

CERTIFIED MAIL

December 20, 1989

Frank Bothelho, Manager
Hualalai Ranch
72-3375 Hawaii Belt Road
Kailua-Kona, HI 96740

Dear Mr. Bothelho:

Variance Application (V89-23)
Road and Water Requirements
Tax Map Key: 7-2-02:Portion of 1

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 permit the proposed subdivision of a 7065.44-acre tract of land into two parcels of 34.2 and 7031.2 acres and retain both its existing private water catchment system and 17-foot wide concrete-asphalt-gravel road in lieu of providing the parcels with the water and road systems meeting the requirements of the Subdivision Code at Kaupulehu, North Kona, Hawaii, TMK: 7-2-02:Portion of 1.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which deprive the petitioner of substantial property rights that would otherwise be available or which interfere with the best use or manner of development of the property.

The two parcels to be created are large, one being 34.2 acres which contains the ranch employee houses and the other the 7,000+-acre remnant containing the ranch operations which itself has almost 4 miles of frontage access along the Belt Highway. Thus, the 34.2-acre parcel would be the only one requiring a roadway access

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which exists now and has been in use for the past 27 years. It is contained within a 60-foot wide road easement and is asphalt paved to a 17-foot width, concreted on its steeper sections, and is substantially constructed to accommodate heavy vehicular and equipment use.

The purpose of the subdivision is to separate the residential (four dwellings) portion of the land which will remain under the control of Mr. Garner Anthony from the ranching operations which will be under the control of the Hualalai Ranch operation (the request to the Board of Land and Natural Resources to subdivide the conservation designated portion of this parcel was recently approved).

An existing water system, part County water and part private roof catchment, serving the entire ranch operations is also in place. It consists of a one-half million gallon storage tank which source is the ranch's 3-acre ground catchment area to serve the 35 residents (employees and their families) and the overall cattle operation. The catchment and storage capacities are deemed adequate for the usage, given the annual rainfall in the area. The ranch has not experienced a water shortage since its catchment and storage facilities were developed in 1972. The County water system from Kaloko Mauka cannot service further subdivision of land; its main trunk is 3 miles distant from the ranch.

The existing 17-foot wide roadway will not be called upon for any increase in usage. Furthermore, the roadway will continue to serve only the ranch operations and the same number of residents/workers since the subdivision is being created for land and business management accounting purposes only rather than land development. The owner understands and agrees that any further subdivision will require conformance with road standards of the Subdivision Code. The Department of Public Works does not object to the variance request.

Based on the foregoing, it has been determined that there are special and unusual circumstances applying to the subject property which exist to a degree which deprive the owner of substantial property rights that would otherwise be available or which unreasonably interfere with the best use or manner of development of the property.

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ALTERNATIVES

The alternative to the road standard variance request is to require interim improvements or build the roadway to Subdivision Code standards. However, the roadway already exists for the ranch's operations and is essentially "grandfathered" in, having served the ranch adequately since 1962. The applicant is aware, nevertheless, that any further subdividing of the property served by this access will not be permitted unless the road standards of the Subdivision Code are met; meaning no further variance will be considered for the roadway. Also, in one respect, the road easement (within which is the 17+-foot wide road) pavement is wider than the Subdivision Code requires, being 60 feet rather than 50 feet.

The alternative to the water variance request requirement is to extend the County water line presently 3 miles to the south, uphill to the existing parcel, then from the highway mauka to the proposed 34-acre lot. This, however, would be a multi-million dollar project involving pumps, and there is no indication from the Department of Water Supply that the source is adequate to be pumped. This cost is considered not feasible and unreasonable to impose. Digging a well would, likewise, involve unreasonable costs. Again, the applicant is aware that further subdivision beyond the 34+-acre parcel will require water standards in conformance with the Subdivision Code. The existing two 5/8" lines of County water from the Kaloko Mauka Subdivision cannot serve any further subdivisions according to the Department of Water Supply.

INTENT AND PURPOSE

The intent of the roadway standard in the Subdivision Code is to help provide adequate and safe access to the property involved. In this case, the existing 17+-foot wide pavement within the 60-foot wide road easement has served the ranch adequately for 27 years. Since the intent of the subdivision is for land management and not development, and since the owners/applicant are aware that the granting of this variance is predicated upon their statement that they will not subdivide or develop further without meeting the standards of the Subdivision Code, this variance request to permit the existing road to serve the newly created parcel is granted, with conditions.

The intent of the water standards in the Subdivision Code is, likewise, to provide the residents an adequate and dependable supply

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of potable water. Again in this case, the ranch has been operating for 17 years on its roof and ground catchment system without hardship, and this proposed subdivision of the property will not lead to an increase in water consumption.

Therefore, this variance request to permit the subdivision to proceed without its road and water system meeting the standards of the Department of Water Supply is granted, with conditions.

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 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 adjoining properties.

The variance request is approved subject to the following conditions:

1. The petitioner, his assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. No further subdivision utilizing the subject road shall be permitted unless said roadway meets Subdivision Code requirements without variances.
3. The road connection to the State Highway shall meet State Department of Transportation requirements as a condition of final subdivision approval.
4. All other applicable State and County rules and regulations shall be complied with. Should any of the foregoing conditions not be met, the Director may proceed to declare the variance null and void.

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

Sincerely,



DUANE KANUHA
Planning Director

DT:syw

cc: Mr. John Weeks, II
West Hawaii Planning Coordinator