

CERTIFIED MAIL

May 15, 1986

Mr. Donald McIntosh  
Kona Surveyors  
P.O. Box 2902  
Kailua-Kona, HI 96745

Dear Mr. McIntosh:

Variance Application (V86-9)  
Applicant: Cyanotech Corporation  
Tax Map Key 7-4-43:Por. 3

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 2-lot subdivision without a water system meeting with the 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 is identified by Tax Map Key 7-3-43:Por. 3 and is located on the west (makai) side of Queen Kaahumanu Highway next to the Hawaiian Abalone Farms site, Keahole Point, Kalaoa 1st-4th, North Kona, Hawaii.

The approval is based on the following. Please note however, that since Ms. Frances Schobel filed an objection to the above request, she has ten (10) working days in which to file a request to have the Planning Commission review this application.

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the properties which exist to a degree which obviously interferes with the best use or manner of development of the property. The intent of the proposed 2-lot subdivision is to create a 15.994 acre parcel for Cyanotech to lease in order to obtain financing from a lending institution which requires security and leasehold mortgage.

MAY 19 1986

Mr. Donald McIntosh  
Page 2  
May 15, 1986

In order to comply with the requirements of the Subdivision Code, the requirements of the County Department of Water Supply is one requirement that must be complied with. The County Department of Water Supply commented that the "existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions including source, storage, transmission, and distribution facilities, must be constructed. Currently, sufficient funding is not available and no time is schedule is set." Presently, Cyanotech Corporation has a facilities use agreement with NELH through which fresh potable water is furnished to Cyanotech's facilities from NELH existing water system.

As such, these foregoing factors are considered to be special or unusual circumstances applying to the subject real property which exists to a degree which interferes with the best use or manner of development of that property. Moreover, we have determined that there are conclusive evidence to show a deprivation of property rights which curtail or reduces existing property development rights.

#### ALTERNATES

There are no reasonable alternatives the petitioner could use to resolve the difficulty that they are claiming for the proposed subdivision. As stated previously, the County Department of Water Supply's existing system cannot support the proposed subdivision at this time unless extensive improvements to their present system is made. The cost/benefit ratio for these improvements for the creation on 1 additional lot is prohibitive and unjustifiable. Further, the existing Cyanotech's facilities are presently being served by fresh potable water from the existing NELH water system which is serviced from the existing County's system. This existing NELH system deemed as adequate.

Therefore, in consideration of these factors, the variance request from the minimum water requirements is determined to be reasonable. Although other alternatives are available to the petitioner, the reasonableness and practical application of the alternatives have to be evaluated with respect to the costs associated with alternatives. The other alternatives in this situation are considered to be excessive. Furthermore, as noted previously, the petitioners lot has fresh potable water furnished through a facilities agreement with NELH.

Mr. Donald McIntosh  
Page 3  
May 15, 1986

INTENT AND PURPOSE

The granting of the variance shall be consistent with the general purpose of the Subdivision Code and the General Plan. As stated previously, the basic intent for the creation of the additional lot is for the purpose of financing from a lending institution which requires security and a leasehold mortgage. The Subdivision Code requires that in order to secure approval for the proposed subdivision, the requirements of the Department of Water Supply be complied with. In this particular application, this would require a separate water service for the additional lot. However, this requirement cannot be met since the existing Department of Water Supply's existing water system cannot support the proposed subdivision unless extensive improvements to their existing system is made. Water is presently available to Cyanotech's facilities for which the proposed additional lot is being created for. Since water is available, although it does not meet with the minimum requirements of the Department of Water Supply, the granting of the variance is consistent with the general purpose of the Subdivision Code and the General Plan.

In view of the above, we have further determined that the granting of the variance will not be materially detrimental to the public's welfare or cause substantial, adverse impact to the area's character or to adjoining properties.

Therefore, the variance is hereby granted, subject to the following conditions:


1. That the petitioner or authorized representative shall secure tentative approval within one (1) year from the effective date of approval of this variance. The petitioner or its authorized representative shall also be responsible for securing final subdivision approval within one (1) year thereafter.
2. That the proposed lots be utilized for aquaculture purposes. Should any change in use require water services beyond the present requirements, the requirements of the Department of Water Supply be complied with.
3. That all other applicable rules, regulations and requirements shall be complied with.

Mr. Donald McIntosh  
Page 4  
May 15, 1986

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

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

Sincerely,



ALBERT LONO LYMAN  
Planning Director

MO:lv

xc: Department of Water Supply  
Cyanotech Corporation  
bcc: Kaoru