

Harry Kim
Mayor



Michael Yee
Director

Roy Takemoto
Managing Director

April Surprenant
Acting Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
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County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

July 14, 2020

Peter J.K. Dahlberg, P.E.
Peter J.K. Dahlberg, P.E., LLC
74-4920 Kiwi Street
Kailua-Kona, HI 96740

Dear Mr. Dahlberg:

SUBDIVISION WITHDRAWN
SUBDIVIDER: NEMO REALTY MONEY PURCHASE PENSION PLAN
(Vojtech & Mikiko Malasek, Trustees)

"Kai Subdivision"

Proposed Subdivision of Lot A-3-2, being a portion of Grant 7307,
Into Lots A-3-2a, A-3-2b, A-3-2c and A-3-2d,
Waimea, South Kohala, Island of Hawai'i, Hawai'i
TMK: 6-5-007:077 (SUB-11-001121)

On June 19, 2013 we issued Tentative Approval (TA) to this application. There has been no further action taken and the property has had a change in ownership.

Therefore, we are deeming the file **withdrawn** and removing it from process. With this action, we will also deem approved road variance VAR-13-000124 **null & void**.

Should you have any questions, please feel free to contact Hans Santiago at hans.santiago@hawaiicounty.gov or Jonathan Holmes at jonathan.holmes@hawaiicounty.gov.

Sincerely,


MICHAEL YEE
Planning Director

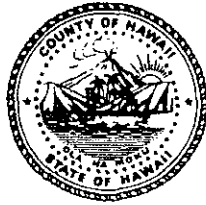
JRH:tb

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Peter J.K. Dahlberg, P.E.
Peter J.K. Dahlberg, P.E., LLC
July 14, 2020
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xc: Manager, DWS
 Director, DPW
 District Environmental Health Program Chief, DOH
 Planning Department-Kona
 VAR-13-000124 (N/V)
 G. Bailado, GIS Section (VAR N/V)

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

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May 1, 2013

Peter J.K. Dahlberg, P.E., LLC
Civil Engineer
73-5612 Kauhola Street, Unit 6
Kailua-Kona, HI 96740

Dear Mr. Dahlberg:

SUBJECT: **Application:** **VARIANCE DECISION VAR-13-000124**
 Agent: **PETER J.K. DAHLBERG, P.E., LLC**
 Applicants: **NEMO REALTY, INC., MPP PLAN**
 Owners: **NEMO REALTY, INC., MPP PLAN**
 Request: **Variance from Chapter 23, Subdivisions, Article 3, Division 4 Street**
 Design, Section 23-41, Minimum Right-of-Way and Pavement
 Widths; Article 6, Division 2, Improvements Required, Section 23-
 86, Standard for Dedicable Street; and Section 23-95, Right-of-Way-
 Improvement
Tax Map Key: **6-5-007:077 (SUB-11-001121)**

Upon review of your variance application, the Planning Director certifies the **approval** of Variance VAR-13-000124 subject to variance conditions. The variance grants relief for SUB-11-001121 from constructing roadway improvements required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions).

The variance is from the proposed subdivision's minimum requirements pursuant to HCC, Chapter 23 (Subdivisions), Article 3, Division 4, Section 23-41, Minimum right-of-way and pavement widths; Article 6, Division 2, Improvements Required, Section 23-86, Standards for dedicable street; and Section 23-95, Right-of-way improvement.

BACKGROUND

1. **Location.** The referenced TMK property, Lot A-3-2, being a portion of Grant 7307, containing approximately 42,636 square feet, is situated in the Waimea Homesteads, South Kohala, Hawai'i.
2. **County Zoning.** Village Commercial (CV-7.5).

