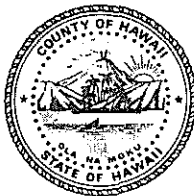


Stephen K. Yamashiro
Mayor



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) 961-8742

CERTIFIED MAIL

7099 3220 0000 4869 6537

June 16, 2000

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
273 Waianuenue Avenue
Hilo, Hawaii 96720

Dear Mr. Inaba:

Variance Permit No. 1133 (VAR 00-025)

Applicant: RFI, INC.

Owner: RFI, INC.

Request: Variance From Chapter 23, Subdivisions, Article 6,

Division 2, Improvements Required, Section 23-84, Water Supply, (1)

Tax Map Key: 1-8-004:111 (SUB 00-021)

After reviewing your variance application and the information submitted, the Planning Director certifies the approval of your variance from Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water Supply, (1), to allow twelve (12) lots within a proposed two (2) lot subdivision to be created without a water system meeting the minimum requirements of the Department of Water Supply (DWS).

Please accept our sincere apology for this tardy confirmation of the approval granted to allow the requested variance. We have been working within the department to improve the efficiency of this process which will hopefully result in more timely responses to future applications. Your patience is appreciated.

The Planning Director has concluded that the variance from the minimum subdivision water system requirements for two (2) lot subdivision be approved based on the following findings.

005845

JUN 19 2000

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
Page 2
June 16, 2000

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant consideration of a variance from the minimum water requirements for the proposed two (2) lot subdivision:

1. The subject property containing 49.675 acres is Lot 134, Olaa Reservation Lots, Being a Portion of Grant 3959 to Ely Peck, Olaa, Puna, Hawaii.
2. The subject property is zoned Agricultural (A-20a) by the County and is designated Agriculture "A" by the State Land Use Commission (LUC).
3. The owners have submitted a subdivision application (SUB 00-021) which includes a preliminary plat map dated January 12, 2000 to subdivide the subject property into two (2) lots. Further action on the proposed 2-lot subdivision application has been deferred pending consideration of the subject variance application (VAR 00-025).
4. The Department of Finance-Real Property Tax memorandum dated March 22, 2000 states in part:

"There are no comments at this time"

"Current Real Property taxes are paid through June 30, 2000."
5. The State Department of Health (DOH) memorandum dated March 28, 2000 states:

"The Department of Health's authority on drinking water quality is based on the definition of a "public water system." A "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

Past episodes of water quality concerns for lead, copper, algae and microbial contaminations in private rain catchment systems have identified the need for design standards. Without these control standards the Department of Health would not be able to support the use of these private rain catchments systems for drinking purposes."
6. The Department of Water Supply (DWS) memorandum dated May 17, 2000 states in part:

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
Page 3
June 16, 2000

“We have reviewed the subject application. Please refer to our memorandum of February 3, 2000 for our comments and requirements. We are enclosing a copy for your information.”

The attached copy of the attached DWS memorandum dated February 3, 2000 states in part:

“We have reviewed the subject application for the proposed subdivision and have the following comments (sic)

Please be informed that the Department’s existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions, including source, storage, transmission, booster pumps, and distribution facilities must be constructed. Currently, sufficient funding is not available and no time schedule is set.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8665.”

7. The “APPLICANT’S REASONS FOR REQUESTING A VARIANCE FROM THE MINIMUM WATER REQUIREMENTS OF THE SUBDIVISION CONTROL CODE” states in part:

“There are no reasonable alternatives to resolve the water system requirements. The cost to upgrade the existing water system as specified by the Department of Water Supply or to drill wells to provide a private system is cost prohibitive and economically unjustifiable for two (2) A-20a lots.

Granting of a variance to allow the use of a private water catchment system will allow the property owner the highest and best use in development of the property.

RAINFALL DATA:

The closest active rain gage to the proposed subdivision is “Mountain View” gage (1580-ft. elevation). According to the National Weather Service Office the Annual Rainfall Normals for the “Mountain View” gage is 170-inches (see attached).

Assuming a dwelling structure with a roof catchment area of 2,500-sq. ft. with 170 inches of annual rainfall could possibly collect approximately 264,900 gal/yr. or 726 gal/day. Depending on the water tank storage capacity, the estimated available 726 gal/day should be adequate to sustain the water demands for a

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
Page 4
June 16, 2000

normal household of four occupants.

ZONING & SUBDIVISION CODES:

The property consists of 49.675 acres and is within the County's agricultural 20-acre zoned district. The proposed Lot 134-A (25.388 Acs.) and Lot 134-B (24.286 Acs.) both meet and exceed the 20-acre minimum building site area of the Zoning Code.

The Subdivision Code requirement for a water system meeting the minimum standards of the Department of Water Supply is basically to assure water is available for domestic consumption and fire protection. However, since the property is zoned Ag-20a, the installation of fire hydrants to assure adequate fire protection (Department of Water Supply, County of Hawaii, Rules and Regulations, Section 4-4) is not a requirement. A private water catchment system could meet the domestic consumption for this agricultural zoned district."

