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CERTIFIED MAIL

February 3, 1992

Mr. Ronald Nagata, AIA  
280 Ponahawai Street, Suite 203  
Hilo, HI 96720

Dear Mr. Nagata:

Variance Application (V91-29)  
Petitioner: State of Hawaii, Honokaa Hospital  
Sideyard Requirements of the Zoning Code  
TMK: 4-5-10:27 and 91

After reviewing your application and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of the variance request to permit a public (State) Health Care Facility in Honokaa to be constructed crossing a common property line.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are found to be special and unusual circumstances pertaining to the real property. A new public Health Care Facility for Honokaa is proposed to be built on two publicly owned parcels of land, one owned by the County of Hawaii and one owned by the State of Hawaii. Both of the involved parties (State and County) have already concurred that the properties should be consolidated into one parcel. The applicant and its architects and engineers developed their plans based on that premise. As the land consolidation activity proceeded in the belief that both parcels were State owned, it was discovered that the County still retained ownership of one. The legal formalities involved in the County giving up title to the State and the State receiving same has historically taken anywhere from seven (7) months (shortest) to a number of years. Since construction plans are nearing completion, the only recourse to keep the building's progress on schedule is to apply for and obtain a variance from the zoning code (as well as the building code through the Board of Appeals) even while the land title

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change is being pursued. Waiting for completion of the latter would result in an inordinate and costly and unnecessary loss of time and public funds.

Another special and unusual circumstance of this situation is that the variance request would only be of relatively short tenure. Once the land's ownership had been turned over to the State and consolidation been effected, the need for a variance would be eliminated, as the building would meet all other zoning and building code requirements, having become one large lot with no building setback problems from either code.

#### ALTERNATIVES

There are no alternatives to having the building cross existing property lines unless the building design were drastically changed, but then it would not be functional. A completely new design would have to be introduced, and reviewed, contract and specifications redrawn. It could take many months to re-do and result in a tragic loss of public funds, and be wasteful. The variance procedure would suspend the setback rules temporarily and allow the building construction to commence on schedule. When the land's ownership and transfer (consolidation) had been accomplished, the variances would no longer be needed, as the property lines being crossed would have been erased.

Without the alternative of the variance procedure, the State government would be in violation of the law respecting building setbacks if it tried to construct over property lines. The delays which would result without the variance could add many months to the timetable and many tens of thousands of dollars to the overall cost.

#### INTENT AND PURPOSE

The intent and purpose of the building setback distances being imposed is to ensure that adjacent properties maintain adequate amounts of open space, air, light, circulation and related spatial considerations between them.

In this case, the two properties' side boundaries would be crossed by a public 50-bed health care facility. The crossing over would have been inadvertent because the two parcels were supposed to have been consolidated into one parcel. However, title to the County's parcel was never transferred over to the State yet the hospital facility's planning went on. While the title transfer and consolidation are agreed upon by both the

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County and the State, the actual legal proceedings have taken many months, leading to years, to effect. While this process has already begun, the continued progress of getting the construction underway is desired so that there is no delay while waiting for "paperwork" to sanction the building's crossing over the property line.

The variance from the zoning code would be in the public interest (immense savings in terms of dollar cost and time) and would not cause harm or give undue advantage to anyone.

In view of the above, it is determined that the granting of this variance request would not be considered materially detrimental to the public's welfare nor cause any substantial adverse impact to the area's character or to adjoining properties.

This variance request is approved subject to the following conditions:

1. The petitioner, its successors or assigns, shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, and parking stalls associated with the facility. Parking shall comply with the requirements of Chapter 25 (Zoning Code).
3. Construction of the health care facility and related improvements shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
4. This variance permit shall cease to be in effect as soon as legal consolidation of these two parcels is complete.
5. All other applicable State and County rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be complied with, the Director may initiate proceedings to revoke the permit.

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Should you have any questions on this matter, please feel free to contact Donald Tong of this office.

Sincerely,

  
NORMAN K. HAYASHI  
Planning Director

DT:smo  
4366D

cc: Building Division, DPW  
West Hawaii office