

Harry Kim
Mayor

Roy Takemoto
Managing Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

April Surprenant
Acting Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

June 18, 2020

John D. Weeks, II
John D. Weeks, Inc.
78-6877 Māmalahoa Highway
Hōlualoa, HI 96725

Dear Mr. Weeks:

SUBDIVISION WITHDRAWN

SUBDIVIDERS: KAWAHARA, William S.

Proposed Subdivision of Lot 1, Being Also Grant 926,
Into Lots 184-A, 184-B & 184-C,
Puaa 2nd, North Kona, Island of Hawai'i, Hawai'i
TMK: 7-5-014:022 (SUB-87-000113)

The last correspondence on the subject application, dated June 14, 2002, was from you to the DPW requesting if the "sight distance" issue had been resolved due to recent maintenance road work by the County.

There was no further communication on the matter. Therefore, this application is being **withdrawn** from our active files. We will also deem approved water variance VAR 396 (VAR-89-000047) **null & void**.

Should you have any questions, please feel free to contact Hans Santiago at hans.santiago@hawaiicounty.gov or Jonathan Holmes at jonathan.holmes@hawaiicounty.gov.

Sincerely,


MICHAEL YEE
Planning Director

JRH:tb

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xc: Manager, DWS
 Director, DPW
 District Environmental Health Program Chief, DOH
 VAR 396 (VAR-89-000047) (N/V)
 Gilbert Bailado, GIS Section

CERTIFIED MAIL

June 28, 1990

William Kawahara
P. O. Box 413
Holualoa, HI 96725

Dear Mr. Kawahara:

Variance Application (V89-47)
Road and Water Standards
Tax Map Key 7-5-14:22

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 a 2-lot subdivision in a 1-acre and 5-acre Agriculture zoned parcel to contain the following in lieu of the standard 20 ft. pavement within a 50 ft. right-of-way:

The proposed front 1.6 acre lot would be served by an existing 6 1/2 ft. wide asphalt driveway 312 ft. long within a 47 ft. wide easement. The proposed rear 12.9 acre lot would utilize the same access initially and thereafter use a 12 ft. wide, 300 ft. long existing road/utility easement consisting of gravel and dirt.

FINDINGS & RECOMMENDATIONS--ROADWAY REQUIREMENTS

The approval is base on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject 14.55 acre parcel has extremely long and narrow proportions, being 3300+ ft. long (.62 mile) and with its lower 2400 linear ft. averaging only 130 ft. wide. Establishing a 50 ft. wide roadway through the smaller 1.6 acre proposed lot would render it 59 ft. deep by 330 ft. wide (road frontage). An engineered standard 50 ft. right-of-way road would probably require a curving alignment which would even more complicate or restrict the property's development except at disproportionate and unreasonable cost. The terrain contains an average 15% slope. These physical characteristics severely restrict its further development and deprives the applicant of property

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rights which obviously interfere with the best use or manner of development of that property.

ALTERNATIVES

Depending on the original parcel's dimensions, a flag lot could be platted for the second lot. A variance from the minimum average width requirement would still be required; thus a variance from the road improvements standards is the most reasonable alternative available for the owner.

INTENT AND PURPOSE

Intent and purpose of the road requirements are to assure that each lot subdivided within the County has been provided adequate vehicular access to it.

In this case, the requirement is:

"Provide a minimum 20' wide agricultural pavement section within a minimum of 50' wide right-of-way from Mamalahoa Highway to proposed Lot 1-A. Where grades are 8% or greater, roadway shall be constructed to paved standards of the code. Provide the same roadway section and right-of-way width in the easement for access to Lot 1-B."

The owner prefers, according to his surveyor, to "hold on" to both roads in lieu of providing the standard required roadways.

Roadway standards are also applied in order to serve anticipated, feasible future or potential development, which is why lots zoned 3-acre sizes and larger are normally required to contain 50 ft. wide rights-of-way. But, in this case, because of its extremely long and narrow proportions, the larger remnant lot of 12+ acres will very likely not be able to feasibly accommodate further subdivision. The long term outlook for it is therefore one which will retain its size. Thus, a lesser road standard would be justified in this case, down to a 12' wide pavement which is the standard for 2-lots being subdivided.

