

PLANNING DEPARTMENT  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE )  
by )  
VICTOR YAMASHITA ) ADMINISTRATIVE  
from ) VARIANCE NO. 9  
Minimum Roadway Requirements )  
in )  
Waiakea Homesteads, South Hilo, Hawaii )

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ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on April 17, 1980 on the application of VICTOR YAMASHITA for a variance from the minimum roadway requirements, more specifically, to allow the creation of a subdivision with a portion of the cul-de-sac being forty (40) feet wide in lieu of the minimum requirement of fifty (50) feet at Waiakea Homesteads, South Hilo, Hawaii, Tax Map Key 2-4-27:30, 34 and portions of 36, 40, and 42.

After hearing the case, the Planning Director has found:

1. That there are special and unusual circumstances applying to the subject property which do not generally apply to surrounding property or improvements in the same district. Access to 4.893 acre parcel is currently provided by a 40' wide right-of-way which was created at a time when subdivision ordinances allowed such a width. Furthermore, the petitioner has made attempts to acquire additional land for the right-of-way but has been unsuccessful because the structures on the adjoining parcels are built close to the property line. No other road access is feasible because surrounding properties are already developed.
2. That the special and unusual circumstances described above would deprive the owner of substantial property rights if the minimum right-of-way width requirements, as stipulated in the Subdivision Control Code, were rigidly imposed. Since no feasible alternative for providing a 50' wide right-of-way exists, no further subdivision of the 4.893-acre parcel would be possible.
3. That the granting of the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. Access for the 4.893-acre parcel is limited to the existing 40' wide right-of-way. No additional land either for the existing right-of-way or a completely different right-of-way can be used because the surrounding land area is already developed. All parcels faced with similar circumstances will be treated similarly.

4. That the granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Subdivision Code. Furthermore, approval of the variance will not militate against the General Plan and will not be materially detrimental to the public welfare or injurious to improvements or property rights related to property in the near vicinity. The primary reason for requiring a 50-foot right-of-way is to assure that sufficient area is available for a safe and convenient circulation of traffic generated by the proposed subdivision. It has been determined that these conditions can be met by imposing appropriate conditions of approval.


Therefore, the Planning Director hereby grants to the applicant a variance to allow the creation of a subdivision with a portion of the cul-de-sac being forty (40) feet wide in lieu of the minimum requirement of fifty (50) feet at Waiakea Homesteads, South Hilo, Hawaii, Tax Map Key 2-4-27:30, 34 and portions of 36, 40, and 42, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the petitioner or his authorized representative shall secure tentative subdivision approval within one (1) year from the effective date of the Variance Permit. The petitioner/representative shall be responsible for securing final subdivision approval. The petitioner/representative shall be responsible for securing final subdivision approval within one (1) year from the date of receipt of tentative subdivision approval.
2. That the power poles, mail boxes, trees, and other street structures within the 40-foot right-of-way shall be relocated to meet with applicable Department of Public Works requirements.
3. That all applicable rules, regulations, and requirements shall be complied with.

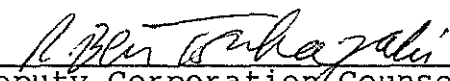
Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void.

The effective date of this permit shall be from April 24, 1980.

Dated at Hilo, Hawaii, this 19th day of September, 1980.

  
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SIDNEY M. FUKE, Director  
Planning Department

APPROVED AS TO FORM AND LEGALITY:

  
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Deputy Corporation Counsel  
County of Hawaii

Date: 12 Sept. 80

April 24, 1980

Mr. Victor Yamashita  
5233 Ani Street  
Honolulu, Hawaii 96821

Dear Mr. Yamashita:

Variance Application  
Minimum Roadway Requirement  
TMK: 2-4-27:30, 34, and portions of 36, 40, & 42

After review of your application and the information presented at the administrative public hearing on April 17, 1980, the Planning Director is hereby certifying the approval of your variance request to allow the creation of a subdivision with a portion of the cul-de-sac being forty (40) feet wide in lieu of the minimum requirement of fifty (50) feet.

Approval of this request is based on the following findings:

1. That there are special and unusual circumstances applying to the subject property which do not generally apply to surrounding property or improvements in the same district. Access to 4.893 acre parcel is currently provided by a 40' wide right-of-way which was created at a time when subdivision ordinances allowed such a width. Furthermore, the petitioner has made attempts to acquire additional land for the right-of-way but has been unsuccessful because the structures on the adjoining parcels are built close to the property line. No other road access is feasible because surrounding properties are already developed.
2. That the special and unusual circumstances described above would deprive the owner of substantial property rights if the minimum right-of-way width requirements, as stipulated in the Subdivision Control Code, were rigidly imposed. Since no feasible alternative for providing a 50' wide right-of-way exists, no further subdivision of the 4.893-acre parcel would be possible.

3. That the granting of the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. Access for the 4.893-acre parcel is limited to the existing 40' wide right-of-way. No additional land either for the existing right-of-way or a completely different right-of-way can be used because the surrounding land area is already developed. All parcels faced with similar circumstances will be treated similarly.
4. That the granting of the variance will not be inconsistent with the general purpose of the district or the intent and purpose of the Subdivision Code. Furthermore, approval of the variance will not militate against the General Plan and will not be materially detrimental to the public welfare or injurious to improvements or property rights related to property in the near vicinity. The primary reason for requiring a 50-foot right-of-way is to assure that sufficient area is available for a safe and convenient circulation of traffic generated by the proposed subdivision. It has been determined that these conditions can be met by imposing appropriate conditions of approval.

The conditions of approval are as follows:

1. That the petitioner or his authorized representative shall secure tentative subdivision approval within one (1) year from the effective date of the Variance Permit. The petitioner/representative shall be responsible for securing final subdivision approval. The petitioner/representative shall be responsible for securing final subdivision approval within one (1) year from the date of receipt of tentative subdivision approval.
2. That the power poles, mail boxes, trees, and other street structures within the 40-foot right-of-way shall be relocated to meet with applicable Department of Public Works requirements.
3. That all applicable rules, regulations, and requirements shall be complied with.

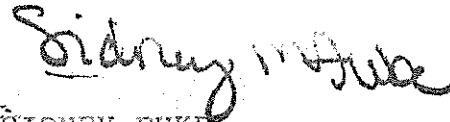
Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void.

Please be informed that the official Variance Permit will be forthcoming under separate cover.

Mr. Victor Yamashita  
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Should you have any questions in the meantime, please feel free to contact us.

Sincerely,



SIDNEY FUKU  
Director

BN:ikt

cc: Phillip Yoshimura  
Planning Commission