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CERTIFIED MAIL

February 16, 1988

Mr. Nobuchika Santo  
Island Survey, Inc.  
P. O. Box 337  
Hilo, Hawaii 96720

Dear Mr. Santo:

Variance Application (V87-57)  
Lucille M. White, Trust  
Tax Map Key 1-9-05: 12

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 creation of a 5-foot lot subdivision without a water system meeting with the minimum water requirements as required by Article 6, Division 2, Section 23-84(1) of the Subdivision code.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which deprive the applicant of substantial property rights that would otherwise be available, or which interfere with the best use or manner of development of the property.

The area is commonly known as the Volcano Houselots. This entire area of homes and farms utilizes catchment water systems because the nearest county waterlines are about 10 miles downhill and 2000 feet lower in elevation at the town of Mt. View. Thus, the entire Volcano community is unusual in that respect--a county water system is non-existent for them--everyone uses catchment.

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And, the rainfall is abundant as DLNR-DOWALD Circular 88 data shows, and the roof catchment system is the next most practical and reasonable method of water supply. As the attached Comparative Rainfall and Catchment Area Calculation indicates, given the annual median 125.9 inches of rainfall in that region and a minimum 1200 square foot catchment area, sufficient storage supply is possible.

There are no imminent plans for the County's system to be expanded or developed on site.

#### ALTERNATIVES

There are no reasonable alternatives to utilizing a catchment system. A central, standard County system would cost literally millions of dollars to develop, as would individual private wells.

#### INTENT AND PURPOSE

The intent and purpose of the subdivision code's water supply requirement is to provide new lot owners with a dependable quantity of potable water. With no county water system available, alternative means--in this case, catchment--is the only substitute available. The county has zoned this area as RS-20, and the owner is able to meet all the other subdivision code requirements except for connecting to a standard water system, which is no fault of his own.

Although in individual catchment systems, the quality becomes more an individual household matter, the quantity and dependability of the water supply can be fairly well calculated and accommodated by, respectively, rainfall data and sufficient catchment and storage capacity.

The granting of this variance will still permit an adequate supply of water for each intended household, given the adequacy of the rainfall as the area's history indicates and the catchment area minimum which will be expressed as a condition of this variance.

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 Code and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantially adverse impact to the area's character and adjoining properties.

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

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1. The petitioner, his assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The petitioner, 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:
  - 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 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 1200 square foot roof catchment surface with a minimum 10,000 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 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 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.

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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

DT/kb

cc: Subd. 87-167