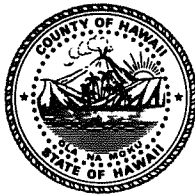


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
P 364 305 113

December 29, 1995

Mr. Sidney M. Fuke
100 Pauahi Street, Ste 212
Hilo, HI 96720

Dear Mr. Fuke:

Variance Permit 722 (VAR 95-85)

Applicant: Big Island Country Club and Estates

Request: Variance From the Minimum Water Requirements of the
Subdivision Control Code (Chapter 23, Section 23-84(1))

Tax Map Key: 7-1-05:58 and 7-1-06:101

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 construction of two (2) glassed lined steel water tanks as part of a private water system in lieu of the required dedicable concrete water tank by the Department of water supply as required by Article 6, Division 2, Section 23-84(1) of the Subdivision Control Code.

One (1) of the proposed tanks would be located at the site of the Big Island Country Club and estates subdivision, Tax Map Key: 7-1-05:58 and the other would be located in the adjoining Puu-Lani Ranch Subdivision, Tax Map Key: 7-1-06:101, Puuanahulu, North Kona, Hawaii.

The Planning Director has concluded that the Variance request from the subdivision Control Code minimum water requirement should be approved based on the following:

Special and Unusual Circumstances

There are special and unusual circumstances that exist that would warrant or necessitate a waiver from the minimum water requirements to service the proposed subdivision. The Department of water supply stated "The Department of water supply (DWS) utilizes

• 08620

JAN 02 1996

Mr. Sidney M. Fuke
Page 2
December 29, 1995

reinforced concrete reservoir as a standard because of its structural integrity, it is vandal proof, and it is virtually maintenance free. Because of the higher front end cost of the concrete reservoir, the developer has been in contact with the Department of water supply to substitute these glass-lined steel tanks. As discussed with them, we indicated that we are not in a position, nor have the authority to approve any variance of the subdivision control code".

As such, all facilities will be provided by the private water system 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 interferes 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. The construction of concrete water tanks are beyond the cost of the project budget and would not be economically feasible to complete the development.

As such, the imposition of constructing a dedicable water system as opposed to the private water system in this area for the proposed subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

Intent and Purpose

The subject properties consisting of 1.27 acres and one (1) are located within the Agriculture 1-acre zoned district. Under this designation, the minimum building site area is one (1) acre. The applicant is proposing a subdivision of lots all exceeding the minimum one (1) acre lot size requirement of the zoning code.

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 system is considered adequate for the development.

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 water system will be privately maintained and operated with compliance as a regulated public utility. The water system shall not be connected at any time to any DWS water system. Should a connection be desired, the tanks must be upgraded to a reinforced concrete reservoir from the proposed glass-lined tanks. Should the developer or future owners of the development wish to dedicate to the DWS, the water system in the future, the concrete reservoirs must be constructed to DWS standards to replace the glass-lined steel tanks. The DWS reserves the right to accept or refuse dedication of the water system though the tanks are brought up to present standards.
 - b. 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 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.
 - c. 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.
 - d. Comply with all other applicable State and County rules and regulations.

Mr. Sidney M. Fuke
Page 4
December 29, 1995

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:dmo:pak
WP60\V722.dmo

CC: Kona Planning Department