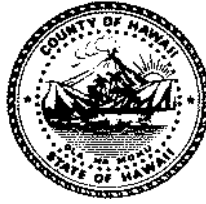


Mitchell D. Roth  
Mayor

Deanna S. Sako  
Managing 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

Zendo Kern  
Director

Jeffrey W. Darrow  
Deputy Director

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

January 31, 2024

Chrystal Thomas Yamasaki, LPLS  
Wes Thomas Associates  
75-5749 Kalawa Street, Suite 201  
Kailua-Kona, Hawai'i 96740

Dear Chrystal,

**SUBJECT: Application: SUBDIVISION VARIANCE | PL-SVAR-2023-000041**  
**Agent: CRYSTAL THOMAS YAMASAKI**  
**Owner/Applicant: G. MULAR, LLC**  
**Request: Variance from Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water Supply; and Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of-Way, and Pavement Widths; Section 23-87, Standard for Non-Dedicable Street; Escrow Maintenance Fund: Section 23-95, Right-of-Way Improvement**  
**Tax Map Key: (3) 8-1-002:071 (PL-SUB-2023-000208)**

Upon review of your variance application, the Planning Director certifies the **approval** of Variance PL-SVAR-2023-000041 subject to variance conditions. The variance grants relief for PL-SUB-2023-000208 from constructing minimum County dedicable water supply system and roadway improvements for the five (5) 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) and Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of-Way, and Pavement Widths; Section 23-87, Standard for Non-Dedicable Street; Escrow Maintenance Fund and Section 23-95, Right-of way Improvement.

### **BACKGROUND**

1. **Location.** The referenced property, being Lot 2, containing 5.266 acres, is situated east side of Mamalahoa Highway, and is located in the Hoshidana Subdivision, Hōkūkano Tract, District of South Kona, Hawai'i.

2. **County Zoning.** Agricultural – One Acre (A-1a).
3. **State Land Use.** Agricultural (A).
4. **General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as Low Density Urban (LDU).
5. **Subdivision Code Requirements.** Hawai‘i County Code, Chapter 23, Subdivisions 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 Department of Water Supply (DWS).

The code also requires minimum right-of-way and paving widths of 50 feet and 20 feet, respectively, and full right-of-way improvement to include paved shoulders and swales. The code does not require, instead allowing the Planning Director discretion for the installation of curbs, gutters, and sidewalks and in this instance the Director concurs that they would be inappropriate for this large-lot agricultural subdivision.

6. **Subdivision Request/PPM.** Subdivision application PL-SUB-2023-000208 was submitted to subdivide the subject property into five (5) lots averaging 1.0456 in size. Further action on the subdivision application has been deferred pursuant to letter dated November 17, 2023.
7. **Variance Application.** The variance request from water supply and roadway improvements was acknowledged by Planning Department letter dated October 11, 2023. This variance application includes background history and circumstances and information regarding the pending subdivision application. The subject property is not within the service limits of the Department of Water Supply (DWS) existing water system facilities. The applicant proposes to access the subject properties over an existing access and utility easement (Easement AU-1) which traverses over Lot 1-A (TMK: 8-1-002:40) and is in favor of Lot 2 (TMK: 8-1-002:71) the roadway easement is 20-foot asphalt paved within a 30-foot-wide road right-of-way. The roadway easement is accessed off Pu‘u Lehua Drive which is 14-foot-wide asphalt paved with 20-foot gravel compact shoulders within a 100-foot road right-of-way.
8. **Variance Application (PL-SVAR-2023-000041) Agency Comments and Requirements.**
  - a. The State of Hawai‘i-Department of Health (DOH): See attached memorandum dated October 18, 2023. **(Exhibit A)**
  - b. County of Hawai‘i Fire Department (HFD): See attached memorandum dated November 1, 2023. **(Exhibit B)**

- c. The Department of Water Supply (DWS): See attached memorandum dated January 3, 2024. **(Exhibit C)**
  - d. County of Hawai‘i – Department of Public Works – Engineering Division (DPW-Engineering): See attached memorandum dated January 3, 2024. **(Exhibit D)**
  - e. No other agency’s comments were solicited, and none were received.
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence, dated October 5, 2023, 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). Pictures of the posted sign were also submitted. Evidence dated October 18, 2023, indicates 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.**
- Objection letters received from Mathew C. Coupe dated November 6, 2023.
11. **Time Extension.** The applicant’s Variance Application was received on October 5, 2023; and additional time to review the application was required. The applicant granted the Planning Director an extension of time to issue a decision on the Variance Application until January 31, 2024.
12. **Water Supply.** The Subdivision Code requires that all new subdivisions provide a water system meeting the minimum requirements of the County of Hawaii – Department of Water Supply (DWS).

