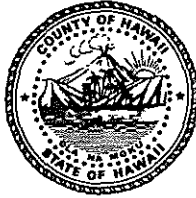


Stephen K. Yamashiro
Mayor



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

June 4, 1996

Mr. Michael S. Chagami, Treasurer
HSC, Inc.
345 Kekuanaoa Street
Hilo, HI 96720

Dear Mr. Chagami:

Variance Permit (VAR 747)
Applicant: HSC, Inc.
Variance From Section 23-93, Related to Construction
and Installation of Street Lights of Chapter 23,
Subdivision Control Code
Tax Map Key: 9-9-6:8

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request to allow a proposed forty (40) lot subdivision without meeting the requirements of Chapter 23, Subdivision Control Code, Section 23-93 related to installation of street lights.

The subject property is located at Volcano Golf and Country Club Subdivision, Unit V, Keauhou, Ka'u, Island of Hawaii, Tax Map Key: 9-9-6:8.

The Planning Director has concluded that the variance request from Section 23-93 requirement should be approved based on the following findings.

Special and Unusual Circumstances

1. The subject property is part of the Volcano Golf and Country Club Subdivision consisting of 16.7813 acres of land area.
2. There are special circumstances that interfere with development of the subject property, specifically, the interest of the Hawaii Volcanoes National Park as well as the Peregrine Fund (Hawaiian Endangered Bird Conservation Program) which operates a 150-acre bird sanctuary about a

09804

JUN 05 1996

Mr. Michael S. Chagami, Treasurer
HSC, Inc.
Page 2
June 4, 1996

mile from the proposed subdivision. They both oppose the construction of street lights within the proposed subdivision because of their interest in preserving the natural characteristics of the area as well as protecting the endangered birds environment.

3. The existing, Volcano Golf and Country Club Subdivision, Unit I through IV, consists of approximately 400 residential lots and 23 streets none of which have street lights.
4. The addition of street lights in proposed Unit V would not be consistent with the character of the area or the surrounding properties.

Therefore, considering the foregoing facts, it is determined that there are special and unusual circumstances applying to the subject property which exist either to a degree which deprive the owner or applicant(s) 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. There are no reasonable alternatives to mitigate the concerns of the national park service or the bird conservation center.
2. The subdivider, HSC, Inc., would be willing to include a restrictive deed covenant stating that all exterior house and yard lights be shrouded so as not to illuminate skyward.

Based on the above cited considerations, there are no reasonable available solutions without excessive demands placed on the applicant(s) when a more reasonable alternative is available by the granting of this variance application.

Intent and Purpose

The intent and purpose of requiring street lights within a subdivision is to assure adequate lighting. The existing 400 lot subdivision presently has no street lights. As such, the deletion of the street light requirement would not be materially detrimental to the public welfare. Rather than cause an adverse impact, deletion of the street light requirement would enhance the areas character.

Mr. Michael S. Chagami, Treasurer
HSC, Inc.
Page 3
June 4, 1996

Therefore, while the Subdivision Control Code requires street lights, in this particular case, the imposition of the street light requirement would visually and physically adversely impact adjacent properties inasmuch as the existing subdivision does not have street lights.

There was strong support to granting this specific variance request by the surrounding property owners as well as participating government agencies.


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

This variance request is approved subject to the following conditions:

1. The applicant, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The approval of this variance shall be included in the conveyances document for the subject property, including that all exterior house and yard lights be shrouded so as not to illuminate skyward and a copy of the recorded conveyance document shall be submitted to the Planning Department within one (1) year from the effective date of approval of this variance.
3. Comply with all other applicable State and County regulations.

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:mjs
F:\WP60\MICHELLE\1996\LCHAGAMI.EC

xc: West Hawaii Office