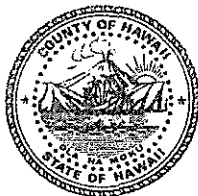


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

CERTIFIED LETTER

7099 3220 0000 4869 9484

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

March 8, 2000

Mr. Sidney Fuke
100 Pauahi Street
Suite 212
Hilo, Hawaii 96720

Dear Mr. Fuke:

Variance Application WH(VAR00-001)
Variance No. 1100
Applicants: PETER AND ANGELICA DUNGATE
Owners: PETER AND ANGELICA DUNGATE
Subdivision Application No. 99-100
Variance from Minimum Right-of-Way and Pavement Width and Requirements for
Dedicable Streets of Subdivision Code
Tax Map Key: 7-3-005:089

After reviewing your application and the submittal, the Planning Director certifies the approval of your variance request to allow a 14-lot subdivision without meeting the minimum Right-of-Way and Pavement Width and Requirements for Dedicable Streets of the 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 23-86 (Requirements for Dedicable Streets).

Please accept our sincere apologies for this tardy confirmation of the approval granted to allow the requested variance. We have been working within the department to improve the efficiency of this process which will hopefully result in more timely responses to future applications. Your patience is appreciated.

The subject property is situated at Kalaoa 4th, Lot 1, Being a Portion of Grant 1607 to Nawahie, North Kona, Hawaii, TMK: 7-3-005: 089.

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The Planning Director has concluded that the variance request from the Subdivision Code minimum right-of-way and pavement widths and Requirements for Dedicable Streets 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 of the proposed fourteen (14) lot subdivision. The Applicant states in a letter dated January 3, 2000: "The applicant intends to construct a private 20-foot roadway within a 50-foot wide right-of-way. The Subdivision Code requires the construction of a County dedicable standard roadway to service the proposed lots. This would involve a 50-foot right-of-way and 20-foot wide pavement. According to the Department of Public Works' County dedicable road standards, however, the balance of the right-of-way (shoulders and swales) would also have to be paved. It is from this portion of the requirement that the applicants are seeking relief from.

"One of the special circumstances in this instance is the topography and width of the subject property. The slope of the subject property ranges from 10-15 percent. The property is also too narrow to allow the road to meander up through the property and thereby reduce the road's grade. The topography and narrow width of the property will thus result in a road that will have a grade that while meeting County requirements - will not be less than level.

"Under that basis, full pavement of the right-of-way will result in a 50-foot wide impervious surface, as opposed to only 20 feet for only the road. Full pavement could thus potentially increase storm water runoff, impacting makai properties.

"While drywells will be installed to address potential storm water runoff resulting from the impervious surface of the new road, paving the entire right-of-way (i.e. from 20 feet to 50 feet) will increase the amount of impervious surface and necessitate the construction of more drywells. This will add considerable cost to the applicants.

"Then, too, this approach will also preclude the use of the shoulders and swales to act as a natural storm drains and/or retardations of the velocity of any potential storm water."

The Department has not received any objections from the general public or adjacent landowners.

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

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ALTERNATIVES

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

The other alternative would be to subdivide the property into less than six (6) lots, thus eliminating the County dedicable standard requirement. However, that would result in the applicants inability to utilize the property pursuant to the Single Family Residential (RS-20) zoning. It would 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.

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 Urban Expansion. Urban Expansion Area, which allows for a mix of high density, medium density, low density, industrial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. 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 fourteen (14) lot subdivision considering its relation to existing and planned

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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 7.79 acres is located within the County's Single Family Residential (RS-20) zoned district. Under this zoning designation the minimum building site area is 20,00 square feet. The applicant is proposing a fourteen (14) lot subdivision consisting of the following:

Lot 1-A	21,783 square feet
Lot 1-B	21,781 square feet
Lot 1-C	21,781 square feet
Lot 1-D	21,781 square feet
Lot 1-E	21,781 square feet
Lot 1-F	21,781 square feet
Lot 1-G	37,491 square feet
Lot 1-H	40,485 square feet
Lot 1-J	21,781 square feet
Lot 1-K	21,781 square feet
Lot 1-L	21,781 square feet
Lot 1-M	21,781 square feet
Lot 1-N	21,781 square feet
Lot 1-P	21,781 square feet

The intent and purpose of requiring a right-of-way and pavement width and requirement for dedicable 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 minimum 20-foot wide roadway within a 50-foot wide right-of-way and therefore, in this situation the non pavement of the shoulders and swales is considered adequate for this residential subdivision..

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

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public's welfare and will not cause substantial adverse impact to the areas' character and to adjoining properties.

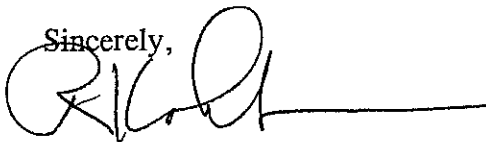
This variance request is approved, subject to the following conditions:

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. 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 Eleanor Mirikitani of this department.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

EMM: rld

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xc: West Hawaii Office
Subdivision File

Cres Rambayon, DPW Engineering (Hilo)