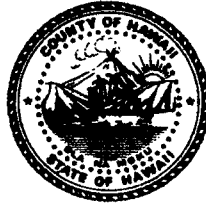


William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

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

January 20, 2016

Austen W. Drake, P.E.
SSFM International, Inc.
99 Aupuni Street, Suite 202
Hilo, HI 96720

Dear Mr. Drake:

SUBJECT: Application: VARIANCE - VAR-15-000328 (CORRECTED)
Applicant: AUSTEN W. DRAKE, P.E.
Owner: QUEEN LILI'UOKALANI TRUST
Request: Variance from Article 3, Division 4, Street Design, Section 23-41,
Minimum Right-of way and Pavement Widths; and Article 6,
Division 2, Improvements Required, Sections 23-86 & -95, Right-
of-way Improvement
Tax Map Key: 7-4-020:010 (SUB-15-001476)

This is to issue the correct variance approval letter which will replace the previous letter dated January 13, 2016 which was a **draft** road and water variance **template** that was unfortunately processed in error. We apologize for the confusion and any inconvenience this has caused.

Please direct any questions to Jonathan Holmes at (808)961-8146, or jonathan.holmes@hawaiicounty.gov.

Sincerely,

DUANE KANUHA
Planning Director

JRH:nci
\\COH33\planning\public\Admin Permits Division\Variance\2015\VAR-15-000328 QLT Road\Corrected APVL.docx

Encl.: Correct Approval Letter dated January 19, 2016

Austen W. Drake, P.E.
SSFM International, Inc.
Page 2
January 20, 2016

xc w/encls: LeeAnn Crabbe
Queen Lili'uokalani Trust
1100 Alakea St., Ste 1100
Honolulu, HI 96813

Dean Uchida
SSFM International, Inc.
99 Aupuni Street, Suite 202
Hilo, HI 96720

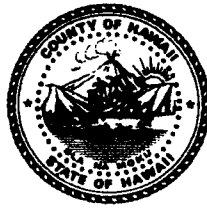
Wayne M. Teruya, LPLS
ParkEn, Inc. dba Park Engineering
Pacific Park Plaza, Suite 1500
711 Kapi'olani Boulevard
Honolulu, HI 96813

T. Dunlap, KCDP Planner w/Application (via e-mail)

G. Bailado, GIS Section (via email)

REZ 743 (Ord. 00 040); FSA-SUB-09-000931, SUB 7146
SUB-15-001476

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

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January 19, 2016

Austen W. Drake, P.E.
SSFM International, Inc.
99 Aupuni Street, Suite 202
Hilo, HI 96720

Dear Mr. Drake:

SUBJECT: VARIANCE DECISION - VAR-15-000328 (CORRECTED)
Applicant: AUSTEN W. DRAKE, P.E.
Owner: QUEEN LILI'UOKALANI TRUST
Request: Variance from Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of way and Pavement Widths; and Article 6, Division 2, Improvements Required, Sections 23-86 & -95, Right-of-way Improvement
Tax Map Key: 7-4-020:010 (SUB-15-001476)

Upon review of your variance application, the Planning Director certifies the **approval** of Variance VAR-15-000328 subject to variance conditions. The variance grants relief for SUB-15-001476 from constructing minimum County roadway improvements for the Road Lot 2-C-2 as required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions) and Subdivision SUB-15-001476 Tentative Approval dated June 12, 2015.

The variance is from the proposed subdivision's minimum requirements pursuant to HCC, Chapter 23 (Subdivisions), Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of way and Pavement Width; and Article 6, Division 2, Improvements Required, Sections 23-86 & -95, Right-of way Improvement.

BACKGROUND

1. **Location.** The referenced property, being Lot C-2, being a portion of Royal Patent 6,851, Land Commission Award 8,452, Apana 12, containing approximately 216.120 acres, is situated in Ke ahu o Lū, North Kona, Hawai'i.
2. **County Zoning.** General Commercial (CG-10).
3. **State Land Use.** Urban (U).

4. **General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as High Density Urban (hdu).
5. **Subdivision Code Requirements.** Hawai'i County Code, Chapter 23, Subdivisions requires minimum right-of-way and paving widths and full right-of-way improvement to include concrete curb, gutter and sidewalks. Tentative Approval was granted with a Condition No. 3) c) which required **"For Lot C-2-C, construct minimum 60-ft. wide dedicable pavement with concrete curbs, gutters and sidewalks within the minimum 80-ft. wide right-of-way conforming to Department of Public Works (DPW) Standard Detail (Std. Det.) R-32. This improvement shall extend a minimum of 50-ft. beyond the access point for Lot C-2-A."**
6. **Subdivision Request/PPM.** Subdivision application SUB-15-001476 was submitted to subdivide the subject TMK property into building, remainder and road lots. Further action on the subdivision application has been deferred pursuant to application submittal letter dated November 6, 2015 in the variance file.
7. **Variance Application.** The variance request from roadway improvements was acknowledged by Planning Department letter dated November 19, 2015. This variance application includes background history and circumstances and information regarding the pending subdivision application. The department requested, and the applicant granted, a time extension for the Director's decision from January 5, 2016 to January 19, 2016.

This application proposes, that instead of DPW Std. Det. R-32, that the full build-out roadway section be designed with "Complete Street" methodology which includes a landscaping, pedestrian and bicycle friendly cross-section as shown in applicant's Exhibit 6 attached. In the interim, until further development along the Kamaka'eha Avenue corridor occurs, the applicant proposes an interim partial roadway section as shown in applicant's Exhibit 8, also attached. The interim section is requested since the roadway, in the near-future time, will serve as access to only the Judiciary Complex site.

8. **Variance Application (VAR-15-000328) Agency Comments and Requirements.**
 - a. County of Hawai'i Fire Department (HFD): See attached memorandum dated December 4, 2015.
 - b. Department of Public Works (DPW): See attached memorandum dated December 7, 2015.
 - c. Department of Water Supply (DWS): See attached memoranda dated December 21, 2015.
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence, dated November 17, 2015, regarding the posting of a public notification sign on the subject property pursuant to Section 23-17(c) of the Hawai'i County Code (HCC). Pictures of the posted sign were also submitted. Evidence dated November 24, 2015 indicates that a notice of the application was sent to the surrounding property owners as required by Section 23-17(a).

