

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR VARIANCE	)	
by	)	
WILLIAM V. BRILHANTE	)	
from	)	VARIANCE NO. 592
MINIMUM ROAD RIGHT-OF-WAY	)	
REQUIREMENT	)	
in	)	
Waiakea, South Hilo, Hawaii	)	

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VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on September 26, 1979, considered the application of WILLIAM V. BRILHANTE for a variance from Article 2, Section 4.03-Band F, Chapter 9 (Subdivision Control Code) of the Hawaii County Code, as amended, more specifically, to allow a 40-foot wide right-of-way in lieu of the minimum requirement of 50 feet for a proposed six-lot subdivision and the waiving of the right-of-way turning radius requirement at the intersection of the subdivision road and Ainaola Drive as stipulated in Minimum Right-of-Way and Pavement Width Requirements in Waiakea Homesteads, 2nd Series, Waiakea, South Hilo, Hawaii, Tax Map Key 2-4-35:6.

The Commission has found:

That unusual circumstances apply to the subject property which interfere with the best manner of development. The property under consideration has an existing 40-foot wide pole portion which provides access to Ainaola Drive. This access was provided when the lot was originally created in 1940. Subsequently, in 1967 the County roadway standards were increased to a 50-foot right-of-way width.

In light of the existing requirements the petitioner has sought to require additional land to bring the right-of-way width into conformance. However, the petitioner has not been successful in acquiring the land. Given these circumstances it is determined that unusual circumstances apply to the subject property which do not generally apply to surrounding properties, especially as the petitioner does not have eminent domain powers to acquire the additional land.

Further, these unusual circumstances interfere with the best manner of development of the subject property. The property under consideration is within the Agricultural-3 acre (A-3a) zoned district. Should the relief being sought not be approved the property could not fulfill the intended purpose of the zoned district, namely the creation of Agricultural lots within minimum land areas of three (3) acres.

That the approval of the subject request would not be contrary to the general purpose and intent of the Subdivision Control Code roadway provisions. The general purpose of roadway provisions is to provide for safe and efficient movement of people and goods. While the 40-foot wide right-of-way width is less than desirable it would be adequate to allow two (2) way traffic with shoulder areas for pulling-off the travel surface. For turning movements the Subdivision Control Code requires a minimum 30-foot radius for the road pavement. Although no radius would be provided for the right-of-way, a 30-foot pavement radius can be constructed with eight (8) to ten (10) foot wide shoulders within the existing right-of-ways. Thus, it is determined that the approval of the subject request would not be contrary to the general purpose of the Subdivision Control Code access provisions, nor be contrary to the public safety and welfare.

Therefore, the Commission hereby grants to the applicant a variance to allow a 40-foot wide right-of-way in lieu of the minimum requirement of 50 feet for a proposed six-lot subdivision and the waiving of the right-of-way turning radius requirement at the intersection of the subdivision road and Ainaola Drive as stipulated in Minimum Right-of-Way and Pavement Requirements, pursuant to the authority vested in it by Article 1, Section 5 of Chapter 9 (Subdivision Control Code) of the Hawaii County Code, as amended, subject to the following conditions:

1. That the petitioner, or his authorized representative, shall submit plans for and secure final subdivision approval within two (2) years from the effective date of the Variance Permit.
2. That the 40-foot wide right-of-way shall be improved with a 20-foot wide asphalt concrete pavement.
3. That the roadway shall not be dedicated to the County unless the right-of-way width and turning radius are brought to County dedicable standards.
4. That all other applicable rules, regulations, and requirements, including that of Change of Zone Ordinance No. 442, shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from September 26, 1979.

Dated at Hilo, Hawaii, this 7th day of March, 1980.

APPROVED AS TO FORM  
AND LEGALITY:

Carolyn Bulazaki  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

For: William F. Mielcke  
WILLIAM F. MIELCKE, CHAIRMAN  
PLANNING COMMISSION

Date: 27 Feb 80