



## Planning Department

County of Hawaii • 25 Aupuni Street, Room 109 • Hilo, Hawaii 96720 • (808) 961-8288

Lorraine R. Inouye  
Mayor

Norman K. Hayashi  
Director

Tad Nagasako  
Deputy Director

CERTIFIED MAIL

August 26, 1992

Ms. Leinaala Keakealani-Leightner  
P. O. Box 44546  
Kawaihae, HI 96743

Dear Ms. Keakealani-Leightner:

Variance Application (V 91-23)  
PETITIONER: Leinaala Keakealani-Leightner  
Variance from Water Requirements of the Subdivision Code  
Tax Map Key: 7-1-05:57

After reviewing your application and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of your variance request to permit the subdivision of a 3 acre lot into three parcels none of which would be served by a water system meeting the standards of the subdivision code.

The property is 3 acres in area, identified by Tax Map Key: 7-1-05:57 and is located on the makai (north-west) side of the Mamalahoa Highway 400 ft. east toward Waimea, from its intersection with the Puu Lani Ranch Subdivision access road, Puuanahulu Homesteads, Puuanahulu, North Kona.

The approval is based on the following:

There are special and unusual circumstances which apply to the real property which exist either to a degree which deprive the 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 that property.

As a result of the rezoning of the property by the Council (Ordinance 89-103) it became a policy of the Council that this particular property be subdivided, with the conditions imposed in the ordinance which reclassified the land from Unplanned to A-1a.

The property was rezoned by the County Council despite the denial recommendation from the Planning Department. The rezoning and the attendant conditions imposed by the Council directed the

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Planning Department in this particular case, to approve the proposed subdivision despite the lack of a standard water system serving the property. The water source itself (Puuwaawaa Water Company) is now standard, but the transmission system to the subject property is not.

The Director, therefore, hereby carries out the Council's rezoning directive for this property by granting a variance from the standard water system requirement of the subdivision code for this property allowing it to be subdivided without a water system meeting with the standards of the Department of Water Supply.

The intent and purpose of the water requirement of the subdivision code is to ensure that all newly subdivided lots in the county are served by a standard, safe, dependable supply of potable water as certified by the County's Department of Water Supply. However, by granting the rezoning for this property in the absence of a standard county water system, in essence the Council as the policy-making body of county government has directed the Planning Department to approve the proposed subdivision without a water system that meets with the standards of the Department of Water Supply. Change of Zone Ordinance 89-103 having been enacted as county policy essentially directs the Director to grant the variance in order for the subdivision to occur. Therefore, the Director in order to implement this specific county policy, Ordinance 89-103, hereby grants the variance from the standard water requirements of the subdivision code, subject to the following conditions:

1. The Appellant, its assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. The Appellant, 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.
  - 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. No ohana dwelling shall be permitted or built on any of the lots resulting from this subdivision unless the applicable

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road, water and related subdivision code requirements, without variances, are met.

- d. A written agreement stipulating this condition 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.

In the event that there are any amendments or changes to the subdivision after the agreement is executed, the subdivider shall be responsible for informing the Department of the amendments or changes so that the agreements 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 similiar documents affecting the title or ownership of each subdivided lot.

3. All other applicable State and County rules, regulations, and requirements, including those conditions imposed in Change of Zone Ordinance No. 89-103, shall be complied with. Should any of the foregoing conditions not be met, the Planning Director shall proceed to declare this variance permit null and void.

Should you have any questions, please feel free to contact Donald Tong of this office at 961-8288.

Sincerely,



NORMAN K. HAYASHI  
Planning Director

DT:smo  
6112D

cc: Sidney Fuke  
Subd. 89-147  
West Hawaii Office