

William P. Kenoi
Mayor



Duane Kanuha
Director

Joaquin Gamiao-Kunkel
Deputy Director

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County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
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October 10, 2016

Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
P.O. Box 686
Hilo, HI 96721-0686

Dear Mr. Lim:

SUBJECT: VARIANCE DECISION - VAR-16-000386

Applicant: STEVEN S.C. LIM, CARLSMITH BALL, LLP

Owners: EWM ENTERPRISES, LP

**Request: Variance from Chapter 23, Subdivisions, Article 6, Division 2,
Improvements Required, Section 23-84, Water Supply**

Tax Map Key: 5-4-009:027 (SUB-15-001541)

Upon review of your variance application, the Planning Director certifies the **approval** of Variance VAR-16-000386 subject to variance conditions. The variance grants relief for SUB-15-001541 from constructing minimum County dedicable water supply system improvements for Lot 23-B-2 of the two (2) lots as required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions).

The variance is from the proposed subdivision's minimum requirements pursuant to HCC, Chapter 23 (Subdivisions), Article 6, Division 2, Improvements Required, Section 23-84, Water Supply, (1)(2).

BACKGROUND

1. **Location.** The referenced property, Lot 23-B, containing approximately 43.838 acres, is situated in Kapa'au, North Kohala, Hawai'i.
2. **County Zoning.** Agricultural, 20 acre minimum building site area (A-20a).
3. **State Land Use.** Agricultural (A).
4. **General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as Important Agricultural Lands (ial) and Low Density Urban (ldu).

5. **Subdivision Code Requirements.** The subdivision code requires that subdivisions be served by a water system meeting the minimum requirements of the County Department of Water Supply (DWS) and be provided with water mains and fire hydrants installed to and within the subdivision in accordance with the rules and regulations of the DWS.
6. **Subdivision Request/PPM.** Subdivision application SUB-15-001541 was submitted to subdivide the subject TMK property into 2 lots. Further action on the subdivision application has been deferred pursuant to letter dated January 19, 2016 in the subdivision file.
7. **Variance Application.** The variance request from water supply improvements for Lot 23-B-2 of the two (2) lots was acknowledged by Planning Department letter dated August 22, 2016. This variance application includes background history and circumstances and information regarding the pending subdivision application.
8. **Variance Application (VAR-16-000386) Agency Comments and Requirements.**
 - a. State of Hawai'i-Department of Health (DOH): See attached memorandum dated August 24, 2016 (**Exhibit A**).
 - b. County of Hawai'i Fire Department (HFD): See attached memorandum dated September 21, 2016 (**Exhibit B**).
 - c. Department of Water Supply (DWS): See attached memoranda dated September 22, 2016 (**Exhibit C**). We have also attached their comments in response to the subdivision application (**Exhibit D**).
 - d. No other agency comments were solicited and none were received.
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence dated September 7, 2016, regarding the posting of a public notification sign on the subject property pursuant to Section 23-17(c) of the Hawai'i County Code (HCC). A picture of the posted sign was also submitted. Evidence dated September 6, 2016 and mailing verification forms indicate that a notice of the application was sent to the surrounding property owners as required by Section 23-17(a).
10. **Comments from Surrounding Property Owners or Public.** There were written comments received from Kirk & Lani Eubank (**Exhibit E**), Marshall N. & Suzanne Ney (**Exhibit F**) and Thomas and Walter Mikos (**Exhibit G**), surrounding property owners to the property that is the subject of this variance application.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

- (a) ***There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or 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 that property.***

The Variance application meets criterion (a) for the following reasons(s):

The subdivision request is for two (2) lots in keeping with the existing A-20a zoning. Although a dedicable water system is a requirement of the code the subject property is not able to be supported by the present service facilities of the existing DWS system and it would be unreasonable to expect the owners to construct the required service upgrades to serve Lot 23-B-2 of the two (2) lots. Therefore, it is reasonable that, in lieu of constructing water system improvements to either extend/upgrade the DWS facilities or provide a private water system to DWS standards for both lots of the pending 2-lot subdivision, a more reasonable alternative can be allowed through Rule 22, Water Variance.