10. **Comments from Surrounding Property Owners or Public.** There were no written comments from 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 reasons(s):

The variance request is applicable the Judiciary Complex building lot only, and is in keeping with the existing CG-10 zoning. There is no practical reason to improve the Kamaka'eha Avenue to County standards at this time as it will temporarily serve only the Judiciary Complex lot and is not a through street. The cost of installing a roadway to County standards for the one proposed lot created by this subdivision would be exorbitant for the temporary nature and anticipated service levels. It is reasonable to allow the lesser standard now which will be brought up to higher Complete Street standards once further development along the Kamaka'eha Avenue corridor occurs and it does become a through street.

The proposed interim road with 39 feet of travel way pavement, 6 foot wide paved & 26 foot wide graded shoulder on the Makai side; 6 foot wide curb and landscape strip and 7 foot wide sidewalk on the mauka (Judiciary Complex) side within the 80 foot wide right-of-way should be adequate for this interim condition.

The above special and unusual circumstances would deprive the applicant from developing this property and would be excessive for the anticipated traffic levels prior to further build-out along the Kamaka'eha Avenue corridor. Conditioned in this variance is a requirement that further subdivision and/or development along the corridor will require further improvement to the road cross-section to full build-out status.

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

The Variance application meets criterion (b) for the following reasons(s):

There is no practical reason to improve the interim Kamaka'eha Avenue extension to County standards as it will serve only the Judiciary Complex property and is not a through street at this time. This interim roadway cross-section (Exhibit 8, attached) should be adequate for the

purposes of this Judiciary Complex subdivision. And the Complete Streets full build-out cross-section (Exhibit 6, attached) is adequate to serve the future overall development.

- (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 reasons(s):

This roadway variance authorizing use of an interim road section, as outlined previously, will not be detrimental to public welfare since it does provide for mass transit and sidewalk on the Judiciary Complex (Mauka) side without compromising health, safety, and welfare concerns to the overall public. The proposed interim Kamaka'eha Avenue is designed, at this time, for use only by the Judiciary Complex and to facilitate future utility installation in the Makai-side right-of-way without having to demolish excessive road improvements. As a non-through street, the road will be consistent with the near-term proposed land uses and will not have any adverse impact on the area's character or on neighboring properties.

The present project is consistent with the intent and purpose of the Zoning and Subdivision Codes. The General Plan designation for the Property is "hdu," High Density Urban lands. The project is designed with one lot for a single permitted use. The subdivider's plans are consistent with these designations.

DETERMINATION-VARIANCE CONDITIONS

The variance to permit the proposed Judiciary Complex lot subdivision of the subject TMK property without providing a dedicable, fully built-out road, and in lieu providing the interim road as detailed in applicant's Exhibit 8 (attached) 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. The owners, their assigns, or successors shall file a written agreement document with the Planning Department within one (1) year from the issuance of an amended tentative subdivision approval. This written agreement shall contain deed language, being covenants, conditions, and restrictions (C, C & R's) affecting Lot C-2-G (Balance of TMK 7-4-020:010 being the Remainder area of SUB-15-001476)

and Lot A-1 (TMK 7-4-020:009) created by subdivision SUB-15-001476 which are serviced by the approved alternative interim roadway (Exhibit 8, attached). The C, C & R's shall require that at the time of any further subdivision of the two (2) lots, or any development on the lots, the entire Kamaka'eha Avenue corridor, from the Makala Boulevard intersection up to and fifty (50) feet beyond where it serves such subdivision or development, is to be improved to the full build-out cross-section (exhibit 6, attached) by said subdivider and/or developer. The agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawai'i by and at the cost and expense of the owners. A copy of the recorded document shall be supplied to the Planning Department for our files.

In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. Further, the recorded agreement shall be binding upon the owner(s), their successors or assigns and 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 Lot C-2-G (Balance of TMK 7-4-020:010 being the Remainder area of SUB-15-001476) and Lot A-1 (TMK 7-4-020:009).

4. 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 any special or unusual circumstances applying to the property, and hence, no grounds exist or will exist for another variance from the Subdivision Code to permit further subdivision of the properties.
5. It is understood by the owners, grantees, successors, and assigns that they will use and maintain the privately owned interim roadway on their own without any expectation of governmental assistance to maintain the improvements. They shall also 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-way.
6. 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 lots. 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).
7. The pending subdivision application's (SUB-14-001413) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code that are not covered by this variance.
8. 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.

Austen W. Drake, P.E.
SSFM International, Inc.
Page 6
January 19, 2016

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

Sincerely,



DUANE KANUHA
Planning Director

JRH:nci

\\COH33\planning\public\Admin Permits Division\Variance\2015\VAR-15-000328 QLT Road\AltAPVL.docx

Encls: Agency Comments

xc: DWS, DPW, HFD
REZ 743 (Ord. 00 040); FSA-SUB-09-000931, SUB 7146; SUB-15-001476

xc w/encls: LeeAnn Crabbe
Queen Lili'uokalani Trust
1100 Alakea St., Suite 1100
Honolulu, HI 96813

Dean Uchida
SSFM International, Inc.
99 Aupuni Street, Suite 202
Hilo, HI 96720

Wayne M. Teruya, LPLS
ParkEn, Inc. dba Park Engineering
Pacific Park Plaza, Suite 1500
711 Kapi'olani Boulevard
Honolulu, HI 96813

Sidney Fuke, Planning Consultant
100 Pauahi St., Ste 212
Hilo, HI 96720

T. Dunlap, KCDP Planner (via e-mail)
G. Bailado, GIS Section (via email)

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILLO, HAWAII

DATE: December 7, 2015

Memorandum

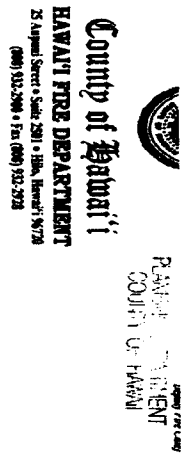
TO : Duane Kanuha, Planning Director
Planning Department

FROM : Ben Iahii, Division Chief *BI*
Engineering Division

SUBJECT : Variance Application (VAR 15-000328)
Applicant: Austen Drake, P.E.
Owner: QUEEN LILIUOKALANI TRUST
Request: Variance from Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of-way and Pavement Widths, And Article 6, Division 2, Improvements Required, Section 23-86 & -95, Right-of-way improvements
Location: Kaehuaui, N. Kona, HI
TMK: 37-4-020-010 (SUB 15-001470)
Folder No. 74134-B1

