

CERTIFIED MAIL

April 3, 1987

Mr. R. Ben Tsukazaki
Attorney at Law
100 Pauahi Street, Suite 204
Hilo, Hawaii 96720

Dear Mr. Tsukazaki:

Variance Application (V87-5)
James W, Blakey
Tax Map Key 1-4-78:28

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 an 8-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 59.423 acres and identified by TMK: 1-4-78:28, is located on the north side of the 40 foot private road within the Kapoho Papaya Farms Subdivision approximately 4,200 feet west (mauka) of the Honolulu Landing-Kapoho Road, Koa'e, Puna, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which exist to a degree which obviously interferes with the best use or manner of development of the property. The subject property which consists of 59.423 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 an 8-lot subdivision each with an area of approximately seven (7) acres each, which is above the minimum three (3) acres

requirement. The nearest County water system is located approximately 2 miles to the south. In lieu of providing water from the County water system, the applicant is proposing to incorporate in the subdivision covenants the following:

1. Each dwelling hereafter constructed on each lot or portion of which may hereinafter be subdivided must be serviced by a water-catchment facility with a minimum 1,500 square feet of catchment area and a minimum 10,000 gallon storage tank until such time that such dwelling is serviced by a County or County-approved water system.
2. Applicant and his successors (all future lot owners) acknowledge that the County is not obligated to provide water to the subdivision under any circumstances and shall hold the County harmless from any claim or liability which may arise from a lack of public water system to service the subdivision.
3. Each lot owner is required to participate in any future improvement district for water system development which would service the subdivision.

ALTERNATIVES

There are no other reasonable alternatives to resolve the difficulty. An alternative would be for the applicant to extend the existing County water system from Kapoho to the subject property which is approximately 2 miles in length. At a cost of approximately \$60 per linear foot, the total cost of the pipeline improvements would be approximately \$633,600. This cost does not include the cost for booster pumps, storage facilities, etc.. The other alternative would be for the applicant to provide his own private water system which would require a minimum of 2 wells. The estimated cost for drilling and casing of the wells is approximately \$120,000 per well. For 2 wells, the cost would be approximately \$240,000. In addition to this cost, storage reservoirs (approximately \$500,000) must be constructed along with the pumping facilities and transmission lines. There is no assurance that there is a ground water source in the vicinity for any well system. The total cost of any of the alternatives would be over a million dollars which if prorated over the 8 lots would be approximately \$125,000 per lot.

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As such, the impositions of providing a public or private water system in this area for the proposed 8-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. Since the property is within the Agricultural 3 acres 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 area's character and to adjoining properties.

The variance request is approved, subject to the following conditions:

1. The petitioner or its authorized representative 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 the proposed subdivided lots are not entirely within the service limits of the existing water system, and that no portion of the subject property may be further subdivided without providing 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 the County will not at any time bear the responsibility of constructing the necessary improvements to make water available to the subdivision.
 - c. 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 amendment or changes so that the agreement can reflect the amendment 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, this variance request from the minimum water requirements shall be automatically void.

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

Sincerely,



ALBERT LONG LYMAN
Planning Director

MO:dh
cc: Dept. of Water Supply
Kaoru (Subd. File)