The above special and unusual circumstances would deprive the applicant from developing this property and interferes with the best use of this property.

Therefore, for Lot 23-B-2 of this two lot subdivision, the best use and manner of the development allows for individual rain water catchment system in keeping with the large lot, agricultural character of the area.

- (b) ***There are no other reasonable alternatives that would resolve the difficulty.***

The Variance application meets criterion (b) for the following reasons(s):

The DWS has indicated that the property is served by one unit of water and a second unit is not available to serve the additional lot at this time. Constructing water system improvements to either extend/upgrade the DWS facilities or provide a private water system to DWS standards for Lot 23-B-2 of the pending 2-lot subdivision would be placing excessive demands upon the applicant because of the extensive improvements and additions required to the existing DWS water system facilities. At an elevation of approximately 400 feet above sea level, the drilling of wells and construction of other water system improvements to DWS standards would also be unreasonable for one lot of the two (2) lot subdivision.

- (c) ***The variance will be consistent with the general purpose of the district, the intent and purpose of this chapter, and the County general plan and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.***

The Variance application meets criterion (c) for the following reasons(s):

Given that there is adequate rainfall (approximately 60 inches to 65 inches of rainfall annually) to support individual water catchment for Lot 23-B-2 of the two lots, the granting of this variance would be consistent with the general purpose of the district. Water catchment is consistent with the intent of the policies of the general plan in that it will further farming opportunities in this agricultural area. Water catchment will not be materially detrimental to the public welfare as it serves only private parties.

Subject to conditions, granting of the variance will not cause substantial, adverse impact to the area's character or to adjoining properties. The collection of rainwater could help to reduce runoff and may be a benefit to the surrounding area.

Given that the subject area receives sufficient annual rainfall, a water variance would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the Hawai'i County General Plan.

DETERMINATION-VARIANCE CONDITIONS

The variance to permit proposed Lot 23-B-2 of the 2-lot subdivision of the subject TMK property without providing dedicable water system improvements meeting DWS standards is hereby **approved** subject to the following variance conditions:

1. The applicant, owners, their assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. 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.
3. The owners, their assigns, or successors shall file a written agreement document with the Planning Department within one (1) year from the issuance of tentative subdivision approval. This written agreement shall contain deed language, being covenants, conditions, and restrictions affecting the lot (Lot 23-B-2) created by the proposed subdivision which is not serviced by a County dedicable public water system.

The agreement shall be duly recorded at the State of Hawai'i Bureau of Conveyances by and at the cost and expense of the owners. A copy of the recorded document shall be supplied to the Planning Department for our files.

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 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 of the existing property or approved subdivided lots.

4. The subdivider and all grantees, successors, and assigns acknowledge that the parcels were created by a variance from the normal subdivision requirements of Hawai'i County, and that there are no longer any special or unusual circumstances applying to the property, and hence, no grounds exist or will exist for another variance from the Subdivision Code to permit further subdivision of the property.
5. The owners, grantees, successors, and assigns agree and accept the fact that a County dedicable public water system will not be extended to serve Lot 23-B-2 within proposed subdivision SUB-15-001541.
6. The owners, grantees, successors, and assigns agree and accept the fact that the County will not bear the responsibility of supplying public water to both of the subdivided lots. No further subdivision of Lot 23-B-2 will be permitted unless County dedicable public water system requirements and other requirements of HCC Chapter 23, Subdivisions, are met.
7. No condominium property regime will be allowed, nor will an Ohana Dwelling Unit be permitted or allowed on Lot 23-B-2.
8. Any dwelling constructed on the created lot not served by the DWS shall be provided with and maintain a private rainwater catchment system which includes a minimum 6,000-gallon water storage capacity for domestic consumption or potable uses. This private water storage system shall adhere to the University of Hawai'i's College of Tropical Agriculture and Human Resources' "Guidelines on Rainwater Catchment Systems for Hawai'i" as well as the DOH requirements related to water testing and water purifying devices.
9. Each permitted dwelling on a lot not served by the DWS shall also be provided with a minimum 3,000 gallon water storage capacity dedicated for firefighting and emergency purposes. The location and capacity of the emergency water supply system, including the necessary compatible fire apparatus connector system, shall be as specified by the HFD in the memorandum attached to this permit for reference. The HFD also advises, as a precautionary measure for other uninhabited structures, that consideration be given to the provision of a similar water storage system for firefighting and emergency purposes.

Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
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10. In the event that the County notifies the owner(s) of the lot(s) created that the County water system has been upgraded or an improvement district initiated to enable service to the lot, the owner(s) of the lot shall participate in such improvement district or shall pay their pro-rata share of the upgrade and installation of laterals, as determined by the DWS.
11. The pending subdivision application's (SUB-15-001541) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code that are not covered by this variance.
12. The subdivider, owner(s), their assigns or successors shall pay any outstanding real property taxes and comply with all other applicable State statutes and County ordinances pertaining to building improvements and land use.

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

Sincerely,



DUANE KANUHA
Planning Director

JRH:nci

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Encls: Agency Comments

cc: DWS-Engineering Branch
HFD
R. Newlon NKCPD (via email)
SUB-15-001541

cc w/encls: Chrystal Thomas Yamasaki, LPLS
Wes Thomas Associates
75-5749 Kalawa Street, Suite 201
Kailua-Kona, HI 96740-1818

G. Bailado, GIS Section (via email)

William P. Keoel
Mayor



Darren J. Rosario
Fire Chief

2016 SEP 2 PM 4 11
Renwick J. Victorino
Deputy Fire Chief

PLANNING DEPARTMENT
COUNTY OF HAWAII

County of Hawaii

HAWAII FIRE DEPARTMENT
25 Arapuni Street • Suite 2501 • Hilo, Hawaii 96720
(808) 932-2900 • Fax: (808) 932-2928

September 1, 2016

TO: DUANE KANUHA, PLANNING DIRECTOR

FROM: DARREN J. ROSARIO, FIRE CHIEF

SUBJECT: Application: Variance - VAR-16-000386
Applicant: Steven S.C. Lim, Carlsmith Ball, LLP
Owners: EWM Enterprises, LP
Request: Variance from Chapter 23, Subdivisions, Article 6, Division 2
Improvements Required, Section 23-84, Water Supply
Tax Map Key: 5-4-009-027 (SUB 15-001541)

In regards to the above-mentioned Variance application, the following shall be in accordance:

NFA 1.1 UNIFORM FIRE CODE, 2006 EDITION
Note: *Hawai'i State Fire Code, National Fire Protection Association 2006 version, with County of Hawai'i amendments. County amendments are identified with a preceding "C-" of the reference code.*

Chapter 18 Fire Department Access and Water Supply

18.1 General. Fire department access and water supplies shall comply with this chapter.

For occupancies of an especially hazardous nature, or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, or areas where there is an inadequate fire flow, or inadequate fire hydrant spacing, and the AHJ may require additional safeguards including, but not limited to, additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved.

18.1.1 Plans.

18.1.1.1 Fire Apparatus Access. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

18.1.1.2 Fire Hydrant Systems. Plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.



EXHIBIT
B

107368

Hawai'i County is an Equal Opportunity Provider and Employer.

DAVID Y. ICE
GOVERNOR OF HAWAII



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STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: August 24, 2016

TO: Mr. Duane Kanuha
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Application: VARIANCE VAR-16-000386
Applicant: STEVEN S.C. LIM, CARLSMITH BALL, LLP
Owners: EWM ENTERPRISES, LP
Request: Variance from Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required, Section 23-84, Water Supply
TMK: 5-4-009-027 (SUB-15-001541)

The Department of Health's Safe Drinking Water Branch authority on drinking water quality recommend the subdivision lots be connected to an existing public water system. Concerns on water quality for lead, copper, algae and microbiological and chemical contaminations in private water 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 water purposes since the quality may not meet National Primary Drinking Water Standards for potable drinking water for human consumption. The U.S. Environmental Protection Agency (EPA) defines human consumption to include drinking, bathing, showering, cooking, dishwashing, maintaining oral hygiene and includes hand washing.

