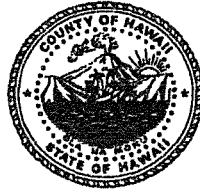


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

January 26, 2004

Mr. Sidney M. Fuke
SIDNEY FUKU PLANNING CONSULTANT
100 Pauahi Street, Suite 212
Hilo, HI 96721

Dear Mr. Fuke:

SUBJECT: VARIANCE PERMIT NO. 1347 WH (VAR 02-067)-REVISED
Agent: SIDNEY FUKU PLANNING CONSULTANT
Applicant: SUNRA KONA COFFEE, LLC
Owners: SUNRA KONA COFFEE, LLC
Request: Variance from Chapter 23, Subdivisions,
Tentative Subdivision Condition(s)-
Water System Improvements
and Roadway Improvements
Tax Map Key: 7-5-001:044 and 063 (SUB 00-0091)

After reviewing your letter dated October 13, 2003, Department of Public Works-DPW requirements, and other circumstances regarding agency approval of the construction plans to install the subdivision improvements, the Planning Director, hereby amends the original Variance Permit No. 1347 dated February 27, 2003. This amended variance permit letter certifies the approval of your variance from Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water Supply, (1), to allow a water system to be developed for a proposed 41-lot subdivision without meeting minimum requirements of the Department of Water Supply (DWS) and Section 23-95, Right-of-way improvement. The Planning Director has concluded that a variance from the minimum subdivision water system requirements **and** roadway improvements be approved based on the following findings:

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BACKGROUND

1. **Location.** The subject property, containing 222 + acres, is a portion of Grant 3100, and situated at Honuaula, North Kona, Hawaii.
2. **Zoning.** The subject property is zoned Agricultural (A-5a) by the County and designated Agriculture (A) by the State Land Use Commission (LUC).
3. **Subdivision Request/PPM.** The subdivision application's (SUB 00-0091) preliminary plat map (PPM), dated June 13, 2000, was granted tentative subdivision approval on September 18, 2000 with conditions. Further action on the proposed 41-lot subdivision application has been held in abeyance pending resolve of the water requirements, roadway, and other agency requirements.
4. **Variance Application.** The applicant submitted the subject variance application on November 25, 2002. The original variance request was from specific tentative approval conditions stipulated by the subdivision's tentative approval letter dated September 18, 2000. In addition to a variance from the minimum water supply, the applicant is requesting a variance from the minimum roadway requirements and other DPW roadway requirements according to Section 23-95, Right-of-way improvement. The applicant recently filed a letter dated October 13, 2003 regarding DPW review of the alternative roadway improvements or subdivision construction plans and requested an amendment to the variance permit letter dated February 27, 2003 to clarify and allow the alternative roadway improvements.
5. **Agency Comments and Requirements-WH (VAR 02-067):**
 - a. Hawaii County Fire Department's memorandum is dated November 4, 2002. (Refer to memorandum in variance file).
 - b. The State Department of Health (DOH) memorandum is dated November 20, 2002, states:

"The Health Department found no environmental health concerns with regulatory implications in the submittals."

- c. The Department of Water Supply (DWS) memorandum dated January 22, 2003 states the following:

“We have reviewed the subject application and our comments and conditions contained in our May 28, 2002, letter to Sunra Kona Coffee, LLC, still stand.”

Please refer to the May 28, 2002 DWS memorandum in subdivision file (SUB 2000-0091).

- d. The Department of Public Works (DPW) memorandum(s) dated November 26, 2002 and January 8, 2003 states in part:

“The applicant is seeking relief from the requirements to provide paved shoulders and swales and the improved width requirements of the Subdivision Code. The typical section provided in figure 4 indicates that 10 ft. wide grass shoulders are provided in the cut sections.

The tentative approval does not specifically require paved shoulders and swales. The subdivision code requires a 20-foot wide asphalt paved traveled when the grade is 8% or greater. However the approval letter and subdivision code requires the entire right-of-way be improved under section 23-95. Sight distance may be compromised in cut sections by the proposed narrower graded width. Clear zone issues are also a concern. We have no objections to a 20-ft. wide paved traveled way with minimum 6 ft. wide shoulders with the following conditions:

1. All storm drainage generated by the development shall be disposed of on-site in a manner meeting with the approval of the DPW in accordance with the Storm Drainage Standards. Drainage swale stabilization may be required to meet those standards.
2. The roads are designed with a 6 foot minimum shoulder and 10-foot minimum clear zone or in accordance with AASHTO guidelines, including placement of utility poles.
3. The 20-foot wide subdivision road traveled-way pavement section shall be constructed in accordance with Standard Detail R-39.

