

#350

CERTIFIED MAIL

April 28, 1989

Chrystal Thomas Yamasaki, R.L.S.
Wes Thomas & Associates, Inc.
75-5722 Kalawa Street
Kailua-Kona, HI 96740

Dear Ms. Yamasaki:

Variance Application (V88-17)
Marlene E. Calvert
Tax Map Key: 9-2-150:19

After reviewing your application and the information submitted on behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the creation of a 7-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 21.3136 acres and identified by TMK: 9-2-150:19 is located approximately 1,400 feet west (makai) of the Leilani Parkway/Mamalahoa Highway intersection, Kona-South Estates, Kahuku, Kau, 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 interfere with the best use or manner of development of the property. The subject property which consists of 21.3136 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 7-lot subdivision with each lot having an area of approximately

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three (3) acres which meets with the zoning requirement. The nearest County water system is located at the South Point Road area which is eight miles away. In lieu of providing water from the County system which is not within the service limits of the proposed subdivision, the applicant is proposing to utilize a water catchment system. The Department of Water Supply has no funding available nor plans to extend the water system to the proposed subdivision.

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the area receives approximately 49.2 inches of rainfall per year. Based on the above median rainfall per year with a minimum roof catchment area of 2,200 square feet, approximately 27,439 gallons of water are 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 family 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 these foregoing issues, we have determined that there are special or unusual circumstances applying to the subject property which exist whether to a degree which deprive the owner or petitioner of substantial property rights that would otherwise be available or to a degree which obviously interfere 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 to make the necessary improvements that the Department of Water Supply has stated. However, the cost of these improvements would be so great that it would increase the cost of the proposed lots to a point where only the elite would be able to purchase them.

The second alternative would be to drill two wells. The cost of installing two wells including the necessary pumping, storage, and distribution facilities would run into the millions of dollars. The cost of these improvements would be more than the cost of the land.

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As such, the imposition of providing a public or private water system 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 Agricultural (A-3a) zoned district, fire protection facilities (fire hydrants) are not a mandatory requirement of the Department of Water Supply 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 Code 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 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 2,200 square feet roof catchment surface with a minimum 15,000 gallon water storage facility.
 - d. That no ohana dwellings 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, 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.

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

Sincerely,


DUANE KANUHA
Planning Director

MO:syw

cc: Ms. Marlene Calvert
DWS
Subdivision #88-44