3. **State Land Use.** Urban (U).
4. **County General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as Medium Density Urban (mdu).
5. **Subdivision Request/PPM.** Subdivision application SUB-11-001121 was submitted to subdivide the subject TMK property into 4 lots. Further action on the subdivision application has been deferred pursuant to variance application acknowledgement letter dated March 4, 2013 in the variance file.
6. **Subdivision Code Minimum Roadway Requirements.** Construct minimum 42-foot wide dedicable pavement within a minimum 60-ft wide right-of-way with curbs, gutters and sidewalks conforming to Department of Public Works (DPW) Standard Detail (Std. Det.) R-32.
7. **Variance Application.** The variance request from minimum subdivision code roadway improvements was acknowledged by Planning Department letter dated March 4, 2013. This variance application includes background history and circumstances and information regarding the pending subdivision application. The applicant proposes full improvement to the existing 30 foot wide access easements including 26 feet of travel way with an integral concrete gutter within the travel way and an additional 4 feet of paved walking area. This would be an in-kind extension of the existing roadway leading to the subdivision.
8. **Variance Application (VAR-13-000124) Agency Comments and Requirements.**
 - a. The State of Hawai'i Department of Health (DOH): see attached memorandum dated March 8, 2013.
 - b. The County of Hawai'i Fire Department (HFD): see attached memorandum dated March 19, 2013.
 - c. The Department of Public Works (DPW) did not comment on this variance application as of this date. Reference is made, however, to their January 3, 2012 memorandum in response to Subdivision Application SUB-11-001121 (attached).
 - d. No other agency comments were solicited and none were received.
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted an affidavit regarding notice of variance application mailed to a list of surrounding property owners. According to the affidavit dated March 18, 2013 and other submittals in the variance application file, notice of variance was mailed on or about March 8, 2013. An affidavit dated April 19, 2013 states that a sign was posted upon subject TMK property. A photograph of the posted sign was also submitted.
10. **Comments from Surrounding Property Owners or Public.** Objection to the application (attached) was received from John R. Dwyer, Jr. of Dwyer, Schraff, Meyer, Grant and Green, Attorneys at Law on

behalf of R & T Properties, owners of TMK 6-5-007:047, a surrounding property. The concern was that additional users of the non standard-width access might exceed its capacity.

ANALYSIS OF GROUNDS FOR VARIANCE

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.***

The Variance Application meets criterion (a) for the following reason(s):

On April 29, 2010, variance VAR-09-053 was granted to allow alternative roadway improvements to be constructed to allow subdivision FSA-SUB-08-000821. The roadway section in the construction plans (attached) proposed 26 feet of travel way with an integral concrete gutter within the travel way and an additional 4 feet of paved walking area.

This alternative roadway is similar to a nondedicable street as described in Section 23-88 of the subdivision code. Although not a residential lot or an agricultural lot less than 3 acres, it is still in keeping with the small-town, rural character of the area.

There exists an approved and constructed alternative roadway within the total 30 feet wide access easements leading from the Kawaihae Road to the subject lot. To require the applicant to obtain additional right-of-way width from others and to construct the minimum required pavement, curbs, gutters and sidewalks would be overly burdensome and out of character in light of the existing improvements leading from the Kawaihae Road to this subdivision.

- (b) ***There are no other reasonable alternatives that would resolve the difficulty.***

The Variance Application meets criterion (b) for the following reason(s):

Providing 42-foot wide dedicable pavement and full right-of-way improvements with curbs, gutters and sidewalks for this small-town, rural subdivision roadway is not in keeping with the character of the area. The proposed alternative roadway is an extension of a previously permitted private, dead-end street. This is a very low speed driveway-like roadway. To require acquisition of additional right-of-way width and full improvements would be unreasonable as this is not a through street and a 26 foot wide travel way is sufficient for two way traffic.

Furthermore, vehicular parking will not be allowed within this right-of-way.

- (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.***

The Variance Application meets criterion (c) for the following reason(s):

Although this is a commercially zoned development, overly wide paving and curb, gutter and sidewalk improvement would not be in keeping with the area's character as a rural, small-town neighborhood nor with the existing improvements of which this is simply an in-kind extension.