On 12/2/15 ENG-Kona received a letter from the applicant to DPW introducing the variance application with a full cross-section exhibit that differs from Exhibit 6 in the application. We were not copied on the application with usual formal request for comments from Planning. Rather, Kona Planner Terry Dunlap hand delivered a copy to us. We reviewed the hand delivered application and have the following comments to the requested variance:

1. We have concerns about the two-way cycle track concept included in the full build-out cross-section. We are unfamiliar with operation and safety of this concept at intersections with side streets and driveways. The applicant defers such intersection considerations to future design work. It would be premature to approve the proposed full build-out cross-section until we know how many such crossings there will be, how they will operate at side streets and whether there is a satisfactory safety record. There may be a safety issue with vehicles turning from Kamekaheia Ave. from the same direction of travel and not seeing a cyclist coming from the same direction. This concept also appears to call for substantially more traffic control than the standard street design resulting in higher construction and maintenance costs.



December 4, 2015

TO : DUANE KANUHA, PLANNING DIRECTOR

FROM : DARREN J. ROSARIO, FIRE CHIEF

SUBJECT : Application: VARIANCE - VAR-15-000325
Applicant: Austen W. Drake, P.E.
Owner: Queen Lili'uokalani Trust
Request: Variance from Article 3, Division 4, Street Design, Section 23-41 Minimum Right-of-way and pavement Widths, And Article 6, Division 2, Improvements Required, Sections 23-86 & -95, Right-of-way Improvement
Tax Map Key: 7-4-020-010 (SUB-15-001470)

The Hawaii Fire Department has no comments or issues with regards to the Variance application as noted above.

DJR
DARREN J. ROSARIO
Fire Chief
KT:ds



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
 345 KEOUANOVA STREET, SUITE 20 • HILO, HAWAII 96720
 TELEPHONE (808) 961-9050 • FAX (808) 961-9857

December 21, 2015

TO: Mr. Duane Kamaha, Director
 Attention: Mr. Jonathan Holmes
 Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Variance Application – (VAR 15-000328)
 Applicant – Austen W. Drake, P.E.
 Tax Map Key 7-4-020-009, 010 and 015 (SUB-15-001476)


PLANNING DEPARTMENT
 COUNTY OF HAWAII
 2015 DEC 21 PM 4 30

We have reviewed the variance application and have the following comments:

The Department has no objection to the variance application, provided that water improvements for the proposed subdivision (Subdivision No. 15-001476) comply with the Department's Water System Standards.

Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,


 Keith K. Okamoto, P.E.
 Manager-Chief Engineer

TS:dfg

copy – Mr. Austen W. Drake, P.E.

...Water, Our Most Precious Resource... *Ke Maui a Kane*...
 The Department of Water Supply is an Equal Opportunity provider and employer.

102703

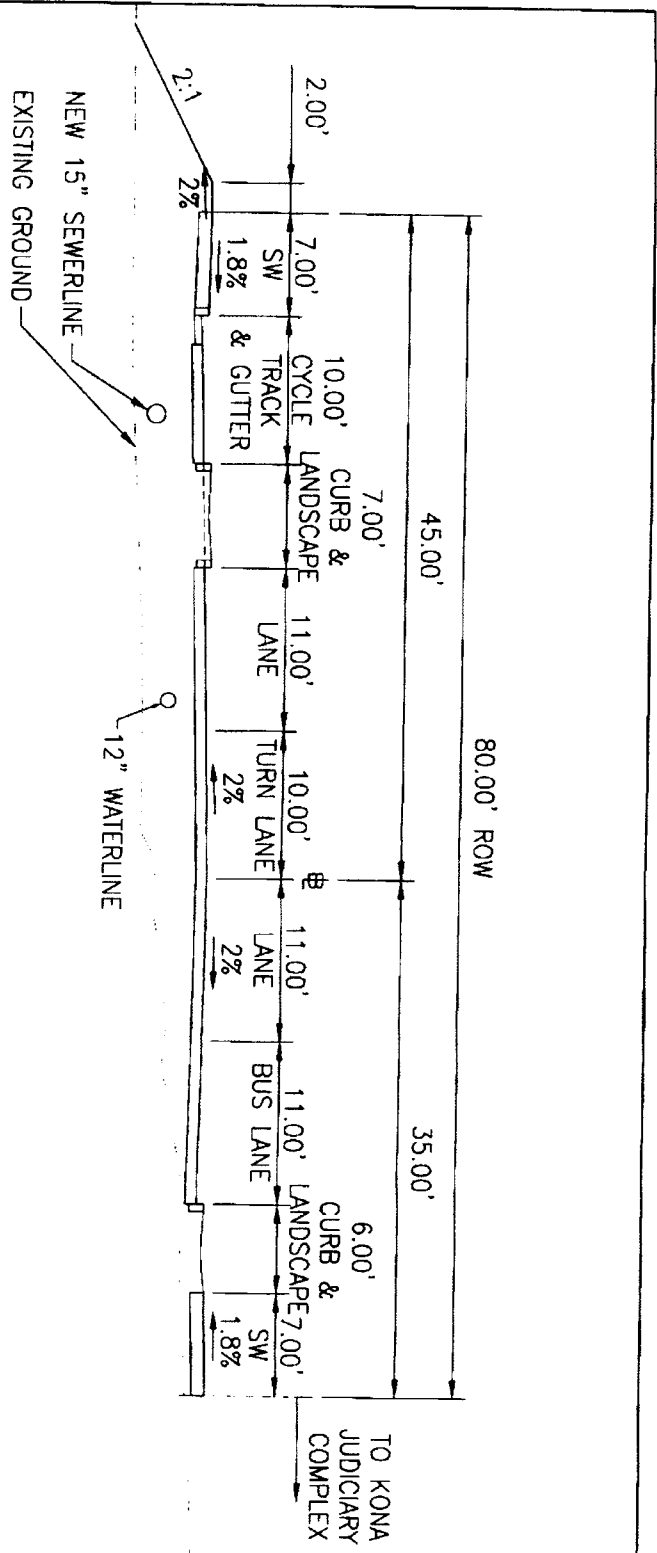
DPW Comments -VAR 15-000328
 December 7, 2015
 P. 2 of 2

