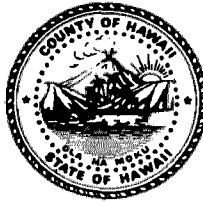


Harry Kim
Mayor

Roy Takemoto
Managing Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
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County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

Duane Kanuha
Deputy Director

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

February 11, 2020

Thomas M. Lapera, Jr.
Manulele Services
P.O. Box 901
Nā'ālehu, HI 96772

Dear Mr. Lapera, Jr.:

SUBDIVISION WITHDRAWN
SUBDIVIDER: PUKA LANI FARMS, INC.
Proposed Subdivision of Lot B,
Being Also a Portion of Royal Patent 7223,
Land Commission Award 2559, Apana 16,
Into Lots B-1 through B-5, Inclusive,
Kea'au, Puna, Island of Hawai'i, Hawaii,
TMK: 1-7-017:126 (SUB-93-000100)

Our last action on the subject application, dated March 22, 2012, was to acknowledge a time extension request and advise the need to have the new property owner authorize such request.

There has been no further action on the subdivision since, and, therefore, we are deeming the file **withdrawn** and have removed it from process. We will also deem approved water variance VAR 565 (VAR-93-000071) **null & void**.

Should an election to pursue the subdivision at a later date be made, a new application complete with filing fee must be resubmitted to this department.

Pursuant to Article 4, Section 23-60(c), Chapter 23, Subdivision Control Code, a portion of the filing fee equivalent of ten percent (10%) of the fee or five dollars (\$5.00), whichever is greater, shall be retained for applications which have been withdrawn or denied before granted tentative approval. However, Tentative Approval was granted and, therefore, no refund is due.

Thomas M. Lapera, Jr.
Manulele Services
February 11, 2020
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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 of this department.

Sincerely,


MICHAEL YEE
Planning Director

JRH:tb

\\COH33\planning\public\Admin Permits Division\Subdivision\2020\2020-1\SUB-93-000100PukaLaniFarmsInc WD 02-11-20.docx

xc: Manager, DWS
Director, DPW
District Environmental Health Program Chief, DOH
VAR 565 (VAR-93-000071)
G. Bailado, GIS Section (VAR N/V) via e-mail

VAR 565

COPY

CERTIFIED MAIL

January 28, 1994

Mr. John H. Pace, Jr.
P. O. Box 107
Mountain View, HI 96771

Dear Mr. Pace:

Variance Application (VAR 93-71)
Applicant: John H. Pace
Request: Variance From Minimum Water Requirement of the
Subdivision Control Code
Tax Map Key: 1-7-17: 126 Subdivision 93-100

After reviewing your application and the information submitted on behalf of it, including comments received from consulting agencies, the Planning Director, by this letter, hereby certifies the approval of your variance request to allow the creation of a five(5)-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 subject property is located on South Road approximately 4,000 feet from North Kulani Road intersection, Olaa Reservation Lots, por. Keaau, Puna, Hawaii, Tax Map Key: 1-7-17: 126.

The Planning Director has concluded that the variance request from the Subdivision Control Code minimum water requirements should be approved based on the following:

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Mr. John H. Pace, Jr.
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January 28, 1994

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum requirements to service the proposed five(5)-lot subdivision. The Department of Water Supply stated "The existing water system facilities cannot support the proposed subdivision at this time without extensive improvements and additions, including source storage, transmission, booster pump, and distribution facilities being constructed. Sufficient funding is not available and no time schedule is set to do these improvements." As such, all dwellings on the five(5) lots will be provided with water catchment systems for domestic consumption as well as fire-fighting purposes.

Therefore, considering the foregoing issues, it has been determined that there are special and unusual circumstances applying to the subject 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 interfere with the best use or manner of development of the subject property.

ALTERNATIVES

There are no reasonable alternatives in resolving the required water system requirement. To upgrade the existing County water system by the individual applicant would not be economically feasible. The other alternative would be to drill wells to create a private water system. However, due to the limited nature (five(5)-lot subdivision not serviced by County water system) of the subdivision, this alternative would be cost prohibitive. Also, there is no assurance that adequate water would be found.

As such, the imposition of upgrading the existing public water system or the creation of a private water system in this area for the proposed five(5)-lot subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

In addition, the area receives adequate annual rainfall to support a private water catchment system. The applicant can also purchase water, if necessary, for the private water catchment system.

INTENT AND PURPOSE

The subject property consisting of 112.485 acres is located within the County's Agricultural 20 acre zoned district. Under this zoning designation, the minimum building site area is twenty (20). The applicant is proposing a five(5)-lot subdivision with area exceeding the minimum twenty (20) acres lot size requirements of the Zoning Code.

Mr. John H. Pace, Jr.
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The intent and purpose of requiring a water system in this case is to assure that a adequate water system is available for domestic consumption and fire protection. In this situation, the substitute private water catchment system is considered adequate for this agricultural land.

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 Control 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 to adjoining properties.

The variance request is, therefore, 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 subdivider:
 - 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.

Mr. John H. Pace, Jr.
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- d. Provide a 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 applicants/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.
- g. Comply with all other applicable State and County rules and regulations.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

EC:mjh
2445D

xc: Subdivision No. 93-100
Department of Water Supply