



FAX TRANSMITTAL SHEET

TO: William Yamahoku
PLANNING DEPT.

DATE: 6.26.06

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TMK (3) 8-7-003: 006

RE: WATER VARIANCE

JOB NO. _____

THESE ARE TRANSMITTED:

- For your approval
- For your use
- _____
- As requested
- For review and comment
- Approved as submitted
- Approved as noted

Remarks:

William ...

Copy of WATER VARIANCE APPLICATION
ORIGINALLY TURNED INTO COUNTY PLANNING
DEPT. ON 1.27.06.

ANY ASSISTANCE IS APPRECIATED.

THANKS.

Signed: M. RIEGEM

Riehm Owensby Planners Architects

P.O. Box 390747, Kailua-Kona, Hawaii 96739, Tel. 808.322.6115, Fax 808.322.3391

January 27, 2006

Mr. Christopher J. Yuen - Director
c/o Daryn Arai
Planning Department
County of Hawaii
101 Aupuni Street, Suite 3
Hilo, Hawaii 96720

PLANNED UNIT DEVELOPMENT APPLICATION (PUD 2005-02)
Applicant: Riehm Owensby Planners Architects
Landowner: Donald S. Rullo
Location: South Kona, TMK (3) 8-7-003: 006

Dear Mr. Yuen:

I have been asked on behalf of the Petitioner/Owner to submit a request for a variance of the water system. It was noted in the PUD Application that "The Petitioner intends to drill a well and establish a private water supply to meet with the standards of the Department of Water Supply with some exceptions in the form of variances." Per my conversation with Daryn Arai, the Petitioner is requesting this variance in the form of an amendment to the approved PUD. Below is the request:

INTRODUCTION:

The Petitioner seeks to develop the Petition Area into an agricultural Planned Unit Development consisting of 33 lots. The Petition Area is located in the district of South Kona, Hawaii, on the makai side of the Mamalahoa Highway, approximately 15 miles south of the town of Captain Cook.

The Petition Area is composed of one parcel, TMK (3) 8-7-13:06 which is rectangular in shape and ± 167.814 acres in area.

The Petitioner is Donald S. Rullo, 75-5782 Kuakini Highway, Suite C2C, Kailua-Kona, Hawaii, 96740

BACKGROUND and HISTORY:

On or about September 21, 1990 Variance Application (V90-38) was submitted by Lloyd W. & Sherron L. Collins in order to create an 8 lot subdivision consisting of 7 five acre lots with a remaining parcel lot 8 consisting of approximately 168 acres. On November 14, 1990 the

variance request was approved, subject to certain conditions one of which states 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. The entire parcel was then sold to an entity Create 21 and this company resumed and completed the subdivision consisting now of 7 five acre lots and one 168 acre lot.

On January 2, 2005 application (PUD 2005-000002) was submitted to the Planning Director for approval.

On November 22, 2005 the Planning Director approved PUD 2005-000002 subject to certain conditions. Condition #5 in the approval subjects the project to submit construction plans to the Department of Water Supply for review to determine whether the proposed system meets DWS standards.

Contained within the PUD Application 2005-02 specifically in Section 4.12.1 WATER : is the statement to wit; "The petitioner intends to drill a well and establish a private water supply to meet with the standards of the Department of water Supply with some exceptions in the form of variances".

CONSISTENT WITH PERMITTED USE:

This request is consistent with the permitted use within the district. The subject parcel is zoned Ag5. The requested variance would allow for a more reliable source of water than is currently available within acceptable expense limitations. The subject property may become more productive due to a more reliable source of water removing substantial risk involved with agricultural activities when totally dependent upon rainfall.

NO RELIEF FROM DENSITY LIMITATIONS:

This request does not affect relief from applicable density limitations.

