

CERTIFIED MAIL

July 7, 1987

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

Dear Ms. Yamasaki:

Variance Application (V87-19)
Robert Elliott, et al.
Tax Map Key 9-4-05:6 and 7

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 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 82.90 acres and identified by TMK: 9-4-05:6 and 7, is located on the north side of Mamalahoa Highway approximately 5,000 feet north of the highway off of the Homestead Road, Kiolakaa-Keaa Homesteads, Ka'u, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which exists to a degree which obviously interferes with the best use or manner of development of the property. The subject property which consists of 82.90 acres is located within the County's "Agricultural" (A-20a) zoned district. Under this zoning designation, the minimum building site area is twenty (20) acres. The applicant is proposing a 4-lot subdivision with each lot having an area of approximately

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20 acres which meets with the zoning requirement. The nearest County water system (4" waterline) is located approximately 4,100 feet makai of the subject property. In lieu of providing water from the County water system which is deemed to be inadequate to service the proposed subdivision, the petitioner is suggesting that a restrictive covenant be incorporated stating that "any future single family dwelling built on the property have a minimum of 2,100 square feet catchment area and a storage tank of at least 15,000 gallons."

The Department of Water Supply commented that the existing water system facilities cannot support the proposed subdivision at this time unless extensive improvements are made to the present system. Further, there are no funds or time table set for the improvement of the existing system.

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the subject property receives a median rainfall of approximately 59.1 inches of rainfall per year. From the monthly rainfall data of the Kahuku Ranch House gage station and based on a minimum 2,000 square foot of roof catchment area, approximately 72,967 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 of water per year.

Therefore considering all of these foregoing issues, 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.

ALTERNATIVES

There are no other reasonable alternatives in resolving the difficulty of the petitioner. An alternative would be for the petitioner to extend the existing County water system from the end of the existing 4 inch waterline that is located 4,100 feet makai of the subject property. At \$60 per linear foot, the estimated cost of the waterline extension would be approximately \$246,000. This figure does not include the cost for the necessary water storage facilities (reservoir), booster pump stations or improvements to the existing waterlines.

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The second alternative would be to drill 2 wells, The elevation of the property is 2,280 feet. The cost of installing a well in place is approximately \$800 per linear feet. A well 2,280 feet in depth would cost approximately 1.824 million dollars. The cost of development of 2 wells will be approximately 3.648 million dollars. This figure 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.

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 Agricultural (A-20a) 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.

The variance request is 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.
 - 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 square feet roof catchment surface with a minimum 15,000 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 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.
4. In the event that any of the lots are provided by a water service (individual meter) from the Department of Water Supply or an approved private water system, the above covenants for the specific property will no longer be in effect.

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

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

MO:dh

cc: Dept. of Water Supply
Subd. File No. 86-86 (via Wally)