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Mayor

Roy Takemoto
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County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

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Acting Deputy Director

East Hawai'i Office
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Fax (808) 961-8742

September 23, 2020

Niels Christensen, LPLS
The Independent Hawaii Surveyors, LLC
P.O. Box 577
Hilo, HI 96721

Dear Mr. Christensen:

SUBDIVISION WITHDRAWN

SUBDIVIDER: SALISBURY, Carol A.

Proposed Subdivision of Parcel 13-14-B-1,
Being A Portion of Lot 13, Āhualoa Homesteads, 3rd Series,
Being Also A Portion of Grant 6251,
And Lot 14, Āhualoa Lots, Being Also a Portion of Grant 7868
Into Parcel A and Parcel B,
Āhualoa Homesteads, 3rd Series, And Āhualoa Lots,
Āhualoa, Hāmākua, Island of Hawai'i, Hawai'i
TMK: 4-5-011:015 (SUB-78-000214)

Please be advised that on June 1, 2020, we deferred action on the referenced subdivision application to afford the opportunity for the new owners to continue.

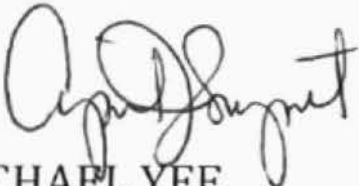
There has been no further communication on this application, therefore, we are deeming the file **withdrawn** and removing it from process. We are also deeming the approved water and road variances VAR 1207 (VAR-01-000033), 1266 (VAR-01-000058) **null & void**.

Should the landowners elect to pursue the subdivision at a later date, a new application complete with filing fee must be resubmitted to this department.

Niels Christensen, LPLS
The Independent Hawaii Surveyors, LLC
September 11, 2020
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Should you have any questions, please feel free to contact Hans Santiago at hans.santiago@hawaiicounty.gov or Jonathan Holmes at jonathan.holmes@hawaiicounty.gov.

Sincerely,


MICHAEL YEE
Planning Director

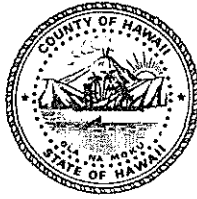
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xc: Manager, DWS
 Director, DPW
 District Environmental Health Program Chief, DOH
 G. Bailado, GIS Section (VAR's N/V
 VAR 1207 (VAR-01-000033) N/V, 1266 (VAR-01-000058) N/V

Matthew Woodbury & Clare Mc Adam
P.O. Box 187
Honoka'a, HI 96727-0187

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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CERTIFIED MAIL

7000 0600 0024 2905 2861

June 21, 2001

Ms. Carol A. Salisbury
P. O. Box 889
Honokaa, HI 96727

Dear Ms. Salisbury:

Variance Permit No. 1207 (VAR 01-033)

Applicant: CAROL A. SALISBURY

Owner: CAROL A. SALISBURY

**Request: Variance From Chapter 23, Subdivisions, Article 6,
Division 2, Improvements Required, Section 23-84, Water
Supply, (1)**

Tax Map Key: 4-5-011:015, (SUB 78-214)

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 two (2) 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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JUN 2 2001

SPECIAL AND UNUSUAL CIRCUMSTANCES

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

1. The subject property is Lot 13-14-B-1, containing 12.228 acres, Being a Portions of Lot 13, Grant 6251 to Walter Henry Rickard, and Lot 14. Being Grant 7868 to Frank Paiva, Ahualoa Homesteads, 3rd Series, Hamakua, Hawaii.
2. The subject TMK property is zoned Agricultural (A-5a) by the County and is designated Agriculture ("A") by the State Land Use Commission (LUC).
3. A two (2) lot subdivision application (SUB 78-214) was originally submitted and acknowledged by Planning Department's letter dated September 15, 1978. The applicant, Carol Salisbury, recently acquired the subject TMK property and resubmitted a revised 2-lot preliminary plat map dated April 6, 2001. The revised preliminary plat map, prepared by The Independent Hawaii Surveyors, is being deferred pending further review of the water system requirements and resolve of other subdivision requirements.
4. The applicant submitted the subject variance application on April 16, 2001. (Please refer to the applicant's variance application, detailed written explanation, and exhibits in the variance file which is incorporated herein.)
5. The Department of Water Supply (DWS) memorandum, dated May 8, 2001, states in part:

"We have reviewed the subject application and the comments in our memorandum of July 25, 2000, still stand. (A copy is attached.)"

