

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
DARRYL FREEMAN)
from)
MINIMUM ROADWAY REQUIREMENTS)
in)
Waiakea Homesteads, 2nd Series)
South Hilo, Hawaii)

Variance No. 474

VARIANCE PERMIT

The County Planning Commission at a duly held public hearing on July 29, 1976 considered the application of DARRYL FREEMAN for a variance from Chapter 9 (Subdivision Control Code), Article 2, Section 4.03B, Hawaii County Code, as amended, more specifically for relief from the minimum roadway requirements stipulated as a condition of tentative approval for a proposed 3-lot subdivision. The roadway under consideration is off of Ainaola Drive, approximately 500 feet makai of the Ainaola Drive-Kupulau Street intersection across from Ala Oli Street, Waiakea Homesteads, 2nd Series, South Hilo, Hawaii, Tax Map Key 2-4-32:15 & 16 and 2-4-33:28.

The Commission has found:

That full compliance with the minimum roadway requirements would result in extraordinary hardship on the petitioner. The subject area was originally subdivided in 1952, prior to the adoption of the present subdivision control code. At that time, the minimum right-of-way requirement was 40 feet. To require the petitioner to increase the right-of-way width to 50 feet would create a hardship inasmuch as the petitioner does not have the power of eminent domain which government has. As a result, it would be extremely difficult for the petitioner to acquire the additional 10 feet to meet the minimum right-of-way requirement, particularly in that he would have to deal with 16 separate property owners to acquire the additional right-of-way. In addition, it is possible for the petitioner to make adequate improvements to the roadway within the existing 40-foot right-of-way.

Further, the ultimate purpose of the subject request is to create a 3-lot subdivision. Although the additional lots will contribute to increased usage of the roadway, the impact of such an increase is minor when analyzed on a comprehensive basis. The subject roadway provides access to 14

existing parcels with a present total of 7 residences. The potential for increased traffic from existing lots which as yet have no residences on them is greater than the increase which would be created by the petitioner's proposed subdivision. Inasmuch as the petitioner is the first property owner in the area under consideration to subdivide his parcel under the present code, the current minimum requirements were imposed upon him. However, for him to bear the full burden of responsibility to bring the subject roadway into conformity with existing standards is an extraordinary hardship, particularly in that the existing roadway conditions were not brought about through any action of the petitioner.

In addition, approval of partial relief from the minimum roadway requirements will be in keeping with the intent and purpose of the Subdivision Control Code and the Transportation element of the General Plan. The provision of some improvement to the existing roadway by the petitioner will aid in assuring that access to and from properties is safe and adequate without causing undue hardship on the petitioner. It is necessary that both of these factors be considered and placed in proper balance. The granting of full compliance with the minimum requirements would result in extraordinary hardship on the petitioner, whereas full relief from the minimum requirements would be contrary to the Transportation element of the General Plan and the intent and purpose of the Subdivision Control Code.

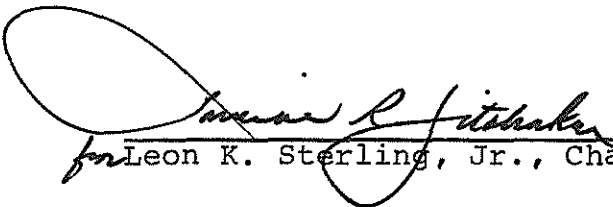
Therefore, the Commission hereby grants to the applicant a variance to allow: (1) a 40-foot right-of-way in lieu of the 50-foot requirement for the roadway from Ainaola Drive to the southern point of the property to be subdivided (2-4-32:16). The petitioner shall provide roadway improvements consisting of a 20-foot wide oil-treated gravel surface with A.C. pavement for portions of the roadway with grades of 8 percent or greater. Such improvements shall be centered within the roadway; and (2) a 25-foot roadway easement along the eastern boundary of TMK: 2-4-32:16 with improvements consisting of a 10-foot wide oil-treated gravel surface and A.C. pavement for portions of the roadway which may have grades of 8 percent or greater. The 10-foot wide oil-treated and paved area shall abut the property line of the lot immediately to the east (TMK: 2-4-32:15); pursuant to the authority vested in it by Article 1, Section 5 of said Code, subject to the following conditions:

1. That the petitioner, Darryl Freeman, shall secure final approval for the proposed 3-lot subdivision within one (1) year from the effective date of the Variance Permit.
2. That the petitioner, Darryl Freeman, shall submit construction drawings for the roadway improvements for the approval of the Planning Director and the Chief Engineer of the Department of Public Works.
3. That all other applicable rules and regulations shall be complied with.

Should these conditions not be met, the variance shall be deemed null and void.

The effective date of this permit shall be from July 29, 1976.

Dated at Hilo, Hawaii, this 3rd day of August, 1976.


for Leon K. Sterling, Jr., Chairman

