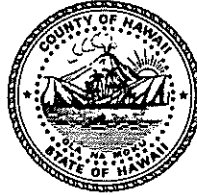


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED LETTER

P 293 080 415

August 22, 1997

Ms. Chrystal Thomas Yamasaki
Wes Thomas Associates
75-5749 Kalawa Street
Kailua-Kona, Hawaii 96740

Dear Ms. Yamasaki:

Variance Application WH(VAR 97-46)
Variance No. 847
Applicant: CHONG S. KIM
Subdivision No. 97-001
Variance from Requirements of Subdivision Code For Number of Lots Accessing
Private Dead-End Street
Tax Map Key: 7-4-003: 037

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 denies your variance request to allow the creation of a two (2) lot subdivision without meeting the Subdivision Requirement for number of lots accessing a Private Dead-End Street as required by Chapter 23 (Subdivision Code), Article 6 (Improvements), Division 2 (Improvements Required), SECTION 23-88 (Nondedicable street; private dead-end street.).

The subject property is situated at Kealakehe Homesteads, First Series and Grant 3743 to W. Kaloio, Being Portions of Lot 3, at Kealakehe, North Kona, Hawaii, Tax Map Key: 7-4-003: 037.

The Planning Director has concluded that the variance request from the Subdivision Code requirement for number of lots accessing a Private Dead-End Street should be denied based on the following:

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SPECIAL AND UNUSUAL CIRCUMSTANCES

There are no special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum requirements for the proposed two (2) lot subdivision.

On February 19, 1988, Variance No. 323 was approved for the creation of a 2-lot subdivision with only one (1) lot not being served by a water system without meeting the minimum water requirements of the County Department of Water Supply for Tax Map Key 7-4-003:024.

On March 30, 1990, Preliminary plans were submitted for an 8-lot subdivision on a 8.9 acre parcel, identified as Tax Map Key 7-4-003: 024.

On, October 23, 1990, Variance No. 414 was approved for the creation of an 8-lot subdivision with a roof catchment system, without meeting the minimum water requirements of the County Department of Water Supply for Tax Map Key 7-4-003: 024.

On May 13, 1991: Proposed subdivision was revised from eight to six lots with the following lot sizes: Lot 1 - 1.150 acres, Lot 2 - 1.0 acres, Lot 3 - 2.364 acres (Subject Property), Lot 4 - 1.0 acres, Lot 5 - 2.364 acres and Lot 6 - 1.0 acre. Lots 3 and 5 were increased in size so as to reduce the number of lots to qualify for the smaller private dead-end street requirements.

On October 9, 1991: Revised tentative approval of the preliminary plat was granted with modifications and conditions. The condition requiring the minimum 50 foot right-of-way with 20 foot pavement was removed and a new condition No. 9 stated: "Provide minimum 16-foot wide nondedicable pavement within the 20-foot wide road easement."

On May 23, 1994: Final Subdivision Approval for the six lot subdivision was granted.

On June 25, 1997: Applicant Chong S. Kim applies for a variance to allow a 2 lot subdivision without meeting the subdivision roadway requirements for the number of lots accessing a Private Dead-End Street on Tax Map Key 7-4-003: 037. Tax Map Key 7-4-003: 037 is part of the original 6-lot subdivision identified as Lot 3.

Chapter 23 (Subdivision Code), Section 23-88 (Non-dedicable street; private dead-end street.) states "(a) A private dead-end street may be established upon approval of the director. The street shall provide access to six lots or less conforming to the minimum area requirements set forth in this Chapter and shall be restricted only to residential lots and those agricultural lots zoned for less than three acres.

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The following shall be the minimum pavement and right-of-way widths:

Road Access	Pavement	Right-of-Way
1 lot	8 feet	12 feet
2 lots	12 feet	16 feet
3 lots	14 feet	18 feet
4 to 6 lots	16 feet	20 feet

(b) A private street shall be constructed in conformance with standards on file at the department of public works."

On June 25, 1997, the Applicant Chong S. Kim applied for a variance to allow a 2-lot subdivision without meeting the subdivision requirements for the number of lots accessing a Private Dead-End Street on Tax Map Key 7-4-003:037. Tax Map Key 7-4-003:037 is part of the original 6-lot subdivision identified as Lot 3.

The original 8-lot subdivision would have had to provide a minimum 20-foot wide dedicable pavement with paved shoulders and swales within minimum 50-foot wide right-of-way. After final subdivision approval and the construction of the roadway, to now include an additional 2-lots with the same roadway configuration would circumvent the subdivision rules and regulations.

Therefore, considering the foregoing the Planning Director has determined that there are no 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

The Subdivision Code is be applied and administered within the framework of the County General Plan which is a long range, comprehensive, general plan prepared to guide the overall future development of the County. Within this framework, a person desiring to subdivide land by creation of a street within the County shall submit an application for subdivision and preliminary and final plans and documents for approval as provided for in the Subdivision Code.

The initial subdivision application had contemplated an 8-lot subdivision which required a minimum 20-foot wide dedicable pavement, with paved shoulders and swales within a minimum 50-foot wide right-of-way.

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This subdivision application was revised to a 6-lot subdivision to take advantage of the private dead-end street requirements which was less than for the originally 8-lot subdivision. Therefore, the alternative of having the 8-lot subdivision was not dismissed by the lack of alternatives or the understanding of the minimum roadway requirements for an 8-lot subdivision. The revised plans for the 6-lot subdivision was done to not provide the minimum 50 foot right-of-way with 20 foot pavement. This revised plan still left the potential for an 8-lot subdivision, which the applicant is now applying for and requesting the variance from the minimum roadway requirements. These alternatives were addressed at the time of initial subdivision approval.

INTENT AND PURPOSE

The intent and purpose of the private dead-end street requirements of the Subdivision Code was to permit for the subdivision of 6 lots or less with smaller rights-of-way and pavement requirements. These are related to existing and planned streets, to topographical conditions, to public convenience and safety issues, and to the proposed use of land to be served by the street.

In this situation, the applicants had the opportunity to have the 8 lot subdivision, but decided not to and installed a private dead-end street which was only permitted for a maximum of 6 lots. In addition, if this variance application is approved, an application for the subdivision of Lot 5 to create the 8th lot would be highly likely. This being the case, the intent and purpose of the minimum standards for dead-end streets would be circumvented.

Based on the foregoing findings, this variance request would not be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan; furthermore, this variance will be materially detrimental to the public's welfare and will cause substantial adverse impact to the area's character and to adjoining properties.

This variance request is therefore denied.

Should you have any questions, please feel free to contact Royden Yamasato of this department.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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xc: West Hawaii Office
Subdivision File