However, because of the possibility of the 1 acre zoned area containing two lots by obtaining additional land in the future from the larger remnant, certain conditions are hereby imposed in this variance permit for this 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 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 applicant, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. Improve the sight distance along the Mamalahoa Highway frontage from the access roadway to the requirements of the Department of Public Works.
3. The accesses to proposed Lots 1-A and 1-B may be paved to a full 12 ft. width in lieu of the standard 20 ft.
4. No further rezoning or subdividing shall be permitted of either lot unless the accesses to both proposed Lots 1-A and 1-B have been improved to the requisite 50 ft. right-of-way and 20 ft. pavement roadway requirements of the Subdivision Code and the water system meets the standards of the Department of Water Supply.
5. No ohana dwelling shall be permitted or built on either proposed lot unless the applicable road, water and related Subdivision Code requirements, without variances, are met. A written agreement stipulating conditions 4 and 5 shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Department at the cost and expense of the applicant.

In the event that there are any amendments or changes to the subdivision after the agreement is executed, the applicant 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 applicant 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.

6. 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.

FINDINGS & RECOMMENDATIONS--WATER REQUIREMENTS

SPECIAL AND UNUSUAL CIRCUMSTANCES

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

There is a County water transmission line along the highway which serves the applicant's dwelling. However, the Department of Water Supply is not allowing additional connections to its system at that elevation/location since 1987 because of inadequate pressure. Therefore, the proposed subdivision is not being allowed to connect to the County system at this time even though the applicant is desirous of doing so.

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 rights that would otherwise be available, or which unreasonably interfere with the best use or manner of development of the property.

ALTERNATIVES

There are no reasonable alternatives available to resolve the existing insufficient source and system. Only extensive improvements to the County water source system would alleviate the situation, and no timetable nor funding is presently available.

Developing a private roof catchment system to provide the development with water is the only other means available, and this is what the applicant intends to do if permitted by the variance permit.

An analysis of the annual median rainfall for the area indicates that there is sufficient rainfall to support an adequate water roof catchment and storage system.

INTENT AND PURPOSE

The intent and purpose of the water requirement of the Subdivision Code is to ensure that adequate potable water is made available for human consumption and, in higher densities, for fire protection. Lacking sufficient public or private piped water systems to connect to, the presence of an adequate rainfall catchment and storage capacity is in some cases deemed a temporarily acceptable substitution for limited size developments.

Although the County General Plan's policies and standards call for water systems built to Department of Water Supply standards, the fact that the transmission line is nearby and available for tapping but for the insufficient supply source, inadequate transmission system and/or pressure is one rationale for permitting a catchment system for this 2-lot subdivision. It should not be constructed as being an automatically permitted alternative for subdivisions which are presently beyond the scope of the County water system.

Were the rainfall less, the development (number of lots) larger and the waterline so distant from the development as to appear a remote prospect for many years, the substitution of a roof catchment system for the County standard system might not be warranted. Because future residents of all subdivisions have common basic expectations of adequate access and water, these necessities must be available in appropriate scale and standard. Therefore, in consideration of the zoning designation, property rights of the owner, and the practical possibility in the future for improvements to the existing County water system, the variance request is found to be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning 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, provided certain conditions are met.

Therefore, the Planning Director has concluded that this variance request be approved subject to the following conditions:

1. The applicant, his assigns or successors, shall be

responsible for complying with all stated conditions of approval.

2. The applicant, his 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 able 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 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 1,600 square feet roof catchment surface with a minimum 10,000 gallon pre-filled water storage facility.
 - d. That no ohana dwellings will be permitted on any 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, 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

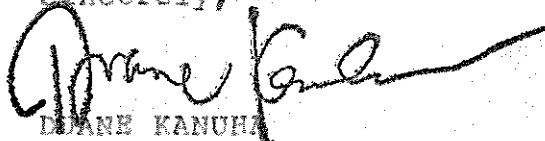
Mr. William Kawahara
June 28, 1990
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Supply or an approved private water system, the above covenants for the specific property will not longer be in effect.

5. 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 Donald Tong of my staff.

Sincerely,



DEANE KANUHA
Planning Director

DT:mra

cc: John Weeks
Public Works-David Murakami
Subdivision 87-113