

PD Var. 389

CERTIFIED MAIL

May 17, 1990

Mr. Stanley H. Roehrig
Attorney at Law
101 Aupuni Street, Ste 124
Hilo, HI 96720

Dear Mr. Roehrig:

Variance Application (V89-46)
Stanley H. Roehrig
Tax Map Key 8-7-11:3

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 a 3-lot subdivision without a water system meeting with the minimum water requirements of the Department of Water Supply as required by Article 6, Division 2, Section 23-84(I) of the Subdivision Code. The subject property which consists of 101.321 acres and identified by TMK: 8-7-11:3, is located on the west side of the South Kona Belt Highway approximately 2,500 feet south of Kaohu Road/South Kona Belt Highway intersection, Kukuiope 1st, South Kona, Hawaii.

The approval is based on the following:

FINDINGS AND RECOMMENDATIONS

Upon reviewing the subject variance request, the Planning Director has concluded that the variance request from the minimum water requirements should be approved, based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum water requirement for the proposed 3-lot subdivision. Civil No. 6539, Order granting motion for partition and other equitable relief and partial judgment awarded the plaintiffs their pro-rata share of the property.

MAY 18 1990

Mr. Stanley H. Roehrig
May 17, 1990
Page 2

The nearest County water system is located approximately 4 miles north of the subject property. The Department of water Supply commented that the proposed subdivision is not within the service limits of the existing water system facilities. There are not immediate plans to construct improvements or additions to this existing water system.

From the data contained in DOWALD's Circular C88 (Median Rainfall), the subject property receives a median rainfall of approximately 45 inches per year. Based on the average median rainfall of 45 inches per year with a minimum roof catchment of 2,500 square feet, approximately 69,970 gallons of water would be available for the year. Water consumption per month based on a household of 3.5 persons per family is 50 gallons per person or 175 gallons per day. The total yearly water consumption per family is approximately 63,875 gallons. The amount of water available through a catchment system exceeds the amount consumed.

Therefore, considering all of these 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 required water system of the applicant. Extending the County water source system to the proposed subdivision would be financially detrimental to the applicant.

Another alternative would be to drill two wells. The cost for drilling two wells would be approximately \$1.92 million plus the cost of the necessary storage reservoir, transmission system, booster pumps and related improvements. There is no assurance that water would be found under the subject property.

Should the subdivision request be denied, this would be contrary to the Court order and would necessitate going back to the Court to have the land matter resolved. This may result in an action whereby the land must be sold and the proceeds divided amongst the parties. This alternative would result in no land ownership for the parties.

Mr. Stanley H. Roebrig
May 17, 1990
Page 3

As such, the imposition of providing a public or private water system for the proposed 3-lot subdivision would be putting excessive demands upon the petitioner when a more reasonable alternative is available.

INTENT AND PURPOSE

The subject property which consists of 101.321 acres is located within the County's Unplanned zoned district. Under this zoning designation, the minimum building site area is five acres. The applicant is proposing a 3-lot subdivision each with land area of twenty five or more acres in size, which is more than the minimum lot size requirement of the Zoning Code.

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) are not a mandatory requirement of the water standards.

The analysis of the annual medial rainfall for the area indicates that there is adequate rainfall to support a sufficient water roof catchment and storage system.

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

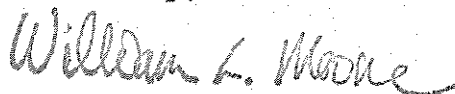
1. The applicant, its assigns or successors, shall be responsible for complying with all states conditions of approval.
2. The applicant, its assigns or successors, shall file a written agreement with the Planning Department prior to receipt of final subdivision approval containing the following stipulations 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.

Mr. Stanley H. Roehrig
May 17, 1990
Page 4

- 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 2,500 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. If you have any questions on this matter, please feel free to contact us.

Sincerely,



Jo DUANE KANUHA
Planning Director