4. The subdivision road shall not be considered for dedication to the County.
 5. A deed covenant shall be recorded requiring individual lot owners to verify that driveway approaches have adequate sight distance.
 6. The County will not be responsible for any damages resulting from the variance.”
6. **Notice to Surrounding Owners.** The applicant submitted a list of surrounding property owners. It appears that 2-noticies were sent to the surrounding property owners. According to the submittals received, a first notice was mailed on or about November 1, 2002 and second notice was mailed on or about December 19, 2002.
7. **Comments from Surrounding Property Owners or Public.** No other agency comments were received. The following letters and comments were received from the surrounding property owner(s) or public:
- a. Objection letter from Charles King dated November 7, 2002.
 - b. Letter from Mark Van Pernis, Esq. dated November 15, 2002.
 - c. Letter and attachments from Virginia Isbell received on November 18, 2002.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The following special and unusual circumstances apply to the subject project which exist either to a degree which deprive the applicant/owner 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:

1. **WATER SUPPLY.** The subdivision’s water system includes water reservoirs or tanks. The DWS requires “reinforced, pre-stressed concrete” reservoirs or “concrete tanks” constructed to DWS standards. The developer is proposing to use “glass fused” or steel tanks. Furthermore, one (1) of the proposed lots is “outside” the DWS pressure limits. The applicant, on behalf of the developer, is requesting a variance to construct steel tank

reservoirs and install a private water supply system within the subdivision not meeting the DWS standards.

2. **SUBDIVISION ROADWAY IMPROVEMENTS.** The applicant, on behalf of the developer, is requesting a variance from Standard Detail R-39 ("3. Where grades are 8% or greater, the roadway section shall be paved as shown in Detail R-34."). In lieu of constructing dedicable paved roadway improvements in accordance with Standard Detail R-34 and DPW, the developer is proposing to construct 20-foot wide non-dedicable paved roadway, grassed swales, and drainage improvements within the 50-foot wide road 11.402 +/- acre roadway lot. In sum, construction plans to construct alternative roadway improvements for the 41 proposed "buildable" lots will submitted for review by the DPW.

Therefore, after considering the variance background information and further information provided by the applicant, the Planning Director has determined that there are special or unusual circumstances applying to the subject property or proposed development which exist either to a degree which deprive the owners 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-WATER VARIANCE

There are no other reasonable alternatives in resolving the difficulty of the applicant. The first alternative requires the applicants to provide or construct a dedicable (concrete reservoir tanks and water distribution system) according to the DWS standards. The second alternative would be to design and construct a non-dedicable private water system in accordance with DWS standards.

INTENT AND PURPOSE-WATER VARIANCE

The intent and purpose of requiring a water system for and within a subdivision is to assure that adequate water is available for human consumption and fire protection. The subdivision is subject to the requirements of Chapter 23, Subdivisions of the Hawaii County Code.

The variance is to allow steel water instead of concrete tanks and develop a private water distribution system within the proposed subdivision of the subject TMK parcels. The variance will allow the developer to substitute steel water storage tanks in the subdivision construction plans instead of the concrete water storage tanks, construct, and maintain a private water distribution system within the proposed subdivision. One (1) of the proposed 41-lots will not be

able to meet the DWS pressure requirements. The water distribution system within the subdivision will be privately owned and maintained and will be similar to another privately owned and maintained water system in the North Kona District.

Based on the foregoing findings, the alternative private water system proposed by the developer or variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance requested 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.

ALTERNATIVES-ROAD VARIANCE

The decision alternatives include the following:

1. *Improve or widen the existing or proposed easement(s) and adjoining public trail (right-of-way) and construct dedicable in accordance with Standard Detail R-34 and requirements of the DPW.* The costs associated to construct a dedicable paved roadway, paved swales, and drainage improvements within the privately owned roadway lot would be substantial and unfair when weighed against the intent to create an agricultural subdivision.
2. *Reasonable subdivision roadway improvements to allow lot access and meet minimal emergency vehicular and safety requirements (sight-distance, etc.).* This is the selected alternative. A 20 feet wide paved road, grassed swales, and drainage improvements will be reviewed by the DPW and installed within the privately owned roadway lot. Other subdivision utilities and safety measures within the proposed 50 feet wide R-O-W, to insure safe ingress and egress (adequate sight distance, etc.) to the subdivision and users of the non-dedicable privately owned roadway will be identified and installed in accordance with the DPW and approved construction plans. The private roadway improvements will be completed or bonded prior to final subdivision approval. The roadway/water tank lot together with other infrastructure within the roadway lot will be owned by the developer and/or "Association" of the future 41-lot owner(s). These alternative non-dedicable roadway and non-dedicable water system improvements will be owned privately and maintained by the users or "Association" of future lot owner(s).

