

CERTIFIED MAIL

January 12, 1989

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

Dear Mr. McIntosh:

Variance Application (V88-6)
Applicant: Robert DeBauer
Tax Map Key 8-8-16:14

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 four-lot subdivision without a water system meeting with the minimum 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 21.256 acres and identified by TMK: 8-8-16:14, is located on the north side of Milolii Road, approximately 5,200 feet west (makai) of the Milolii Road/Hawaii Belt Highway intersection, Papa 2nd, South Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the 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 21.256 acres is located within the County's "Unplanned" zoned district. Under this zoning designation, the minimum building site area is five (5) acres. The applicant is proposing a 4-lot subdivision each with an area of 5 acres or more which conforms to the minimum lot size requirement of the Zoning Code. The nearest County water

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system is located approximately 12 miles to the north. In lieu of providing water from the County water system, the applicant is agreeable to the imposition of a minimum roof catchment area of 3,500 square feet with a minimum 15,000 gallon water storage facility.

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 Hookena to the subject property which is approximately 12 miles in length. At a cost of approximately \$60 per linear foot, the total cost would be approximately \$3.80 million dollars. This does not include the cost for booster pumps, storage reservoirs, etc. The other alternative would be for the applicant to provide his own private water system which would require a minimum 2 wells. The estimated cost for drilling and casing of the wells is approximately \$540,000 per well. For 2 wells, the cost would be \$1.08 million dollars. In addition to this cost, storage reservoirs (approx. \$500,000) must be constructed along with the pumping facilities and transmission lines. Should the applicant decide to provide his own water system, the minimum cost (drilling and storage facilities) of the improvements would be approximately \$1.62 million dollars. For the proposed 4-lot subdivision, the cost per lot will be approximately \$270,000. This cost does not include the pumping facilities, transmission lines, and other facilities required to make the system operational. This cost alone will be greater than the cost of the 5 acre lot.

As such, the impositions of providing a public or private water system in the 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 Unplanned district, fire protection facilities (fire hydrants) is not 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 Planning Director has concluded that this variance request be 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.
 - 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 3,500 square foot roof catchment surface with a minimum 15,000 gallon water storage facility.
 - d. That no ohana dwelling will be permitted on the lots that are not served by the County water system.
 - e. 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,

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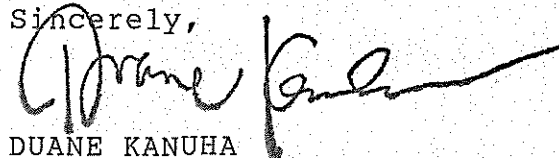
the written agreement shall be considered as a condition and covenant running with the land and shall be binding upon the subdivider or owner, his heirs, executors, administrators or assigns and its successors and assigns and shall be incorporated as an exhibit and made part of each agreement of sale, 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, 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,



DUANE KANUHA
Acting Planning Director

MO:lv

cc: Department of Water Supply
Subd. 85-107