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EXHIBIT
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C- 18.1.1.2.1 Fire Hydrant use and Restrictions. No unauthorized person shall use or operate any fire hydrant unless such person first secures permission or a permit from the owner or representative of the department, or company that owns or governs that water supply or system. Exception: Fire Department personnel conducting firefighting operations, hydrant testing, and/or maintenance, and the flushing and acceptance of hydrants witnessed by Fire Prevention Bureau personnel.

18.2 Fire Department Access.

18.2.1 Fire department access and fire department access roads shall be provided and maintained in accordance with Section 18.2.

18.2.2* Access to Structures or Areas.

18.2.2.1 Access Box(es). The AHJ shall have the authority to require an access box(es) to be installed in an accessible location where access to or within a structure or area is difficult because of security.

18.2.2.2 Access to Gated Subdivisions or Developments. The AHJ shall have the authority to require fire department access be provided to gated subdivisions or developments through the use of an approved device or system.

18.2.2.3 Access Maintenance. The owner or occupant of a structure or area, with required fire department access as specified in 18.2.2.1 or 18.2.2.2, shall notify the AHJ when the access is modified in a manner that could prevent fire department access.

18.2.3 Fire Department Access Roads. (*may be referred as FDAR)

18.2.3.1 Required Access.

18.2.3.1.1 Approved fire department access roads shall be provided for every facility, building, or portion of a building hereafter constructed or relocated.

18.2.3.1.2 Fire Department access roads shall consist of roadways, fire lanes, parking lots lanes, or a combination thereof.

18.2.3.1.3* When not more than two one- and two-family dwellings or private garages, carports, sheds, agricultural buildings, and detached buildings or structures 400ft² (37 m²) or less are present, the requirements of 18.2.3.1 through 18.2.3.2.1 shall be permitted to be modified by the AHJ.

18.2.3.1.4 When fire department access roads cannot be installed due to location on property, topography, waterways, nonnegotiable grades, or other similar conditions, the AHJ shall be authorized to require additional fire protection features.

18.2.3.2 Access to Building.

18.2.3.2.1 A fire department access road shall extend to within in 50 ft (15 m) of at least one exterior door that can be opened from the outside that provides access to the interior of the building. Exception: 1 and 2 single-family dwellings.

18.2.3.2.1.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.1 shall be permitted to be increased to 300 feet.

18.2.3.2.2 Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads as measured by an approved route around the exterior of the building or facility.

18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 450 ft (137 m).

18.2.3.3 Multiple Access Roads. More than one fire department access road shall be provided when it is determined by the AHJ that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access.

18.2.3.4 Specifications.

18.2.3.4.1 Dimensions.

C- 18.2.3.4.1.1 FDAR shall have an unobstructed width of not less than 20ft with an approved turn around area if the FDAR exceeds 150 feet. Exception: FDAR for one and two family dwellings shall have an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within 150 feet of the structure being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

C- 18.2.3.4.1.2 FDAR shall have an unobstructed vertical clearance of not less than 13ft 6 in.

C- 18.2.3.4.1.2.1 Vertical clearances may be increased or reduced by the AHJ, provided such increase or reduction does not impair access by the fire apparatus, and approved signs are installed and maintained indicating such approved changes.

18.2.3.4.7 Traffic Calming Devices. The design and use of traffic calming devices shall be approved the AHJ.

18.2.3.5 Marking of Fire Apparatus Access Road.

18.2.3.5.1 Where required by the AHJ, approved signs or other approved notices shall be provided and maintained to identify fire department access roads or to prohibit the obstruction thereof of both.

18.2.3.5.2 A marked fire apparatus access road shall also be known as a fire lane.

18.2.4* Obstruction and Control of Fire Department Access Road.

18.2.4.1 General.

18.2.4.1.1 The required width of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles.

18.2.4.1.2 Minimum required widths and clearances established under 18.2.3.4 shall be maintained at all times.

18.2.4.1.3* Facilities and structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations.

18.2.4.1.4 Entrances to fire departments access roads that have been closed with gates and barriers in accordance with 18.2.4.2.1 shall not be obstructed by parked vehicles.

18.2.4.2 Closure of Accessways.

18.2.4.2.1 The AHJ shall be authorized to require the installation and maintenance of gates or other approved barricades across roads, trails, or other accessways not including public streets, alleys, or highways.