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

13. **Lot Access/Roadways.** The Subdivision Code requires a minimum of 20-foot-wide nondedicable pavement within a minimum 50-foot-wide right-of-way in the Agriculture – One Acre (A-1a) zoning district. These improvements would conform to Department of Public Works (DPW) Standard Detail (Std. Det.) R-25 (2017 Edition).

The intent and purpose of access improvement requirements to a proposed subdivision is to ensure legal and physical access to the proposed lots that is clearly defined and accessible from a public road by domestic vehicles, police, fire, and other service vehicles under various weather conditions without constant maintenance.

### **ANALYSIS OF GROUNDS FOR WATER VARIANCE**

No water 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 Water Variance application meets criterion (a) for the following reasons(s):

The subdivision request is for four (4) of the five (5) lots within the existing Agriculture – one acre (A-1a) zoning.

Although a dedicable water system is a requirement of the code, the subject property is not within the service limits of the present service facilities of the existing Department of Water Supply (DWS) system, and it would be unreasonable to expect the owners to construct the required water system service improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission, and distribution facilities, that would be required. Therefore, it is reasonable that, in lieu of constructing water system improvements to either extend/upgrade the Department of Water Supply (DWS) facilities or provide a private water system to Department of Water Supply (DWS) standards for four (4) of the five (5) lots in the pending subdivision, a more reasonable alternative can be allowed pursuant to Planning Department Rule No. 22, Water Variance.

The above special and unusual circumstances would deprive the applicant from developing these properties and interfere with the highest and best use of this property. Therefore, for this rural residential subdivision, the best use and manner of the development allows for individual rainwater catchment system in keeping with the rural, sparsely populated character of the area.

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

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

The Department of Water Supply (DWS) has indicated that the property is not within the service limits of its existing water system facilities. Constructing water system improvements to extend/upgrade the Department of Water Supply (DWS) facilities or provide a private water system to Department of Water Supply (DWS) standards for the 5 lots of the pending subdivision would be placing excessive demands upon the applicant because of the extensive improvements and additions required to the existing Department of Water Supply (DWS) water system facilities. At an elevation of approximately 1,600 feet above sea level, the

drilling of wells and construction of other water system improvements (pumps, storage, and distribution facilities) to Department of Water Supply (DWS) standards would also be unreasonable for a five (5) 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 Water Variance application meets criterion (c) for the following reasons(s):

Considering that there is adequate rainfall (minimum 60 inches to 80 inches) of rainfall annually) to support individual water catchment and this is a rural, sparsely populated agricultural subdivision, 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 agricultural/residential opportunities. 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, Rule 22 and the Hawai'i County General Plan.

#### **ANALYSIS OF GROUNDS FOR ROADWAY VARIANCE**

No roadway 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 Roadway Variance application meets criterion (a) for the following reasons(s):

The subdividers are requesting a variance to allow the development of the proposed five (5) lot subdivision without providing roadway improvements meeting the minimum requirements of Chapter 23, Subdivisions, more specifically **Section 23-41 – Minimum right-of-way and pavement widths; Section 23-87 – Standard for nondedicable street; escrow maintenance fund; and Section 23-95 – Right-of-way improvement.**

The applicant is proposing to subdivide the subject property into five (5) lots ranging from 1.045 acres to 1.47 acres.

The subject property currently has access to a public roadway (Hawai'i Belt Road) via a privately-owned roadway (Pu'u Lehua Drive). Access onto the subdivision parcels is via a roadway easement off Pu'u Lehua Drive. Pu'u Lehua Drive comprises of approximately 14-foot-wide asphalt paved, with 20-foot compact gravel shoulders, contained within a 100-foot-wide road right-of-way. The evidence cited in the variance application indicates that the roadway has been adequate, and long in use for this rural, agricultural area. The upkeep of the roads has historically been done by the owner and adjoining property owner(s). The roadway and utility easement (AU-1) over Lot 1-A (TMK: 8-1-002:040) in favor of Lot 2 (8-1-002:071) is a 20-foot-wide asphalt paved, within a 30-foot-wide right-of-way.

For the owners to improve the current roadway to County standards of a 20-foot-wide agricultural standard road within a 50-foot road-right-of-way, the owners would be required to acquire additional land area from private landowners abutting the roadway.