Furthermore, it is found that this variance will not be materially detrimental to the public's welfare (not a thoroughfare) and will not cause substantial adverse impact to the area's character (rural, small-town) and to adjoining properties (roadway to match existing).

DETERMINATION-VARIANCE CONDITIONS

The variance requested, to allow the proposed 4-lot subdivision of the subject property utilizing the proposed, in-kind extension of the existing privately-owned alternative roadway improvements (26 foot wide paved travel way with integral concrete gutter and 4 foot wide paved walking area), is hereby **approved** subject to the following variance conditions:

1. The applicant, owners, their assigns, or successors shall be responsible for complying with all stated conditions of approval.
2. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
3. Submit alternative roadway improvement construction plans for review and approval by the affected agencies, including the HFD.
4. The owners, their assigns, or successors shall file a written agreement document with the Planning Department within one (1) year from the issuance of tentative subdivision approval. This written agreement shall contain deed language, being covenants, conditions, and restrictions affecting the lots created by the proposed subdivision which are serviced by a privately-owned alternative roadway.

The lot owners, grantees, successors, and assigns agree to form a road maintenance association and/or pay their fair share to maintain the roadway within the private right-of-ways.

The agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawai'i by the Planning Department at the cost and expense of the owners. The recorded agreement shall be incorporated as an exhibit and made part of each agreement of sale, deed, lease, or similar documents affecting the title of the existing property or approved subdivided lots.

5. The subdivider and all grantees, successors, and assigns acknowledge that the parcels were created by a variance from the normal subdivision requirements of Hawai'i County, and that there are no longer special or unusual circumstances applying to the property which deprive the owners of substantial property rights or to a degree which obviously interferes with the best use or manner of development of the properties, and hence, no grounds exist or will exist for a variance from the Subdivision Code to permit further subdivision of the properties, and that changes in the owners' personal or financial situation after acquiring the properties also will not constitute grounds for a variance from the Subdivision Code to permit further subdivision of the properties.
6. The subdivider, owners, their assigns, or successors understand that they will use and maintain the roadway on their own without any expectation of governmental assistance to maintain the improvements.
7. The owners, grantees, successors, and assigns shall indemnify and defend the State of Hawai'i or County of Hawai'i from any and all liability arising out of vehicular access to and from the subject properties utilizing the private right-of-ways.
8. Upon written demand of the County of Hawai'i, the applicant and/or owners, their assigns, or successors shall agree to participate and pay their fair share percentage of any improvement district adopted for the purpose of roadway improvements serving the proposed lot(s) arising out of SUB-11-001121. Should the improvement district require acquisition of any privately owned right-of-ways fronting the lots, such right-of-ways shall be dedicated to the County without cost and the value of the dedication credited to the fair share contribution of the respective lot owner(s).
9. The pending subdivision application's (SUB-11-001121) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code not covered by this variance.
10. The subdivider, owner(s), their assigns or successors shall pay any outstanding real property taxes and comply with all other applicable State statutes and County ordinances pertaining to building improvements and land use.

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

Peter J.K. Dahlberg, P.E., LLC
Civil Engineer
Page 6
May 1, 2013

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

Any questions may be directed to Jonathan Holmes at (808) 961-8146, or jholmes@hawaiicounty.gov

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH:nci

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Enclosures: Agency Comments, etc.

xc: DPW-Engineering Branch
SUB-11-001121

xc w/enclosures: Nemo Realty, Inc. c/o
Volta Malasek Trust, et al.
P.O. Box 2710
Kamuela, HI 96743

Gilbert Bailado, GIS Section (via email)

PLANNING DEPARTMENT
William F. Kenol
Mayor

2013 MAR 11 09:31



County of Hawaii
HAWAII FIRE DEPARTMENT
25 Anapala Street • Room 2501 • Hilo, Hawaii 96720
(808) 933-2900 • Fax (808) 933-2928

