

CERTIFIED MAIL

October 14, 1987

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

Dear Ms. Yamasaki:

Variance Application (V87-39)  
Yoshiko Fukumitsu  
Tax Map Key 7-5-02:33

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 20.2780 acres and identified by TMK: 7-5-02:23, is located on the west side of Mamalahoa Highway adjoining (north side) of Keopu Heights Subdivision, Keopu 2nd, North Kona, Hawaii.

The approval is based on the followings:

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 two of the proposed 3-lot subdivision. The closest water system is located on Hiona Street approximately 400 feet south of the subject property. However, said water system cannot support the proposed subdivision (2 additional lots) at this time unless additional source and transmission facilities are constructed. No funding is available nor any specific timetable is set to improve the present system.

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From the map contained in Circular C88, Median Rainfall, State of Hawaii, the subject property is within the area that receives approximately 59.1 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 73,678 gallons of water is available for the year. Water consumption per day 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. The amount of water available through a catchment system exceeds the amount consumed.

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. An alternative would be for the petitioner to improve the existing County's water system a necessity. However, this alternative would be unfeasible since the improvement cost would run into the millions of dollars and would cost more than the value of the property.

The second alternative would be to drill 2 wells that would service two lots. The cost of installing 2 wells including the necessary pumping storage and distribution facilities would run into the millions of dollars.

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 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 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

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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 water service by an 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

bcc: Subd. # 84-75 (via Wally)