

VAR 526

COPY

September 14, 1993

Mrs. Lori F.M. Kashimoto
P.O. Box 383517
Waikoloa, Hawaii 96738

Dear Mrs. Kashimoto:

Variance Application WH (VAR93-27)
APPLICANT: LORI F.M. KASHIMOTO
VARIANCE FROM MAXIMUM CUL-DE-SAC DENSITY REQUIREMENTS
TMK: 6-8-023: 024

After reviewing your application and the information submitted in behalf of it, the Planning Director certifies the approval of your variance request to allow the your variance request to allow a total of 23 lots to be served by a Cul-de-sac in lieu of the maximum 18 lots as required by Chapter 23 (Subdivision Code), Article 3 (Design Standards), Division 4 (Street Design), Section 23-48 (a) (Cul-de-sacs).

The subject property is at the end of Kimo-Nui Street approximately 550 feet north of the Helu Street/Kimo-Nui Street intersection in the Pheasant Ridge Subdivision in Waikoloa, South Kohala, Hawaii, TMK:6-8-023: 024.

The Planning Director has concluded that the variance request from the MAXIMUM LOTS ON A CUL-DE-SAC requirements should be approved, based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The original 41-lot Pheasant Ridge Subdivision which was approved by the Planning Department as Subdivision No. 5681 created the 18-lot cul-de-sac with three (3) lots more than one (1) acre in size.
2. The original developer had a similar variance (VARIANCE NO. 88-37) approved by the Planning Department to the south of the subject property for a four (4) lot subdivision which increased the number of lots in this cul-de-sac to twenty-one (21) lots.

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3. The subject property which consists of 52,392 square feet is zoned Single Family Residential 10,000 square feet (RS-10). This zoning density would allow the applicant to construct a total of five (5) Single Family Family dwellings on the subject property.
4. The applicant is asking for a three (3) lot subdivision of the subject property so that only three (3) Single Family Dwellings can be constructed, in effect reducing the density of the property by this subdivision action.
5. The subject property has topographical constraints along the north boundary line with approximately a 30 foot drop into a gulch system.
6. The present density and subdivision conditions are a result of governmental action and not a condition which was created unduly by the applicant for her own self interest.

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

1. The subject property has a topographical condition along the north boundary which restricted the original subdivision from extending a normal street extension design for this subdivision.
2. The present design of the approved subdivision is not a result of any actions by the applicant.
3. The land area and zoning of the property allows the applicant to submit for the proposed subdivision.

Based on the above cited considerations, there are no reasonable available solutions without excessive demands placed on the applicant when a more reasonable alternative is available by the granting of this variance application. Therefore, there are no reasonable alternatives in resolving the difficulty of the applicant.

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INTENT AND PURPOSE

1. The intent and purpose of limiting lots in a cul-de-sac is to limit the density of dead-end streets and to encourage the street design to incorporate continued street extensions and alignments to adjacent and contiguous properties.
2. The topography of the 30 foot deep gulch system along the entire north boundary of the subject property prohibits the design of an extension of Kimo-Nui Street to the adjacent property.
3. When the original subdivision was approved for the subject property, it allowed 3 lots having more than the minimum building site area permitted by the zone district. In essence, with the present zoning, a total of 5 Single Family Dwellings may be constructed on the subject property without any subdivision action.
4. With the proposed subdivision action, the applicant is actually reducing the density of the property as well as reducing the amount of traffic that could utilize the cul-de-sac.

There were no objections from any of the participating government agencies. There were also no objections from any surrounding property owners to the proposed variance request.

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 areas 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 shall comply with all other requirements of the Subdivision and Zoning Code related to this proposed subdivision.

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3. No Ohana dwelling shall be permitted or built on any of the affected lots. 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 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 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.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

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0605D

cc: Mr. Brian Nishimura
101 Aupuni Street, Suite 217
Hilo, Hawaii 96720

xc: West Hawaii Office