

July 12, 1984

Mr. H. William Sewake, Manager
County Department of Water Supply
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Sewake:

Variance Application (V84-18)
Variance from Minimum Front Yard Setback Requirement
Tax Map Key 7-6-06:18 & 31

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 construction of a 300,000 gallon concrete reservoir for the Holualoa Production Well and supporting facilities project with a front yard setback of 21 feet in lieu of the minimum front yard setback of 30 feet as required by the Zoning Code. The subject property, which consists of 21,164 square feet is identified by Tax Map Key 7-6-06:18 and 31 and is situated on the east side of Hualalai Road approximately 1,500 feet north of the Old Mamalahoa Highway-Hualalai Road intersection in Holualoa 2nd, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject property was created by 2 subdivision actions (Subdivision #3811 and 4843). The first occurred on July 2, 1976, which created a 7,868 square foot parcel. The second on September 2, 1982, created a 13,296 square foot parcel. Both parcels were consolidated into a single parcel with an area of 21,164 square feet on June 22, 1984, Consolidation No. 333.

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As noted previously, the parcel is of an irregular shape with a depth varying from 65 to 120 feet. The concrete reservoir is 61 feet in diameter with the edge of the footing being 63 feet in diameter. In applying the setback requirements of 30 feet front yard and 15 feet side yard, a minimum depth of 106 feet will be required. In addition, a 12 foot wide service drive is required around the reservoir. The existing 0.10 MG concrete reservoir located on the same property has a setback of 16 feet. Because it was constructed prior to the property being consolidated, it is considered as a non-conforming structure.

Should the concrete reservoir be constructed to meet with the 30 foot front yard setback, additional grading will be required with the resultant action requiring the construction of a retaining wall along the rear property line with a height in excess of 12 feet. The plan as requested will result in a cut that can meet with the grading ordinance.

These factors constitute special and unusual circumstances which necessitated the application for a variance and if denied would create unreasonable hardship on the petitioner that would deprive them of substantial property rights and interfere with the best manner of development of the subject property.

ALTERNATIVES

The petitioner has limited design alternatives for the development of this property. The design of the reservoir is a standard plan that the Department uses in all of its concrete reservoirs throughout the County. In addition, because of the nature of its function, the elevation of the concrete reservoir must be at the same level of the existing concrete reservoir that is located on the same property. As such, the proposed design scheme would be a reasonable alternative in light of the constraints of the property. Although it could be argued that other alternatives are available to the petitioner, the reasonableness and practical application of those alternatives have to be evaluated with respect to the land characteristics. In this particular case, the imposition of the other alternatives is considered to be excessive, when a more reasonable solution is available.

INTENT AND PURPOSE

The intent and purpose of the setback requirements is to ensure that air, light, physical, and visual circulatory functions are available between structural developments and

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property lines. It is a regulatory tool which is also used in determining design compatibility and functional solutions. In this particular application, the proposed design solution will still provide a reasonable area for these functions, although it would not meet the minimum requirements imposed by the Zoning Code. The existing concrete reservoir has a front yard setback of 24'-0" which is also non-conforming.

If the request is denied, the petitioner will be required to grade (excavate) the property and construct a 12 foot high retaining wall which would have a definite visual impact to the adjoining properties.

Consequently, we have determined that the granting of the variance shall be consistent with the general purpose of the zoning district, the intent and purposes of the Zoning Code and the General Plan. The analysis of the above issues also has concurred that granting of the variance will not be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

This variance request is approved, subject to the following conditions:

- A. The petitioner, its successors, or assigns, shall be responsible for complying with all stated conditions of approval.
- B. The plans for the proposed development shall be submitted for Plan Approval within one year from the effective date of approval of this Variance Permit.
- C. The construction of the proposed improvements shall commence within one year from the effective date of Final Plan Approval and be completed within two years thereafter.
- D. A landscaping plan be incorporated to minimize the visual appearance of the tank.
- E. All other applicable State and County rules and regulations shall be complied with.

Should any of the above conditions not be complied with, the variance shall automatically be deemed void.

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Should you have any questions in the meantime, please feel free to contact us.

Sincerely,


f/ SIDNEY M. FUKÉ
Planning Director

MO:lgv

Enclosures - Background and Findings Report