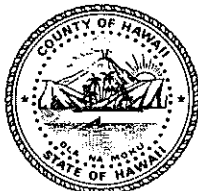


Stephen K. Yamashiro
Mayor



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

7000 0600 0024 2904 2602

November 24, 2000

Mr. Elwin F. Hussey
c/o Ms. Susan Wells Fischer
P. O. Box 44417
Kawaihae, HI 96743

Dear Mr. Hussey:

Variance Permit No. 1159 (VAR 00-068)
Applicants: ELWIN F. HUSSEY, ET AL.
Owners: ELWIN F. HUSSEY, ET AL.
Request: Variance From Chapter 23, Subdivisions, Article 6,
Division 2, Improvements Required, Section 23-84, Water Supply, (1)
Tax Map Key: 1-5-010:008, (SUB 98-096)

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 the creation of a five (5) lot subdivision without a water system meeting with the minimum requirements of the Department of Water Supply (DWS).

The Planning Director has concluded that the variance from the minimum subdivision water system requirements be approved based on the following findings.

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Should there be any questions, please call our Water Resources and Planning Branch at 961-8660.”

5. The State Department of Health (DOH) memorandum dated September 11, 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 connection 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 catchment systems for drinking purposes.”

6. The Department of Finance-Real Property office memorandum dated October 16, 2000 states in part:

“Property is receiving agricultural use value”

“Possible rollback taxes”

“Current”

“Real Property taxes are paid through December 31, 2000.”

7. The proof of mailing of notices to the surrounding property owners was received on September 21, 2000.

No oral or written objections to the variance application were received from the surrounding property owners or the general public.

Therefore, considering the above facts, information submitted by the applicants, and agency comments, the Planning Director has determined that there are special or unusual

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June 2, 2000. Additional time to allow the surrounding property owners to comment on the subject variance application was allowed.

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 allow a proposed subdivision without 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. 1159.
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 98-096. This written agreement shall contain the following deed language, being covenants, conditions, and restrictions, which affect only those proposed lots not serviced by a County water system 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 ^{in part} public water system is not now able to service ~~three (3)~~ of the proposed lots created by SUB 98-096. No ohana dwellings shall be permitted on any lots created by SUB 98-096. *Ref: 6/1/2000 telecon w applicant*
 - b. The owners agree and accept the fact that the County will not, at this time, bear the responsibility of supplying public water to ~~three (3)~~ of the proposed lots created by SUB 98-096. No further subdivision of the lots created by SUB 98-096 will be permitted unless county water system requirements and other requirements of Chapter 23, Subdivisions, are met.
 - c. Any existing or permitted dwelling(s) constructed on the proposed lots

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c/o Ms. Susan Wells Fischer
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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:cps
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xc: Department of Water Supply
SUB 98-096