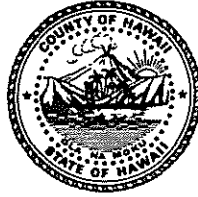


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
Z 416 228 881

October 3, 1995

Mr. Bruce E. Witcher
Reid & Associates
75-166 Kalani Street, Suite 201
Kailua-Kona, HI 96740

Dear Mr. Witcher:

Variance Permit No. 693 ✓
Applicant: Thomas Allen
Request: Variance from Maximum Number of
Lots Allowed on a Cul-de-sac
Tax Map Key: 8-7-08:08

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 allow more than eighteen (18) lots to be served from a cul-de-sac.

For the record, Chapter 23, Subdivision Control Code, Section 23-48(a) states in part:

"A cul-de-sac shall be as short as possible and shall not be more than six hundred feet in length nor serve more than eighteen (18) lots; provided that longer streets may be approved by the Director when unusual conditions exist." As such, a variance from the length of a cul-de-sac is not required.

The subject property, consisting of 56 acres, is located on the mauka side of the Hawaii Belt Road in Kahohe 4th and 5th, South Kona, Hawaii.

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The Planning Director has concluded that the variance for more than eighteen (18) lots to be served from a cul-de-sac should be approved based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject property which consists of 56 acres is situated within the County's unplanned zoned district. Under this zoning designation, the property can be subdivided into ten (10) lots having a minimum lot size requirement of five (5) acres.
2. The subject property is located at the end of an existing cul-de-sac which already provides access to more than eighteen (18) lots.
3. There are special and unusual circumstances related to the land in this particular application with respect to the fact that the property is located at the end of the fifty (50) foot wide cul-de-sac received County approval for a previous subdivision.
4. The existing private fifty (50) foot wide cul-de-sac received County approval for a previous subdivision.

Therefore, considering the foregoing facts, it is determined that there are specific or unusual circumstances applying to the subject property which exist to a degree which deprive 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

In this specific circumstance there are no reasonable alternatives to the property owner inasmuch as the only legal access to the property is over the existing fifty (50) feet cul-de-sac right-of-way. As such, there are no reasonable alternatives which the petitioner could use to resolve this specific situation.

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Attempts to create alternative access over adjacent private property would be impractical. In this particular case, the imposition of other alternatives, which are very limited if any exist at all, is considered to deprive the property 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 fifty (50) foot wide right-of-way with a twenty (20) foot wide agricultural pavement is determined adequate for access purposes for the additional lots inasmuch as a "minor" through street only requires a fifty (50) foot wide right-of-way. The granting of this variance shall not be constructed nor used as a justification for any further variances from the minimum number of lots off a private cul-de-sac, inasmuch as the cul-de-sac 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.

There were no objections from any of the participating government agencies or surrounding property owners.

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 control code and the County General Plan; and will not cause substantial adverse impact to the area's character and to adjoining properties. 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 cul-de-sac shall be kept in private ownership and the County and State shall not be responsible for any vehicular and/or pedestrian liability.
3. Comply with all other State and County Rules and regulations.

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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

EC:dmo\mjs
WP60\VAR693

xc: Subd. No. 94-016
Mr. Thomas Allen
West Hawaii Office