William P. Kenoi

Fax (808) 327-3563

County of Hawai'i

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770

County of

Duane Kanuha Director

Bobby Command

Deputy Director

East Hawar i Office 101 Panahi Street, Suite 3 Hilo, Hawarii 96720 Phone (808) 961-8288 Fax (808) 961-8742

January 23, 2015

Michael W. and Kathleen M. Smiley 3721 Dawes Drive Ames, Iowa 50010

Dear Mr. & Ms. Smiley:

SUBJECT:

Application:

**VARIANCE DECISION VAR-14-000259** 

Applicants: Owners:

MICHAEL W. & KATHLEEN M. SMILEY MICHAEL W. & KATHLEEN M. SMILEY

Request:

Variance from Chapter 23, Subdivisions, Article 6, Improvements,

Division 2, Improvements Required, Section 23-88, Non-Dedicable

Street; Private Dead-End Street (# of Lots Served By)

Tax Map Key:

3-5-010:004

(SUB-14-001422)

Upon review of your variance application, the Planning Director certifies the **approval** of Variance VAR-14-000259 subject to variance conditions. The variance grants relief for SUB-14-001422 from the maximum number of lots served as required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions).

The variance is from the proposed subdivision's maximum limits pursuant to HCC, Chapter 23 (Subdivisions), Article 3, Design Standards, Division 4, Street Design, Section 23-48, Cul-de-sacs (maximum number of lots).

#### **BACKGROUND**

- 1. **Location.** The referenced TMK property, Lot 4, Laupāhoehoe Seacliffs Subdivision, being also a Portion of Grant 908, containing an area of approximately 0.72 acres (31,363 sq. ft.), is situated at Kihalani, North Hilo, Hawai'i.
- 2. County Zoning. Residential Single Family, 15,000 sq. ft. minimum (RS-15).
- State Land Use. Urban (U).
- 4. **County General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as Low Density Urban (Idu) and Open (o).

- 5. **Special Management Area.** The parcel is located in the SMA and was granted an exemption from further SMA review through SMA Assessment SAA-14-001188.
- 6. **Subdivision Request/PPM**. Subdivision application SUB-14-001422 was submitted to subdivide the subject property into 2 lots. Further action on the subdivision application has been deferred pursuant to this variance application acknowledgement letter dated December 9, 2014 in the variance file.
- 7. Subdivision Code: Section 23-88, Non-dedicable street; private dead-end street. "...The street shall provide access to six lots or less..."
- 8. **Variance Application**. The variance request from subdivision code allowance for maximum number of lots served by a non-dedicable dead-end street was acknowledged by Planning Department letter dated December 9, 2014. The subdivision proposes to create a seventh lot with access over the existing non-dedicable dead-end street. The proposed new lot is intended to separate a cemetery from the buildable portion of the parcel and the cemetery lot will not be built upon.
- 9. Variance Application (VAR-14-000259) Agency Comments and Requirements.
  - a. Hawai'i County Fire Department (HFD); see attached memorandum dated December 26, 2014.
  - b. Department of Public Works (DPW): see attached memorandum dated October 28, 2014 in response to the subdivision application.
  - No other agency comments were solicited and none were received.
- 10. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence, dated December 8, 2014, regarding the posting of a public notification sign on the subject property pursuant to Section 23-17(c) of the HCC. A picture of the posted sign was also submitted. Further, verification was submitted that a notice of the application was sent on January 15, 2015 to the surrounding property owners as required by Section 23-17(a).
- 11. Comments from Surrounding Property Owners or Public. There were no comments or objections submitted by surrounding property owners or the public.

#### 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):

Michael W. and Kathleen M. Smiley Page 3 January 23, 2015

Considering that the new lot will not be buildable because of the cemetery located on it, there will be no increase in the housing density accessing via the existing roadway. This subdivision is being undertaken to facilitate the owners in acquiring financing which has been very much hindered by the fact that the cemetery is located on the subject property

The proposed Project roadway will serve only 6 buildable lots and is in keeping with the intent of Section 23-88.

