

PD Var.311

CERTIFIED MAIL

October 14, 1987

Ms. Chrystal Thomas Yamasaki  
Wes Thomas & Associates, Inc.  
75-5722 Kalawa Street  
Kailua-Kona, HI 96740

Dear Ms. Yamasaki:

Variance Application (V87-37)  
Hugh Patton III  
Tax Map Key 7-4-09:1

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 creation of a 3-lot subdivision without a water system meeting with 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 Code. The subject property which consists of 3.038 acres and identified by TMK: 7-4-09:1, is located on the west side of Tomi Tomi Road adjoining (east side) the Kealakehe Homesteads Subdivision, Kealakehe, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum water requirements to service the proposed 3-lots subdivision. There presently exists a County water system on Lana Place. However, said water system cannot support the proposed subdivision at this time unless extensive improvements and additions be made including the source, storage, transmission, booster pump and distribution facilities. The Department of Water Supply has no fundings available nor any timetable to do the above improvements.

OCT 30 1987

Ms. Chrystal Thomas Yamasaki

Page 2

October 14, 1987

From the map contained in Circular C88, Median Rainfall, State of Hawaii, the area receives approximately 39.4 inches of rainfall per year. Based on the above median rainfall per year with a minimum roof catchment area of 3,000 square feet, approximately 71,359 gallons of water is available for the year. Water consumption per day based on a household of 3.5 persons per family is 50 gallons per person or 175 gallons per day. The total yearly water consumption per family is approximately 63,875 gallons. The amount of water available through a catchment system exceeds the amount consumed.

Therefore, considering all these foregoing issues, we have determined that there are special or unusual circumstances applying to the subject property which exists whether to a degree which deprives the owner or petitioner 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 difficulty of the petitioner. An alternative would be to make the necessary improvements that the Department of Water Supply has stated. However, the cost of these improvements would be so great that it would increase the cost of the proposed lots to a point where only the elite would be able to purchase them.

The second alternative would be to drill 2 wells. The cost of installing 2 wells including the necessary pumping, storage and distribution facilities would run into the millions of dollars. The cost of these improvements would be more than the cost of the land.

As such, the imposition of providing a public or private water system for the proposed subdivision would be putting excessive demands upon the petitioner when a more reasonable alternative is available.

#### INTENT AND PURPOSE

The intent and purpose of requiring a water system within a subdivision is to assure that adequate water is available for human consumption and fire protection. The nearest fire hydrant is located approximately 300 feet from the subject property.

Ms. Chrystal Thomas Yamasaki  
Page 3  
October 14, 1987

The analysis of the annual median rainfall for the area shows that there is adequate rainfall to support a water roof catchment system.

Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision 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 areas character and to adjoining properties.

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

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The petitioner, its 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:
  - a. That the subdivider agrees and accepts the fact that a County dedicable public water system is not now or in the foreseeable future available to service the subdivision, and that no portion of the the subject property may be further subdivided without first having a water system meeting with the standards of the Department of Water Supply.
  - b. That the subdivider agrees and accepts the fact the County will not at any time bear the responsibility of supplying public water to the subdivision.
  - c. That any future dwellings constructed on the property shall have a minimum of 3,500 square feet roof catchment surface with a minimum 15,000 gallon water storage facility.
  - d. That the written agreement 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.
3. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the subdivider shall be responsible for informing the

Ms. Chrystal Thomas Yamasaki  
Page 4  
October 14, 1987

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 subdivider or owner, his heirs, executors, administrators or assigns and its 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.

4. In the event that any of the lots are provided water service by an 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.

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

If you have any questions on this matter, please feel free to contact us.

Sincerely,



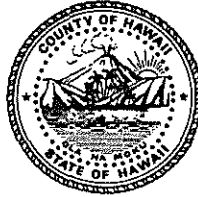
ALBERT LONO LYMAN  
Planning Director

MO:dh

cc: Dept. of Water Supply  
Mr. W.Y Chan  
Mr. Daniel N. Dochin  
Mr. Rod Smith

bcc: Subd. #87-67 (via Wally)

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director  
Russell Kokubun  
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 293 080 407

July 23, 1997

Mr. Dennis W. Haserot  
P.O. Box 6251  
Kamuela, Hawaii 96743

Dear Mr. Haserot:

Amendment to Variance No. 311  
Applicant: DENNIS W. HASEROT  
Owner: HUGH B. PATTON III  
Subdivision Application No. 93-137  
Variance from Minimum Water Requirements  
Tax Map Key: 7-4-009: 001

After reviewing your application and the information submitted in behalf of it including comments received from consulting agencies, the Planning Director by this letter hereby certifies the approval of your amendment to Variance No. 311 which was approved to allow the creation of a three (3) 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 situated at Kealakehe Homesteads, Lot E, being a Portion of Grant 3970, North Kona, Hawaii, Tax Map Key: 7-4-009: 001.

The Planning Director has concluded that the amendment to Variance No. 311 from the Subdivision Code minimum water requirements should be approved based on the following:

The applicant states in a letter dated June 7, 1997: "In accordance with our discussion on the matter, I am requesting an amendment to the conditions of approval of the subject variance based on current policy."

The applicant proposes to amend Conditions 2, 2.d, 2.c., and 2.d.

JUL 30 1997

07877

Mr. Dennis W. Haserot

Page 2

July 23, 1997

This amendment to Variance No. 311 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, and 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.

Conditions 2.a through 2.d are amended and 2.e and 2.f are added to read as follows with additions underlined and the deletions bracketed:

1. The ~~[petitioner, its ]applicant, his assigns or successors,~~ shall be responsible for complying with stated conditions of approval.
2. The ~~[petitioner, its ]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 at the expense of the subdivider:
  - a. That the subdivider agrees and accepts the fact that a County dedicated public water system is not now or in the foreseeable future able to service the subdivision, and that no portion of the subject property may be further subdivided without first having a water system meeting the standards of the Department of Water Supply.
  - b. The subdivider agrees and accepts the fact that a Country will not at any time bear the responsibility of supplying public water to the subdivision.
  - c. ~~[That any future dwellings constructed on the property shall have a minimum of 3,500 square feet roof catchment surface with a minimum 15,000 gallon water storage facility.]~~ 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.
  - d. [That the written agreement 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.] Provide a water supply system sufficient for

Mr. Dennis W. Haserot  
Page 3  
July 23, 1997

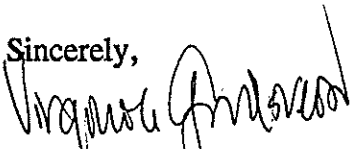
fire fighting consisting of a minimum 3,000 gallons of water per existing and/or proposed future dwelling on the property meeting with the approval of the Hawaii County Fire Department. If dwellings are more than 50 feet apart, 4,000 gallons of water per dwelling will be required

- 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 applicant/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 subdivider 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, including that of the Department of Finance, Real Property Tax Division relating to Agricultural Dedication. Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

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

Should you have any questions, please feel free to contact Royden Yamasato of this department.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

EMM: rld

a:\74009001\patton.app

xc: West Hawaii Office

Subdivision File No. 93-137