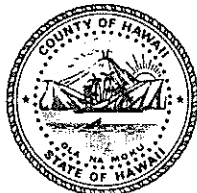


Stephen K. Yamashiro
Mayor



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) 961-8742

CERTIFIED MAIL

Z 095 324 982

December 20, 1999

Mr. Ronald H. Nagata, AIA
RONALD H. NAGATA, AIA, INC.
280 Ponahawai Street, Suite 203
Hilo, HI 96720

Dear Mr. Nagata:

VARIANCE PERMIT NO. 1079 (VAR 99-085)

Applicant: RONALD H. NAGATA, AIA, INC.

Owner: STATE OF HAWAII, UHHC

Request: Variance From Height Limit,
Pursuant to Chapter 25, Zoning,
Ratified April 6, 1999

Tax Map Key: ~~2-4-057-025~~

TMK 2-4-001:167 per CON#0363

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request. Variance Permit No. 1079 allows the addition and construction of a new classroom/office building within the existing school campus to be constructed to a maximum height of 65 feet in lieu of the 35 feet height limit as required by the Zoning Code, Chapter 25, Article 5, Division 1, Section 25-5-4, Height Limit.

FINDINGS AND RECOMMENDATION

The Planning Director has concluded that the variance to allow the additional building height and construction of the proposed building within the existing school campus should be approved based on the following findings:

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There are no reasonable alternatives in resolving the difficulty of the applicant. Alternatives available to the applicant include redesigning the building, making the building smaller, re-siting the building, and a range of other options. The re-siting and reduction of the building size is economically unreasonable and would disrupt the design, function and architecture of the proposed improvements. The location of the new building is central to the core of the facility.

The subject building for which the variance is being requested, is to be the gateway to the campus as manifested by the on-going construction which involves the re-alignment of the internal campus road and the preparation of the building site, the focal point of the campus spline plan. In this context, the building which is being planned, will exceed the 35 feet height limitation and tower above the surrounding buildings if it is to meet the programmed requirements within the designated site. There will be no visible or adverse physical impacts that would be incompatible with the surrounding building by the granting of this variance. As such, there will also be no dramatic or significant structural changes in the character of the complex of buildings on this university campus.

Based on the above, there is no reasonable area for re-siting of the building and/or redesigning of the proposed improvements without excessive cost and undesirable design changes to the applicant. Therefore, while there may be alternatives available to the applicant, they are deemed to be unreasonable and would place excessive demands on the applicant when a more reasonable alternative is available by the granting of this variance application."

6. No comments were received from the Department of Finance-Real Property Tax Office.
7. The State Department of Health (DOH) memorandum dated October 8, 1999, in the subject variance file states:

"The Health Department found no environmental health concerns with regulatory implications in the submittals."

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8. The Department of Public Works (DPW) memorandum dated October 13, 1999, in the subject variance file states in part:

"We have reviewed the subject application and have the following comment.

All new building construction shall conform to current code requirements including the requirements including the requirements for Seismic Zone 4 under the 1991 Uniform Building Code."

9. Proof of serving first and second mailing of notice to the owners and lessees of record of all lots within three hundred feet was submitted by the applicant. No objections to the variance application were received from the surrounding property owners or lessees of record.

The applicant submitted a site plan and preliminary detailed building plans, which identifies the location of existing school buildings and proposed building and related building improvements. The site plan submitted identifies the proposed building location within the existing campus core.

Therefore, considering the foregoing facts, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the applicant and owners 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.

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the maximum building height limit which do not generally apply to improvements in this same zoned district. The proposed classroom/office building is necessary to accommodate the existing campus enrollment/curriculum and become a component building within the existing cluster of buildings defining university's campus core. Pursuant to the Zoning Code, the existing university campus is permitted to expand with the Single Family Residential (RS) zone district provided it complies with the requirements established for the RS zone district.

