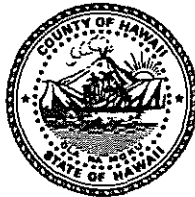


Stephen K. Yamashiro  
Mayor



VAR 423  
Virginia Goldstein  
- Director

Norman Olesen  
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 008 113 027

July 15, 1996

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, Hawaii 96720

Dear Mr. Fuke:

Variance Application No. 423  
Applicant: William Bennington  
Amendment to Conditions 2b and 2c of Variance No. 423  
Tax Map Key: 8-2-003: 030 and 036


This is to acknowledge receipt on July 12, 1996, of your request for withdrawal in the above entitled Variance Application No. 423.

It is our understanding that Ms. Eileen Roberta Smith has elected not to pursue this matter any further and Mr. Michael Hammer has not indicated to you what his position is.

If you would like to refile this request in the future, you will need to submit a new application accompanied by a filing fee of one hundred dollars (\$100.00) and other pertinent documentation.

Should you have any questions, please feel free to contact Royden Yamasato of this department at 327-3510.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

EMM:rlid  
a:\82003030\vfuke2.ltr  
xc: West Hawaii Office

Resp to 7132  
JUL 18 1996

#423

CERTIFIED MAIL

December 24, 1990

Messrs. William Coines and  
William Bennington  
P.O. Box 1968  
Kealahou, HI 96750

Gentlemen:

Variance Application (V90-14)  
Tax Map Key 8-2-3:30

After reviewing the request and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of your variance request to allow the creation of a 2-lot subdivision without 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 Code. The subject property, consisting of 16.4+ acres, is located along and mauka of the Napoopoo Road, Waipuna'ula, South Kona, Hawaii, TMK: 8-2-3:30.

The approval of this variance is based on the following findings:

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 building sites.

The County waterlines are located along Napoopoo Road. According to the Department of Water Supply, water services are in place to provide water to the proposed subdivision. However, due to the topography of the subject property, the water pressure is inadequate. It should be clearly stated that water is available for the subject property through the existing two water meters; however, water service to the building sites does

DEC 26 1990

Messrs. William Goines and  
William Bennington  
December 24, 1990  
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not meet with the Department of Water Supply requirements with regard to the pressure conditions due to the elevation of the parcel. As such, the petitioner proposes to utilize the existing water meters, a catchment and storage system and an individual water pumping system to supply potable water needs.

Considering the foregoing, we have determined that there are special and unusual circumstances applying to the subject property which deprive the petitioners of substantial property rights that would otherwise be available or which interfere with the best use or manner of development of the property.

#### ALTERNATIVES

There are no other reasonable alternatives in resolving the water standards of the Department of Water Supply. The alternative to provide a high pressure bypass waterline along Napoopoo Road from the Napoopoo Reservoir, or to provide a dedicable water system from the Lower Government Road to the subject property would be unfeasible and unreasonable, and would be putting excessive financial demands upon the petitioner.

The petitioners' propose to provide water service to the proposed building sites through the existing water meters. As proposed, Lot 1 will have a water supply entering into its storage system through a direct one-inch water line from the meter. The building site on Lot 2 will utilize a tank and water pumping system. The tank will be situated adjacent to the pole at the 275 foot elevation and will receive water directly from the water meter. Water will then be pumped from the tank directly to the storage system. This proposal of utilizing a water storage system and an individual water pumping system would be a reasonable alternative in resolving the problem.

#### INTENT AND PURPOSE

The subject property which consists of 16.4+ acres is located within the County's Unplanned zoned district. Under this zoning designation, the minimum building site area is five acres. The applicant is proposing a 2-lot subdivision each with an area of 8+ acres, conforming to the minimum lot size requirement of the Zoning Code.

The intent and purpose of the water standards of the Subdivision Code is to provide the residents with adequate and dependable supply of potable water for consumption.

Messrs. William Goines and  
William Bennington  
December 24, 1990  
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This variance request to allow the subdivision to proceed without meeting the standards of the Department of Water Supply, specifically pertaining to the elevation and pressure conditions, should be granted with conditions.

Based on the foregoing findings, this 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 Planning Director has concluded that this variance request be approved subject to the following conditions:

1. The applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The applicant, 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 no portion of the lots may be further subdivided without providing a water system meeting with the standards of the Department of Water Supply.
  - b. That any future dwellings constructed on the parcels shall have a minimum 10,000 gallon water storage facility or a storage tank meeting with the approval of the Department of Water Supply.
  - c. That no ohana dwellings will be permitted to be constructed on the lots without providing a water system meeting with the standards of the Department of Water Supply.
3. 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.
4. The written agreement shall be considered as a condition and covenant running with the land and shall be binding

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William Bennington  
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upon the subdivider or owner, its 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.

Should any of the foregoing conditions not be complied with, the  
Planning Director may initiate procedures to revoke the permit.

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

Sincerely,



NORMAN K. HAYASHI  
Planning Director

AK:syw

cc: Manager, DWS

bcc: Subd 89-134 (via Ed)