

CERTIFIED MAIL

January 19, 1987

Ms. Chrystal Thomas Yamasaki  
Wes Thomas & Associates  
75-5722 Kalawa Street  
Kailua-Kona, HI 96740

Dear Ms. Yamasaki:

Variance Application (V86-41)  
Don and Maggie Sodergren  
Tax Map Key 7-4-03:9

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 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. The subject property, which consists of 4.374 acres and identified by TMK: 7-4-03:9; is located on the east (mauka) side of Mamalahoa Highway approximately 4,100 feet south of the Palani Road/Mamalahoa Highway intersection, Kealakehe, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstance that exist which would warrant or necessitate a waiver from the minimum water requirements to service the proposed 3-lot subdivision. The proposed subdivision is located within the Countys' Agricultural (A-1a) zoned district. The property is presently owned by two family members who wish to subdivide the property with one lot going to the brother and the remaining two lots going to his sister. Although there presently exists a water system along

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the front of the property along the highway, the Department of Water Supply has stated that the existing water facilities cannot support the proposed subdivision at this time. Extensive improvements must be made to the source, storage, transmission, booster pump and distribution facilities. There are no funds available nor have they any timetable set for the improvements.

Since no water is available to the proposed subdivision (2 lots without water service), the applicant is proposing to have the property owners supply their own water system through water catchment. The minimum roof catchment area would be approximately 2,100 square feet with a storage tank of at least 15,000 gallons.

#### ALTERNATIVES

There are no other reasonable alternatives to resolve the difficulty. An alternative would be for the applicant to improve and upgrade the present water system facilities from the subject property to the source. This cost would be prohibitively high. The other alternative would be for the applicant to provide their own private water system which would require a minimum of 2 wells. The estimated costs for the 2 wells will be in excess of a million dollars. This does not include the cost for transmission, pumping and storage facilities. The cost/benefit ratio of these alternatives would be high making the subdivision unfeasible.

As such, the impositions of providing a public or private water system in this area for the proposed subdivision would be putting excessive demands upon the petitioners 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. Fire protection is presently available along the existing County water system that fronts the property.

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

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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 area's character and to adjoining properties.

The variance request is approved, subject to the following conditions:

1. The petitioner, its assigns or successor, 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 the County water system is not adequate now nor in the foreseeable future to service the proposed subdivision.
  - 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 and buildings constructed on the property that is not serviced from the County water system, shall have a minimum roof catchment area of 2,200 square feet with a minimum 15,000 gallon water storage facility.
  - d. That each lot owner is required to participate in any improvement district which may be created for public water system improvements which would affect the proposed subdivision.
  - e. 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.

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3. In the event that there are any amendments or changes of the subdivision after the agreement is signed, the subdivider and/or owner shall be responsible for informing the Department of 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 ownership of each subdivided lot.
4. In the event that each of the proposed lots are granted water service from the County water systems, condition number 2 will not be applicable.

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

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

Sincerely,



ALBERT LONO LYMAN  
Planning Director

MO:dh

cc: Don Sodergren  
Dept. of Water Supply

bcc: Kaoru (Subd. file)