

CERTIFIED MAIL

April 23, 1993

Ms. Alfie Fujitani for
Adamson Buxton Co.
75-5751 Kuakini Highway
Kailua-Kona, HI 96740

Dear Ms. Fujitani:

Variance Application (V 93-7)
Applicant: Alfie Fujitani
Roadway Standards
Tax Map Key: 7-3-5:2

You are requesting that your proposed subdivision which received a variance from the water requirements of the subdivision code in 1989, now be granted a variance from the grade and road standards of the subdivision code. (You have requested time extension to the water variance as well).

Access to the three Unplanned 5-acre lots you propose would be through easements A, B, C, which comprise a 50 ft. width some 650 ft. long. Within those easements there has recently been built a 12 ft. wide private concrete driveway. The request is that this concrete driveway currently serving two other 1 acre lots be the approved access to three 5-acre size (A-5 zoned) lots with a driveway width of 16 feet.

However, the subdivision code requires that land zoned for 3 acres and larger be served by roadways with 50 ft. rights of way and agricultural standard pavement 20 ft. wide. Unplanned zones which allow a minimum lot size of 5 acres, fall into this category of road standard. The road easements which provide your future lots with access to the highway are 50 ft. wide.

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In support of the application, the applicant states that "the State did not provide fill for a County standard slope on the mauka or makai side of the roadway thereby creating an access slope steeper than the County standard."

Also, that "the resultant roadway would be so high above the existing grade . . . owners would be unable to access their property."

Having reviewed the application, the director has concluded that the application should be denied. The denial is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are no 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 to a degree which obviously interferes with the best use or manner of development of that property.

Virtually, the entire South Kona district slopes moderately to steeply down to the ocean, and into it. Accesses to land adjacent to the highway can be built to safe standards or, (more cheaply, just follow contours of the terrain.) The two lots fronting the highway being zoned and sized 1 acre each needed only a 12 ft. wide paved surface serving them. The applicant, representing the owner of the back 3 proposed lots wishes to utilize the existing paved driveway (sized for the use of two lots zoned A-1a) for the three Unplanned zone (5 acre size) lots. The standard for an Unplanned zone roadway access is 20 ft. agricultural standard pavement within a 50 ft. wide right of way.

The Department of Public Works states that the information gleaned from the topo map indicates slopes in excess of 30% in some areas. Twenty percent slopes are the maximum allowed in this relatively dry region.

The "steep driveway" situation is a self imposed condition as is "the resultant roadway (which) would be so high above the existing grade . . . owners would be unable to access their property . . .". An engineered roadway with proper grades is not considered an unreasonable effort or expense in this general area.

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ALTERNATIVES

There are reasonable alternatives to the request. In this case, the existence of a private 12 ft. wide concrete driveway is not considered to be a circumstance sufficient in its nature to warrant the granting of a variance from those standards. The present concrete driveway was the bare minimum for two lots with less than 3-a zoned property. The alternative, a 20 ft. wide agricultural standard pavement is commonplace for private non-dedicable roads in agricultural areas, and is the minimum standard for large-lot subdivisions such as the applicant's.

INTENT AND PURPOSE

The intent and purpose of the pavement width and grade requirements of the subdivision code are to ensure that subdivisions sanctioned by the county are served with an adequate and safe standard access. Land areas which can in the future be used for higher densities or for uses involving larger or more vehicles or farm equipment also are in need of adequate width pavement widths. Steep slopes (those above 20%) have an inherent danger as well. The need for safe standards of access for subdivisions is great and this situation is found to require it. Therefore, this variance request is denied.

The Director's decision is final, except that within thirty days after receipt of this letter, you may appeal the decision in writing to the Planning Commission in accordance with the following procedures:

1. Non-refundable filing fee of one hundred dollars (\$100); and
2. Ten (10) copies of a statement of the specific grounds for the appeal.

Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety days from the date of receipt of a properly filed appeal. Within sixty days after the close of the public hearing or within such longer period as may be agreed to by the appellant, the Planning Commission shall affirm, modify or reverse the Director's action. A decision to affirm, modify or reverse the Director's action shall require a majority vote of the total membership of the Planning Commission. A decision to defer action on the appeal shall require a majority vote of the Planning Commission members present at the time of the motion for deferral.

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If the Planning Commission fails to render a decision to affirm, modify, or reverse the Director's action within the prescribed period, the Director's action shall be considered as having been affirmed.

All actions of the Planning Commission are final except that, within thirty days after notice of action, the applicant or an interested party as defined in Section 25-27.2 of this article in the proceeding before the Planning Commission may appeal such action to the Board of Appeals in accordance with its rules.

All actions of the Board of Appeals are final except that they are appealable to the Third Circuit Court in accordance with Chapter 91 of the Hawaii Revised Statutes.

Should you have any questions, please feel free to contact Donald Tong of this office at 961-8288.

Sincerely,

A handwritten signature in cursive script that reads "Virginia Goldstein". The signature is written in black ink and is positioned above the typed name.

VIRGINIA GOLDSTEIN
Planning Director

DT:mjs
8760D

xc: West Hawaii Office