Requiring the owner to improve Pu'u Lehua Drive and the roadway easement to county standards would make the subdivision extremely unfeasible and cost prohibitive.

Therefore, it is maintained that there are special and unusual circumstances applying to the subject property which exist to a degree where denial of this variance would deprive the owners substantial property rights that would otherwise be available and would obviously interfere with the best use or manner of development of the subject property.

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

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

The only alternative would be to improve the roadway to county standards, this would require the owners to acquire additional land from private landowners abutting the roadways and construct substantial roadway improvements meeting with county standards.

It is unreasonable for the owners alone to improve to county standards as it only serves a limited number of agricultural lots and is not a through street. The County Standard requirements would unduly burden the applicant as it would require acquisition of additional right-of-way from landowners abutting the roadway.

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

The intent and purpose of access requirements to a proposed subdivision is to ensure legal and physical access to the proposed lots that is clearly defined and accessible from a public road by domestic and farm vehicles, police, fire, and other service vehicles under various weather conditions without constant maintenance.

Access to the proposed properties is via Pu'u Lehua Drive and a roadway easement. The existing roadways are intended to be private; its maintenance and associated liability will be the responsibility of the homeowner's association, who will eventually end up owning and maintaining the roadway. The maintenance cost to utilize and maintain the privately-owned paved roadway and the roadway easement will continue to be privately addressed and shared among the current owners and users. The roadway easement is a 20 feet wide asphalt paved roadway within a 30-foot-wide right-of-way which is sufficient to allow for emergency vehicles and additional vehicular traffic caused by the additional four lots.

Given the circumstances cited in the applicant's background report and evaluation of the request to construct significant roadway improvements beyond the easement area granted to the parcel, the Planning Department has concluded that roadway improvements required for proposed 5-lot subdivision, stipulated in Chapter 23, Subdivisions are not necessary and can be remedied with this variance approval with conditions.

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, it is felt that the applicant's request for variance from non-dedicable roadway improvements will not be materially detrimental to the public's welfare and does not cause substantial adverse impact to the area's character and to adjoining properties.

#### **DETERMINATION-VARIANCE CONDITIONS**

The variance to permit the proposed five (5) lot subdivision of the subject TMK property without providing dedicable water system improvements meeting Department of Water Supply (DWS) standards and without providing a County dedicable roadway, are 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 five (5) lots created by the proposed subdivision which are not serviced by a County dedicable public water system, and which are serviced by a privately owned alternative roadway. 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.

If 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 proposed five (5) lot subdivision (PL-SUB-2023-000208). 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 all liability arising out of vehicular access to and from the subject properties utilizing the private rights-of-way.
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 five (5) proposed lots. No further subdivision of the lots created 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 on any lot created, nor will an Ohana Dwelling Unit be permitted or allowed.



8. Any dwelling constructed on any created lot not served by the Department of Water Supply (DWS) shall be provided with and maintain a private rainwater catchment system which includes a minimum 6000-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 State Department of Health (DOH) requirements related to water testing and water purifying devices.
9. Each permitted dwelling on a lot not served by the Department of Water Supply (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 specified by the HFD in the memorandum attached to this permit for reference. The Hawaii County Fire Department (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 these lots, the owner(s) of lot(s) 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 (DWS).

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 rights-of-way fronting the lots, such rights-of-way 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).

11. The pending subdivision application's (PL-SUB-2023-000208) 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.
12. The access and utility easement (Easement AU-1) shall be named prior to final subdivision approval.
13. 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.

Chrystal Thomas Yamasaki, LPLS  
Wes Thomas Associates  
Approval Letter  
PL-SVAR-2023-000041  
January 31, 2024  
Page 10

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

Sincerely,

for Zendo Kern  
Planning Director

LHN:so

\\COH01\planning\public\Admin Permits Division\Variance\2023\PL-SVAR-2023-000041 Hoshidana Acres\APVL.docx

Enclosures: Exhibit A- State of Hawai'i Department of Health comments  
Exhibit B- County of Hawai'i Fire Department comments  
Exhibit C- County of Hawai'i Department of Water Supply comments  
Exhibit D- County of Hawai'i Department of Public Works comments

cc: (via email) DPW-Engineering  
DWS-Engineering  
Hawai'i County Fire Department  
State of Hawai'i Department of Health  
Alan Gunn, GIS Section

