

CERTIFIED MAIL

August 5, 1986

Mr. Wilfred C. Soares
674 Pepeekeo Street
Honolulu, HI 96825

Dear Mr. Soares:

Variance Application (V86-26)
Variance from Minimum Water Requirements
Tax Map Key 1-8-05:96, Lot 75

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the creation of a 4-lot subdivision without a water system meeting with the minimum requirements of the Department of Water Supply as required by Article 6, Division 2, Section 23-84(1) of the Subdivision Code, Olaa Reservation Lots, Puna, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum water requirements to service the proposed 4-lot subdivision. In the approved rezoning ordinance (Ord. 86 29) that became effective on March 24, 1986, the following conditions are stipulated: "(C) restrictive deed covenants for all of the lots shall be submitted to the Planning Department for review and approval prior to its submittal to the Bureau of Conveyances for recordation with final subdivision plat maps. These covenants shall include but not necessarily be limited to (a) requirements for active agricultural activities to ensure the land is productively used; and (b) a restriction on the further conveyance of the subject parcels, beyond the families of the four original recipients, unless one of the following conditions are met: 1) a valid commitment for water service is available, 2) water service is available to the subject parcel, or 3) a water catchment system, that satisfies any County standards which may be adopted for such a system, is available to the subject parcel. The restrictive

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covenants contained herein are encumbrances running with the land, and shall be binding on all parties and persons claiming under them until such time that the change of zone ordinance is amended;" The applicant is proposing to convey three of the lots to his family members and retain one lot for himself.

There presently exists an 8-inch waterline along the frontage of the property. However, said water system cannot support the proposed subdivision at this time due to its limited transmission capabilities. In order to have the necessary transmission capabilities, the present 6-inch transmission line from Kurtistown to North Kulani Road must be replaced by an 8-inch waterline and the necessary booster pump stations. Approximately 16,000 feet of line must be installed at a cost of approximately \$45 per linear foot. The cost would be approximately \$720,000 plus the necessary booster pump stations. The Department of Water Supply has no projected timetable to improve this present water system.

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the Mountain View Gage Station (91.00) receives a median rainfall of approximately 186.6 inches of rainfall per year. Based on the above median rainfall per year with a minimum roof catchment area of 2,000 square feet, approximately 213,392 gallons of water is available for the year. Water consumption per month based on a household of 3.5 persons per family is 50 gallons per person or 175 gallons per day. The total yearly water consumption per family is approximately 63,670 gallons. The amount of water available exceeds the amount consumed.

Therefore, considering all of these foregoing issues, we have determined that there are special or unusual circumstances applying to the subject property which exists either to a degree which deprives the owner or petitioner of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

ALTERNATIVES

There are no other reasonable alternatives in resolving the difficulty of the petitioner. An alternative would be for the petitioner to improve 16,000 feet of the existing 6-inch water system with an 8-inch waterline and the installing the necessary booster pump stations. This improvement cost for the 8-inch waterline is approximately \$720,000 which does not include the cost of the booster pump stations. The prorata cost of this improvement will be \$180,000 plus per lot.

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The second alternative would be to drill 2 wells. The cost of installing 2 wells including the necessary pumping, storage and distribution facilities would run into the millions of dollars.

As such, the imposition of providing a public or private water system in this area for the proposed subdivision would be putting excessive demands upon the petitioner when a more reasonable alternative is available.

INTENT AND PURPOSE

The intent and purpose of requiring a water system within a subdivision is to assure that adequate water is available for human consumption and fire protection. Since the property is within the Unplanned district, fire protection facilities (fire hydrants) is not a mandatory requirement of the water standards.

The analysis of the annual median rainfall for the area shows that there is adequate rainfall to support a water roof catchment system.

Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the areas character and to adjoining properties.

Based on the foregoing, the Planning Director has concluded that this request be approved subject to the following conditions:

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The petitioner, its assigns or successors, shall file a written agreement with the Planning Department prior to receipt of final subdivision approval containing the following stipulations and covenants:
 - a. That the subdivider agrees and accepts the fact that a County dedicable public water system is not now or in the foreseeable future available to service the subdivision, and that no portion of the subject property may be further subdivided without first having a water system meeting with the standards of the Department of Water Supply.

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- b. That the subdivider agrees and accepts the fact the County will not at any time bear the responsibility of supplying public water to the subdivision.
 - c. That any future dwellings constructed on the property shall have a minimum of 2,000 roof catchment surface with a minimum 10,000 gallon water storage facility.
 - d. That the written agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Department at the cost and expense of the subdivider.
3. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the subdivider shall be responsible for informing the Department of the amendments or changes so that the agreement can reflect the amendments or changes; further, the written agreement shall be considered as a condition and covenant running with the land and shall be binding upon the subdivider or owner, his heirs, executors, administrators or assigns or its successors and assigns and shall be incorporated by reference as an exhibit and made part of each agreement of sale, deed, lease or other similar documents affecting the title or ownership of each subdivided lot.
 4. Comply with Condition C of Rezoning Ordinance No. 86 29.

Should any of the foregoing conditions not be complied with, this variance shall automatically be voided.

If you have any questions on this matter, please feel free to contact us.

Sincerely,



ALBERT LONO LYMAN
Planning Director

MO:lv

cc: Department of Water Supply
bcc: Subd. File (via Kaoru)