

PD Var.433

CERTIFIED MAIL

March 18, 1991

Mr. Keola Childs
Maryl Development, Inc.
P.O. Box 1928
Kailua-Kona, HI 96745-1928

Dear Mr. Childs:

Variance Application (V91-2)
Minimum Roadway Requirements
Tax Map Key: 7-6-12:11, 12, 13 and 14

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 1) allow the existing County street, 'Io Place, to be extended as a private dead-end street with roadway improvements terminating approximately 260 feet from the makai (west) property line; 2) allow the private dead-end street to serve a total of thirty (30) lots in lieu of the maximum eighteen (18) lots; and 3) allow the private street to contain grassed shoulders and swales, drainage basins, and desired street light design and/or no street lights in lieu of complying with the standards on file with the Public Works Department and the Subdivision Code, at Holualoa 1st and 2nd, North Kona.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special or unusual circumstances applying to the subject real property which exist 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 the property.

The subject property would take and continue roadway access from the end of 'Io Place, a 60-foot right-of-way with 20-foot pavement constructed to County standards. 'Io Place has unpaved shoulders, undefined swales and no drywells which were approved through a consolidation/resubdivision action in 1969. 'Io Place was

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subsequently dedicated to and accepted by the County in 1971. The grass shoulders are presently maintained by the respective property owners of the existing half-acre lots.

There is a topographical condition which affects the portion of the property closest to the makai property line which lies at an approximately 28% grade. The subdivision contour map also shows that the natural terrain along the proposed makai 20-foot interior road easement within the proposed subdivision area approaches a 25% grade; however, the subdividers have indicated that the required maximum 20% grade will be attained.

The foregoing shows that substantial property rights would be deprived of, and the best manner of developing the subject property will be interfered with by the denial of this variance application with regard to roadway improvement requirements.

ALTERNATIVES

There is the alternative that the roadway be fully improved according to the requirements of the Department of Public Works and the Subdivision Code. However, the roadway will be privately owned and maintained by the applicant and a homeowners' road association. The grass shoulders will have a continuous appearance as the existing 'Io Place roadway. The applicant will be providing the required 20' wide dedicable standard pavement within the proposed 60-foot wide roadway easement. With grass or gravel shoulders, water runoff would percolate into the ground whereas paved shoulders and swales would increase the runoff. As required by the Chief Engineer, the applicant will provide drainage basins at specific locations to capture and absorb any water runoff. Further, the applicant will install additional signage and reflectors, and any street light improvements as required by the Chief Engineer.

Based on the above, the applicants will be providing reasonable roadway improvements for the proposed subdivision.

CONSISTENT WITH COUNTY PLANS

Based on the foregoing findings, the 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

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sight distance for on-street parking, adequate space for emergency vehicles to maneuver and positioning when required, to ensure services such as mail delivery, street addresses, road maintenance, etc..

The Planning Director finds that the imposition of fully dedicable standard roadway improvements for the entire length of the roadway easement would constitute a special circumstance until or unless interior traffic circulation networks within adjacent developments are anticipated. More specifically, the grade for the roadway easement in the area just pass the two proposed lower cul-de-sacs is approximately 28%; thus approximately 260 feet of roadway from this point to the makai (west) property line would be constructed at an excessively steep grade in terms of normal roadway grade standards.

The applicant will be providing the required 20' dedicable pavement, additional signage and reflectors, and streetlight improvements as required by the Chief Engineer for safety purposes. In addition, drainage basins will be provided to take care of any drainage problems. The roadway will be privately owned and maintained by the applicant and a homeowners' road association.

It should be pointed out that the Department of Public Works has no objections to the proposed grass shoulders and swales provided that the roadways remain private.

Thus, it could be concluded that the granting of the variance from the minimum roadway improvement standards would not be materially detrimental to the public welfare or cause substantial adverse impact to the affected and adjoining properties.

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 petitioner, its assigns or successors, shall file a written agreement with the Planning Department prior to receipt of final subdivision approval containing the following stipulations and covenants:
 - a. That the subdivider agrees and accepts to share in the cost of the construction of the remaining roadway

*Referred
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improvements if the properties abutting the makai (west) property line develop and utilize the proposed roadway.


- b. That the subdivider agrees and accepts the fact that the County shall not bear the liability and responsibility of improving the proposed road access.
 - c. That no ohana dwellings will be permitted on the lots that are not served with a County dedicable paved road access.
 - d. That the written agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Department at the cost and expense of the subdivider, with a copy sent to this Department.
3. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the subdivider shall be responsible for informing the Department of the amendments or changes so that the agreement can reflect the amendments or changes. Further, the written agreement shall be considered as a condition and covenant running with the land and shall be binding upon the subdivider or owner, its heirs, executors, administrators or assigns and its successors and assigns and shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease or other similar documents affecting the title or ownership of each subdivided lot.
4. The roadway easement shall be designated as a future roadway extension to the makai (west) property line on the final subdivision plat maps. Further, the edge of the easement line of all roadways shall be determined to be the front property line for all lots abutting said road easements for structural setback purposes.
5. That all future subdivision of any of the lots to be created will comply with the necessary subdivisions and zoning code requirements. No future variances from roadway improvements shall be considered or issued for any of the lots affected by this subdivision.
6. All other applicable State and County rules and regulations shall be complied with.

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Should any of the foregoing conditions not be met, the Planning Director may declare the variance null and void.

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

Sincerely,



NORMAN K. HAYASHI
Planning Director

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1034D

cc: Engineering Division, DPW
West Hawaii Office