

CERTIFIED MAIL

April 11, 1991

Mr. Walter Andrade, Sr.
P.O. Box 338
Captain Cook, HI 96704

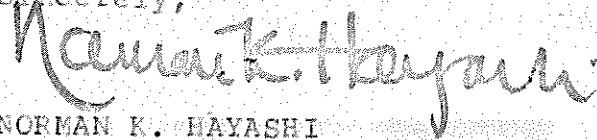
Dear Mr. Andrade:

Nullification of Variance No. 268
Tax Map Key: 8-7-13:32 and 33

By our letter of April 3, 1991, we have notified you that the Notice of Grant of Variance imposed on Subdivision No. 5814 was not necessary. Please be also informed that Variance No. 268 is no longer applicable and is hereby declared null and void.

Should you have any questions, please feel free to contact Alice Kawaha or Connie Kiriu of this office.

Sincerely,



NORMAN K. HAYASHI
Planning Director

AK:syw
1369D

cc: Mr. Howard Conant
Ms. Chrystal Thomas Yamasaki
John Ushijima, Esq.
Corporation Counsel
West Hawaii Office
Subdivision No. 5814
Subdivision No. 90-86
Variance No. 418

APR 16 1991

CERTIFIED MAIL

February 10, 1987

Mr. John D. Weeks
78-6877 Mamalahoa Highway
Holualoa, HI 96725

Dear Mr. Weeks:

Variance Application (V86-46)
Applicant: Walter Andrade, Sr.
Tax Map Key 8-7-13:32 & 33

After reviewing the above 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 3-lot subdivision without a water system meeting with the minimum water requirements of the County Department of Water Supply as required by Article 6, Division, 2, Section 23-84(1) of the Subdivision Code and with 2 lots having a building site average width of approximately 200 and 250 feet in lieu of the minimum 280 feet requirement within the Unplanned (U) zoned district. The subject property which consists of 55.70 acres and identified by TMK: 8-7-13:32 & 33, is located on the east (mauka) side of the Mamalahoa Highway, approximately one and one-half miles north of the Opihi Hale Houselots, Kolo, South Kona, Hawaii.

The approval of the variance request from the minimum water requirement is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exists which would warrant or necessitate a waiver from the minimum water requirements to service the proposed 3-lot subdivision. The present County water system terminates at the Mamalahoa Highway/Hookena Beach Access Road junction. This is the nearest County water system and is located approximately 6 miles from the subject parcels. There is no immediate plans to extend the water system to service the subject subdivision.

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From the map contained in Circular C88, Median Rainfall, State of Hawaii, the subject parcels receives a median rainfall of approximately 44 inches of rainfall per year. From the monthly rainfall of the Opihihale 2 (24.10) gage station and based on a minimum 2,500 square foot of roof catchment area, approximately 68,532 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 63,875 gallons. This would leave a surplus of approximately 4,657 gallons of water per year.

Therefore, considering all of these foregoing issues, we have determined that these are special or unusual circumstances applying to the subject property which exist 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 reasonable alternatives in resolving the difficulty of the petitioner. An alternative would be for the petitioner to extend the existing County water system from Hookena to the subject property which is approximately 6 miles in length. The improvement would consist of a transmission line (12" in diameter), water storage facilities (reservoirs), booster stations, etc. The cost of the transmission line only is approximately \$60/linear foot or about \$1,900,800. This cost does not include the water storage facilities, booster stations and other required appurtenants. The transmission line cost only will amount to approximately \$633,600 per lot. This cost alone is in excess of the land cost (individual lots).

The second alternative would be to drill 2 wells. The elevation of the property starts from 1,200 feet. The cost of installing a well in place is approximately \$800 per linear foot. A well 1,220 feet in depth would cost approximately \$976,000. The cost of development of 2 wells will be approximately 1.952 million dollars. This does not include the cost of the storage facilities nor the transmission lines, booster stations, etc. The cost of these improvements will be greater than the cost of the land.

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As such, the imposition of providing a public or private water system in this area for the proposed 3-lot 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) are 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.

The approval of the variance request from the minimum building site average width requirement is based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances which apply to the subject property which would warrant or necessitate a waiver from the minimum building site average requirements. The existing 2-lots were created prior to the adoption of the Zoning and Subdivision Codes and are non-conforming in regards to the minimum 280 foot average building site average width requirement. Both are 250 foot in width. The petitioner is proposing to create a 3-lot subdivision with two lots fronting the highway and the third lot being a flag lot with a pole having a width of 50 feet. The proposed subdivision will not increase the number of non-conforming lots (2-lots) with respect to building site average width requirement.

Therefore, we have determined that there are special or unusual circumstances applying to the subject property which exist 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.

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ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the petitioner. An alternative would be for the petitioner to construct an agricultural standard roadway with a 50-foot wide right-of-way along one side of the property. The resultant subdivision configuration would change with access to all of the lots being off of the new roadway. However, this would result in additional on-site construction cost for the proposed 3-lot subdivision.

The second alternative would be to revise the subdivision layout to have one lot fronting the highway with the two remaining lots being flag lots. This resultant action would create 2-lots having driveways located side by side and increase the cost of improvements for developing the additional flag lot.

Therefore, in consideration of these factors, the variance request from the minimum building site average width requirement is determined to be reasonable. Although it could be argued that other alternatives are available to the petitioner, the reasonableness and practical application of these alternatives have to be evaluated with respect to the application and surrounding area. In this particular case, the imposition of the other alternatives in this situation is considered to be excessive when a more reasonable solution is available.

INTENT AND PURPOSE

The intent and purpose for the minimum building site average width requirement is to assure that there is adequate building area available to construct any buildings in addition to providing adequate area for light, air and circulation. Although 2-lots will have a building site average width of 200 and 250 feet, there would be adequate area to construct improvements after the 30 foot setback requirements are imposed.

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; 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.

The variance requests from the minimum water and building site average width requirements are approved based on the following conditions:

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1. The petitioner or its authorized representative shall be responsible for complying with all stated conditions of approval.
2. All future improvements on proposed Lots 5A and 6A shall meet with the minimum setback requirements.
3. 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 the proposed subdivided lots are not entirely within the service limits of the existing water system, and that no portion of the subject property may be further subdivided without providing a water system meeting with the standards of the Department of Water Supply.
 - b. That the subdivider agrees and accepts the fact the County will not at any time bear the responsibility of constructing the necessary improvements to make water available to the subdivision.
 - c. 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.
4. 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 amendment or changes so that the agreement can reflect the amendment 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 and its successors and assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease or other similar documents affecting the title or ownership of each subdivided lot.

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

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

MO:lv

xc: Walter Andrade, Sr.
Department of Water Supply

bcc: Subd. File (Kaoru)