VARIANCE DECISION-CONDITIONS

The variance request to allow the installation of steel water storage tanks or allow the private

water system and private non-dedicable roadway improvements for a proposed 41-lot subdivision of the subject TMK property(s) is approved subject to the following conditions:

1. The applicant, owner(s), their assigns, or successors shall be responsible for complying with the following variance conditions (amended).
2. Remit the prevailing facilities charge to the DWS and submit private water system (steel water tanks) construction plans together with private roadway construction plans to the DPW/DPW or respective agencies for review and approval.

The alternative subdivision construction plans allowed by this variance shall incorporate the following language:

The project engineer shall certify the alternative construction plans and certify the stability of 20-ft. wide pavement and minimum 6-ft. wide grassed shoulders and swales under flooding conditions.

In addition, the following construction notes and construction specifications stipulated by DPW memorandum(s) dated November 26, 2002 and January 8, 2003 shall be included:

- “1. All storm drainage generated by the development shall be disposed of on-site in a manner meeting with the approval of the DPW in accordance with the Storm Drainage Standards. Drainage swale stabilization may be required to meet those standards.
2. The roads are designed with a 6 foot minimum shoulder and 10-foot minimum clear zone or in accordance with AASHTO guidelines, including placement of utility poles.
3. The 20-foot wide subdivision road traveled-way pavement section shall be constructed in accordance with Standard Detail R-39.
4. The subdivision road shall not be considered for dedication to the County.
5. A deed covenant shall be recorded requiring individual lot owners to verify that driveway approaches have adequate sight distance.”

6. The County will not be responsible for any damages resulting from variance.”

3. WATER VARIANCE. The applicant, owner(s), their assigns, or successors shall file a written agreement with the Planning Department prior to receipt of final subdivision approval for any subdivision served by the (subject) private water system. This agreement shall contain the following stipulations and covenants which shall be duly recorded at the Bureau of Conveyance of the State of Hawaii by the Planning Department at the cost and expense of the subdivider:
 - a. The developer shall manage the private water system or shall form an association of lot owners to manage the private water system. The managing entity shall have the power to file and enforce liens against any lot owners who fail to pay any charges or assessment for the private water system. Should the developer or future owners of the development wish to dedicate the water system in the future to the DWS, 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 amendment or changes to the subdivision after the agreement is signed, the applicant/subdivision 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.
 - c. In the event that any of the lots are provided or issued water service (individual meter) from the Department of Water Supply 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.

4. The above requirement to file and record an agreement shall apply to any subdivision of lots created by SUB 2000-0091, even if the water improvements within those proposed subdivisions meet DWS standards.
5. Any further deviations from DWS standards other than the type of storage shall require a new variance or amendment to subject variance.
6. ROAD VARIANCE. The applicants, owners, their assigns, or successors shall file a written agreement or approved written document with the Planning Department within one (1) year from the issuance of tentative subdivision approval and prior to receipt of final subdivision approval of SUB 00-0091. This agreement shall contain the following deed language, being covenants, conditions, and restrictions, which affect the entire property and/or proposed lots arising from the approval of the subdivision application (SUB 00-0091) and be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Planning Department at the cost and expense of the applicant:
 - a. The applicant and/ or owners shall indemnify and defend the State of Hawaii or County of Hawaii from any and all liability arising out of vehicular access to and from the subject property utilizing the road lot or private "streets" identified on the subdivision application's (SUB 00-0091) final plat map.
 - b. Upon written demand of the County of Hawaii, the applicant and /or owners, their assigns, or successors shall agree to participate and pay their fair share percentage of any improvement district adopted for the purpose of roadway improvements or rights-of-way serving the proposed lot(s) arising out of SUB 00-0091. Should the improvement district require acquisition of any rights-of-way outside the subdivision or within the lots arising out of SUB 00-0091, such rights-of-way shall be dedicated to the County without cost and the value of the dedication credited to the fair share contribution of the lot owner. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
 - c. The owners understand that the lots created by SUB 00-0091 have been approved with this road variance, and that they will use and maintain the

privately owned water system, on-site driveways, and privately owned access roadway and drainage improvements on their own without any expectation of governmental assistance.