Darren J. Rosario
Fire Chief
Renwick J. Victorino
Deputy Fire Chief

March 19, 2013

TO: BJ LEITHEAD TODD, PLANNING DIRECTOR
FROM: DARREN J. ROSARIO, FIRE CHIEF
SUBJECT: VARIANCE APPLICATION (VAR 13-000124)
AGENT: PETER J.K. DAHLBERG, P.E., LLC.
APPLICANT/OWNER: NEMO REALTY, INC., MPP PLAN
REQUEST: VARIANCE FROM CHAPTER 23, SUBDIVISIONS, ARTICLE 3,
DIVISION 4, STREET DESIGN, SECTION 23-41, MINIMUM RIGHT-OF-WAY
AND PAVEMENT WIDTHS, ARTICLE 6, DIVISION 2, IMPROVEMENTS
REQUIRED, SECTION 23-86, STANDARD FOR DEDICABLE STREET; AND
SECTION 23-95, RIGHT-OF-WAY IMPROVEMENT
TAX MAP KEY: 6-5-007-077 (SUB 11-001121)

In regards to the above-mentioned Variance application, the following shall be in accordance:

NFPA 1, UNIFORM FIRE CODE, 2006 EDITION

Note: NFPA 1, Hawaii's State Fire Code with County amendments. County amendments are identified with a preceding "C-" of the reference code.

Chapter 18 Fire Department Access and Water Supply

18.1 General. Fire department access and water supplies shall comply with this chapter.

For occupancies of an especially hazardous nature, or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, or areas where there is an inadequate fire flow, or inadequate fire hydrant spacing, and the AHJ may require additional safeguards including, but not limited to, additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved.

18.1.1 Plans.

18.1.1.1 Fire Apparatus Access. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

18.1.1.2 Fire Hydrant Systems. Plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.



Hawaii's County is an Equal Opportunity Provider and Employer.

084225

NEIL ABERCROMBIE
GOVERNOR
PLANNING DEPARTMENT

2013 MAR 11 09:11:01



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

LORETTA J. FUDDY, A.C.S.W., M.P.H.
Director of Health

MEMORANDUM

DATE: March 8, 2013
TO: Bobby Jean Leithead Todd
Planning Director, County of Hawaii
FROM: Newton Inouye
District Environmental Health Program Chief
SUBJECT: Application: VARIANCE (VAR-13-000124)
Agent: PETER J.K. DAHLBERG, P.E., LLC
Applicants: NEMO REALTY, INC., MPP PLAN
Owners: NEMO REALTY, INC., MPP PLAN
Request: Variance from Chapter 23, Subdivisions, Article 3,
Division 4 Street Design, Section 23-41, Minimum Right-
of-Way and Pavement Widths; Article 6, Division 2,
Improvements Required, Section 23-86, Standard for
Dedicable Street; and Section 23-95, Right-of-Way-
Improvement
Tax Map Key: 6-5-007-077 (SUB-11-001121)

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

083976

WORD: Application: VAR-13-000124.db

18.2.3.1.4 When fire department access roads cannot be installed due to location on property, topography, waterways, nonnegotiable grades, or other similar conditions, the AHJ shall be authorized to require additional fire protection features.

18.2.3.2 Access to Building.

18.2.3.2.1 A fire department access road shall extend to within 50 ft (15 m) of at least one exterior door that can be opened from the outside that provides access to the interior of the building. Exception: 1 and 2 single-family dwellings.

18.2.3.2.1.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.1 shall be permitted to be increased to 300 feet.

18.2.3.2.2 Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire department access roads as measured by an approved route around the exterior of the building or facility.

18.2.3.2.2.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R, the distance in 18.2.3.2.2 shall be permitted to be increased to 450 ft (137 m).

18.2.3.3 Multiple Access Roads. More than one fire department access road shall be provided when it is determined by the AHJ that access by a single road could be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access.