18.2.4.2.2 Where required, gates and barricades shall be secured in an approved manner.

18.2.4.2.3 Roads, trails, and other access ways that have been closed and obstructed in the manner prescribed by 18.2.4.2.1 shall not be trespassed upon or used unless authorized by the owner and the AHJ.

18.2.4.2.4 Public officers acting within their scope of duty shall be permitted to access restricted property identified in 18.2.4.2.1.

18.2.3.4.1.2.2 Vertical clearances shall be increased when vertical clearances or widths are not adequate to accommodate fire apparatus.

C- 18.2.3.4.2 Surface. Fire department access roads and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shall be comprised of an all-weather driving surface.

18.2.3.4.3 Turning Radius.

C- 18.2.3.4.3.1 Fire department access roads shall have a minimum inside turning radius of 30 feet, and a minimum outside turning radius of 60 feet.

18.2.3.4.3.2 Turns in fire department access road shall maintain the minimum road width.

18.2.3.4.4 Dead Ends. Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

18.2.3.4.5 Bridges.

18.2.3.4.5.1 When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with county requirements.

18.2.3.4.5.2 The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

18.2.3.4.5.3 Vehicle load limits shall be posted at both entrances to bridges where required by the AHJ.

18.2.3.4.6 Grade.

C- 18.2.3.4.6.1 The maximum gradient of a Fire department access road shall not exceed 12 percent for unpaved surfaces and 15 percent for paved surfaces. In areas of the FDAR where a Fire apparatus would connect to a Fire hydrant or Fire Department Connection, the maximum gradient of such area(s) shall not exceed 10 percent.

18.2.3.4.6.2* The angle of approach and departure for any means of fire department access road shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m) or the design limitations of the fire apparatus of the fire department, and shall be subject to approval by the AHJ.

18.2.3.4.6.3 Fire department access roads connecting to roadways shall be provided with curb cuts extending at least 2 ft (0.61 m) beyond each edge of the fire lane.

18.3.7 The AHJ shall be notified whenever any fire hydrant is placed out of service or returned to service. Owners of private property required to have hydrants shall maintain hydrant records of approval, testing, and maintenance, in accordance with the respective county water requirements. Records shall be made available for review by the AHJ upon request.

C-18.3.8 Minimum water supply for buildings that do not meet the minimum County water standards:

Buildings up to 2000 square feet, shall have a minimum of 3,000 gallons of water available for Firefighting.

Buildings 2001 - 3000 square feet, shall have a minimum of 6,000 gallons of water available for Firefighting.

Buildings, 3001 - 6000 square feet, shall have a minimum of 12,000 gallons of water available for Firefighting.

Buildings, greater than 6000 square feet, shall meet the minimum County water and fire flow requirements.

Multiple story buildings shall multiply the square feet by the amount of stories when determining the minimum water supply.

Commercial buildings requiring a minimum fire flow of 2000gpm per the Department of Water standards shall double the minimum water supply reserved for firefighting.

Fire Department Connections (FDC) to alternative water supplies shall comply with 18.3.8 (1)-(6) of this code.

NOTE: In that water catchment systems are being used as a means of water supply for firefighting, such systems shall meet the following requirements:

- 1) In that a single water tank is used for both domestic and firefighting water, the water for domestic use shall not be capable of being drawn from the water reserved for firefighting;
- 2) Minimum pipe diameter sizes from the water supply to the Fire Department Connection (FDC) shall be as follows:
 - a) 4" for C900 PVC pipe;
 - b) 4" for C906 PE pipe;
 - c) 3" for ductile iron;
 - d) 3" for galvanized steel.

18.2.4.2.5 Locks, gates, doors, barricades, chains, enclosures, signs, tags, or seals that have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with, or otherwise vandalized in any manner.

18.3 Water Supplies and Fire Hydrants

18.3.1* A water supply approved by the county, capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities or buildings, or portions thereof, are hereafter constructed, or moved into or within the county. When any portion of the facility or building is in excess of 150 feet (45 720 mm) from a water supply on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the AHJ. For on-site fire hydrant requirements see section 18.3.3.