ALTERNATIVES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum allowable height limits which do not generally apply to improvements in the this same zoned district. The proposed classroom office building will be an integral part of the University of Hawaii at Hilo's educational campus and master plan. The existing use of the property and location of original educational buildings predate the adoption of the original 1967 Zoning Code. As a result of this long term commitment to educational use and allowance of the expansion of existing educational facilities in the RS zone district, it is clear that the physical and

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design requirements for school facilities are dramatically different from the requirements for single family residential development. In order to fulfill the educational and office needs within the remaining limited areas available within the existing campus core, taller buildings have to be considered. In this particular circumstance, the proposed building's educational and office needs are necessary because of the limited buildable area within the existing campus core.

INTENT AND PURPOSE

The intent and purpose of limiting building heights to 35 feet within the Single Family Residential zoned district is to ensure that low profile neighborhoods reflective of a residential setting are created and maintained. However, the existing university buildings and campus plan was already prescribed and established over 45 years ago on the property before the adoption of the original Hawaii County Zoning Code in 1967. Subsequently, surrounding property has been acquired and committed to the expansion of the DOE and UH school systems.

The circumstances that permitted the existing building pattern and campus plan are unique. The proposed classroom/office building will be built adjacent the existing core campus core and will not detract from the character of the immediate neighborhood, public uses, and the existing and surrounding land patterns. Therefore, it is felt the proposed additional building height will not detract from the character of the immediate neighborhood or the surrounding uses.

The subject variance application was acknowledged by certified letter dated October 1, 1999.

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, the variance request 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.

This variance request is approved subject to the following conditions:

1. The applicant/owners, their assigns or successors shall be responsible for complying with all stated conditions of approval. The effective date of this permit is November 16, 1999.
2. The approval of this variance is only from the Zoning Code. The applicant/owner, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the

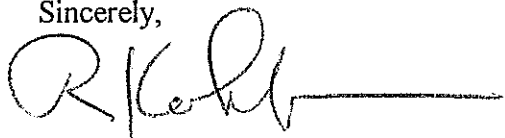
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property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.

3. The proposed classroom/office building's height will not exceed the maximum sixty-five feet (65'). The approval of this variance allows the proposed classroom/office building to be constructed on the subject property.
4. Future building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

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

WRY:gp
F:\WP60\WRY\FORMLETT\VARAPP122UHHILO

c: Real Property Tax Office

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SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject TMK property containing 33.084 acres is part of the University of Hawaii-Hilo Campus complex situated in the City of Hilo, South Hilo, Hawaii. The subject property fronts on Lanikaula, Kapiolani, and Kawili Streets.
2. The existing school uses and original campus layout was established on the TMK property prior to the adoption of the Zoning Code in 1967.
3. The University of Hawaii is proposing to construct a new classroom building which exceed the maximum 35 feet building height.
4. The site plan drawing and other detailed building drawings, drawn to scale, and submitted with the variance identifies the proposed location.
5. The written description "Attachment "1"" submitted by the applicant dated September 17, 1999 states in part:

"There are special and unusual circumstances that exist that warrant or necessitate a waiver from the maximum allowable height limits which do not generally apply to improvements in this same zoned district. The proposed 2-story classroom building will be an integral part of the University of Hawaii at Hilo educational complex. Under the zoning code, the University is permitted to expand within the Single Family Residential zone district provided it complies with the requirements established for the Single Family Residential Zone District.

As a result of the allowance of educational facilities in the Single Family Residential zone district, it is clear that the physical and design requirements for school facilities is (sic) dramatically different from the requirements for Single Family Residential development. In order to fulfill the educational functions of the design of education buildings within a complex with land limitations, taller have to be considered. In this particular circumstance, the design of the proposed classroom building warrants the increase in height because of the size and number of classrooms needed in this confined space. The applicant is attempting to provide a new classroom building unique in its own characteristic, but blending in with the existing facilities. Therefore by these considerations, the design will exceed the maximum height limitation of 35 feet.