

CERTIFIED MAIL

July 7, 1987

Mr. Rodney Kawamura
Hilo Engineering, Inc.:
484 Kalanikoa Street
Hilo, HI 96720

Dear Mr. Kawamura:

Variance Application (V87-20)
Carl H. Bredhoff, Jr.
Tax Map Key 9-3-04:03

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 2-lot subdivision with building site average widths of 377 and 425 feet in lieu of the minimum 500 foot requirement within the Agricultural (A-20a) zoned district and 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 41.658 acres and identified by TMK: 9-3-04:03, is located on the north side of Mamalahoa Highway approximately 2,700 feet west of the Mamalahoa Highway/South Point Road intersection, Keaa 1st and 2nd, Ka'u, Hawaii.

The approval is based on the following:

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 width requirements. The subject parcel was created prior to the adoption of the

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Subdivision Code and has a building site average width of 754 feet. The land characteristic is such that the front 3/4 of the property is suitable for pasture and the remaining 1/4 consist predominantly of rock outcrops. In the subdivision of the property, the thought is to create 2-lots with equal area and similar land characteristics for each of the partners (1/2 interest each). By subdividing the property as proposed, each partner would receive 1/2 of the property with similar land characteristics and value resulting in the building site average width being below the minimum 500 foot 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.

ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the petitioner. An alternative would be for the petitioner to create a flag lot. However, in doing so, the proposed flag lot would contain all of the lands that are covered by rock outcropping which would be about 1/2 of the land area of that lot (approximately 10 out of the 20 acres). This would create an unequitable division of the property between the two parties which have 1/2 interest each in the property.

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.

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Although the 2-lots will have a building site average width of 377 and 425 feet, there would be adequate area to construct improvements after the 30 foot front yard and 20 foot side yard 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 Planning Director has concluded that this request be approved.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum water requirements to service one of the proposed 2-lots subdivision. Proposed Lot 32-A is presently served by a 5/8 inch water meter from the County's water system. However, said water system cannot support the proposed additional one lot at this time until improvements to the system are made that will improve the dependability and capacity of the South Point water system. These proposed improvements are ongoing and the connection to the Waiohinu system is programmed for fiscal year 1987-88. Upon completion of these improvements, the Department of Water Supply will evaluate their policy regarding additional service to the subject property. In the meantime, the applicant is willing to include a covenant that will require water from the existing water meter servicing proposed Lot 32-A be made available to proposed Lot 32-B for domestic or low demand agricultural use.

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the subject property receives a median annual rainfall of approximately 49 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 61,086 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

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water consumption is approximately 63,875 gallons. The proposed catchment system would supplement the water that will be received from the existing water meter.

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 reasonable alternatives in resolving the difficulty of the petitioner. The Department of Water Supply presently has some on-going projects to improve their systems in Waiohinu and South Point. For fiscal year 1987-88, the Department has plans to connect the Waiohinu and South Point water systems to improve the dependability and capacity of the South Point system. Upon completion of these improvements, the petitioner may receive an additional service meter for the proposed subdivision. In the interim, the petitioner is proposing to utilize the existing 5/8 inch service meter to furnish the needs of any future dwelling that may be constructed on proposed Lot 32-B.

As such, the imposition of improving or 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 which can be used to supplement the water that could be provided for from the existing water meter that services the existing property.

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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 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 proposed Lot 32-B shall be provided with water from the existing 5/8 inch water meter that presently services the existing property. In addition, a minimum 2,000 square foot roof catchment surface with a minimum 10,000 gallon water storage facility be provided with any future dwellings.
 - 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.

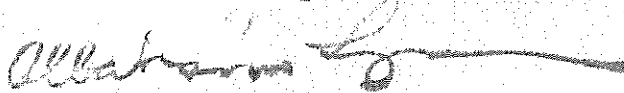
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3. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the subdivider shall be responsible for informing the Department of the amendments or changes so that the agreement can reflect the amendments 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 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 proposed Lot 32-B is 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.

Should any of the foregoing conditions not be complied with, the Planning Director may initiate action to nullify 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. 87-72 (via Wally)