Note: The above quotes are taken from the narrative submitted with the subject variance application. The applicant's narrative is a part of this variance application and shall be hereafter referred to as "applicant's attachment".

8. The proof of mailing of notices to the surrounding property owners by the applicant's representative was received on March 28, 2000.

No oral or written objections to the variance application (VAR 00-025) were received from the surrounding property owners.

Therefore, considering the above facts, information submitted by the applicants, and agency comments, the Planning Director has determined that there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the owners 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 other reasonable alternatives in resolving the difficulty of the applicant. The first alternative requires the applicants to improve the existing county water system and provide the necessary dedicable water system improvements in accordance with DWS standards. The second alternative would be to design, drill and develop private wells and install the necessary water system improvements in accordance with DWS standards.

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
Page 5
June 16, 2000

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

INTENT AND PURPOSE-WATER VARIANCE

The intent and purpose of requiring a water system for and within the proposed subdivision is to assure that adequate water is available for human consumption and fire protection.

The analysis of existing site conditions, official maps, and rainfall summaries in the DWS and the Planning Department appear to support the rainfall data and information in the "applicant's attachment". The analysis of the "applicant's attachment" and public rainfall information appears to indicate that there is adequate rainfall within the subject property and surrounding areas to support individual or separate private rain water catchment systems for potable and emergency uses within the proposed lots. The lot owners, if needed, also have the option of purchasing water to supplement the catchment system.

The State Department of Health has no specific rules or regulations relating to the utilization, construction or inspection of private roof catchment water systems for potable or emergency uses within lots not served by a county water system.

Additional provisions for water storage, water distribution, and construction of private rain water catchment system(s) on the property or proposed lots may be necessary and will be addressed by the applicant or future lot owner.

DETERMINATION-VARIANCE CONDITIONS

The subject variance application was deemed complete by the Planning Department on February 22, 2000. Additional time by the DWS to review the variance request was required.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance requested 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.

The variance requested to a proposed two (2) lot subdivision without a water system meeting DWS standards is approved subject to the following conditions:

1. The owners, their assigns, or successors shall be responsible for complying with all conditions of Variance Permit No. 1133.

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
Page 6
June 16, 2000

2. WATER VARIANCE: The owners, their assigns, or successors shall file a written agreement or approved written document with the Planning Department within one (1) year from the issuance of tentative subdivision approval and prior to receipt of final subdivision approval of SUB 00-021. This written agreement shall contain the following deed language, being covenants, conditions, and restrictions, which affect the proposed lots arising from the approval of pending subdivision application and shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Planning Department at the cost and expense of the owners:
 - a. The owners agree and accept the fact that a County dedicable public water system is not now able to service the lots not serviced by a county water system that are created by SUB 00-021. No ohana dwelling units shall be permitted on any proposed lots created by SUB 00-021.
 - b. The owners agree and accept the fact that the County will not, at this time, bear the responsibility of supplying public water to the proposed lots created by SUB 00-021. No further subdivision of the lots created by SUB 00-021 will be permitted unless county water system requirements and other requirements of Chapter 23, Subdivisions are met.
 - c. Any dwelling(s) constructed on the proposed lots not serviced by a County water system shall be provided with and maintain a private potable rain catchment system which includes a minimum 6,000-gallon for domestic consumption or potable uses. 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. Each permitted dwelling shall be provided with and maintain a private water supply system which includes an additional minimum 3,000 gallon water storage capacity for fire fighting and emergency purposes. The emergency water supply system, including the necessary compatible connector system and location of the water storage capacity on the property, shall meet with the approval of the Hawaii County Fire Department. The Hawaii County Fire Department also advises as a precautionary measure for other uninhabited agricultural structures that consideration be given to the provision of a similar water storage system for fire fighting and emergency purposes.
 - e. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant shall be responsible for

Mr. Gordon Inaba
c/o INABA ENGINEERING, INC.
Page 7
June 16, 2000

informing the County Planning Department of such amendments or changes so that the agreement can be amended thusly. Further, the written or recorded agreement shall be binding upon the owner(s), their successors or assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or similar documents affecting the title or ownership of the existing property or approved subdivided lots.

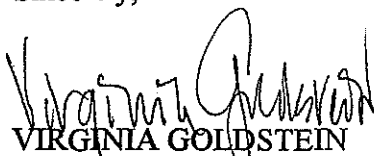
f. In the event that any of the lots created by SUB 00-021 are provided with water service (individual meter) from the Department of Water Supply or an approved water system, the lots shall utilize said water service and the owners shall assume pro-rata costs for such improvements as determined by the Department of Water Supply.

3. The owners, their assigns or successors shall comply with all other applicable State and County rules and regulations pertaining to subdivisions and land use.

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

Thank you for your understanding and patience during our review.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

WRY:dk
F:\WP60\WRY\FORMLETT\VARAPPWVTMK18004111.RFI\INC

xc: Department of Water Supply
SUB 00-021