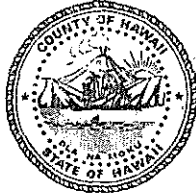


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

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

June 29, 2001

Mr. John Graham, Trustee  
Wainaku Congregation of Jehovah's Witnesses  
445 Kulana Road  
Hilo, HI 96720

Dear Mr. Graham:

**Variance Application (VAR 2001-28) (1211)**  
**Applicant: Wainaku Congregation of Jehovah's Witnesses**  
**Request: Variance From Chapter 23, Subdivisions Article 6,**  
**Division 2, Improvements Required (Roadway Improvements)**  
**Tax Map Key: 2-7-038:003 (SUB 91-168)**

After reviewing your variance application and the information submitted, the Planning Director by this letter hereby denies your variance request to allow the creation of a two (2) lot subdivision without improving the roadway to meet the minimum requirements of Chapter 23, Subdivisions, Article 6, Division 2, Improvements Required.

The Planning Director has concluded that the variance request from the Subdivision Code's minimum water system requirements should be denied based on the following findings:

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1. The subject property containing 7.184 acres is Lot 3, Paukaa Farm Lots, Being Portion of Land Patent 8335, L. C. Award 7715, Apana 16 to Lot Kamehameha, situated at Paukaa, South Hilo, Hawaii.
2. The subject property is zoned Agricultural (A-3a) by the County and is designated Agriculture "A" by the State Land Use Commission (LUC).
3. The owners have submitted a subdivision application (SUB 91-168) to subdivide the subject TMK property into two (2) lots. Tentative Approval for the proposed 2-lot subdivision application has been granted on May 13, 1992. On April 2, 2001, the applicant and owners filed a variance application and request: "to allow use of existing unpaved roads in roadway easements on Hamakua and mauka sides of property for access to proposed subdivision property".

In support of the Application, the Congregation states:

"We, the Hilo and Wainaku Congregations of Jehovah's Witnesses, would like to kindly request a road variance on our subdivision application allowing us to utilize the existing roadways for access to our proposed subdivision.

We have been trying for 12 years to get our property subdivided so that we might sell the unused portion and pay off our building loan. Time after time we have thought that we were close to getting final approval only to find out that there was something else that needed to be done first. We have so far managed to come up with the funds to meet the various conditions and requirements that have been stipulated. However, over the past several years it has become increasingly difficult to meet our monthly obligations.

Now that we have come this far in the subdivision process the issue of road access has become a roadblock to our progress. Aside from the fact that we do not have the funds to proceed with a road widening and paving project, the required expenditure would eat up a large portion of whatever we could hope to gain through the eventual sale of the property, thus, making the whole effort seem rather pointless.

Therefore, we respectfully request that consideration please be given to granting us a roadway variance to our subdivision application."

4. The Department of Public Works (DPW) memorandum, dated April 10, 2001, states in part:

"We have reviewed the subject application and our comments are as follows:

1. Our subdivision code and policies of the DPW require this type of roadway easement to be improved, as we have specified, based on the present zoning and the number of lots that this roadway services.
2. We are more concerned with the drainage complaints attributed to the drainage problems in the area. The Planning Department should not overlook the conditions of tentative approval and the recommendations of the consulting engineer's drainage study.

5. The Fire Department memorandum dated March 23, 2001 states:

"Fire apparatus access roads shall be in accordance with UFC Section 10.207:

**"Fire Apparatus Access Roads**

**"Sec. 10.207. (a) General.** Fire apparatus access roads shall be provided and maintained in accordance with the provisions of this section.

**"(b) Where Required.** Fire apparatus access roads shall be required for every building hereafter constructed when any portion of an exterior wall of the first story is located more than 150 feet from fire department vehicle access as measured by an unobstructed route around the exterior of the building.

**"EXCEPTIONS:** 1. When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of this section may be modified.

"2. When access roadways cannot be installed due to topography, waterways, nonnegotiable grades or other similar conditions, the chief may require additional fire protection as specified in Section 10.301 (b).

"3. When there are not more than two Group R, Division 3 or Group M Occupancies, the requirements of this section may be modified, provided, in the opinion of the chief, fire-fighting or rescue operations would not be impaired.

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"More than one fire apparatus road may be required when it is determined by the chief that access by a single road may be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

"For high-piled combustible storage, see Section 81.109.

"(c) **Width.** The unobstructed width of a fire apparatus access road shall meet the requirements of the appropriate county jurisdiction.

"(d) **Vertical Clearance.** Fire apparatus access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.

**"EXCEPTION:** Upon approval vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

"(e) **Permissible Modifications.** Vertical clearances or widths required by this section may be increased when, in the opinion of the chief, vertical clearances or widths are not adequate to provide fire apparatus access.

"(f) **Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities, (20 tons)

"(g) **Turning Radius.** The turning radius of a fire apparatus access road shall be as approved by the chief." (45 feet)

"(h) **Turnarounds.** All dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

"(i) **Bridges.** When a bridge is required to be used as access under this section, it shall be constructed and maintained in accordance with the applicable sections of the Building Code and using designed live loading sufficient to carry the imposed loads of fire apparatus.

"(j) **Grade.** The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief." (15%)

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“(k) **Obstruction.** The required width of any fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. Minimum required widths and clearances established under this section shall be maintained at all times.

“(l) **Signs.** When required by the fire chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.”

6. The proof of mailing of notice to the surrounding property owners within 300 feet of the perimeter boundary of the subject property was submitted by the applicant or authorized representative. No objection letters have been received.

Section 23-15 of the Subdivision Code states: “No variance will be granted unless it is found that:

- (a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant 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 that property; and
- (b) There are no other reasonable alternatives that would resolve the difficulty; and
- (c) The variance will be 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.

#### Special and Unusual Circumstances

There are no special and unusual circumstances that exist which would warrant consideration of and necessitate a variance from the minimum roadway requirements for the proposed two (2) lot subdivision. The property includes improvements, which allow the Applicant to conduct its church related activities, which have been approved by the Planning Commission. The sole reason to support the variance request is an economic one, the lack of funds to complete the required improvements; without the proposed subdivision, the Applicant is not required to improve the existing roads fronting the mauka and Hamakua property lines. Although the costs to develop the subject subdivision may be considerable, the imposition of this cost is a self generated one.

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### Alternatives

The roadway improvements, which are requirements, included in the Tentative Approval for the 2-lot subdivision is the minimum standards. These minimum requirements will also apply to any other proposed subdivision of lots along the same roadways. The existing substandard situation will be incrementally improved with each subsequent subdivision. There are no other alternatives.

### Conformance with the General Plan

Section 23-23 of the Subdivision Code requires that subdivisions shall conform to the County General Plan and shall take into consideration the existing infrastructure and any other preliminary plans to improve the surrounding areas. The Hawaii County Subdivision Code requires that the Department of Public Works requirements also be met. Without, the required improvements, the proposed subdivision will exacerbate a substandard condition.

### DETERMINATION-VARIANCE CONDITIONS

Based on the foregoing findings, the Planning Director has determined that:

1. there are no special or unusual circumstances applying to the subject property which exist either to a degree which deprives the applicant or 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;
2. there are no other alternatives;
3. the denial of 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 requested 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.

Therefore, this variance request to allow the 2 lot subdivision, to be created without meeting the road way improvement requirements listed in the Tentative Approval of May 13, 1992 is hereby denied

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Pursuant to Section 23-21 of the Subdivision Code, you may appeal this decision to the Board of Appeals within 30 days from the date of this denial. Enclosed for your use is an Application Form for such an Appeal.

Should you have any questions please contact this office.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

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