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

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

The difficulty in obtaining financing cannot be resolved in any other manner other than to separate the cemetery from the buildable lot.

Therefore, allowing the additional lot in excess of six is the only reasonable alternative.

(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):

The additional lot will not be buildable and therefore, the intent of the subdivision code in limiting the number of lots accessing off of the non-dedicable, dead-end street is preserved.

Therefore, the granting of this variance request will be: (1) consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Control Codes, and the County General Plan; (2) will not cause substantial adverse impact to the area's character and to adjoining properties; and (3) will not otherwise be detrimental to the public's welfare.

#### **DETERMINATION-VARIANCE CONDITIONS**

The variance to allow 7 lots in the subdivision to have access on the non-dedicable, dead-end street, exceeding the code maximum of 6 lots, is hereby **approved**.

This approval is 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. The owners, their assigns, or successors shall record with the Bureau of Conveyances written deed

Michael W. and Kathleen M. Smiley Page 4 January 23, 2015

language, being covenants, conditions, and restrictions affecting the cemetery lot created by the proposed subdivision which prohibit the construction of any dwelling on the lot.

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 approved subdivided lots. A copy of the recorded document shall be forwarded to the Planning Department.

- 3. The pending subdivision application's (SUB-14-001422) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code not covered by this variance.
- 4. 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.

Any questions may be directed to Jonathan Holmes at (808) 961-8146, or <u>jonathan.holmes@hawaii</u> county.gov.

Sincerely,

DUANE KANUHA Planning Director

JRH:nci

\\COH33\planning\public\Admin Permits Division\Variance\2014\VAR-14-000259 Smiley # Lots Pvt Rd\APVL.docx

Encls: Agency Comments

xc: DPW-Engineering Branch

SUB-14-001422

Niels Christensen, LPLS, The Independent Hawaii Surveyors, LLC

P.O. Box 577 Hilo, HI 96721

xc wlencls: Gilbert Bailado, GIS Section (via email)

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HOSSING SENETAN	CONTRACTOR OF THE PROPERTY OF	TO PARATING SECTION OF	C SUSTENIAPPECT	C SELACING D	

18.1.1.2 his final states. Plans and specifications for fire hydrant systems shall be submitted sectors to the the experiment for texture to the three specifications.

## 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 Bostes). The AHJ shall have the authority to require an access boxtes) to be installed in an accessible location where access to or within a structure or area is difficult because of meaning.

18.1.2.2 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 free department access as specified in 18.2.2.1 or 18.2.2.2, shall notify the AHI when the access is modified in a manner that could prevent free department access.

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

### 182,3.1 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 mads 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, shods, agricultural buildings, and detached buildings or structures 400ft (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 AEU.

William P. Kenesi Meso





# County of Hawai'i HAWAI'I FIRE DEPARTMENT HAWAI'S FIRE SECURIORISM GOOD SECOND - FOR SE

December 26, 2014

# DUANE KANUHA, PLANNING DIRECTOR

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FROM: DARREN L'ROSARIO, FIRE CHIEF

SUBJECT: VARIANUE APPLICATION (VAR 14-000259)

APPLICANT: MICHAEL W. & KATHLEEN M. SMILEY
OWNER: MICHAEL W. & KATHLEEN M. SMILEY
REQUEST: VARIANCE FROM CHAPTER 23. SUBDIVISIONS, ARTICLE 6.
DIVISION Z. MPROVEMENTS REQUIRED, SECTION 23-88 NOW-DEDICABLE
STREET: PRIVATE DEAD-AND STREET (#00F (DIS SERVED BY)
TAX MAP KFY; 3-5-016-004. (SUB 14-001-422).

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

# NFPA 1, UNIFORM FIRE CODE, 2006 EDITION

Note: NFP I, Hawai State Fire Code with Cotate intentionies, Cranty one adments are identified with a preceding " $C \sim g$  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 expecially hazardous natore, or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire appearate is unduly difficult, or areas where there is an anadequate fire flow, or inadequate fire lydean specing, and the AHI may require additional safeguands including, but not limited to, additional fire appliance units, more than one type of appliance, any species suitable for the profection of the hazard involved.

