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CERTIFIED MAIL

March 12, 1993

John W. and Adele M. Jensen  
P.O. Box 215  
Paauilo, HI 96776

Dear Mr. and Mrs. Jensen:

Applicant: John W. and Adele M. Jensen  
Variance Application (V92-21)  
Variance from Minimum Water Requirements  
TMK: 4-3-15:7

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 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 property is a 30-acre lot on the northeast side of Paauilo Mauka Road, approximately 5 1/2 miles northwesterly and then north from the Village of Paauilo in the Paauilo Homesteads, Second Series, Paauilo, Hamakua, Hawaii.

The approval of the variance request to allow the proposed subdivision without the minimum water requirements 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 requirements to service the proposed 3-lot subdivision. The Department of Water Supply stated, "The Department's existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions, including source, storage, transmission, booster pump, and distribution facilities, must be constructed. Currently, sufficient funding is not available and no time schedule is set."

Therefore, considering these foregoing issues, we have determined that there are special and unusual circumstances applying to the subject properties which exist either to a degree which deprives the applicant 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 required water system would be financially detrimental to the applicant.

The other alternative would be to drill two wells. The cost of drilling one well with a depth of 1,250 feet would be approximately \$1 million. For two wells, the cost would be \$2 million plus the cost of the necessary storage reservoir, transmission lines, booster pumps and related improvements. There is no assurance that water would be found under the subject property.

As such, the imposition of providing a public or private water system in this area for the proposed 3-lot subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

#### INTENT AND PURPOSE

The subject property, consisting a total of 30 acres, is located within the County's Agricultural-5 acres (A-5a) zoned district. Under this zoning designation, the minimum building site area is five acres. The applicant is proposing a 3-lot subdivision each with an area of five acres or more, conforming to the minimum lot size requirement of the Zoning Code.

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. Since the property is within the A-5a zoned district, fire protection facilities (fire hydrants) are not a mandatory requirement of the water standards.

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

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The variance request is 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 the applicant/subdivider agrees and accepts the fact that a County dedicable 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 with the standards of the Department of Water Supply.
  - b. That the applicant/subdivider agrees and accepts the fact that the County will not at any time bear the responsibility of supplying public water to the subdivision.
  - c. That 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. 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. Provide a dedicable water supply system sufficient for 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 spaced closer than 50 feet apart, 4,000 gallons of water per dwelling will be required.
  - e. "Ohana Dwelling" permits may be possible if adequate domestic water is provided and the fire fighting water supply system is increased in

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3. 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 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.
5. All other applicable State and County rules and regulations shall be complied with.

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

Sincerely,



VIRGINIA GOLDSTEIN  
Planning Director

EC:lm  
8348D

xc: Sub. 92-7  
Murray, Smith & Assoc., Ltd.  
Department of Water Supply  
Department of Public Works-Building Div.  
State Department of Health  
Hawaii County Fire Department  
OD Section