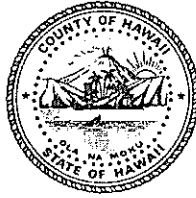


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

CERTIFIED MAIL
7099 3220 0000 4869 5233

County of Hawaii
PLANNING DEPARTMENT

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

September 13, 2000

Mr. Frank De Luz III
330 Huali Way
Hilo, Hawaii 96720

Dear Mr. De Luz:

Variance Application (VAR 00-053) VAR 1151
Applicant: Frank De Luz III
Request: Variance from Chapter 23, Subdivisions, Article 6, Div 2,
Improvements Required
Section 23-86, Requirements for Dedicable Streets
Tax Map Key: 4-3-1:2

After reviewing your application and the submittal, the Planning Director certifies the approval of your variance request to allow 10-lot subdivision without meeting the minimum Right-of-Way and Pavement Width 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). The subject property is situated at Kahoe 1st, Aamau, and Paauiolo, Hamakua, Hawaii TMK; 4-3-01:02.

The Planning Director has concluded that the variance request from the Subdivision Code minimum right-of-way and pavement widths 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 ten (10) lot subdivision. The applicant states in a letter dated June 20, 2000, the variance is consistent with the general purpose of the zoning district and the neighboring plantation camp of Paauiolo. "I will improve the existing gravel road with a 12-foot reinforced concrete roadway, which is actually, more than what the prevailing road improvements are in the neighborhood.

009931

SEP 19 2000

Mr. Frank De Luz III
Page 2
September 13, 2000

The neighboring plantation camp of Paaulo is presently being served with 8-10 foot wide roads. My intent is to provide a 12-foot road, which will have 4-inch thick fiber reinforced concrete. The 12-foot wide road would be consistent with what is presently in the area and will not be materially detrimental to the public welfare or cause substantial adverse impact to the area's adjoining properties."

Condition No.6 of the Tentative Subdivision Approval requires the private road and access easement shall be improved with minimum 32-foot wide dedicable pavement with concrete curbs, gutters and sidewalks within a minimum 50-foot right-of-way width conforming to Standard Detail R-32. The applicant is seeking a variance from this standard detail. The proposed design standard is in keeping with the immediate and surrounding areas' road rights-of-way for the plantation camps. The proposed roadway design is not only less disruptive for drainage issues, it is also aesthetically more pleasing and appropriate for this rural subdivision. Some of these same issues are presently being discussed as the County Council reviews the Subdivision Control Code.

The Department has not received any objections to this application 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.

ALTERNATIVES

There are no reasonable alternatives in resolving the required right-of-way and pavement widths. To require the applicant to meet the existing County requirements would not be economically feasible, particularly in recognizing that this subdivision is a means for distribution of holdings to heirs. 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 for the stated purpose. 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. When 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

Mr. Frank De Luz III

Page 3

September 13, 2000

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 Low Density Urban, which is residential designation for lands for single family residential use, ancillary community and public uses, and convenience type commercial uses. 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 ten (10) lot subdivision of minimum 32-foot wide dedicable pavement with concrete curbs, gutters and sidewalks within a minimum 50-foot right-of-way width conforming to Standard Detail R-32. This request is considered in 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. The owners of the lots would be able to continue any residential use of the property given the size of the parcels.

INTENT AND PURPOSE

The subject properties consisting of approximate 150 acres is located within the County's Single Family Zoned District with a minimum 7,500 square foot lot size requirement (RS-7.5).

Mr. Frank De Luz III

Page 4

August 16, 2000

The applicant is proposing a ten (10) lot subdivision consisting of the following:

Lot B-1	0.511 acres
Lot B-2	0.622 acres
Lot C	0.534 acres
Lot D	0.564 acres
Lot 15	0.405 acres
Lot 16	0.230 acres
Lot 17	0.278 acres
Lot 4-a-1	1.028 acres
Lot 4-a-2	0.895 acres
Lot 4-a-3	144.529 acres (Remainder)

The intent and purpose of requiring a right-of-way and pavement width 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 12-foot wide roadway within a 30 -foot wide right-of-way in this situation where 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 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.

Mr. Frank De Luz III

Page 5

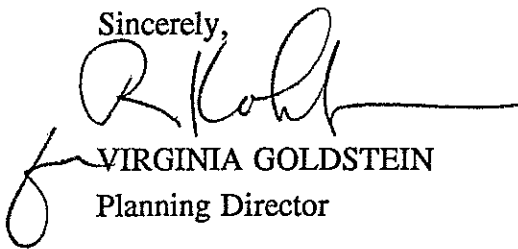
September 13, 2000

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. The approval of this variance is granted to accomplish the stated purpose of distributing holdings for the family trust to individual heirs.
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 Ed Cheplic of this department at 961-8288.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

ETC:RK:pak

P:wp60\Ed\Deluzvarfinaletc

xc: West Hawaii Office
Subdivision File-SUB 2000-0024