

VAR 513

June 18, 1993

Mr. James H. Denzer
P. O. Box 590
Waimanalo, HI 96795

Dear Mr. Denzer:

Variance Application (V 92-15)
Subdivision 92-6
Applicant: James Denzer
Tax Map Key: 4-5-11: 21

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 two (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 23-84(1) of the Subdivision Control Code. The property is a 10.5 acre lot located in Ahualoa Homestead, Hamakua, Hawaii.

The approval of the variance request to allow the proposed resubdivision without the minimum water requirements, is based on the following:

Special and Unusual Circumstances

There are special and unusual circumstances that exist which would correct or necessitate a waiver from the minimum water requirements to revise the proposed two (2) - lot subdivision. The Department of Water Supply stated "the Department's existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions, including source, storage, transmission, booster pump, and distribution facilities, must be constructed. Currently, sufficient findings is not available and no time schedule is set." 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 applicant of substantial property rights that would otherwise interfere with the best use or manner of development of the subject property.

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Alternatives

There are no reasonable alternatives in resolving the required minimum water requirements. To bring County water to the property would not be economically feasible.

The other alternative would be to drill wells to create a private water system. However, due to this limited nature (2-lot) of the subdivision would also be cost prohibited. Also, there is no assurance that adequate water would be found.

As said, the imposition of providing a public or private water system in this area for the proposed two (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 a total of 10.5 acres, is located within the County's Agricultural-5 acre (A-5a) zoned district. Under this zoning designation, the minimum building site area is five (5) acres. The applicant is proposing a two (2) - lot subdivision each with an area of five (5) acres conforming to the minimum lot size requirement of the zoning code.

The intent and purpose of requiring a water system in this case is to assure that adequate water is available for human consumption. In this case, the substitute roof catchment is considered adequate for this agricultural land.

Based on the foregoing findings, this variance request would be consistent with the approval purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Control Codes and the County General Plan; and 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, 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 which shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Department at the cost and expense of the subdivision:

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- a. The applicant/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.
- b. The applicant/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. Any existing and/or future dwellings not serviced by County water system constructed on the property shall have a minimum 6,000 gallon water storage facility for domestic consumption for water catchment. This catchment system shall adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.
- d. Provide a dedicable water supply system sufficient for fire fighting consisting of a minimum 3,000 gallons of water per existing and/or proposed future dwelling on the property meeting with the approval of the Hawaii County Fire Department. If dwellings are spaced closer than 50 feet apart, 4,000 gallons of water per dwelling will be required.
- e. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant/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 applicant/subdivider or owner, his 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.
- f. 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.

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- g. Comply with all other applicable State and County rules and regulations.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

EC:mjh
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cc: Department of Water Supply
Subdivision No. 92-6
Department of Public Works
Fire Department
West Hawaii Office