

CERTIFIED MAIL

August 2, 1984

Mr. Leo Fleming  
P.O. Box 396  
Kailua-Kona, HI 96745

Dear Mr. Fleming:

Variance Application (V84-20)  
Dr. Kenneth P. Emory  
Variance from Minimum Roadway Requirements  
Tax Map Key 7-5-02:3

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the creation of a 3-lot subdivision with a 14-foot wide pavement within a 50-foot right-of-way in lieu of the minimum 20-foot wide agricultural standard pavement as required by the Subdivision Code. The subject property, which consists of 17.78 acres, is identified by Tax Map Key 7-5-02:3 and is situated on the north side of the Keopu Heights Subdivision approximately 350 feet from the private road-Keopu Heights Drive intersection located approximately 3,150 feet west of the Keopu Heights Drive-Mamalahoa Highway in Keopu 2nd, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special or unusual circumstances applying to the subject real property which exists either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or interfere with the best use or manner of development of that property.

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The proposed 3 lot subdivision will have an access via 50 foot wide right-of-way with a pavement of 14 feet in width. These proposed lots (5.0, 6.0 and 6.8 acres) cannot be further subdivided by virtue of the existing 5-acre zoning. Consequently, the traffic demands on the proposed 14-foot pavement will not be exceeded. Although 2 other lots have frontage on this 50 foot right-of-way, the fact that only the 3 lots within this proposed subdivision will utilize the 14-foot wide pavement ensures the minimal impact in allowing the reduced roadway pavement width.

The County of Hawaii has recently excavated a drainage channel across the north end of the 50 foot wide right-of-way. The channel is 17'-6" wide and 10'-0" deep. Construction of the culvert crossing is scheduled to begin in 1985, subject to funding availability.

#### ALTERNATIVES

There are no other reasonable alternatives that would resolve the difficulty that the petitioner is claiming for the subdivision. The proposed 3-lot subdivision having access provided by the 14-foot wide pavement is considered reasonable. The reasonableness is determined by the minor number of lots which will be served by this roadway. Other alternatives in requiring the petitioner to provide the full 20-foot pavement within the 50-foot right-of-way will not prove to be any more adequate than what the 14-foot pavement will provide. As such, although it could be argued that other alternatives are available to the petitioner, the reasonableness of those alternatives have to be evaluated. As such, the imposition of the other alternatives in this particular situation, is considered to be excessive, when a more reasonable alternative is available.

#### INTENT AND PURPOSE

Based on the foregoing findings, this variance would be consistent with the general purpose of the zoning district, and the intent and purpose of the Subdivision Code and the General Plan. The purpose of the minimum roadway requirements is to ensure that minimum safety standards relative to traffic and drainage are provided for. In addition, these minimum standards were designed to provide for other concerns including accommodation for adequate space for emergency vehicles to maneuver and positioning when required, and to ensure services such as mail delivery, street addresses, road maintenance, etc.

The petitioner's proposal of providing a pavement width of 14 feet will satisfy the subdivision's requirements in ensuring that access will be available to the proposed lots. Additionally, the proposed access will be similar to the minimum access requirements of residential type subdivisions.

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The variance request is approved, subject to the following conditions:

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The necessary construction plans showing the proposed 14-foot wide pavement within the 50-foot right-of-way shall be submitted for review and approved within 6 months from the effective date of approval of the variance permit.
3. The construction of the improvements in compliance with the Department of Public Works requirements shall commence within one year from the date of receipt of final approval of the construction plans and be completed within two years thereafter.
4. The road shall remain under private ownership and not dedicated to the County until it is brought up to dedicable standards. No further subdivision of the property will be permitted unless the roadway meets with the requirements of the Subdivision Code.
5. All other applicable Federal, State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be complied with, this variance shall be automatically be voided.

If you have any questions on this matter, please feel free to contact us.

Sincerely,



SIDNEY M. FOKE  
Planning Director

MO:lgv

cc: Chief Engineer  
Clyde Campbell, Vice President  
K.H.N.A., Inc.

bcc: Kaoru