EXCEPTIONS:

1. When facilities or buildings, or portions thereof, are completely protected with an approved automatic fire sprinkler system the provisions of section 18.3.1 may be modified by the AHJ.
2. When water supply requirements cannot be installed due to topography or other conditions, the AHJ may require additional fire protection as specified in section 18.3.2 as amended in the code.
3. When there are not more than two dwellings, or two private garages, carports, sheds and agricultural. Occupancies, the requirements of section 18.3.1 may be modified by AHJ.

18.3.2* Where no adequate or reliable water distribution system exists, approved reservoirs, pressure tanks, elevated tanks, fire department tanker shuttles, or other approved systems capable of providing the required fire flow shall be permitted.

18.3.3* The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on a fire apparatus access road on the site of the premises or both, in accordance with the appropriate county water requirements.

18.3.4 Fire Hydrants and connections to other approved water supplies shall be accessible to the fire department.

18.3.5 Private water supply systems shall be tested and maintained in accordance with NFPA 25 or county requirements as determined by the AHJ.

18.3.6 Where required by the AHJ, fire hydrants subject to vehicular damage shall be protected unless located within a public right of way.

5) For buildings with an approved automatic sprinkler system, the minimum water supply required may be modified.

If there are any questions regarding these requirements, please contact the Fire Prevention Bureau at (808) 323-4760.



DARREN J. ROSARIO
Fire Chief

CB:ds

- 3) The Fire Department Connection (FDC) shall:
- a) be made of galvanized steel;
 - b) have a gated valve with 2-1/2 inch, National Standard Thread male fitting and cap;
 - c) be located between 8 ft and 16 ft from the Fire department access. The location shall be approved by the AHI;
 - d) not be located less than 24 inches, and no higher than 36 inches from finish grade, as measured from the center of the FDC orifice;
 - e) be secure and capable of withstanding drafting operations. Engineered stamped plans may be required;
 - f) not be located more than 150 feet of the most remote part, but not less than 20 feet, of the structure being protected;
 - g) also comply with section 13.1.3 and 18.2.3.4.6.1 of *this code*.
- 4) Commercial buildings requiring a fire flow of 2000gpm shall be provided with a second FDC. Each FDC shall be independent of each other, with each FDC being capable of flowing 500gpm by engineered design standards. The second FDC shall be located in an area approved by the AHI with the idea of multiple Fire apparatus' conducting drafting operations at once, in mind.
- 5) Inspection and maintenance shall be in accordance to NFPA 25.
- 6) The owner or lessee of the property shall be responsible for maintaining the water level, quality, and appurtenances of the system.

EXCEPTIONS TO SECTION 18.3.8:

- 1) Agricultural buildings, storage sheds, and shade houses with no combustible or equipment storage.
- 2) Buildings less than 800 square feet in size that meets the minimum Fire Department Access Road requirements.
- 3) For one and two family dwellings, agricultural buildings, storage sheds, and detached garages 800 to 2000 square feet in size, and meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 1000 feet.
- 4) For one and two family dwellings, agricultural buildings, and storage sheds greater than 2000square feet, but less than 3000 square feet and meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 500 feet.



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
 345 KEKUNAŌA STREET, SUITE 20 • HILO, HAWAII 96720
 TELEPHONE (808) 961-8050 • FAX (808) 961-8657

2016 SEP 26 PM 4 09
 PLANNING DEPARTMENT
 COUNTY OF HAWAII

September 22, 2016

TO: Mr. Duane Kamuha, Director
 Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Variance VAR-16-000386
 Subdivision Application No. 15-001541
 Subdivider – EWM Enterprises, LP
 Tax Map Key 5-4-009:027

We have reviewed the subject application and our comments from our November 30, 2015, letter regarding the subject subdivision application still stand.

The applicant has indicated that they will utilize private rainwater catchment systems for the proposed Lot 23-B-2. We have no objection to the use of rainwater catchment systems; however, we cannot approve or comment as to the adequacy of those systems as they do not meet the requirements of the Department's Water System Standards.