#### L.I Plans.

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



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Duane Kanuha

December 26, 2014

18.2.3.4.1.2.1 Vertical citearances 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 mosts and bridges shall be designed and maintained to support the imposed loads (25 Tons) of the fire apparatus. Such FDAR and shalf be comprised of an all-weather driving surface.

## 18.2.3.4.3 Turning Radies.

C-1823.4.3.1 Fire department access mads 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.

### 18.23.4.5 Bridges.

18.2.3.4.5.1 When w 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.

18.2.3.4.5.1 The bridge shell be designed for a live load sufficient to earry the imposed loads of fire apparatus.

1823.453 Vehicle load limas shall be posted at both entrances to bridges where required by the AHI

#### 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 unpaved surfaces and 15 percent for paved surfaces. In areas of the FIDAR where a Fire apparatus would connect to a Fire bydrast or Fire Department Connection, the maximum gradient of such maxis 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 deop in 20 ft 10.3 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.

Duane Kanuha December 26, 2014 Page 3 18.2.3.1.4 When fire department access toac's cannot be installed due to location up property, topography, waterways, monnegotiable grades, or other similar conditions, the AEU shall be authwrized to require additional fire provection features.

## 18.2.3.2 Access to Building.

18.2.3.2.1 A fire department access med stall extend to within in \$0 if (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 reads shall be previded such that any portion of the facility or any portion of an exterior wall of the first step, of the building is located not more than 150 ff (46 m) from fire department access reads as measured by an approved route around the exterior of the building or facility.

18.2.3.2.3.1 When buildings are protected throughout with an approved automatic sprinkler system that is installed in accordance with NFPA E3. NFPA 13D, or NFPA 13R, the distance in [8.2.3.3.2 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 AHI that access by a smalle road could be impaired by wehicle congestion, conditions of terrain, climatic conditions, or other factors that could limit access.

### 18.2.3.4 Specifications.

### 18.2.3,4.1 Dimensions.

C-18.23.4.1.1 FDAR shall have are unobstructed width of not less than 30ft with an approved turn around area if the FDAR exceeds 150 feet. Exceptions FDAR for one and two family dwellings shall thave an unobstructed width of not less than 15 feet, with an area of not less than 20 feet wide within. ESO feet of the systemic being protected. An approved turn around area shall be provided if the FDAR exceeds 250 feet.

C+182,3.4.1.2 FDAR shall have an unobstructed vertical elearance of not less then 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.

Duane Kanuha December 26, 2014 **18.2.4.23** Rosds, trails, and other accessways that have been closed and obstructed in the manner prescribed by (8.2.4.2.1) shall not be traspassed upon or used unless authorized by the owner and the AH.

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, gases, doors, barricades, chains, enclosures, signs, sags, 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 Hydrauts

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 construction, or moved into or within the county. When any portion of the facility, or building is in excess of 150 feet (45.70 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 flows shall be provided when required by the AHH. Enr on-site fire hydrants

#### YCEPTIONS.

- When facilities or buildings, or portions thereof, are completely protected with an approved
  automatic fire spreklet system the provisions of section 18.3.1 may be modified by the AHI.
   When water supply requirements cannot be installed due to ropography or other conditions,
  - renest wast, supply requirements connect on usualized that is reprograpily of other continuous, the AHP may require additional five protection as specified in section 18.3.2 as amended in the code.
- When there are not more than two dwellings, or two private garage, carports, sheds and agricultural. Occupancies, the requirements of section [8,3.1 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 expable of delivering the required fire flow shall be provided on a fire apparatus access mad on the site of the premises or both, in accordance with the appropriate county water requirements.

183.4 Fire Hydrants and corrections to other approved water supplies shall be accessible to the fire department

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18.2.3.4.6.3 Fire department access roads connecting to roadways shall be provided with curb curs extending at least 2  $\Omega(0.6)$  m; beyond each edge of the line 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 prother 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 withh of a fire department access road shall not be obstructed in any manner, including by the parking of vehicles.

