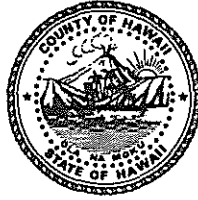


Stephen K. Yamashiro  
Mayor



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

June 19, 1996

Mr. Gregory R. Moores  
P.O. Box 1101  
Kamuela, Hawaii 96743

Dear Mr. Moores:

Variance Application WH(VAR 96-33)  
Variance No. 756  
Applicants: JOHN R. ALKIRE, ETAL  
Variance from Minimum Roadway and Water Requirements  
Tax Map Key: 6-6-002:022

After reviewing your application and the information submitted in behalf of it including comments received from consulting agencies, the Planning Director by this letter hereby certifies the approval of your variance request to allow the petitioner, JOHN R. ALKIRE, ETAL., the creation of a two lot subdivision with a substandard roadway in lieu of the minimum 20 feet pavement within a 50 feet right-of-way as required by Chapter 23, Article 3, Division 4, Section 23-41(a) and without meeting the minimum water requirements as required by Chapter 23, Article 6, Division 2, Section 23-84(1).

The subject property is located at Wailea Beach Lots, Lot 7, Lalamilo, South Kohala, Hawaii, TMK: 6-6-002: 022.

The Planning Director has concluded that the variance request from the Subdivision Code minimum roadway and water requirements should be approved based on the following:

#### SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum requirements to service the proposed two (2) lot subdivision. The applicant states in a letter dated April 18, 1996 : "To provide the improvements that the

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Department of Public Works requests, the applicant would need to acquire additional State and private land for access easements to and through the present subdivision and improve 1000 feet of roadway within the subdivision and another 905 feet of roadway to the subdivision from the Puako-Kawaihae road." In addition, the applicant states: "The applicant proposes to extend the existing six-inch water line to the southern boundary of the property with all required fire hydrants at the time that additional water meters are available. All improvements will be designed and constructed to standards developed by DWS and will be dedicated to DWS on their completion. The applicant will pay all facility charges associated with the additional meter at the time it is made available by DWS." As such, all dwellings on the proposed two (2) lots will be provided with county water via a private water system for domestic consumption as well as fire fighting purposes.

The subject area is a relatively isolated area and lacks basic infrastructural improvements. The subject area has a rural character and is not foreseen to become a major urban area. The roadway improvements which are required to subdivide the subject property into two lots are of an urban level. Given the character of the subject area and the size of the proposed subdivision, it is determined that the provision of the required roadway and improvements would impose undue hardship upon the petitioner.

Therefore, considering the foregoing issues, the Planning Director has determined that there are special and unusual circumstances applying to the subject property which exist either to a degree which deprives the applicant 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

There are no reasonable alternatives in resolving the required roadway and water system requirements. The existing government roadway off which the petitioner gains access is 16 feet wide and is in relatively poor condition. It is basically an oil-treated roadway, although at one time it provided the only access to the Puako Beach Lots. The improvements which the applicant is required to provide are of a much better quality than that of the existing government road. In addition, the applicant's present access is via an easement over State Lands. These lands are part of the proposed expansion area of the Hapuna Beach State Park. In order to provide the improvements that the Department of Public Works requests, the applicant would need to acquire additional State and private land for access easements to and through the present subdivision and improve 1000 feet of roadway within the subdivision and another 905 feet of roadway to the subdivision from the Puako-Kawaihae road.

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In addition, the subject lot is presently serviced by the Department of Water Supply via a private line from a county water meter 425 feet to the south of the subject property. To upgrade the existing County water system by the individual applicant would not be economically feasible.

The other alternative would be to drill wells to create a private water system. However, due to the limited nature of this subdivision, 2-lot subdivision, this alternative would be cost prohibitive. Also there is no assurance that adequate water would be found.

As such, the imposition of upgrading the existing public water system or the creation of a private water system in this area for the proposed two (2) lot subdivision would be putting excessive demands upon the applicant when a more reasonable alternative is available.

#### INTENT AND PURPOSE

The subject property consisting of 53,152 square feet is located within the County's Single Family Residential (RS-15) zoned district. Under this zoning designation the minimum building site area is 15,000 square feet. The applicant is proposing a two (2) lot subdivision with area not exceeding the minimum RS-15 lot size requirement of the Zoning Code.

The roadway improvements which the petitioner is required to provide are such that they would cause undue hardship. Further, the 16-foot gravel road which the is presently in use is adequate at the present time and would be in keeping with the level of the proposed subdivision.

Until the development of the State lands in the area, it may also be premature to provide an urban-level road at the present time. This would be in keeping with the General Plan which encourages the implementation of the Hapuna Beach State Park Plan.

The intent and purpose of requiring a water system in this case is to assure that adequate water system is available for domestic consumption and fire protection. In this situation, the subject property's present water system has serviced this development for many years.

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 Control Codes and the County General plan, and will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and to adjoining properties.

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This variance request to allow a 16 feet gravel roadway within a minimum 20 feet pavement within a 50 feet right-of-way as required by Chapter 23, Article 3 , Division 4, Section 23-41(a) and without meeting the minimum water requirements as required by Chapter 23, Article 6, Division 2, Section 23-84(1), is approved subject to the following conditions:

1. The applicant, his assigns or successors, shall be responsible for complying with stated conditions of approval.
2. The applicant, his assigns or successors, shall file a written agreement with the Planning Department prior to receipt of final subdivision approval containing the following stipulations and covenants which shall be duly recorded at the Bureau of Conveyances of the State of Hawaii at the expense of the subdivider:
  - a. The applicant/subdivider agrees and accepts the fact that a County dedicated public water system is not now or in the foreseeable future able to service the subdivision.
  - b. At a future date when the Department of Water Supply (DWS) is able to supply additional water meters for the subject lot, the petitioner shall extend the existing six-inch water line to the southern boundary with all the required fire hydrants. All improvements will be designed and constructed to DWS standards and will be dedicated to DWS upon completion.
  - c. In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant/subdivider shall be responsible for informing the department of the amendments or changes so that the agreement can reflect the amendments or changes; further, the written agreement shall be considered as a condition and covenant running with the land and shall be binding upon the applicant/subdivider or owner, his successors and assigns, 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 subdivider lot.
  - d. In the event that any of the lots are provided by a water service (individual meter) from the Department of Water Supply or an approved private water system, the above covenants for the specific property will no longer be in effect.

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3. That the applicant shall provide a gravel, oil-treated roadway with a 16-foot width within the easements. Portions of the roadway which exceed 8% in grade shall be paved.
4. Comply with all other applicable State and County rules and regulations, including that of the Department of Finance, Real Property Tax Division relating to Agricultural Dedication.

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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