18.2.3.4 Specifications.

18.2.3.4.1 Dimensions.

C- 18.2.3.4.1.1 FDAR shall have an unobstructed width of not less than 20ft with an approved turn around area if the FDAR exceeds 150 feet. Exception: FDAR for one and two family dwellings shall have an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within 150 feet of the structure being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

C- 18.2.3.4.1.2 FDAR shall have an unobstructed vertical clearance of not less than 13ft 6 in.

C- 18.2.3.4.1.2.1 Vertical clearances may be increased or reduced by the AHJ, provided such increase or reduction does not impair access by the fire apparatus, and approved signs are installed and maintained indicating such approved changes.

C- 18.1.1.2.1 Fire Hydrant use and Restrictions. No unauthorized person shall use or operate any Fire hydrant unless such person first secures permission or a permit from the owner or representative of the department, or company that owns or governs that water supply or system. Exception: Fire Department personnel conducting firefighting operations, hydrant testing, and/or maintenance, and the flushing and acceptance of hydrants witnessed by Fire Prevention Bureau personnel.

18.2 Fire Department Access.

18.2.1 Fire department access and fire department access roads shall be provided and maintained in accordance with Section 18.2.

18.2.2* Access to Structures or Areas.

18.2.2.1 Access Box(es). The AHJ shall have the authority to require an access box(es) to be installed in an accessible location where access to or within a structure or area is difficult because of security.

18.2.2.2 Access to Gated Subdivisions or Developments. The AHJ shall have the authority to require fire department access be provided to gated subdivisions or developments through the use of an approved device or system.

18.2.2.3 Access Maintenance. The owner or occupant of a structure or area, with required fire department access as specified in 18.2.2.1 or 18.2.2.2, shall notify the AHJ when the access is modified in a manner that could prevent fire department access.

18.2.3 Fire Department Access Roads. (*may be referred as FDAR)

18.2.3.1 Required Access.

18.2.3.1.1 Approved fire department access roads shall be provided for every facility, building, or portion of a building hereafter constructed or relocated.

18.2.3.1.2 Fire Department access roads shall consist of roadways, fire lanes, parking lots lanes, or a combination thereof.

18.2.3.1.3* When not more than two one- and two-family dwellings or private garages, carports, sheds, agricultural buildings, and detached buildings or structures 400ft² (37 m²) or less are present, the requirements of 18.2.3.1 through 18.2.3.2.1 shall be permitted to be modified by the AHJ.

18.2.3.4.6.3 Fire department access roads connecting to roadways shall be provided with curb cuts extending at least 2 ft (0.61 m) beyond each edge of the fire lane.

18.2.3.4.7 Traffic Calming Devices. The design and use of traffic calming devices shall be approved the AHJ.

18.2.3.5 Marking of Fire Apparatus Access Road.

18.2.3.5.1 Where required by the AHJ, approved signs or other approved notices shall be provided and maintained to identify fire department access roads or to prohibit the obstruction thereof of both.

18.2.3.5.2 A marked fire apparatus access road shall also be known as a fire lane.

18.2.4* Obstruction and Control of Fire Department Access Road.

18.2.4.1 General

18.2.4.1.1 The required width of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles.

18.2.4.1.2 Minimum required widths and clearances established under 18.2.3.4 shall be maintained at all times.

18.2.4.1.3* Facilities and structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations.

18.2.4.1.4 Entrances to fire departments access roads that have been closed with gates and barriers in accordance with 18.2.4.2.1 shall not be obstructed by parked vehicles.

18.2.4.2 Closure of Accessways.

18.2.4.2.1 The AHJ shall be authorized to require the installation and maintenance of gates or other approved barricades across roads, trails, or other accessways not including public streets, alleys, or highways.

18.2.4.2.2 Where required, gates and barricades shall be secured in an approved manner.

18.2.3.4.1.2.2 Vertical clearances shall be increased when vertical clearances or widths are not adequate to accommodate fire apparatus.