EXHIBIT A

DeVera, Ashley

**From:** Honda, Eric T. <Eric.Honda@doh.hawaii.gov>  
**Sent:** Wednesday, October 18, 2023 9:40 AM  
**To:** Planning Internet Mail  
**Subject:** PL-SVAR-2023-000208  
**Attachments:** PL-SVAR-2023-000208 TMK8-1-002--071.pdf

Eric Honda  
District Environmental Health Program Chief  
Hawaii District Health Office  
(808) 933-0917  
Eric.honda@doh.hawaii.gov



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 916  
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: October 18, 2023

TO: Mr. Zendo Kern  
Planning Director, County of Hawaii

FROM: Eric Honda  
District Environmental Health Program Chief

SUBJECT: Application: SUBDIVISION VARIANCE | PL-SVAR-2023-000041  
Applicant: CHRYSTAL THOMAS YAMASAKI  
Owners: G. MULAR, LLC  
Request: Variance from Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water supply; And Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of-Way and Pavement Widths; Section 23-87, Standard for Non-Dedicable Street; Escrow Maintenance Fund: Section 23-95, Right-of-Way Improvement  
TMK: 8-1-002:071 (PL-SUB-2023-000208)

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

#### **Clean Air Branch**

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible. ....
3. Standard comments for the Clean Air Branch are at: <https://health.hawaii.gov/epo/landuse/>

#### **Clean Water Branch**

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55.
  1. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55: <https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

#### **Hazard Evaluation & Emergency Response Office**

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

#### **Indoor and Radiological Health Branch**

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, and 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

### **Safe Drinking Water Branch**

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related to the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H, and 342I, and HAR Chapters 11-58.1 and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse, and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

### **Sanitation / Local DOH Comments:**

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or

absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

**Other**

1. CDC - Healthy Places - Healthy Community Design Checklist Toolkit recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Hawaii District Health Office, at (808) 933-0917.

**DeVera, Ashley**

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**From:** Baybayan, Clinton  
**Sent:** Wednesday, November 1, 2023 2:22 PM  
**To:** Planning Internet Mail  
**Subject:** FW: 8-1-002:071 | PL-SVAR-2023-000041 | AGENCY MEMO & EPIC SUBMITTAL  
**Attachments:** G. Mular LLC, Subdivision, 11-1-23.pdf

Good Afternoon,  
Please see attached file for HFD comments.

Thank You,

Clinton K. Baybayan  
Fire Captain  
Hawaii Fire Department  
Fire Prevention Branch  
(W) 808-323-4761

**From:** Ota, Stephanie <Stephanie.Ota@hawaiicounty.gov>  
**Sent:** Tuesday, October 17, 2023 1:48 PM  
**To:** dwsengineeringreview@hawaiidws.org; Fire Admin <fire@hawaiicounty.gov>; Kurashige, Palani <Palani.Kurashige@hawaiicounty.gov>; Baybayan, Clinton <Clinton.Baybayan@hawaiicounty.gov>; Henderson, Royd <Royd.Henderson@hawaiicounty.gov>; Kawasaki, Edward <Edward.Kawasaki@hawaiicounty.gov>; michael.une@doh.hawaii.gov; sina.pruder@doh.hawaii.gov; Honda, Eric <Eric.Honda@doh.hawaii.gov>; DPW Eng <dpweng@hawaiicounty.gov>  
**Cc:** Nakayama, Larry <Larry.Nakayama@hawaiicounty.gov>; Nelson, Catherine <Catherine.Nelson@hawaiicounty.gov>  
**Subject:** TMK: 8-1-002:071 | PL-SVAR-2023-000041 | AGENCY MEMO & EPIC SUBMITTAL

Aloha

Please see the links below to the Planning Department Agency Memo and EPIC Submittal requesting your review and comments on the above-referenced application/file number.

**\*\*We kindly ask that you forward your comments electronically (PDF) to: [planning@hawaiicounty.gov](mailto:planning@hawaiicounty.gov) by November 6, 2023\*\***

Should you have any questions, please feel free to contact Larry Nakayama at [Larry.Nakayama@hawaiicounty.gov](mailto:Larry.Nakayama@hawaiicounty.gov) or (808)961-8149.