We recommend that the owner(s) consult with the County of Hawaii's, Planning Department, the County of Hawaii's, Department of Public Works, and/or the State of Hawaii's, Department of Health, to determine any other guidelines, recommendations, or regulations regarding the use of rainwater catchment systems.

The Department hereby acknowledges that the one (1) service available to the subject pre-existing lot of record shall be assigned to the proposed Lot 23-B-1 within the subject subdivision. Please be informed that this service shall not be shared with another lot and shall not be interconnected in any way.

Should there be any questions, please contact Mr. Ryan Quitiriano of our Water Resources and Planning Branch at 961-8070, extension 256.

Sincerely yours,

kkokamoto
 Keith K. Okamoto, P.E.
 Manager-Chief Engineer

RQ:difg

copy - EWM Enterprises, LP
 Carlsmith Ball, LLP
 DWS Customer Service Sections (Hilo and Waimea) EXHIBIT C

107781

... Water, Our Most Precious Resource ... Kei Waia Kane ...

The Department of Water Supply is an Equal Opportunity provider and employer.



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
 345 KEKUNAŌA STREET, SUITE 20 • HILO, HAWAII 96720
 TELEPHONE (808) 961-8050 • FAX (808) 961-8657

2015 DEC 1 PM 2 41
 PLANNING DEPARTMENT
 COUNTY OF HAWAII

November 30, 2015

TO: Mr. Duane Kamuha, Director
 Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Subdivision Application No. 15-001541
 Subdivider – EWM Enterprises LP
 Tax Map Key 5-4-009:027

We have reviewed the subject application for the proposed subdivision.

The current water availability conditions in the area, which are subject to change without notice, only allow for one (1) unit of water, per existing lot of record. Each unit of water is equal to an average of 400 gallons per day, which is suitable for only one single-family dwelling.

Therefore, the Department's existing water system facilities cannot support the proposed subdivision at this time. Extensive improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission, and distribution facilities, would be required.

Should there be any questions, please contact Mr. Ryan Quitiriano of our Water Resources and Planning Branch at 961-8070, extension 256.

Sincerely yours,

kkokamoto
 Keith K. Okamoto, P.E.
 Manager-Chief Engineer

RQ:difg

copy - EWM Enterprises LP
 Wes Thomas Associates

EXHIBIT D

102316

... Water, Our Most Precious Resource ... Kei Waia Kane ...

The Department of Water Supply is an Equal Opportunity provider and employer.

To: Planning Director, 101 Pauahi St., Room 3, Hilo, HI 96720
From: Marshall N. Ney and Suzanne Ney, P.O. Box 12, Kapa'au, HI 96755
Dated: Sept. 9, 2016

Dear Planning Director,

Concerning a letter we received from attorney Carlsmith Bail, LLP, dated Aug. 29, 2016, we would like to respond. This is concerning a request for variance from Chapter 23, Subdivisions, Article 6 (improvements), Div. 2, (improvements required), Section 23-84 (water supply), Hawaii County Code, by EWM Enterprises. The TMK# is (3)5-4-009:027 (SUB No. 15-001541) and the Variance Application Request # is (VAR-16-000386). The variance is for the creation of a 2-lot agricultural subdivision without going through due process.

We are requesting public hearings and opportunity to exercise our rights under Chapter 23, to present our case in full. We are opposed to this variance because it could do damage to our existing waterline and driveway access which have been in place for over 25 years. Our waterline is beneath the access to Hospital Road and the meter on Hospital Road was placed there originally by the authority of the water board. The access to Hospital Rd. from our property has been maintained and improved by ourselves and TJ and Wait Mikos at our expense. We graveled and graded and repaired this access as needed.

This variance requested by EWM Enterprises would deny us of our civil rights to due process under the existing laws. Our neighbors, TJ and Wait Mikos and we are seeking legal counsel at this time.