C- 18.2.3.4.2 Surface. Fire department access roads and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shall be comprised of an all-weather driving surface.

18.2.3.4.3 Turning Radius.

C- 18.2.3.4.3.1 Fire department access roads shall have a minimum inside turning radius of 30 feet, and a minimum outside turning radius of 60 feet.

18.2.3.4.3.2 Turns in fire department access road shall maintain the minimum road width.

18.2.3.4.4 Dead Ends. Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

18.2.3.4.5 Bridges.

18.2.3.4.5.1 When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with county requirements.

18.2.3.4.5.2 The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

18.2.3.4.5.3 Vehicle load limits shall be posted at both entrances to bridges where required by the AHJ.

18.2.3.4.6 Grade.

C- 18.2.3.4.6.1 The maximum gradient of a Fire department access road shall not exceed 12 percent for unpaved surfaces and 15 percent for paved surfaces. In areas of the FDAR where a Fire apparatus would connect to a Fire hydrant or Fire Department Connection, the maximum gradient of such area(s) shall not exceed 10 percent.

18.2.3.4.6.2* The angle of approach and departure for any means of fire department access road shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m) or the design limitations of the fire apparatus of the fire department, and shall be subject to approval by the AHJ.

18.3.5 Private water supply systems shall be tested and maintained in accordance with NFPA 25 or county requirements as determined by the AHJ.

18.3.6 Where required by the AHJ, fire hydrants subject to vehicular damage shall be protected unless located within a public right of way.

18.3.7 The AHJ shall be notified whenever any fire hydrant is placed out of service or returned to service. Owners of private property required to have hydrants shall maintain hydrant records of approval, testing, and maintenance, in accordance with the respective county water requirements. Records shall be made available for review by the AHJ upon request.

C- 18.3.8 Minimum water supply for buildings that do not meet the minimum County water standards:

Buildings up to 2000 square feet, shall have a minimum of 3,000 gallons of water available for Firefighting.

Buildings 2001 - 3000 square feet, shall have a minimum of 6,000 gallons of water available for Firefighting.

Buildings, 3001 - 6000 square feet, shall have a minimum of 12,000 gallons of water available for Firefighting.

Buildings, greater than 6000 square feet, shall meet the minimum County water and fire flow requirements.

Multiple story buildings shall multiply the square feet by the amount of stories when determining the minimum water supply.

Commercial buildings requiring a minimum fire flow of 2000gpm per the Department of Water standards shall double the minimum water supply reserved for firefighting.

Fire Department Connections (FDC) to alternative water supplies shall comply with 18.3.8 (1)-(6) of *this code*.

NOTE: In that water catchment systems are being used as a means of water supply for firefighting, such systems shall meet the following requirements:

(1) In that a single water tank is used for both domestic and firefighting water, the water for domestic use shall not be capable of being drawn from the water reserved for firefighting;

18.2.4.2.3 Roads, trails, and other accessways that have been closed and obstructed in the manner prescribed by 18.2.4.2.1 shall not be trespassed upon or used unless authorized by the owner and the AHJ.

18.2.4.2.4 Public officers acting within their scope of duty shall be permitted to access restricted property identified in 18.2.4.2.1.

18.2.4.2.5 Locks, gates, doors, barricades, chains, enclosures, signs, tags, or seals that have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with, or otherwise vandalized in any manner.

18.3 Water Supplies and Fire Hydrants

18.3.1* A water supply approved by the county, capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities or buildings, or portions thereof, are hereafter constructed, or moved into or within the county. When any portion of the facility or building is in excess of 150 feet (45 720 mm) from a water supply on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the AHJ. For on-site fire hydrant requirements see section 18.3.3.