The attached copy of the DWS memorandum, dated July 25, 2000 states in part:

"We have reviewed the subject application for the proposed subdivision and have the following comments.

Please be informed that a waiver from water requirements was approved by the Department of Water Supply for the proposed subdivision. However, final subdivision approval was not granted by the Planning Department.

Ms. Carol A. Salisbury

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For your information, 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."

6. The State Department of Health (DOH) memorandum dated May 8, 2001 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 microbiological and chemical contaminations in private rain catchment systems have identified the need for self monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking purposes since the quality may not meet potable water standards."

7. The Department of Finance-Real Property Tax memorandum dated May 7, 2001, "Tax Map Key: 4-5-011-015" states in part:

"Comments from the Appraisal Section: Property is receiving agricultural use value"

"Comments from the collection section: Current"

"Remarks: Real property taxes are paid through June 30, 2001."

8. The applicant submitted 2-letter(s) and respective attachments on May 14, 2001 and May 29, 2001, respectively. The attachments consist of photocopies of postal receipts dated May 7, 2001 and dated May 17, 2001, as proof of mailing a notice of the variance application to owners of property within 300 feet of the boundary of the subject TMK property.

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To date, no oral objections or letter(s) objecting to the subject request were received by the Planning Department.

Therefore, considering the above facts, information submitted by the applicant, 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.

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 applicant 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 submitted by the applicant. The analysis of available private and public information appears to indicate that there is adequate rainfall within the subject property and surrounding areas to support individual or separate private rainwater catchment systems for potable and emergency uses.

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.

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.

Ms. Carol A. Salisbury

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DETERMINATION-VARIANCE CONDITIONS

The subject variance application was acknowledged by certified letter dated April 30, 2001.

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 owner(s), their assigns, or successors shall be responsible for complying with all stated conditions of approval. The effective date of this variance is **June 15, 2001**.
2. **WATER VARIANCE:** The owner(s), 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 78-214. This written agreement shall contain the following deed language, being covenants, conditions, and restrictions, which affect the proposed lot or 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 owner(s) agree and accept the fact that a County dedicable public water system is not now able to service the existing property or the proposed lot(s) created by SUB 78-214. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
 - b. No second dwelling shall be permitted on any lots created by SUB 78-214.

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- c. The owner(s) agree and accept the fact that the County will not, at this time, bear the responsibility of supplying public water to proposed lot(s) created by SUB 78-214.

- c. Any dwelling(s) constructed on the proposed lot(s) 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 water storage capacity 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.

- e. 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. The location of existing and new water storage systems shall comply with all Zoning Code requirements.

- f. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. 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.

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- g. In the event that the County notifies the owner(s) of the lot(s) created by SUB 78-214 that the County Water System has been upgraded or an improvement district initiated to enable service to the lot or lots created by SUB 78-214, the owner(s) of the lots created by SUB 78-214 shall participate in such improvement district or shall pay their pro-rata share of the upgrade and installation of laterals, as determined by the Department of Water Supply.
3. The location of existing driveway(s), dwelling, accessory buildings, and other structures that are denoted and identified on the revised preliminary plat map, dated April 6, 2001, are required to meet the minimum building yard(s) and minimum open space provisions of the Zoning Code and DPW-County Building Code prior to the granting of final subdivision approval. The subdivision's (SUB 78-214) final plat map shall meet all requirements of the Hawaii County Zoning Code and Subdivision Code.
2. The owner(s), their assigns or successors shall pay any outstanding real property taxes and comply with all other applicable State and County rules, comply with all Zoning Code requirements and the requirements of Chapter 23, Subdivisions, prior to granting final subdivision approval.

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,


CHRISTOPHER J. YUEN
Planning Director

WRY:cps

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xc: DWS-Engineering Branch
SUB 78-214