- d. The lot owners agree to participate in any original road maintenance agreement affecting the previous parcels or proposed lots arising out of the subdivision or form an association of lot owners to manage the private road lot/roadway. The managing entity shall have the power to file and enforce liens against any lot owners who fail to pay any charges or assessments for the private road system. Said maintenance shall include, without limitation, grass cutting (mowing), timely repair and/or filling of any and all rutted areas and "potholes" within the 20-foot wide non-dedicable pavement, and mowing of existing roadway shoulders within the road lots created by SUB 00-0091 and/or other privately owned easements providing access to the proposed lots arising out of SUB 00-0091.
 - e. Any lots created by SUB 00-0091 may not be made subject to a condominium property regime. Each lot created by SUB 00-0091 shall have no more than one dwelling. No ohana dwelling or "additional farm dwelling" or second dwelling unit shall be permitted on any lot created by SUB 00-0091.
 - f. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. Further, the written or recorded agreement shall be binding upon the owner(s), their successors or assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or similar documents affecting the title or ownership of the existing property or approved subdivided lots.
7. The owners, their assigns or successors shall pay any outstanding real property taxes due and comply with all other applicable State and County rules and regulations pertaining to subdivisions, tentative subdivision approval conditions, approved subdivision construction plans, variance conditions, and land use.
 8. Any outstanding and active building permits issued by the DPW shall be addressed and closed prior to final subdivision approval. The location of all

Mr. Sidney M. Fuke
SIDNEY FUKU PLANNING CONSULTANT
Page 11
January 26, 2004

permitted and existing building improvements are subject to the minimum

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

Thank you for your understanding and patience during our review.

Sincerely,

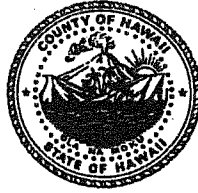


CHRISTOPHER J. YUEN
Planning Director

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cc: Manager, DWS
Director, DPW
SUB 00-0091
Planning Department (Kona)
Mr. Charles King
Mark Van Pernis, Esq.
Ms. Virginia Isbell

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

CORRECTED LETTER

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

February 27, 2003

Mr. Sidney M. Fuke
SIDNEY FUKU
PLANNING CONSULTANT
100 Pauahi Street, Suite 212
Hilo, HI 96721

Dear Mr. Fuke:

SUBJECT: VARIANCE PERMIT NO. 1347 WH (VAR 02-067)
Agent: SIDNEY FUKU PLANNING CONSULTANT
Applicant: SUNRA KONA COFFEE, LLC
Owners: SUNRA KONA COFFEE, LLC
**Request: Variance from Chapter 23, Subdivisions,
Tentative Subdivision Condition(s)-
Water System Improvements**
Tax Map Key: 7-5-001:044 and 063 (SUB 00-0091)

After reviewing the subject variance application and information submitted, the Planning Director certifies the approval of your variance from Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water Supply, (1), to allow a water system to be developed for a proposed 41-lot subdivision without meeting minimum requirements of the Department of Water Supply (DWS). The Planning Director has concluded that a variance from the minimum subdivision water system requirements be approved based on the following findings:

BACKGROUND

1. **Location.** The subject property, containing 222 + acres, is a portion of Grant 3100, and situated at Honuaua, North Kona, Hawaii.
2. **Zoning.** The subject property is zoned Agricultural (A-5a) by the County and

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Mr. Sidney M. Fuke
SIDNEY FUKU
PLANNING CONSULTANT
Page 2
February 27, 2003

designated Agriculture (A) by the State Land Use Commission (LUC).

3. **Subdivision Request/PPM.** The subdivision application's (SUB 00-0091) preliminary plat map (PPM), dated June 13, 2000, was granted tentative subdivision approval on September 18, 2000 with conditions. Further action on the proposed 41-lot subdivision application has been held in abeyance pending resolve of the water requirements, roadway, and other agency requirements.
4. **Variance Application.** The applicant submitted the subject variance application on or about November 25, 2002. The original variance request from the specific tentative subdivision conditions was modified to address only the water system requirements to develop the proposed 42-lot (41-buildable lots and 1-tank lot site) subdivision. Another
5. **Agency Comments and Requirements-WH (VAR 02-067):**
 - a. Hawaii County Fire Department's memorandum is dated November 4, 2002. (Refer to memorandum in variance file).
 - b. The State Department of Health (DOH) memorandum is dated November 20, 2002, states:

“The Health Department found no environmental health concerns with regulatory implications in the submittals.”
 - c. The Department of Water Supply (DWS) memorandum dated January 22, 2003 states the following:

“We have reviewed the subject application and our comments and conditions contained in our May 28, 2002, letter to Sunra Kona Coffee, LLC, still stand.”