2. For drainage purposes, DPW prefers standard integral curbs with gutters along the vehicular traveled areas.
3. An additional foot of vehicular traveled way should be equalized maala of the baseline in the full built-out cross section to make the lane widths consistent, and or accommodate gutters. Accordingly, curb to curb pavement width maala of the baseline would match the maala width of 22 feet for 44 feet of traveled way pavement. The maala side "curb and landscape" would be reduced to 6 feet (same as maala side).
4. The property owner or lessee shall maintain the landscaped areas within planting stripes between the vehicular curb and the right-of-way boundary.
5. DPW recommends no off-site parking be allowed on collector streets.
6. Because the judiciary plans to close their site to traffic during non-working hours, a vehicular turn around should be provided for the interim condition or the security gate should be located at the intersection with Makalea Blvd. We assume there will be other dedicable street connections so that the Kamakahele Ave. will not dead end when eligible for County dedication (upon full build-out). If not, a dedicable turnaround shall be provided at no cost to the county.

Should there be any questions concerning this matter, please feel free to contact Kieran Ember of our Kona Engineering Division office at 323-4851.

KE

copy: ENG-HILO/KONA

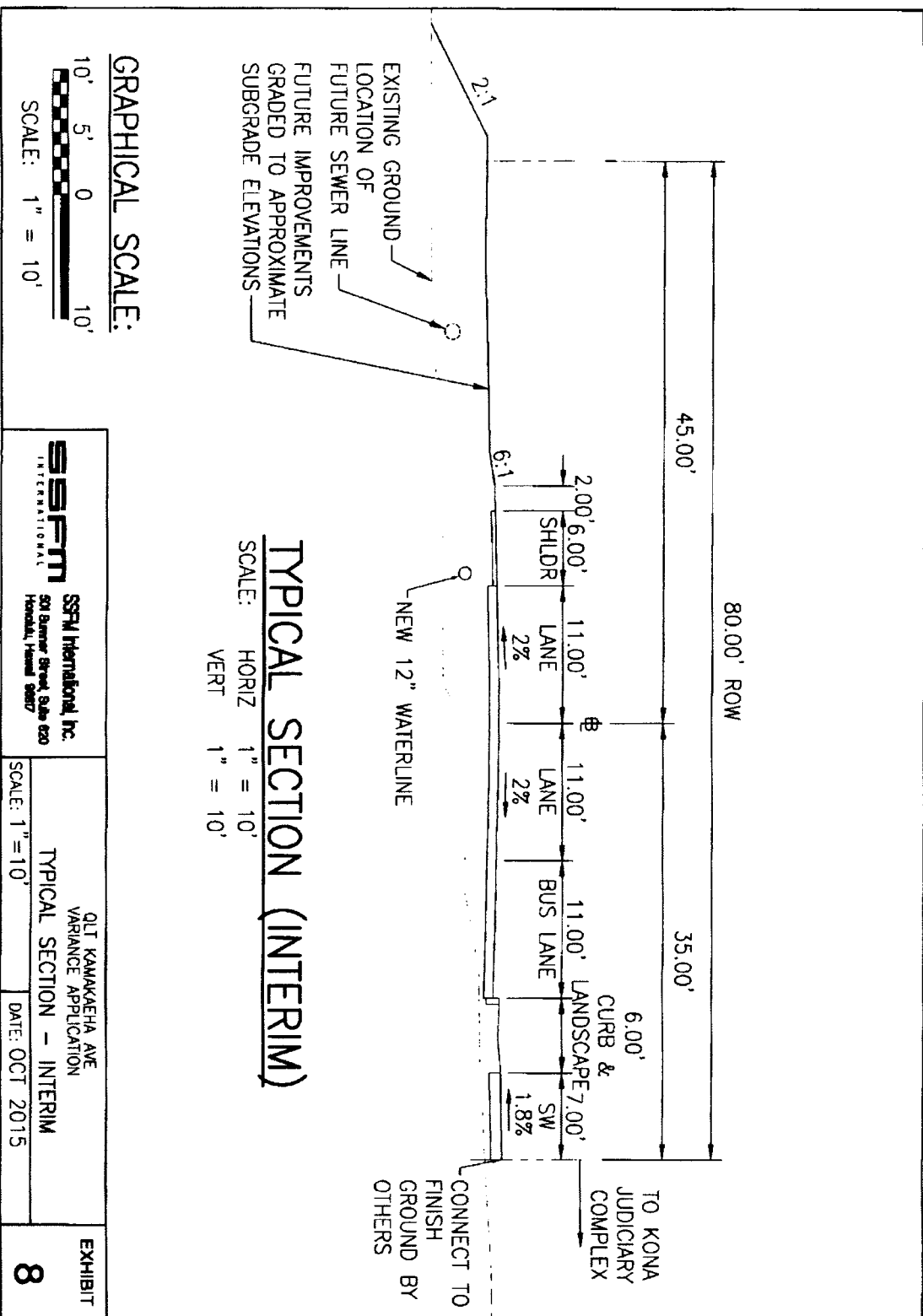


NOTE: LOCATION OF CYCLE TRACK AT DRIVEWAYS AND INTERSECTIONS TO BE EVALUATED ON A SITE SPECIFIC BASIS. THIS WILL BE ADDRESSED DURING DESIGN DEVELOPMENT.