18.2.4.1.2 Munimum required widths and circarances 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 free department operations.

18.2.4.1.4 Entrances to free departments access roads that have been closed with gates and barriers in accedance with 18.2.4.2.1 shall not be obstructed by pariced vehicles.

## 18.2.4.2 Closure of Accessways.

18.2.4.2.1 The All Shall be authorized to require the mstallation and maintenance of gates or other approved burricades across mads, 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.

Duane Kabuha December 26, 2014

Connection (FDC) shall be as follows:

(2) Minimum pipe diameter sizes from the water supply to the Fire Department

(a) 4" for C900 PVC pipe:

(b) 4" for C906 PE pipe;

(c) 3" for ductile fron:

(3) The Fire Department Connection (FDC) shall: (d) 3' for galvanized steel.

(a) he made of galvanized steel;

(b) have a gated valve with 2-10 inch, National Standard Thread make

litting and cap;

(c) be located between 8 ft and 16 ft from the Fire department access.

(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: The location shall be approved by the AHJ;

(c) 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:

(4) Commercial buildings requiring a fire flow of 2000gpm shall be provided with (g) also comply with section 13.1.3 and (8.2.3.4.6.1 of this code;

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 AHI with the idea of multiple I ire 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 appartenances of the system.

# EXCEPTIONS TO SECTION 18.3.3:

(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.

detached garages 800 to 2000 square feet in size, and meets the minimum Fire (3) For one and two family dwellings, agricultural buildings, storage sheds, and 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

December 26, 2014 Duane Kanuha

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

C~18.3.8 Minimum water supply for baildings 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 gastons of water available for Firefighting. Buildings, 3001- 6000 square Sect. 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 fare flow requirements. Multiple story buildings shall multiply the square feet by the amount of stories when determining the

Commercial buildings requiring a minimum fire flow of 2000gpm per the Department of Mater 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

domestic use shalf not be capable of being drawn from the water reserved for firefighting: ffrestgebring, auch syatems shall meet the following requirements: (1) In that a single water tank is used for both domestic and firefighting water, the water for

# DEPARTMENT OF PUBLIC WOHKS COUNTY OF HAWAIT HILD, HAWAIT

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DATE: October 28, 2014

Planning Department ë

curv for Department of Public Works FROM:

SUBJECT:

SUBDIVISION: SUB 14-001422 Subdivider: Smiley, Michael W. & Kathleen M. Location: Kihalani, North Hilo, Hawari TMK. 3-5-010:004 Folder No.: 3517-A1

We have reviewed the preliminary piat map and have the following comments.

1. \$23-30. Identify all watercourses and drainageways and encumber with drainage easements

2. §23-86. For Hula ana Piace, construct minimum 20-ft wide dedicable roadway with paved shoulders and swales within a minimum 50-ft wide night-of-way conforming to Standard Detail R-33. Pavement shall be designed to support axie and wheel loads permitted under Section 291-35, Hawaii Revised Statutes.

\$23-48 Construct dedicable turnaround conforming to Standard Detail R-33.

\$23-45. Provide minimm 20-ft curve radius at the intersection of Hularana Place and Old Government Road.

§23-79. Submit construction plans and drainage report for review and comment.

- a. §23-92. Additional storm runoff due to development shall be disposed within the subdivision and shall not be discharged onto adjacent properties or streets.
- b. §23-93. Install streetlights and traffic control devices as required by the Fraffic

Questions may be referred to Carter Romero at 961-8943.

CLB

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Duane Kanuha December 26, 2014 Page 9

greater than 2000square freet, but less than 3000 square feet and meets the minimum Fire Department Access Road requirements, the dispance 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) 932-2911.

PLANKING DEPARTMENT COUNTY OF HAWAII

2014 OCT 28 PH 12: 3:



DARREN J. ROSARIO Fire Chaef

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