Sincerely, Marshall N. Ney, Suzanne Ney

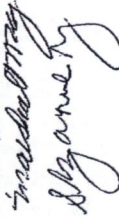


EXHIBIT
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SCANNED
SEP 12 2016
By: 107444

2016 SEP 8 PM 2:45 September 5, 2016

PLANNING DEPARTMENT
COUNTY OF HAWAII

To: Planning Director
RE: Applicant: EWM Enterprises, TMK No.: (3) 5-4-009:027
From: Surrounding Property Owner, Kirk Eubank

Dear Planning Director,

We are in OPPOSITION to this subdivision as it directly impacts our property and lifestyle in these ways:

- 1) Traffic: We are already alarmed to see "road paving" stakes in front of our drive for two way traffic
We bought this property PARTICULARLY because of the quaint, one lane, low traffic, low maintenance road fronting our property. With just two other houses down the lane, the ambience is kept quiet and safe.
Two more properties, road construction, increased and faster traffic on a paved road would thus DIRECTLY impact our property "isolation", quiet nature, and safety.

- 2) Property Value: It currently has a quiet, forested, off-the-beaten-path nature in the immediate area

For us, the disappearance of the green zone across from our drive and property would defile the attractive value we loved and bought it for.

As the property and SURROUNDING environment is now, several individuals have suggested that they would love to buy it should we ever sell. We feel the Applicant's proposed changes to the roadway and properties would negatively affect the prospects of attracting such buyers to our property and therefore could diminish its monetary value in the future.

Thank you for taken our concerns into consideration when rendering your decision.

Regards,

Kirk and Lani Eubank
TMK: 5-4-5:33, 54-379 Hospital Road

EXHIBIT
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107444

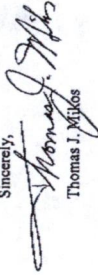
Please also note, that this 44 acres subdivision, now seeking this underground waterline source Variance Permit has already been granted a specific Water source/access (by Pratt Road) when it was given its subdivision Permit some five (5) years ago.

Why would the County, which has here to for taken the "No Responsibility" position for this portion of Hospital Road, now take responsibility for this road and thereby cause severe damage to the residential underground water lines which have been there for 25 years?

We strongly oppose this Variance Waterline Permit, and place the County on notice of such damages and liability described herein.

We are now seeking legal counsel and demand due process and adequate time for such legal representation.

Sincerely,



Thomas J. Mikos

P.O. 1028

Kapaau, Hawaii 96755

Home: 808-889-0695

Cell: 808-747-1403

tjmikos@gmail.com

Thomas J. Mikos

P.O. Box 1028

Kapaau, Hawaii 96755-1028

Friday, September 09, 2016

Re: Variance Application Request Before the planning Director (VAR-16-000386)

Applicant Owner: EWM Enterprises, a Nevada limited Partnership

Request: Variance from Chapter 23: Subdivisions, Improvements Required

TMK No.: (3) 5-4-009-027 (SUB No. 15-001541)

Dear County,

My name is Thomas J. Mikos; me and my brother Walter Mikos have owned and lived at the next to the last residential property lot on what is now Hospital Road, Kapaau. My residential address on this road is 54-367 Hospital Rd., Kapaau, HI 96755. My TAX MAP KEY/Parcel ID is 3-5-005-082.

We have owned and lived at this residential location for 25 years. Since 1991, all our requests for County work help re: water lines, graveling, grading, and maintaining vegetation, etc. have been met with the statement "The County of Hawaii takes no Responsibility for the portion of Hospital Road".

After such refusals by the County, (25 years ago), we advised the County that we the residents living on this portion of the road were going to utilize the Department of Water Supply water meters placed on the road and accordingly were going to run our individual water lines underneath this road, thereby utilizing this waterline access to each individual residential lot on this road. Again the County advised us it took "No Responsibility" for this portion of the road in question.

For the past 25 years we residents have been forced to maintain the road (twice gravelled and graded at our own expense) and underground waterlines; repairing these water lines underneath the road have been a constant expense and concern to us.

Now without a public hearing or due process, a 44-acre subdivision is attempting to run quickly through a Variance Permit to place another waterline on this same road which will certainly damage and disorder our preexisting residential water lines. The proposed waterline will also block totally our ingress and egress to our residential lots. Approximately 200 feet of this road is no wider than 14 feet, with a 50 foot slope on the opposite gulch side, thereby not allowing for any coming vehicle to pull over- except to trespass on private residential property.

EXHIBIT
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