TYPICAL SECTION (FULL)

SCALE: HORIZ 1" = 10'
 VERT 1" = 10'

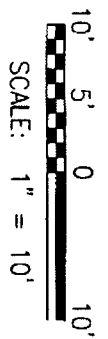
| | | | |
|--|--|--|---------------------|
| | SSPM International, Inc. 501 Kamehameha Street, Suite 600 Honolulu, Hawaii 96817 | OLD KAMAKAHEHA AVE VARIANCE APPLICATION TYPICAL SECTION - FULL | EXHIBIT 6 |
| | SCALE: 1" = 10' | DATE: OCT 2015 | |



TYPICAL SECTION (INTERIM)

SCALE: HORIZ 1" = 10'
 VERT 1" = 10'

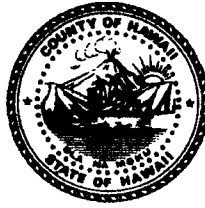
GRAPHICAL SCALE:



| | | |
|---|---|------------------------------|
| <p>SSFI International, Inc. 507 Banner Street, Suite 600 Honolulu, Hawaii 96817</p> | <p>QLT KAMAKAHEHA AVE VARIANCE APPLICATION</p> | <p>EXHIBIT 8</p> |
| | <p>TYPICAL SECTION - INTERIM</p> | |

SCALE: 1" = 10' DATE: OCT 2015

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

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

January 13, 2016

Austen W. Drake, P.E.
SSFM International, Inc.
99 Aupuni Street, Suite 202
Hilo, HI 96720

Dear Mr. Drake:

SUBJECT: VARIANCE DECISION - VAR-15-000328
Applicant: AUSTEN W. DRAKE, P.E.
Owner: QUEEN LILI'UOKALANI TRUST
Request: Variance from Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of way and Pavement Widths; and Article 6, Division 2, Improvements Required, Sections 23-86 & -95, Right-of-way Improvement
Tax Map Key: 7-4-020:010 (SUB-15-001476)

Upon review of your variance application, the Planning Director certifies the **approval** of Variance VAR-15-000328 subject to variance conditions. The variance grants relief for SUB-15-001476 from constructing minimum County roadway improvements for the Road Lot 2-C-2 as required by Hawai'i County Code (HCC), Chapter 23 (Subdivisions) and Subdivision SUB-15-001476 Tentative Approval dated June 12, 2015.

The variance is from the proposed subdivision's minimum requirements pursuant to HCC, Chapter 23 (Subdivisions), Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of way and Pavement Width; and Article 6, Division 2, Improvements Required, Sections 23-86 & -95, Right-of way Improvement.

BACKGROUND

1. **Location.** The referenced property, being Lot C-2, being a portion of Royal Patent 6,851, Land Commission Award 8,452, Apana 12, containing approximately 216.120 acres, is situated in Ke ahu o Lū, North Kona, Hawai'i.
2. **County Zoning.** General Commercial (CG-10).
3. **State Land Use.** Urban (U).

4. **General Plan.** Land Use Pattern Allocation Guide (LUPAG) map designates the property as High Density Urban (hdu).
5. **Subdivision Code Requirements.** Hawai'i County Code, Chapter 23, Subdivisions requires minimum right-of-way and paving widths and full right-of-way improvement to include concrete curb, gutter and sidewalks.
6. **Subdivision Request/PPM.** Subdivision application SUB-15-001476 was submitted to subdivide the subject TMK property into building, remainder and road lots. Further action on the subdivision application has been deferred pursuant to application submittal letter dated November 6, 2015 in the variance file.
7. **Variance Application.** The variance request from roadway improvements was acknowledged by Planning Department letter dated November 19, 2015. This variance application includes background history and circumstances and information regarding the pending subdivision application. The department requested, and the applicant granted, a time extension for the Director's decision from January 5, 2016 to January 19, 2016.
8. **Variance Application (VAR-15-000328) Agency Comments and Requirements.**
 - a. County of Hawai'i Fire Department (HFD): See attached memorandum dated December 4, 2015.
 - b. Department of Public Works (DPW): See attached memorandum dated December 7, 2015.
 - c. Department of Water Supply (DWS): See attached memoranda dated December 21, 2015.
9. **Notice to Surrounding Owners/Posted Sign.** The applicant submitted evidence, dated November 17, 2015, regarding the posting of a public notification sign on the subject property pursuant to Section 23-17(c) of the Hawai'i County Code (HCC). Pictures of the posted sign were also submitted. Evidence dated November 24, 2015 indicates that a notice of the application was sent to the surrounding property owners as required by Section 23-17(a).
10. **Comments from Surrounding Property Owners or Public.** There were no written comments from 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 reasons(s):

The subdivision request is for the Judiciary Complex building lot only, and is in keeping with the existing CG-10 zoning. There is no practical reason to improve the Kamaka'eha Avenue to County standards at this time, as it will temporarily serve only the Judiciary Complex lot and is not a through street. The cost of installing a roadway to County standards for the one proposed lot created by this subdivision would be exorbitant for the temporary nature and anticipated service levels. It is reasonable to allow the lesser standard now which will be brought up to higher standards once further development along the Kamaka'eha Avenue corridor occurs and it does become a through street.

The proposed interim road with 39 feet of travel way pavement, 6-foot wide paved shoulder on the Makai side; 6-foot wide curb and landscape strip and 7-foot wide sidewalk on the mauka (Judiciary Complex) side within the 80-foot wide right-of-way should be adequate for this interim condition.

The above special and unusual circumstances would deprive the applicant from developing this property and would be excessive for the anticipated traffic levels prior to further build-out along the Kamaka'eha Avenue corridor.

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

The Variance application meets criterion (b) for the following reasons(s):

There is no practical reason to improve the interim Kamaka'eha Avenue extension to County standards as it will serve only the Judiciary Complex property and is not a through street at this time. This interim roadway cross-section should be adequate for the purposes of this Judiciary Complex subdivision.

(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 reasons(s):

The roadway variance authorizing use of an interim road section, as outlined previously, will not be detrimental to public welfare since it does provide for mass transit and sidewalk on the Judiciary Complex (Mauka) side without compromising health, safety, and welfare concerns to the overall public. The proposed interim Kamaka'eha Avenue is designed, at this time, for use only by the Judiciary Complex and to allow for future utility installation in the Makai-side right-of-way without having to demolish excessive road paving. As a non-through street, the road will be consistent with the near-term proposed land uses and will not have any adverse impact on the

area's character or on neighboring properties.

The present project is consistent with the intent and purpose of the Zoning and Subdivision Codes. The General Plan designation for the Property is "hdu," High Density Urban lands. The project is designed with one lot for a single permitted use. The subdivider's plans are consistent with these designations.

DETERMINATION-VARIANCE CONDITIONS

The variance to permit the proposed Judiciary Complex lot subdivision of the subject TMK property without providing dedicable, fully built-out road, 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. The owners, their assigns, or successors shall file a written agreement document with the Planning Department within one (1) year from the issuance of an amended tentative subdivision approval. This written agreement shall contain deed language, being covenants, conditions, and restrictions affecting the 11 lots created by the proposed subdivision which are not serviced by a County dedicable public water system and which are serviced by a privately owned alternative roadway. The agreement shall be duly recorded at the Bureau of Conveyances of the State of Hawai'i by and at the cost and expense of the owners. A copy of the recorded document shall be supplied to the Planning Department for our files.

