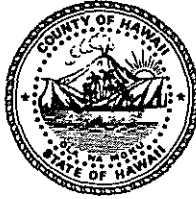


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

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

#### CERTIFIED LETTER

P 417 379 056

October 24, 1997

Mr. Dennis W. Haserot  
P.O. Box 6251  
Kamuela, Hawaii 96743

Dear Mr. Haserot:

Variance Application WH(VAR97-61)

Variance No. 866

Applicant: DENNIS W. HASEROT

Owner: ROBERT F. GREENWELL COMPANY, L.P.

Subdivision Application No. 96-061

Variance from Minimum Right-of-Way and Pavement Width and Standard for  
Nondedicable Street Requirements of Subdivision Code

Tax Map Key: 7-4-005: 002

After reviewing your application and the submittal, the Planning Director certifies the approval of your variance request to allow the creation of a two (2) lot subdivision without meeting the minimum Right-of-Way and Pavement Width and Standard for Nondedicable Street Requirements of Subdivision Code required by Chapter 23 (Subdivision Code), Article 3 (Design Standards), Division 4 (Street Design), Section 23-41 (Minimum Right-Of-Way and Pavement Widths) and Chapter 23 (Subdivision Code), Article 6 (Improvements), Division 2 (Improvements Required), Section 23-87 (Standard for Nondedicable Street; Escrow Maintenance Fund).

The subject property is at Honokohau 1st and 2nd, Lot 1-A, Being a Portion of R.P. 7587, L.C. Aw. 11216:36 and R.P. 6855, L.C. Aw. 9971:9, North Kona, Hawaii,  
TMK: 7-4-005: 002.

The Planning Director has concluded that the variance request from the Subdivision Code minimum right-of-way and pavement widths and standard for non-dedicable street requirements should be approved based on the following:

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### SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum requirements to access the proposed two (2) lot subdivision. The applicant states in a letter dated August 6, 1997: "The property has been in the family of the owner for several generations. One of the family members wishes to build a farm dwelling on a twenty acre parcel to be subdivided at the mauka reaches of the subject. Access to the building site, beginning at Mamalahoa Highway, currently consists of approximately 700 feet of 20 foot wide paving (Lot 12), 1600 feet of 12 foot wide paving (access road to Honokohau Production Well), and 3200 feet of dirt road within a 60 foot wide access easement. All of the access is owned in fee by the family.'

"Application for subdivision of the subject into two lots was made (SUB 96-061) and tentative subdivision approval has been granted for the subdivision with a condition that the access to Lot 1-A-2 conform to minimum agricultural pavement standards, from Mamalahoa Highway to the proposed lot.'

"The creation of a parcel via subdivision is necessary for the family member to finance the planned farm dwelling. They are intimately familiar and content with the access road in its current condition. Applicant intends to further subdivide lot 1-A-1 in the not-to distant future, to make other large parcels available to immediate family members. At that time they will install a water system and paved road which will serve the subject as well as the new lots. Denial of the variance would prevent the construction of the dwelling and interfere with the best use of the property."

Therefore, considering the foregoing issues, it has been determined that there are special and unusual circumstances applying to the subject property.

### ALTERNATIVES

There are no reasonable alternatives in resolving the required right-of-way and pavement widths and standard for non-dedicable street requirements. To require the applicant to meet the existing County requirements would not be economically feasible.

The other alternative would be to abandon the plans to construct the farm dwelling. However, due to the limited nature 2-lot subdivision, this alternative would discourage the permitted utilization of agricultural lands. It would also deprive the owner of substantial property rights that would otherwise be available and obviously interferes with the best use or manner of development of that property. There are no other reasonable alternatives that would resolve the difficulty.

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Chapter 23, Article 3, Section 23-40 states that the location, width, and grade of a street shall conform to the County general plan and shall be considered in its relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the street. Where the location is not shown in the County general plan, the arrangement of a street in a subdivision shall either: (a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or (b) Conform to a plan for the neighborhood which has been approved or adopted by the director to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

The Land Use Pattern Allocation Guide (LUPAG) Map designates the area as Orchards. The LUPAG Map component of the General Plan is a representation of the document's goals, policies, standards and courses of action to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationships among the various land uses. The LUPAG Map establishes the basic urban and non-urban land use pattern for areas within the County. The requested variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the County general plan and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties. In this particular instance, based on the circumstances, conformance to existing subdivision code roadway requirements are impractical.

The request therefore warrants and necessitates a waiver from the minimum requirements for the proposed two (2) lot subdivision considering its relation to existing and planned streets, to topographical conditions, to public convenience and safety, and the proposed use of land to be served by the street.

#### INTENT AND PURPOSE

The subject property consisting of 85 acres is located within the County's Agricultural (A-20a) zoned district. Under this zoning designation the minimum building site area is 20 acres. The applicant is proposing a two (2) lot subdivision consisting of Lot 1-A-1 (65 acres) and Lot 1-A-2 (20 acres).

The intent and purpose of requiring a right-of-way and pavement width and standard for nondedicable street requirements is to permit the subdivision and where necessary to give access to or permit a satisfactory future subdivision. 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. The applicant is proposing to construct a farm dwelling and therefore, in this situation, the existing 700 feet of 20 foot wide paving (Lot 12), 1600 feet of 12 foot wide

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paving (access road to Honokohau Production Well), and 3200 feet of dirt road within a 60 foot wide access easement is considered adequate for this Agricultural land.

Based on the foregoing findings, this variance request would 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 not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the areas' character and to adjoining properties.

This variance request 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 approval of this variance shall be include in the conveyance document for the subject properties and a copy of the recorded conveyance document shall be submitted to the Planning Department within a year from the effective date of approval of this variance.
3. If either lot is further subdivided, the applicant shall install a water service system meeting the requirements of the County Department of Water Supply and a paved road meeting the requirements of the Department of Public Works, Engineering Division.
4. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

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

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

EMM: rld

a:\74005002\greenwell.app

xc: West Hawaii Office

Subdivision File