



## Planning Department

County of Hawaii • 25 Aupuni Street, Room 109 • Hilo, Hawaii 96720 • (808) 961-8288

Lorraine R. Inouye  
Mayor

Norman K. Hayashi  
Director

Tad Nagasako  
Deputy Director

### CERTIFIED MAIL

December 4, 1992

Mr. Gerald Kodama  
1301 Moonui Street  
Honolulu, HI 96817

Dear Mr. Kodama:

Variance Application (V92-16)  
Request: Variance from the maximum number  
of lots off a private nondedicable road  
Tax Map Key: 2-4-37:8

After reviewing your application and the information submitted in its behalf, the Planning Director by this letter hereby certifies the approval of your variance request to permit two (2) additional lots (resulting in total nine lots) to be served by an existing private dead-end street in lieu of the required maximum of six (6) lots. The property is 25,071 square feet in area, identified by tax map key 2-4-37:8 and is located off of Ainaola Drive and approximately 2,500 feet east of its intersection with Kupulau Street in the 2nd Series of Waiakea Homesteads, South Hilo.

The approval is based on the following:

### SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject property which consists of 25,071 square feet is situated within the County's Single Family Residential (RS-10) zoned district. Under this zoning designation, the parcel could be subdivided into two lots having minimum 10,000 square feet.

The configuration of the former total 3.0 acre property showed a 174± feet wide frontage along Ainaola Drive and a 22± feet pole portion fronting along the private 40-foot wide gravel roadway. The parcel was subsequently created as a flag lot configuration with its south side bordering the existing nondedicable dead-end paved roadway (Waiakea Place) and its pole portion abutting the private gravel roadway. As part of the approved 7-lot subdivision, a 10-foot wide "No Vehicular Access" planting screen easement was imposed along the south boundary (along Waiakea Place).

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There are special and unusual circumstances related to the land in this particular application with respect to the fact that the parcel was formerly created with two frontages, along Ainaola Drive and the private gravel roadway. The parcel borders the Waiakea Place roadway which is an existing nondedicable 25-foot right-of-way with a 16-foot wide pavement. The petitioner is proposing a tapered minimum 20-foot wide easement for road and utility purposes to Waiakea Place. This easement will be situated along the east boundary of the property, will be inclusive of proposed Lot 7-A, and will provide ingress and egress for the two lots.

The existing private dead-end street presently provides access to existing six dwellings. With one vacant parcel and the proposed two lots, said roadway would service up to nine dwellings. Whereas, the private 40-foot gravel roadway presently provides access to approximately 15 homes, including farm dwellings. Should there be proposed additional farm dwellings as well as agricultural activities in the area, the increase in traffic would impact usage of the gravel roadway and create unsafe conditions for ingress and egress, and at its intersection with Ainaola Drive.

The existing nondedicable paved roadway will provide a much safer access for the proposed two lots. Its intersection with Ainaola Drive lies approximately 160± feet west of the intersection of Ainaola Drive and Hale Hooko Street (Puna side). The private gravel roadway is situated across of Hale Hooko Street but is a few feet off-set to the east side. Additional traffic on said private gravel road and at this intersection would create a traffic hazardous condition.

Considering the foregoing factors, 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 petitioner of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use of manner of development of the subject property.

#### ALTERNATIVES

The alternative to access and increase traffic via the private gravel roadway and intersection at Ainaola Drive would create unsafe and hazardous conditions. As such, there are no reasonable alternatives which the petitioner could use to resolve the situation.

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The variance request is a reasonable one as it would provide a safer means for access purposes. Although it could be argued that other alternatives are available to the petitioner, the reasonableness and practical application of those alternatives have to be evaluated with respect to the existing conditions. In this particular case, the imposition of other alternatives in this situation is considered to be unsafe when a more reasonable solution is available.

INTENT AND PURPOSE

The intent and purpose of the minimum roadway requirements is to ensure that minimum safety standard relative to traffic, drainage, etc., are provided for.

The existing nondedicable roadway having a 25-foot right-of-way with a 16-foot pavement is determined to be adequate for access purposes for the proposed 2-lot subdivision which will result in nine (9) lots being served by the existing road rather than the maximum six (6) lots. Additional traffic generated by the proposed subdivision is at minimal as the petitioner proposes a 2-lot subdivision.

The granting of this variance shall not be construed nor used as a justification for any future variances from the maximum number of lots. Inasmuch as the existing paved roadway is a cul-de-sac and will remain in private ownership, the granting of the variance request will not be materially detrimental to the public's welfare and to adjoining properties. It should be noted that the petitioner also owns the adjoining vacant lot to the west.

As such, in view of these findings, the approval of this variance request would still be consistent with the general purpose of the zoning district, and the intent and purpose of the Subdivision Code and the County General Plan.

Based on the foregoing, the Planning Director has concluded that this variance request be 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 be responsible for securing final subdivision approval within one year of the date of this approval.

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3. No ohana dwelling shall be permitted or built on any of the affected lots unless the applicable road and related Subdivision Code requirements, without variances, are met. A written agreement stipulating this condition shall be duly recorded at the Bureau of Conveyances of the State of Hawaii by the Planning Department at the cost and expense of the subdivider. 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, his heirs, executors, administrators or assigns and its successors and shall be incorporated as an exhibit and made a part of each agreement of sale, deed, lease or other similar documents affecting the title or ownership of each subdivided lot. A recorded copy of such condition shall be submitted to the Planning Department for its files.
4. All other applicable Federal, State and County rules and regulations shall be complied with.

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

Should you have any questions, please feel free to contact our office.

Sincerely,



NORMAN K. HAYASHI  
Planning Director

AK  
7270D  
Enclosure

cc/encl: West Hawaii Office