's Water System Standards.

We recommend that the owner(s) consult with the County of Hawai'i, Planning Department, the County of Hawai'i, Department of Public Works, and/or the State of Hawai'i, Department of Health, to determine any other guidelines, recommendations, or regulations regarding the use of rainwater catchment systems.

Should there be any questions, please contact Mr. Ryan Quitariano of our Water Resources and Planning Branch at 961-8070, extension 256.

Sincerely yours,

Keith K. Okamoto, P.E.
 Manager-Chief Engineer

RQ:dfg

copy – True North Surveys, Inc.
 Ag-Ego Properties, LLC

EXHIBIT
 C

... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

107204

The Department of Water Supply is an Equal Opportunity provider and employer.