

CERTIFIED MAIL

October 14, 1987

Ms. Lynne K. Kushi
Kushi & Kushi, Attorneys at Law
140-A Haili Street
Hilo, Hawaii 96720

Dear Ms. Kushi:

Variance Application (V87-42)
Yoshiko Ohyama, et al.
Tax Map Key 2-4-07:8

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 6-lot subdivision without a water system meeting with the minimum requirements of the 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 77.22 acres and identified by TMK: 2-4-07:8, is located on the south side of Ainaola Drive approximately 2,800 feet west of Ainaola Drive/Kulaloa Road intersection, Waiakea Homesteads, South Hilo, Hawaii.

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 the proposed 6-lot subdivision. The subject property which consists of 77.22 acres is located within the County's Agricultural (A-3a) zoned district. Under this zoning designation, the minimum building site area is three (3) acres. The applicant is proposing a 6-lot subdivision each with an area of 3 or more acres which conforms to the minimum lot size requirement of the Zoning Code. The nearest County

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water system is located approximately 6,000 feet away. At a cost of approximately \$45 per linear feet for an 8-inch waterline, a 6,000 foot long extension would cost approximately \$270,000. In addition, water storage reservoirs, booster pump stations and other related improvements must be constructed. The Department of Water Supply has no projected timetable for this extension.

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the property receives a median rainfall of approximately 196.9 inches of rain annually. Based on the above, median rainfall per year with a minimum roof catchment area of 1,500 square feet, approximately 184,101 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 the 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 exist either to a degree which deprives the owner or applicant 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 applicant. An alternative would be for the applicant to extend the existing water system with an 8-inch waterline including booster pump stations, water storage reservoir and other necessary improvements. The cost of the waterline improvements and a 20,000 gallon water storage reservoir is approximately \$420,000 which does not include the cost of the booster pump stations, land acquisition costs and other related improvements. The prorata cost of these improvements will be in excess of \$70,000 per lot.

The second alternative would be to drill 2 wells. The cost of installing 2 wells is approximately 2.08 million dollars. This does not include the cost of the necessary pumping, storage and distribution facilities.

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 applicant 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-3a) 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 applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The applicant, 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.

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- b. That the subdivider agrees and accepts the fact that 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 1,500 square foot roof catchment surface with a minimum 10,000 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 or its successors and assigns and shall be incorporated by reference 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 will no longer be in effect.

Should any of the foregoing conditions not be complied with, the Planning Director may 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
bcc: Subd. #84-52 (via Wally)