

CERTIFIED MAIL

August 13, 1987

Mr. Stanley Roehrig
Roehrig, Roehrig, Wilson,
Hara and Schutte
101 Aupuni Street, Suite 124
Hilo, Hawaii 96720

Dear Mr. Roehrig:

Variance Application (V87-22)
Stanley Roehrig
Tax Map Key 5-6-01:18

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 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 which consists of 1,517.320 acres and identified by TMK: 5-6-01:18, is located on the west side of Akoni Pule Highway, adjoining the Puakea Bay Ranch Subdivision, Kukuipahu, North Kohala, Hawaii.

The approval 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 2-lot subdivision. The subdivision to create the 10-acre parcel was the result of a quiet title and partitioning suit settle by the parties in 1981 in Civil No. 6870 in the Third Circuit Court. The proposed subdivision is to comply with the settlement as stipulated in the Court's action. The present County water system terminates

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at Puakea Bay Ranch Subdivision entrance which is approximately 500 feet from the subject property. In addition the petition would have to extend the water system along the entire frontage of the property which is approximately 320 feet in width. The resultant action would require the petitioner to construct and install approximately 820 feet of pipeline. The Department of Water Supply has no immediate plans to extend the water system beyond the Puakea Bay Ranch Subdivision entrance.

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the subject property receives a median rainfall of approximately 31.5 inches of rainfall per year. From the monthly rainfall data of the Honoipu gage station and based on a minimum 3,500 square foot of roof catchment area, approximately 68,722 gallons of water would be available for the year. Water consumption 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 4,847 gallons.

Therefore, considering all of these foregoing issues, we have determined that there are special and 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. The petitioner could extend the existing County water system from the Puakea Bay Ranch Subdivision entrance to the subject property. The length of the improvements would be approximately 820 feet. The cost of constructing and installing a 4 inch D.I. waterline is approximately \$40 per linear foot. The resultant improvement cost would be approximately \$32,800. The resultant cost was not the result of the petitioner's action but the result of complying with the Court's mandate in the settlement of the quiet title and partitioning suit.

As such, the imposition of extending the public water system for the proposed 2-lot subdivision would be putting excessive demands upon the petitioner when a more reasonable alternative is available.

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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) 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.

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- c. That any future dwellings constructed on the property shall have a minimum of 3,500 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.

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. No. 86-172