In the event that there are any amendments or changes to the subdivision after the agreement is signed, the applicant shall be responsible for informing the County Planning Department of such amendments or changes so that the agreement can be amended concomitantly. Further, the recorded agreement shall be binding upon the owner(s), their successors or assigns and 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.

4. 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 any special or unusual circumstances applying to the property, and hence, no grounds exist or will exist for another variance from the Subdivision Code to permit further subdivision of the properties.
5. The owners, grantees, successors, and assigns agree and accept the fact that a County dedicable public water system will not be extended to serve the 11 lots within proposed subdivision SUB-15-001476.

It is also understood that they will use and maintain the privately owned roadway on their own without any expectation of governmental assistance to maintain the improvements. They shall also 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-way.

6. The owners, grantees, successors, and assigns agree and accept the fact that the County will not bear the responsibility of supplying public water directly to the 11 proposed lots. No further subdivision of the lots created will be permitted unless County dedicable public water system requirements and other requirements of HCC Chapter 23, Subdivisions, are met.
7. No condominium property regime will be allowed on any lot created, nor will an Ohana Dwelling Unit be permitted or allowed.
8. Should there be any interconnection of the non-potable water system to meet fire control, irrigation or other needs in proximity to a drinking water system it must be carefully designed and operated to prevent cross-connection of these systems and prevent the possibility of backflow of the non-potable system to the drinking water system. The water system design will need approval by the Safe Drinking Water Branch of the DOH and meet requirements of Hawai'i Administrative Rules, Title 11, Chapter 20, Rules Relating to Public Water Systems.
9. Each permitted dwelling on a lot not served by the dedicable DWS water system shall be provided with a private rainwater catchment system with a **minimum** 3,000 gallon water storage capacity dedicated for firefighting and emergency purposes. This 3,000 gallons shall be isolated from the additional storage capacity provided for outdoor water uses. The location and capacity of the emergency water supply system, including the necessary compatible fire apparatus connector system, shall be as specified by the HFD in the memorandum attached to this permit for reference. The HFD also advises, as a precautionary measure for other uninhabited structures, that consideration be given to the provision of a similar water storage system for firefighting and emergency purposes.
10. In the event that the County notifies the owner(s) of the lot(s) created that the County water system has been upgraded or an improvement district initiated to enable service to these lots, the owner(s) of lot(s) shall participate in such improvement district or shall pay their pro-rata share of the upgrade and installation of laterals, as determined by the DWS.

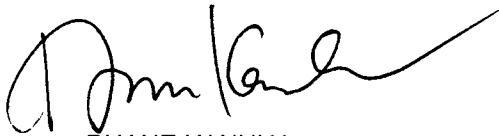
Upon written demand of the County of Hawai'i, the applicant and/or owners, their assigns, or successors shall agree to participate and pay their fair share percentage of any improvement district adopted for the purpose of roadway improvements serving the proposed lots. Should the improvement district 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).

Austen W. Drake, P.E.
SSFM International, Inc.
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January 13, 2016

11. The pending subdivision application's (SUB-14-001413) final plat map shall meet all the requirements of the Hawai'i County Zoning Code and the Subdivision Code that are not covered by this variance.
12. 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 conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,



DUANE KANUHA
Planning Director

JRH:nci

\\COH33\planning\public\Admin Permits Division\Variance\2015\VAR-15-000328 QLT Road\APVL.DOCX

Encls: Agency Comments

xc: DWS-Engineering Branch
DPW
HFD

LeeAnn Crabbe
Queen Lili'uokalani Trust
1100 Alakea St., Ste 1100
Honolulu, HI 96813

Dean Uchida
SSFM International, Inc.
99 Aupuni Street, Suite 202
Hilo, HI 96720

T. Dunlap, KCDP Planner (via e-mail)

REZ 743 (Ord. 00 040); FSA-SUB-09-000931, SUB 7146
SUB-15-001476

Austen W. Drake, P.E.
SSFM International, Inc.
Page 7
January 13, 2016

xc w/encls: Wayne M. Teruya, LPLS
ParkEn, Inc. dba Park Engineering
Pacific Park Plaza, Suite 1500
711 Kapi'olani Boulevard
Honolulu, HI 96813

G. Bailado, GIS Section (via email)



County of Hawaii
HAWAII FIRE DEPARTMENT
25 Aupuni Street • Suite 2501 • Hilo, Hawaii 96720
(808) 933-2000 • Fax (808) 933-2028

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: December 7, 2015

Memorandum

TO : Duane Kanuha, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief *Ben Ishii*
Engineering Division

SUBJECT : Variance Application (VAR 15-000328)
Applicant: Austen Drake, P.E.
Owner: QUEEN LILUOKALANI TRUST
Request: Variance from Article 3, Division 4, Street Design, Section 23-41, Minimum Right-of way and Pavement Widths; And Article 6, Division 2, Improvements Required, Section 23-66 & -95, Right-Of way Improvements
Location: Kaeahuolu, N. Kona, HI
TMK: 37-4-020-010 (SUB 15-001476)
Folder No. 74134-B1

On 12/2/15 ENC-Kona received a letter from the applicant to DPW introducing the variance application with a full cross-section exhibit that differs from Exhibit 6 in the application. We were not copied on the application with usual formal request for comments from Planning. Rather, Kona Planner Terry Dunlap hand delivered a copy to us. We reviewed the hand delivered application and have the following comments to the requested variance:

1. We have concerns about the two-way cycle track concept included in the full build-out cross-section. We are unfamiliar with operation and safety of this concept at intersections with side streets and driveways. The applicant defers such intersection considerations to future design work. It would be premature to approve the proposed full build-out cross-section until we know how many such crossings there will be, how they will operate at side streets and whether there is a satisfactory safety record. There may be a safety issue with vehicles turning from Kamaeāha Ave. from the same direction of travel and not seeing a cyclist coming from the same direction. This concept also appears to call for substantially more traffic control than the standard street design resulting in higher construction and maintenance costs.

