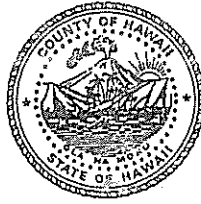


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

October 20, 2004

Mr. Rex C. Kuhlmann
P. O. Box 787
Mt. View, HI 96771

Dear Mr. Kuhlmann:

VARIANCE PERMIT NO. 1482 (VAR 04-062)

Applicant: REX C. KUHLMANN
Owner: DANETTE V. CHOI TRUST
Request: Variance from Building Height,
Chapter 25, the Zoning Code
Tax Map Key: 1-8-007:074

After reviewing your application and information submitted, the Planning Director certifies approval of your variance request subject to conditions. Variance Permit No. 1482 allows a Base/Statue (Monument) to be built having an overall maximum height of 63 feet measured from adjoining finished grade to head/crown in lieu of the 45 feet maximum height limit permitted for "all other structures" pursuant to the applicant's variance site plan map drawing. The variance request is from the minimum yard requirements of the Hawaii County Code, Chapter 25, Zoning, Article 5, Division 7, Section 25-5-73, Height limit.

BACKGROUND AND FINDINGS

Location. The subject property, Lot H containing 31.6367 acres, is a portion of Olaa Reservation Lots, and situated at Puna, Hawaii.

The TMK property is zoned Agricultural (A-5a) by the County and designated Agriculture "A" by the Land Use Commission (LUC).

Hawai'i County is an equal opportunity provider and employer.

1482
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Special Permit No. 919. The Planning Commission, on January 11, 1996, approved a "Temple and Religious Retreat" on approximately 4.50 acres or portion of subject TMK, subject to Special Permit conditions.

2. **Variance Application-Site Plan/Building Drawings.** The applicant submitted the variance application, attachments, and filing fee to the Planning Department on June 30, 2004. The variance application's site plan was prepared by the applicant and includes other detailed building drawings, drawn to scale. According to the elevation drawings, the proposed apex or overall height of the "Base" for the "Statue" or monument will exceed the maximum building height limit permitted pursuant to Chapter 25, Zoning.

3. **Agency Comments and Requirements-(VAR 04-062):**

- a. The Department of Public Works (DPW) memorandum dated August 6, 2004, states in part:

"We have reviewed the subject application forwarded by your memo dated July 13, 2004 and recommend approval of the application be conditioned as noted below.

Building permits nos. 032236, 032597, 970189 and electrical permits nos. E950083 and E971181 for the subject property have no status of inspection.

The permits should be finalized prior to the installation of the statue."

- b. The State Department of Health (DOH) memorandum dated September 29, 2004, states:

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

4. **Notice to Surrounding Property Owners.** Proof of mailing a first and second notice was submitted to the Planning Department. For the record, it appears that the first and second notice was mailed on July 2, 2004 and July 22, 2004 by the applicant.

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5. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. The following comments or objection letters from were received:
 - a. Objection letter from Charles C. Keehne received on or about July 22, 2004.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The applicant filed the variance request and application to permit construction of proposed monument or "Base" and "Statue". The site plan map and "Base" and "Statue" elevation drawings, were previously submitted for review under Plan Approval. Portions of the proposed "Statue" will exceed the maximum 45 feet height limit by approximately 18 +/- feet. The additional statue (building) height and scale of the structure is requested for historical and physical reasons related to existing temple building's overall height and temple "axis" design. The statue's 63 feet building height is necessary to complement and become part of a series of buildings or structures on an "axis", and, is required by orientation, "tradition" (according to the applicant), and spiritual reasons to be physically taller or physically "higher" than the apex of the main temple building's roof. In addition, the statue is being placed to become the focal point for the permitted use and part of the grouping of religious buildings on the property.

After considering the project's proposed location and the statue's physical relationship between existing temple buildings, property topography, the monument's scale is appropriate and complements the existing temple building's mass, scale, temple building's height, and surrounding temple or religious architecture.

ALTERNATIVES

Alternatives available to the applicant to address the proposed monument's overall building height include the following:

1. Reducing the proposed building or "Statue" height to comply with zoning height limits.
2. Rezone the property to permit the proposed building height, etc.

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INTENT AND PURPOSE

The intent and purpose to limit building height and respect other building limits on surrounding property are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and the boundary/property lines. The intent and purpose of assigning building height limits, within specific zoned designations, are to insure that building scale and view planes/public vistas and community or neighborhood character are maintained. The construction of buildings or juxtaposition of buildings permitted within a neighborhood should be appropriate, harmonious, and complimentary.

The proposed building complex will compliment existing temple buildings on the property dedicated to the study of Buddhism. It felt that the additional building height to construct the "Statue" will augment the existing temple building's axis or building arrangement and is being sited for cultural and religious purposes. The proposed monument's shape, character or building vocabulary or theme exhibits traditional building geometry, dress, gestures, etc. that are generally associated with Buddhism and/or Asian Architecture. The monument's overall height will not exceed the perimeter buffer trees or timberline planted on and along the property's perimeter or boundary lines. These perimeter trees or timberline will be maintained as a natural buffer between the buildings on the property/uses and rights-of-way for privacy.

The subject variance application was acknowledged by letter dated July 13, 2004. Additional time was required to incorporate agency comments and complete the variance background report was necessary. The applicant agreed to extend the decision date to on or before October 15, 2004.

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.

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

This variance request is approved subject to the following conditions:

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.

Mr. Rex C. Kuhlmann

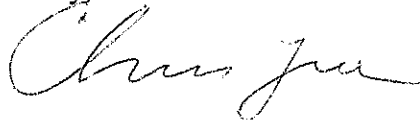
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2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of 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 applicant-owner shall apply and secure Final Plan Approval (FPA) from the County of Hawaii Planning Department to construct proposed monument (statue) in accordance with approved plans submitted with variance application. The perimeter trees planted along the property's boundary lines and existing "timberline" shall be preserved.
4. The applicant shall contact the DPW-Building Division and "finalize" or close outstanding building and construction permits issued to subject TMK property.
5. Building improvements and permitted uses on the subject tax map key (TMK) property are subject to State law and County ordinances and regulations pertaining to building construction and building occupancy. The monument-base-statue shall be constructed in accordance with approved plans and building specifications.

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

Sincerely,



CHRISTOPHER J. YUEN

Planning Director

WRY:cd

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xc: Real Property Tax - Hilo
Planning Department - Kona
Planning Department-Ministerial-Hilo
Charles C. Keehne