EXCEPTIONS:

1. When facilities or buildings, or portions thereof, are completely protected with an approved automatic fire sprinkler system the provisions of section 18.3.1 may be modified by the AHJ.
2. When water supply requirements cannot be installed due to topography or other conditions, the AHJ may require additional fire protection as specified in section 18.3.2 as amended in the code.
3. When there are not more than two dwellings, or two private garage, carports, sheds and agricultural. Occupancies, the requirements of section 18.3.1 may be modified by AHJ.

18.3.2* Where no adequate or reliable water distribution system exists, approved reservoirs, pressure tanks, elevated tanks, fire department tanker shuttles, or other approved systems capable of providing the required fire flow shall be permitted.

18.3.3* The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on a fire apparatus access road on the site of the premises or both, in accordance with the appropriate county water requirements.

18.3.4 Fire Hydrants and connections to other approved water supplies shall be accessible to the fire department.

greater than 2000square feet, but less than 3000 square feet and meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 500 feet.

- (5) For buildings with an approved automatic sprinkler system, the minimum water supply required may be modified.

If there are any questions regarding these requirements, please contact the Fire Prevention Bureau at (808) 932-2912.



DARREN J. ROSARIO
Fire Chief

KJ/lc

- (2) Minimum pipe diameter sizes from the water supply to the Fire Department Connection (FDC) shall be as follows:

- (a) 4" for C900 PVC pipe;
- (b) 4" for C906 PE pipe;
- (c) 3" for ductile Iron;
- (d) 3" for galvanized steel.

- (3) The Fire Department Connection (FDC) shall:

- (a) be made of galvanized steel;
- (b) have a gated valve with 2-1/2 inch, National Standard Thread male fitting and cap;
- (c) be located between 8 ft and 16 ft from the Fire department access.
The location shall be approved by the AHJ;
- (d) not be located less than 24 inches, and no higher than 36 inches from finish grade, as measured from the center of the FDC orifice;
- (e) be secure and capable of withstanding drafting operations. Engineered stamped plans may be required;
- (f) not be located more than 150 feet of the most remote part, but not less than 20 feet, of the structure being protected;
- (g) also comply with section 13.1.3 and 18.2.3.4.6.1 of *this code*;

- (4) Commercial buildings requiring a fire flow of 2000gpm shall be provided with a second FDC. Each FDC shall be independent of each other, with each FDC being capable of flowing 500gpm by engineered design standards. The second FDC shall be located in an area approved by the AHJ with the idea of multiple Fire apparatus' conducting drafting operations at once, in mind.

- (5) Inspection and maintenance shall be in accordance to NFPA 25.

- (6) The owner or lessee of the property shall be responsible for maintaining the water level, quality, and appurtenances of the system.

EXCEPTIONS TO SECTION 18.3.8:

- (1) Agricultural buildings, storage sheds, and shade houses with no combustible or equipment storage.
- (2) Buildings less than 800 square feet in size that meets the minimum Fire Department Access Road requirements.
- (3) For one and two family dwellings, agricultural buildings, storage sheds, and detached garages 800 to 2000 square feet in size, and meets the minimum Fire Department Access Road requirements, the distance to the Fire Department Connection may be increased to 1000 feet.
- (4) For one and two family dwellings, agricultural buildings, and storage sheds

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March 27, 2013

By email: planning@co.hawaii.hi.us and
Regular Mail

Ms. Bobby Jean Leithhead-Todd, Director
County of Hawaii, Planning Department
101 Pauahi Street, Suite 3
Aupuni Center
Hilo, Hawaii 96720

Re: Subject: Variance Application "Kai Subdivision"
Proposed Subdivision of Lot A-3-2 (SUB-11-001121)
TMK: (3) 6-5-007:077
Owner: Nemo Realty Inc Money Purchase Pension (MPP) Plan
POB 2710, Kamuela, HI 96743

Dear Ms. Leithhead-Todd:

We represent R&T Properties (Waimea), Inc. ("R&T Properties"), the owner of the fee simple interest of the property located at 65-1290 Kawaihae Road in Kamuela, Hawaii (Tax Map Key No. (3) 6-5-007:047. By email dated March 8, 2013, Mr. Peter Dahlberg, P.E., notified R&T Properties, on behalf of Nemo Realty Inc. Money Purchase Pension (MPP) Plan ("Nemo Realty"), that Nemo Realty had submitted to your office a Variance Application relating to Lot A-3-2 (SUB-11-001121, Tax Map Key No. (3) 6-5-007:077. As we understand it, the Application seeks a variance from the Hawaii County Code width requirements of the Easement/Right-of-Way ("Easement") that crosses the property of R&T Properties.