December 4, 2015

TO : DUANE KANUHA, PLANNING DIRECTOR

FROM : DARREN J. ROSARIO, FIRE CHIEF

SUBJECT : Application: VARIANCE – VAR-15-000325
Applicant: Austen W. Drake, P.E.
Owner: Queen Lili'uokalani Trust
Request: Variance from Article 3, Division 4, Street Design, Section 23-41
Minimum Right-of way and pavement Widths; And Article 6,
Division 2, Improvements Required, Sections 23-66 & -95,
Right-of-way Improvement

Tax Map Key: 7-4-020-010 (SUB-15-001476)

The Hawaii Fire Department has no comments or issues with regards to the Variance application as noted above.

D. Rosario
DARREN J. ROSARIO
Fire Chief

KT:ds



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
 345 KEKONAŌA STREET, SUITE 20 • HILO, HAWAII 96720
 TELEPHONE (808) 961-8050 • FAX (808) 961-8857

December 21, 2015

2015 DEC 21 PM 4 30
 PLANNING DEPARTMENT
 COUNTY OF HAWAII

TO: Mr. Duane Kanuha, Director
 Attention: Mr. Jonathan Holmes
 Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Variance Application – (VAR 15-000328)
 Applicant – Austen W. Drake, P.E.
 Tax Map Key 7-4-020-009, 010 and 015 (SUB-15-001476)

We have reviewed the variance application and have the following comments.

The Department has no objection to the variance application, provided that water improvements for the proposed subdivision (Subdivision No. 15-001476) comply with the Department's Water System Standards.

Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,


 Keith K. Okamoto, P.E.
 Manager-Chief Engineer

TS:dfig

copy – Mr. Austen W. Drake, P.E.

102703

...Water, Our Most Precious Resource... *Ko Wai A Kūne* ...
 The Department of Water Supply is an Equal Opportunity provider and employer.

DPW Comments –VAR 15-000328
 December 7, 2015
 p. 2 of 2

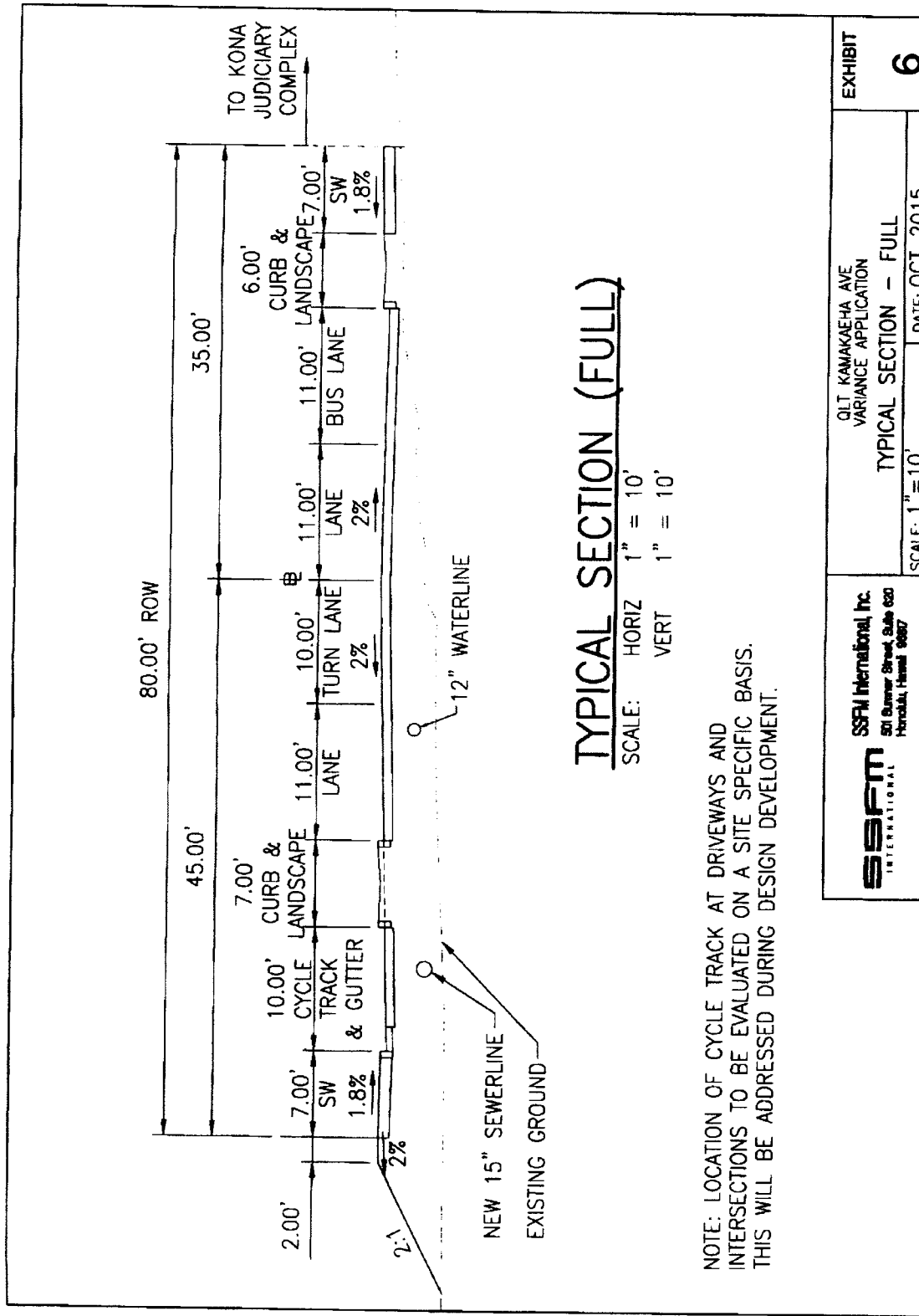
2. For drainage purposes, DPW prefers standard integral curbs with gutters along the vehicular traveled areas.
3. An additional foot of vehicular traveled way should be required medial of the baseline in the full build-out cross section to make the lane widths consistent, and or accommodate gutters. Accordingly, curb to curb pavement width medial of the baseline would match the mauka width of 22 feet for 44 feet of traveled way pavement. The mauka side "curb and landscape" would be reduced to 6 feet (same as mauka side).
4. The property owner or lessee shall maintain the landscaped areas within planting strips between the vehicular curb and the right-of-way boundary.
5. DPW recommends no off-site parking be allowed on collector streets.
6. Because the Judiciary plans to close their site to traffic during non-working hours, a vehicular turn around should be provided for the interim condition of the security gate should be located at the intersection with Makala Blvd. We assume there will be other dedicable street connections so that the Kamakaha Ave. will not dead end when eligible for County dedication (upon full build-out). If not, a dedicable turnaround shall be provided at no cost to the county.

