

October 16, 1990

CERTIFIED MAIL

Mr. Robert Triantos
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Dear Mr. Triantos:

Variance Application (V90- 27)
Variance from Minimum Roadway Requirements
Tax Map Key: 7-9-12: 18

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter certifies the approval of your variance request to allow the existing 14+ foot and 10+ foot wide roadways in lieu of the minimum 20 foot and 12 foot wide pavements for the proposed 5 lot subdivision as required by the Subdivision Code.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum roadway requirements for this proposed 5-lot subdivision. State Land Use Boundary Amendment Ordinance No. 88-87 was approved by the County Council redesignating the subject parcel to the "Rural" zone district. Change of Zone Ordinance No. 88-88 was approved by the County Council redesignating the subject property to the "Residential-Agriculture 1-acre" (RA-1a) zone district with 8 conditions. A subdivision application (No. 88-137) has been submitted as required by the conditions of approval of Ordinance No. 88-88 to subdivide the subject property into the 5 one acre lots as represented in both State Land Use Boundary Amendment and Change of Zone applications which were approved by the County Council.

The petitioner is attempting to comply with the conditions of the subdivision procedure relative to this proposed subdivision as it relates to the existing roadway systems that service this area and the proposed subdivision.

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The existing private roadway leading to the subject property is a 50 foot wide right-of-way with approximately 14+ feet of pavement and the road easement within Lot 4-B is 20 feet wide with approximately 10+ feet of pavement. The private roadway would serve a total of 15 lots under the existing conditions.

The roadway leading to the proposed subdivision is not considered to be a major thoroughfare, secondary arterial or will even serve as a through street for further developments for this area. This roadway is a means of access for the 15 lots which have frontage along it.

Therefore, considering the foregoing facts, it is determined that there are special or unusual circumstances applying to the subject 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 the subject property.

ALTERNATIVES

There are no other reasonable alternatives in resolving the difficulty of the applicant. The only alternative available to the petitioner is to improve the entire 1,150 feet of the existing paved roadway from the Mamalahoa Highway to the subject subdivision, including the private easement to Lot 4-B and 4-C. This is deemed to be unreasonable as the off-site improvement is not only meant to benefit the petitioner but all other lots fronting this roadway. The imposition of this off-site improvement only to the petitioner is unfair and unreasonable as others who stand to benefit are not contributing to the cost of the improvements.

The paved roadway already exists for this subdivision and is essentially "grandfathered" in having served the existing subdivision adequately. The applicant is also aware that any further subdividing of the property served by this access will not be permitted unless the road standards of the Subdivision Code are met; meaning no further variance will be considered for this private roadway.

Based on the above circumstances, the off-site improvement requirement is determined to be financially unfeasible and would place unnecessary burden and hardships on the petitioner based on the existing number of lots utilizing the existing paved roadway for the proposed and existing subdivision. The petitioner had indicated this throughout the land use designation process and based upon the approval of both changes; the off-site improvement requirements would be an excessive demand on the petitioner when a more reasonable alternative is available.

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The petitioner will be bound by a condition of approval which will require the landowners of each proposed lot to participate in any government initiated roadway improvement program for this area which may affect the subject subdivision.

INTENT AND PURPOSE

The intent and purpose of requiring minimum roadway pavements within a subdivision is to assure that adequate road access is available to serve the subdivision. The proposed subdivision is approximately 1,150 feet west of its intersection with Mamalahoa Highway. The existing 50 foot wide right-of-way is improved with approximately 14+ feet of pavement which though not up to standards does provide adequate improved access to the proposed subdivision.

As such, the deviation being requested is not to totally eliminate the need for an improved access to the subject subdivision, but to recognize the existing road access conditions.

The existing paved widths are essentially adequate to serve the existing and proposed number of lots to be served which will not exceed 15 lots. The existing paved road conditions does provide adequate access consistent with the spirit and intent of the roadway requirements of the Subdivision Code.

In addition, the petitioner is also providing a future 50 foot wide roadway right-of-way for the Mamao Street extension and will be subject to a condition of approval which will require each lot owner to participate in any government sponsored roadway improvement program for this area, should any be initiated.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and to adjoining properties.

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

1. The applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The applicant, its assigns or successors shall participate in any government sponsored roadway improvement program of the private east-west roadway leading to the subject subdivision, should any be initiated.

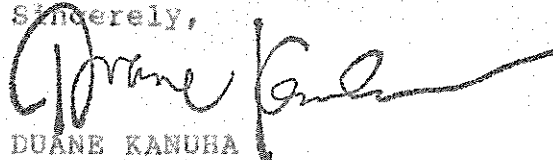
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3. No further subdivision of the subject properties utilizing the subject road shall be permitted unless said roadway meets Subdivision Code requirements without variances.
4. All other applicable rules, regulations and requirements shall be complied with.

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

Should you have any questions on any of the above, please feel welcome to contact our office.

Sincerely,



DUANE KANUHA
Planning Director

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