Link to [Agency Memo PL-SVAR-2023-000041](#)

Link to [EPIC Submittal PL-SVAR-2023-000041](#)

No Hard Copy to Follow

Thank you,



*Stephanie Ota*

Administrative Permits Division  
**County of Hawai'i | Planning Department**  
101 Pauahi Street, Suite 3 | Hilo, HI 96720  
[Stephanie.Ota@hawaiicounty.gov](mailto:Stephanie.Ota@hawaiicounty.gov)



**County of Hawai'i**  
**Zoning & Subdivision Code Update**  
Project Website: [COHcodeupdate.com](http://COHcodeupdate.com)

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**HAWAII FIRE DEPARTMENT . COUNTY OF HAWAII .**  
**HILO, HAWAII 96720**

**DATE** November 1, 2023

**Memorandum**

**TO :** LARRY NAKAYAMA, COUNTY OF HAWAII, PLANNING DEPT.  
**FROM :** CAPTAIN CLINTON BAYBAYAN, FIRE PREVENTION BRANCH  
**SUBJECT: G. MULAR LLC, SUBDIVISION REQUEST, PL-SVAR-2023-000041**

In regards to the above-mentioned project, Fire Department Access and Water Supply shall comply with Chapter 18 of the 2018 Hawaii State Fire Code and Chapter 17 of the Hawaii County Code. For any questions, please email [Clinton.Baybayan@hawaiicounty.gov](mailto:Clinton.Baybayan@hawaiicounty.gov) or call 808-323-4761.

Respectfully Submitted,



Clinton Baybayan  
Fire Prevention Captain  
Fire Prevention Branch  
Hawaii Fire Department

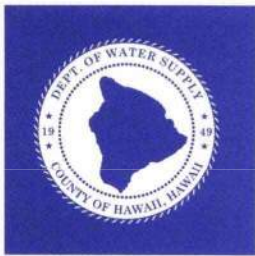


EXHIBIT C

COH PLANNING DEPT  
JAN 5 2024 AM 11:00

**DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII**

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

January 3, 2024

TO: Mr. Zendo Kern, Director  
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Subdivision Variance PL-SVAR-2023-000041**  
**Applicant - Chrystal Thomas Yamasaki**  
**Owner - G. Mular, LLC**  
**Tax Map Key (3) 8-1-002:071 (PL-SUB-2023-000208)**

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

Our comments from our memorandum to you regarding the subject subdivision still stand.

We have no objection to the applicant's proposed use of private rainwater catchment systems to provide water to each of the proposed additional lots. 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 owners consult with the County of Hawai'i, Planning Department, 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 private rainwater catchment systems.

Prior to recommending final subdivision approval, the applicant must inform our department in writing, which lot within the proposed subdivision will be assigned the existing service of the subject parcel, Account No. 900-67000.

Should there be any questions, please contact Mr. Ryan Quitoriano of our Water Resources and Planning Branch at (808) 961-8070, extension 256.

Sincerely yours,

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

RQ:dfg

copy – G. Mular, LLC  
Wes Thomas Associates

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

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

**DeVera, Ashley**

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**From:** Gonzales, Dion  
**Sent:** Thursday, January 11, 2024 8:34 AM  
**To:** Planning Internet Mail  
**Subject:** PL-SVAR-2023-000041 DPW Review  
**Attachments:** 2024-01-10\_PL-SVAR-2023-000041\_DPW-VAR-Review.pdf

The attached DPW review has been uploaded in EPIC.

Thank you,

Dion Gonzales  
County of Hawaii, Department of Public Works  
Engineering Division  
74-5044 Ane Keohokalole Highway, Bldg D  
Kailua-Kona, HI 96740  
(808) 323-4850  
[Dion.Gonzales@hawaiicounty.gov](mailto:Dion.Gonzales@hawaiicounty.gov)

**DEPARTMENT OF PUBLIC WORKS**  
COUNTY OF HAWAI'I  
HILO, HAWAI'I

DATE: January 10, 2024

**Memorandum**

TO: Planning Department

FROM: Department of Public Works



SUBJECT: SUBDIVISION VARIANCE: PL-SVAR-2023-000041  
Applicant: CRYSTAL THOMAS YAMASAKI  
Owners: G. MULAR, LLC  
TMK: (3) 8-1-002:071 (PL-SUB-2023-000208)  
Reference: PL-SUB-2023-000208

We have reviewed the subject application received on October 11, 2023 and have the following comment:

We believe the minimum road improvement requirements codified within Chapter 23 of the Hawaii County Code provide public welfare and safety.

However, should the Planning Director determine that Section 23-15 is applicable, we defer to the director's authority.

Should there be any questions concerning this matter, please contact Dion Gonzales in our Engineering Division at Ext. 4864.

DG