Should there be any questions concerning this matter, please feel free to contact Kieran Entler of our Kona Engineering Division office at 323-4851.

KE

copy: ENG-HILO/KONA


Hawaii County is an equal Opportunity Provider and Employer



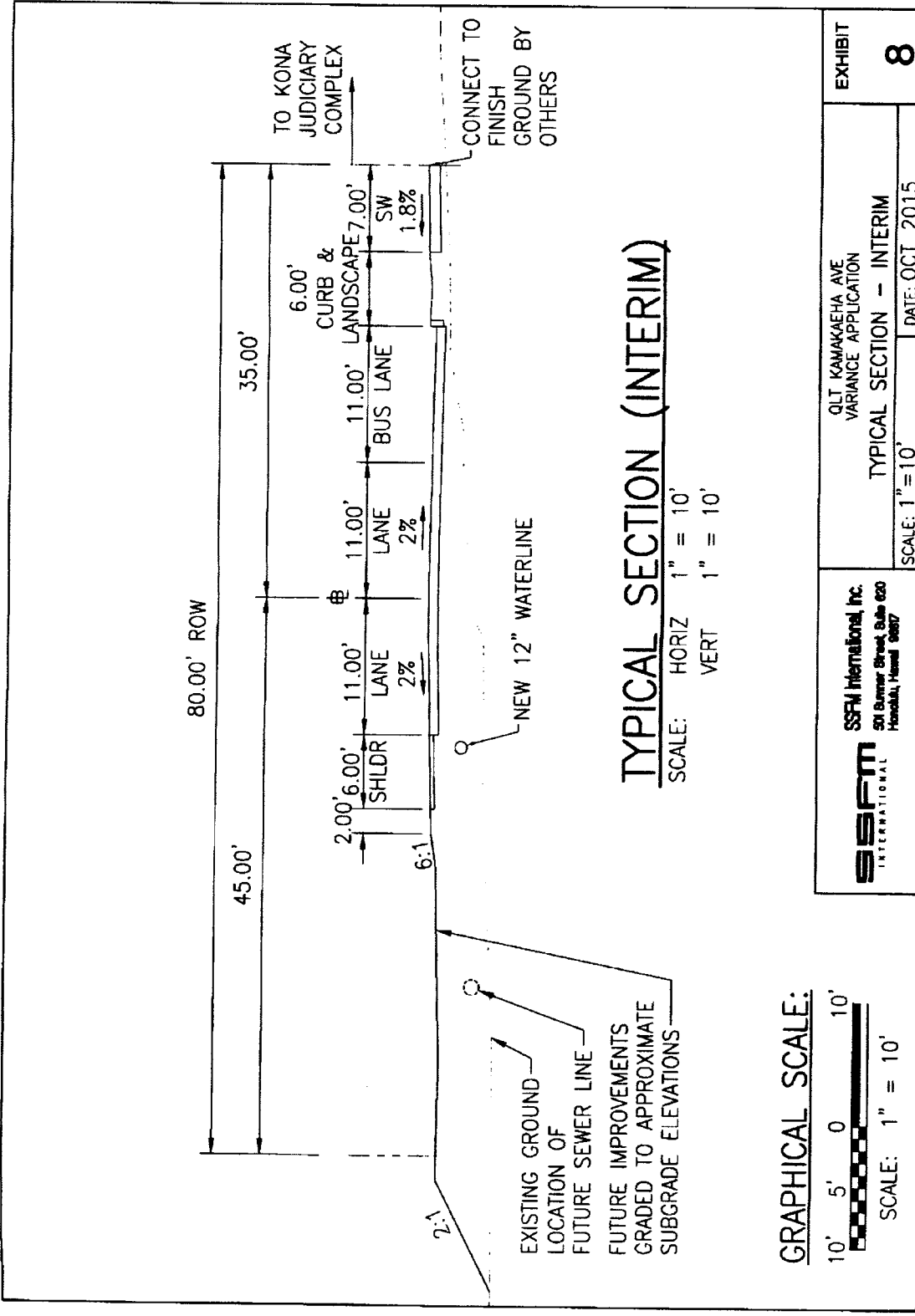
TYPICAL SECTION (FULL)

SCALE: HORIZ 1" = 10'
VERT 1" = 10'

NOTE: LOCATION OF CYCLE TRACK AT DRIVEWAYS AND INTERSECTIONS TO BE EVALUATED ON A SITE SPECIFIC BASIS. THIS WILL BE ADDRESSED DURING DESIGN DEVELOPMENT.

| | | |
|--|---|---|
|  <p>SSFM INTERNATIONAL</p> | <p>SSFM International, Inc. 501 Surfer Street, Suite 600 Honolulu, Hawaii 96807</p> <p>QLT KAMAKAIEHA AVE VARIANCE APPLICATION</p> <p>TYPICAL SECTION - FULL</p> | <p>EXHIBIT</p> <h1 style="font-size: 2em;">6</h1> |
| <p>SCALE: 1" = 10'</p> | | <p>DATE: OCT 2015</p> |

DRAWN BY: J. J. G. / J.E.



TYPICAL SECTION (INTERIM)

SCALE: HORIZ 1" = 10'
VERT 1" = 10'

GRAPHICAL SCALE:



EXHIBIT
8

OLT KAMAKAHEHA AVE.
VARIANCE APPLICATION
TYPICAL SECTION - INTERIM
SCALE: 1" = 10' DATE: OCT 2015

SSFM
INTERNATIONAL
501 Summer Street, Suite 620
Honolulu, Hawaii 96817

EXISTING GROUND
LOCATION OF
FUTURE SEWER LINE
FUTURE IMPROVEMENTS
GRADED TO APPROXIMATE
SUBGRADE ELEVATIONS

TO KONA
JUDICIARY
COMPLEX

CONNECT TO
FINISH
GROUND BY
OTHERS