

October 29, 1990

CERTIFIED MAIL

Mr. Frederic Chuatiucco
P. O. Box 241
Paauilo, HI 96776

Dear Mr. Chuatiucco:

Variance Application (V90-17)
Tax Map Key 4-3-15:4

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 2-lot subdivision without a water system meeting the minimum water requirements of the County Department of Water Supply as required by Article 6, Division 2, Section 23-64(1) of the Subdivision Code.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum water requirements to service the proposed 2-lot subdivision. The existing County water lines are situated along the subject property. However, the Department of Water Supply has stated that the existing water system facilities cannot support the proposed subdivision at this time. Further, sufficient funding is not available and no schedule has been set to do the construction. Therefore, the applicant is proposing to utilize a water catchment for one of the proposed lots.

The applicant is proposing the subdivision in order to resolve his affordable home financing requirement.

From the data contained in DOWALD's Circular C88 (Median Rainfall), the subject area receives a median rainfall of 98.4 inches of rainfall per year. Based on the median rainfall of 98 inches per year with a minimum roof area catchment of 1,200 square feet, approximately 73,313 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 63,675 gallons. The amount of surplus water available through a catchment system would be approximately 9,438 gallons, which exceeds the amount consumed.

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Therefore, considering these foregoing issues, we have determined that there are special and 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 other reasonable alternatives in resolving the required water system of the applicant. Constructing the extensive improvements and additions of the County water system facilities would be financially detrimental to the applicant.

The other alternative would be to drill two wells. The cost of drilling one well with a depth of 2,000 feet would be approximately \$4 million. For two wells the cost would be \$8 million plus the cost of the necessary storage reservoir, transmission lines, booster pumps and related improvements. There is no assurance that water would be found under the subject properties.

As such, the imposition of providing a public or private water system in this area for the proposed 2-lot subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

INTENT AND PURPOSE

The subject property, consisting of 12.97 acres, is located within the County's Agricultural-5 acres (A-5a) zoned district. Under this zoning designation, the minimum building site area is five acres. The applicant is proposing a 2-lot subdivision each with an area of five acres or more, conforming to 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 Agricultural (A-5a) district, fire protection facilities (fire hydrants) are not a mandatory requirement of the water standards.

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

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Based on the foregoing findings, this 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 areas 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 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 1,200 square feet roof catchment surface with a minimum 10,000 gallon water storage facility plus adequate start-up supply.
 - d. That no ohana dwelling(s) 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.

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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.
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 us.

Sincerely,



DUANE KANUHA
Planning Director

MC:aeb

cc: DWS
Subd No. 89-153