

VAR 515

CERTIFIED MAIL

June 21, 1993

Mr. Thomas Buckner  
73-1339 Loio Street  
Kailua-Kona, HI 96740

Dear Mr. Buckner:

Variance Application (VAR 93-15)  
Petitioner: Thomas Buckner, etal.  
Permit 7-Lots Off Private Cul-de-sac  
Tax Map Key: 7-7-3:14

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 permit one (1) additional lot (resulting in a total of seven (7) lots) to be served by a private dead-end street in lieu of the required maximum of six (6) lots. The property consisting of 4.274 acres in area, is identified by tax map key 7-7-3:14 and is located on the northwest side of an adjacent to "Holualoa Estates" resubdivision, Holualoa 3rd to Kaunalumalu (middle section), North Kona, Hawaii.

This approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The subject property consisting of 4.274 acres is situated within the County Residential/Agricultural one-half (1/2) acre zoned district (RA-.5a). Given this zoning description the property is proposed to be subdivided into six (6) lots. However, there is a existing lot consisting of .540 acres, containing a existing single family dwelling between the subject property and the Mamalahoa Highway. As such, the only physical access to the subject property is a twenty (20) foot wide access easement over this existing property. Given the locations and the fact that the Mamalahoa Highway is a limited access road limit access to the subject property.

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Based on the above, there are special and unusual circumstances related to the land and access is further limited by the topography as well as other natural features.

Considering the foregoing factors, it is determined that there are special and unusual circumstances applying to the subject property which either to a degree which deprive the owner or petitioner of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use and manner of development of the subject property.

#### ALTERNATIVES

In this specific circumstance there are no reasonable alternatives to the property owner inasmuch as the only access to the property is an access easement twenty (20) feet wide over the adjacent property which is owned by someone else, as such, there are no reasonable alternatives which the petitioner could use to resolve the situation.

Attempts to create alternative access with the property owner over which the access easement exists have been unsuccessful. In this particular case, the imposition of other alternatives, which are very limited if any exist at all, is considered to deprive the owner or petitioner of substantial property rights.

#### INTENT AND PURPOSE

The intent and purpose of the minimum roadway requirements is to ensure that minimum safety standards relative to traffic, drainage, etc, are provided. The proposed non-dedicable roadway having a twenty (20) foot wide right-of-way with a sixteen (16) foot wide pavement is determined to be adequate for access purposes for the seven (7) lot subdivision rather than the maximum six (6) lots, additional traffic generated by the proposed subdivision will be minimal.

The granting of this variance shall not be construed nor used as a justification for any further variances from the maximum number of lots. Inasmuch as the proposed 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.

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As such, in review 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 Control 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.
3. Comply with all other applicable Federal, State and County rules and regulations.

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,



VIRGINIA GOLDSTEIN  
Planning Director

EC:mjs  
9542D

xc: West Hawaii Office  
Subdivision 93-12