SPECIAL AND UNUSUAL CIRCUMSTANCES:

There are special and unusual circumstances applying to the property that exist and therefore deprive the owner and applicant of substantial property rights that would otherwise be available and to a degree which obviously interferes with the best use and manner of development of the property. The subject property is not within the service limits of the Department of Water Supply's water system facilities. Therefore, it cannot support the PUD without extensive improvements and additions, including storage, transmission and distribution facilities. No funding is apparently available for an expense that has been estimated at over four million dollars to extend the DWS service limits South of the Ho'okena line to Opihihale. (See

Final Report Ka'u to South Kona Water Master Plan for: County of Hawaii Office of the Mayor, prepared by Townscape Inc. September 2004). Catchment is not an option under the current and proposed rules. The expense involved in developing a water system which meet with the strict standards of the Department of Water Supply are prohibitive to the successful development of the PUD. The number of lots available to spread the expense over is not sufficient to justify the expense, which would run into millions of dollars. The DWS cannot justify an expense of this magnitude to service the small number of citizens in residence in this area . Requiring such a system in this area for the PUD is likewise and also an excessive demand upon the Owner. There are no other reasonable alternatives that would resolve the difficulty. The variance is consistent with the general purpose of the district, the intent and purpose of Chapter 23 of Code, and the Counties general plan. The granting of this request will not be materially detrimental to the public welfare or cause substantial, adverse impact to the area's character or to adjoining properties.

SIMILAR VARIANCE GRANTED:

A similar variance was recently (2003) granted to a neighboring property belonging to Kona Horizons Ltd., Robert and Audrey Rice, whom are in the process of developing a larger 44 lot subdivision TMK (3) 8-7-14:6 and 11, wherein the Director determined that the owner would qualify under Sec.23-15 of the Subdivision Code for a variance from the Department of Water supply's standard requirements for a private water system, including but not limited to the requirement for a second back-up water source and the type of water tank, with conditions to protect public health and safety.

PROVEN WATER SOURCE:

A proven water source has been established for the development with the installation of well # 1652-01 Opihahle. This well is located just South at substantially the same elevation of the subjects drill sight. Data on the wells production capacity and water quality show a lower content in calcium and chlorides than is currently being provided by DWS in Kailua-Kona and quantities are more than sufficient to meet the demands of the subdivision. The existing well was tested at flow rates between 115 and 185 GPM and has been pumping since 1993. (See Waimea Water Services Reports in file at the Planning Department TMK (3)8-7-14:6 and 11.

PETITIONER'S REQUEST:

The Petitioner requests the County of Hawaii approve the application for a water variance on the following special terms.

- (a) Owner shall construct a professionally engineered non-dedicable water system from a single well source State of Hawaii Permit and

well #1652-02 with service stubbed out to each lot in the project excepting lot 33 which is to remain in its natural state undeveloped and is comprised of approximately 44.09 acres. The private water system shall be designed and engineered by a licensed professional engineer, to provide water at domestic volume and pressure to each lot, and the engineer shall determine that the requested alternatives to the DWS standards will provide functionally equivalent service.

- (b) Owner shall provide a minimum of 6000 gallons storage at all times to provide water for fire-fighting. Access to the fire storage tank and connector system shall meet with the approval of the Fire Department.
- (c) The system shall be supplied with the same quality of water as is produced from the well, but shall be designated as "Non Potable".
- (d) The subdivision CC&Rs shall require each home/lot owner to install a whole house filtration system for water supplied from their catchment tanks and/or from owners water system. The deeds for all lots in the subdivision shall contain covenants in a form approved by corporation counsel acknowledging that the lots are served by a private water system, and that the county is not and will not be responsible for the maintenance of the private water system.
- (e) Owner shall be permitted to construct the infrastructure and sell lots in the subdivision in phases.
- (f) Owner shall obtain and have ready for installation into the well a "back-up" water pump in the event of the failure of the primary pump.

Thank you for your assistance in the matter and let me know if there are any questions you may have.

Sincerely,



Michael J. Riehm, A.I.A.