That notice indicated that you would be rendering a decision on that Application and that the deadline for submitting written public comments will be March 28, 2013. Please consider this as the comments of R&T Properties.

We understand that the minimum right-of-way width for the development contemplated or proposed by Nemo Realty is greater than the existing 20-foot wide Easement that crosses our client's land. Unfortunately, after exchanging email correspondence and then speaking with Mr. Dahlberg, R&T Properties has been unable to determine the type or even the nature of the contemplated subdivision (i.e., single family residential/condominium – or commercial?), or the

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PLANNING DEPARTMENT
2012 JUN -3 PM 3:19

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

Memorandum

Date: January 3, 2012

TO: PLANNING DEPARTMENT

FROM: ^{CLR}_{for} DEPARTMENT OF PUBLIC WORKS

SUBJECT: SUBDIVISION: SUB-11-001121
Subdivider: Nemo Realty Money Purchase Pension Plan (Vojtech & Mikiko Malasek, Trustees)
Location: Waimea, S. Kohala, Hawaii
TMK: 6-5-007:077
Folder No.: 65100-A2

We have reviewed the preliminary plat map and have the following comments:

- §23-30. Identify all watercourses and drainageways and encumber with drainage easements.
- §23-88. For existing Road and Utility Easements E-1 and E-2, and existing Road Easement C, construct minimum 42-ft wide dedicable pavement within a minimum 60-ft wide right-of-way with curbs, gutters and sidewalks conforming to Std. Det. R-32.
- §23-48. The cut-de-sac shall terminate with a turnaround meeting the requirements of the Planning Department.
- §23-50. Roadway design, including allowable street grades and minimum sight distance requirements, shall conform to the standards of the code.
- §23-54. Utility poles shall be located in the road right-of-way as shown on DPW Std. Det. R-35 (Revised). The developer shall contact the utility companies to determine the width and location of any required easements and shall show the easements on the final plat.
- §23-93. Install streetlights/signs/pavement markings as required by the Traffic Division.
- §23-79. Submit construction plans and drainage report for review and comment.
 - §23-92. Additional storm runoff due to development shall be disposed within the subdivision and shall not be discharged onto adjacent properties or roadways.

Questions may be referred to Carter Romero at 961-8327.

CLR

cc: ENG-KON

076125

Ms. Bobby Jean Leithead-Todd
 March 27, 2013
 Page 2

number and size of the lots that are planned or might be developed. Consequently, given the existing traffic flow issues involving vehicles entering and exiting the properties and the limited width of the Easement (for ingress and egress purposes), a variance could materially overburden the Easement, depending on the nature and specifics of Nemo Realty's plans.

Thus, we believe that a decision at this time by the County of Hawaii Planning Department would be premature. We ask that the Planning Director withhold the approval of the Variance Application until Mr. Dahlberg or his client is in a position to and notifies the Planning Department (and all persons required to be notified by the Hawaii County Code) as to the nature and extent of his client's planned development. Otherwise, neither we nor the Planning Director will be able to determine if the plans of Mr. Dahlberg's client should be considered to be simply the proper enjoyment of the servitude, or whether the planned use will exceed the scope of this limited width Easement.

Thank you.

Aloha,
 DWYER SCHAFF MEYER GRANT & GREEN

John K. Dwyer, Jr.
 John K. Dwyer, Jr.

cc: Client
 Mr. Peter Dahlberg, P.E.

