

CERTIFIED MAIL

December 5, 1988

Mr. William C. Lum
Zane Development, Inc.
Suite 1530, Pauahi Tower, Bishop Square
Honolulu, Hawaii 96813

Dear Mr. Lum:

Variance Application (V88-31)
Zane Development, Inc.
Tax Map Key: 6-8-02: Por. 27, Lot 4

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 construction of single family dwelling units within a subdivision that was granted final approval via bond and agreement, without the necessary infrastructure (roads, water, electricity, etc.) being in place (completed). The subject property which consists of 17.1 acres and identified by TMK: 6-8-02:por. 27, Lot 4 is located on the west side of Paniolo Avenue and across (north) of the Pu'u-nui Street/Paniolo Avenue Intersection, Waikoloa, South Kohala, 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 Zoning Code requirement which requires that at least two of the following conditions exist:

"(A) The street on which the building site fronts is dedicated to, accepted and maintained by the County or has been approved by the Planning Commission.

"(B) The building is served by a publicly owned and operated water supply system.

DEC 05 1988

Mr. William C. Lum
December 5, 1988
Page 2

"(C) The building site is served by a disposal system, which has been specifically approved by the department of health."

The subject subdivision was approved on August 31, 1988, with a bond and agreement posted. The agreement requires that the necessary infrastructure improvements will be completed by August 10, 1989. Should the improvements not be completed by August 10, 1989, the County has the option of recalling the bond to complete the improvements as shown on the approved construction plans for the subdivision.

Therefore, considering all of the 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 reasonable alternatives in resolving the difficulty of the applicant. The applicant could wait until all of the necessary infrastructures are completed prior to construction of the single family dwellings. However, in doing so, the dwellings would not be available for occupancy when the improvements for the subdivision have been completed.

The Subdivision Code permits the Planning Director to grant final subdivision approval on a subdivision for which a bond and agreement has been approved for the completion of the subdivision infrastructure improvements. Upon receiving final approval, a developer can then legally sell the individual parcels of land. However, Section 25-39 of the Zoning Code prevents owners of these parcels of land from constructing their homes until the necessary infrastructures are completed.

Therefore, in view of the above considerations, any other alternatives in resolving the issue would only be putting excessive demands upon the applicant when a more reasonable solution is available.

INTENT AND PURPOSE

The intent and purpose of Section 25-39 is to assure that all

Mr. William C. Lum
December 5, 1988
Page 3

the necessary infrastructure is available within a subdivision for buildings designed for human occupancy. The bond and agreement that have been approved for the subdivision assures that the necessary infrastructure improvements will be available for the subdivision.

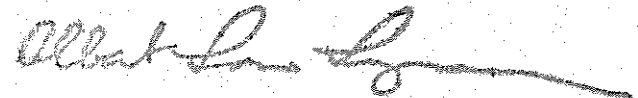
Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan; will not materially detrimental to the public's welfare; and will not cause substantial adverse 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 single family dwellings constructed on the lots within the subdivision shall not be available for human occupancy until all necessary infrastructure improvements are completed and approved by the affected governmental agencies.
3. Upon completion and approval of the improvements by the various governmental agencies, the variance will no longer be in effect.

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

MO:cmd

cc: Kona Planning Office
Building Division