Please refer to the May 28, 2002 DWS memorandum in subdivision file (SUB 2000-0091).
6. **Notice to Surrounding Owners.** The applicant submitted a list of surrounding

Mr. Sidney M. Fuke
SIDNEY FUKU
PLANNING CONSULTANT
Page 3
February 27, 2003

property owners. It appears that 2-notices were sent to the surrounding property owners. According to the submittals received, a first notice was mailed on or about November 1, 2002 and second notice was mailed on or about December 19, 2002.

7. **Comments from Surrounding Property Owners or Public.** No other agency comments were received. The following letters and comments were received from the surrounding property owner(s) or public:
 - a. Objection letter from Charles King dated November 7, 2002.
 - b. Letter from Mark Van Pernis, Esq. dated November 15, 2002.
 - c. Letter and attachments from Virginia Isbell received on November 18, 2002.

Therefore, after considering the circumstances and variance background information, information provided by the applicant, and agency comments, the Planning Director has determined that there are special or unusual circumstances applying to the subject property or proposed development which exist either to a degree which deprive the owners 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 difficulty of the applicant. The first alternative requires the applicants to provide or construct a dedicable water system meeting DWS standards. The second alternative would be to design and construct a non-dedicable private water system in accordance with DWS standards.

INTENT AND PURPOSE-WATER VARIANCE

The intent and purpose of requiring a water system for and within a subdivision is to assure that adequate water is available for human consumption and fire protection. The subdivision is subject to the requirements of Chapter 23, Subdivisions of the Hawaii County Code.

The variance is to allow steel water instead of concrete tanks and develop a private water

Mr. Sidney M. Fuke
SIDNEY FUKU
PLANNING CONSULTANT
Page 4
February 27, 2003

distribution system within the proposed subdivision of the subject TMK parcels. The variance will allow the developer to substitute steel water storage tanks in the subdivision construction plans instead of the concrete water storage tanks, construct, and maintain a private water distribution system within the proposed subdivision. The water system within the subdivision will be privately owned and maintained and will be similar to another privately owned and maintained water system in the North Kona District. The required roadway improvements within the subdivision will meet the minimum requirements of the Subdivision Code and conditions of tentative subdivision approval.

The subject variance application was acknowledged by letter dated October 28, 2002. Additional time was required to review and consider the applicant's amended variance request and Department of Water Supply comments to the subject application. The applicant agreed to extend the decision date to February 28, 2003.

Based on the foregoing findings, this alternative private water system improvements proposed by the developer or variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance requested 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.

VARIANCE DECISION-CONDITIONS

The variance request to allow the installation of steel water storage tanks or allow the private water system improvements for a proposed 41-lot subdivision of the subject TMK property(s) is approved subject to the following conditions:

1. The applicant, owner(s), their assigns, or successors shall be responsible for complying with the amended variance conditions.
2. Remit the prevailing facilities charge to the DWS and submit private water system (steel water tanks) and private roadway construction plans improvements to the affected agencies for review and approval.
3. The applicant, owner(s), their assigns, or successors shall file a written agreement with the Planning Department prior to receipt of final subdivision approval for any subdivision served by the (subject) private water system. This agreement

Mr. Sidney M. Fuke
SIDNEY FUKU
PLANNING CONSULTANT
Page 5
February 27, 2003

shall contain the following stipulations and covenants which shall be duly recorded at the Bureau of Conveyance of the State of Hawaii by the Planning 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. Should the developer or future owners of the development wish to dedicate the water system in the future to the DWS, 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 amendment or changes to the subdivision after the agreement is signed, the applicant/subdivision 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.
 - c. In the event that any of the lots are provided or issued water service (individual meter) from the Department of Water Supply 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.
4. The above requirement to file and record an agreement shall apply to any further subdivision of lots created by SUB 2000-0091, even if the water improvements within those proposed subdivisions meet DWS standards.
 5. Any further deviations from DWS standards other than the type of storage shall require a new variance or amendment to subject variance.

Mr. Sidney M. Fuke
SIDNEY FUKÉ
PLANNING CONSULTANT
Page 6
February 27, 2003

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

Thank you for your understanding and patience during our review.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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cc: Manager, DWS
Director, DPW
SUB 00-0091
Planning Department (Kona)
Charles King
Mark Van Pernis, Esq.
Virginia Isbell