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**County of Hawai'i**  
PLANNING DEPARTMENT

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Director

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East Hawai'i Office  
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Hilo, Hawai'i 96720  
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Fax (808) 961-8742

June 16, 2020

Philip A. Rosenberg Trust  
75-5315 Māmalahoa Highway  
Hōlualoa, HI 96725-9623

Dear Mr. Rosenberg:

**SUBDIVISION WITHDRAWN**  
**SUBDIVIDERS: KANEOKA, Alice**  
Proposed Subdivision of Lot 5-B,  
Being Also A Portion of Grants 725,  
Into Lot 1-A-1 Through 1-A-5, Inclusive,  
Ke ōpū 2<sup>nd</sup>, NorthKona, Island of Hawai'i, Hawai'i  
TMK: 7-5-001:086 (SUB-83-000141)

We write this to inform you of the following action related to the subject property, of which you are listed as the successor owner.

Our last communication on this application was to acknowledge the final plat maps on January 18, 1989. There has been no further action since.

Considering that the recordation document for granted water variance, VAR 315, has not been filed and the present difficulty in obtaining a water variance (Rule 22-4, minimum annual rainfall), and lack of progress on the subdivision, we are deeming the file **withdrawn** and have removed it from process. We will also deem **null & void** associated variance VAR 315 (VAR-87-000044).

Should an election to pursue the subdivision at a later date be made, a new application complete with filing fee must be resubmitted to this department.

Pursuant to Article 4, Section 23-60(c), Chapter 23, Subdivision Control Code, a portion of the filing fee equivalent of ten percent (10%) of the fee or five dollars (\$5.00), whichever is

Philip A. Rosenberg Trust


June 16, 2020

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greater, shall be retained for applications which have been withdrawn or denied before granted tentative approval. However, Tentative Approval was granted and, therefore, no refund is due.

Should you have any questions, please feel free to contact Hans Santiago at [hans.santiago@hawaiicounty.gov](mailto:hans.santiago@hawaiicounty.gov) or Jonathan Holmes at [jonathan.holmes@hawaiicounty.gov](mailto:jonathan.holmes@hawaiicounty.gov) of this department.

Sincerely,

  
MICHAEL YEE  
Planning Director

JRH:tb

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xc:     Manager, DWS  
          Director, DPW  
          District Environmental Health Program Chief, DOH  
          Planning Department-Kona

G. Bailado, GIS Section (VAR W/D)  
VAR 315 (N&V)

CERTIFIED MAIL

November 27, 1987

Mr. Donald C. McIntosh, R.L.S.  
Kona Surveyors  
P.O. Box 2902  
Kailua-Kona, HI 96745

Dear Mr. McIntosh:

Variance Application (V87-44)  
Applicant: Naomi Shiraishi  
Tax Map Key 7-5-01:86

After reviewing the above application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of the above variance request to allow the creation of a 2-lot subdivision with one lot not being serviced by 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 2.2438 acres and identified by TMK: 7-5-01:86, is located on the east (mauka) side of Mamalahoa Highway and adjoining (south side) of the Department of Water Supply's Keopu Tank Site, Keopu 2nd, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances which exists which would warrant or necessitate a waiver from the minimum water requirements to service the proposed 2-lot subdivision. One of the reason for subdividing the property is to settle the estate of Mrs. Kaneoka who passed away in 1983. Although the Keopu Tank Site is located next (north side) to the subject property, the Department of Water Supply has stated that "existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions, including source, storage, transmission, and booster pump facilities, must be constructed. Currently, sufficient funding is not available and no time schedule is set."

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Mr. Donald C. McIntosh, R.L.S.

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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 56 inches of rainfall per year. Based on the above median rainfall per year with a minimum roof catchment area of 2,500 square feet, approximately 87,235 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 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, as necessary. However, this alternative would be unfeasible since improvements would include storage, source, transmission and booster pump facilities. This cost would run into the millions of dollars which more than the value of the property.

The second alternative would be to drill 2 wells that would service the proposed 2-lot subdivision. The cost of installing 2 wells would be approximately 1.9 million dollars. This would not include the cost of storage facilities, transmission lines and pumping facilities.

As such, the imposition of providing a public or private water system in this area for the proposed 2-lot 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.

The analysis of the annual median rainfall for the area shows that there is adequate rainfall to support a water roof catchment system.

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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 the property shall have a minimum of 2,500 square foot 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

Mr. Donald C. McIntosh, R.L.S.

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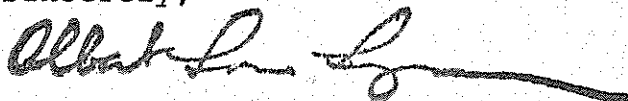
and covenant running with the land and shall be binding upon the subdivider or owner, his heirs, executors, administrators or assigns and its successors and assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease or other similar documents affecting the title 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 this Variance Permit.

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

Sincerely,



ALBERT LONO LYMAN  
Planning Director

MO:lv

cc: Department of Water Supply  
Subd. 83-141 (via Wally)