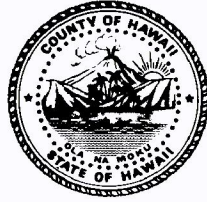


Mitchell D. Roth  
Mayor

Lee E. Lord  
Managing Director

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



## County of Hawai'i PLANNING DEPARTMENT

Zendo Kern  
Director

Jeffrey W. Darrow  
Deputy Director

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

October 14, 2022

Mark Krzyzanowski  
MK Planning LLC  
88-1471 Awapuhi Place  
Captain Cook, Hi 96704  
Via Email: [mark@mkplanninghawaii.com](mailto:mark@mkplanninghawaii.com)

Dear Ms. Bowles:

**Application: VARIANCE – PL-ZVAR-2022-000024**  
**Applicant: Mark Krzyzanowski, MK Planning LLC**  
**Owners: STRJ, LLC**  
**Request: Variance from Chapter 25, Zoning, Article 5, Division 1, Section 25-5-7, Minimum Yards and 25-4-44(a), Permitted Projections in Yards and Open Space Requirements (Encroachments into East Rear Yard and South Side Open Space Requirement)**  
**Tax Map Key: (3) 7-6-024:016-0002**

The Planning Director certifies the **approval** of Variance No. PL-ZVAR-2022-000024, subject to variance conditions. This Variance Approval supersedes and replaces Variance Permit No. 05-012, approved on June 21, 2005, that will allow portions of the dwelling walls in CPR Unit 2 to remain with minimum 19.77-foot rear (east) yard setback and 18.93-foot (east) yard setback and 4.35-foot side (south) open space requirement. This exception is in lieu of the required 20.0-foot rear (east) yard setback and 5.0-foot (south) open space, as required by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards requirements and 25-4-44(a), Permitted Projections into Yards and Open Space Requirements.

Variance Permit No. (VAR 05-012), approved on June 21, 2005, allowed for the dwelling and deck encroachments to remain, "AS-BUILT" on Lot 16 with minimum 19.0-feet to minimum 19.6-foot rear yard and 4.7-foot side yard open space, according to the site plan map dated January 26, 2005. According to the newly submitted survey map, dated May 4, 2022, the "AS-BUILT" encroachments of the dwelling and the deck have increased slightly due to additional measurements provided with the recent survey, dated May 4<sup>th</sup>, 2022.

**Variance No. PL-ZVAR-2022-000024 supersedes and replaces Variance Permit No. 05-012.**

## **BACKGROUND AND FINDINGS**

1. **Location.** The subject property, Lot 16, contains approximately 10,001 square feet, is comprised of two CPR Units, and is situated within Por. “Kuakini Makai” Increment I, F.P 1921 & Increment 2 “Kalani Makai” Unit I, Holualoa, North Kona, Hawai‘i. The subject property’s street address is 76-6122 A Royal Poinciana Way 2, Kailua-Kona, HI 96740.
2. **County Zoning.** Single-Family Residential District (RS-10).
3. **State Land Use Designation.** Urban.
4. **Setback Requirements.** 20-foot front and 10 feet for sides.
5. **Variance Application.** The applicant/owner submitted the variance application, attachments, filing fee, and associated materials on July 1, 2022. The variance application’s survey map dated May 4, 2022, was prepared by Thomas G. Pattison, LPLS and denotes that portions of the two-story single-family dwelling walls are built into the rear (east) yard setback and side (south) open space requirement. **(See Exhibit A-Site Plan)**

The survey map dated May 4, 2022, shows portions of the two-story single-family dwelling walls on CPR Unit 2 are built into the rear (east) yard setback, and built into the side (south) open space requirement, encroaching 0.23-feet and 1.07-feet into the 20.0-foot front yard, and encroaching 0.65-feet into the side (south) open space requirement in lieu of the required 5.0-foot side open space requirement.

The encroachment leaves a minimum 19.77-foot rear (east) yard setback and 18.93-foot (east) yard setback and 4.35-foot side (south) open space requirement. This exception is in lieu of the required 20.0-foot rear (east) yard setback and 5.0-foot (south) open space, as required by the Hawai‘i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards requirements and 25-4-44(a), Permitted Projections into Yards and Open Space Requirements.

6. **County Building Records.** Hawai‘i County Real Property Tax (RPT) Office records indicate that a building permit (#896324) was issued on September 18, 1989, for a new dwelling.
7. **Ohana Dwelling Permit.** An Ohana Dwelling Permit (OHD-89-0242) was approved on August 17, 1989, for an Ohana Dwelling (second dwelling) on this lot.
8. **Agency Comments and Requirements.**
  - a. State Department of Health (DOH) –See Memo dated September 22, 2022.



(See Exhibit “B”).

- b. Department of Public Works - Building Division – No comments received as of this date.
9. **Public Notice.** The applicant filed a transmittal letter with copy of the notices sent to surrounding property owners via USPS. According to USPS certificate of mailing receipts and affixed postal receipts, the first and second notices were mailed on August 9, 2022, and September 2, 2022, respectively. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on August 26, 2022
10. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. No written comments or objections from surrounding property owners or the general public were received.
11. **Time Extension.** A time extension request was granted on October 4, 2022.

## **GROUNDS FOR APPROVING VARIANCES**

### **Special and Unusual Circumstances**

- (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 the property.*

### **The Variance application meets criterion (a) for the following reasons:**

The owner/applicant submitted the variance application to address or resolve the encroachment of portions of the two-story dwelling walls into the 20.0-foot rear (east) yard setback and side (south) open space requirement, as required by the Zoning Code.

This Variance Approval (PL-ZVAR-2022-000024) supersedes and replaces Variance Permit No. 05-012, approved on June 21, 2005, that will allow portions of the dwelling walls in CPR Unit 2 to remain with minimum 19.77-foot rear (east) yard setback and 18.93-foot (east) yard setback and 4.35-foot side (south) open space requirement. This exception is in lieu of the required 20.0-foot rear (east) yard setback and 5.0-foot (south) open space, as required by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards requirements and 25-4-44(a), Permitted Projections into Yards and Open Space Requirements.

The survey map dated May 4, 2022, shows portions of the two-story single-family dwelling walls on CPR Unit 2 are built into the rear (east) yard setback, and built into the side (south) yard

open space requirement, encroaching 0.23-feet and 1.07-feet into the 20.0-foot front yard, and encroaching 0.65-feet into the side (south) open space requirement in lieu of the required 5.0-foot side open space requirement.

The encroachment leaves a minimum 19.77-foot rear (east) yard setback and 18.93-foot (east) yard setback and 4.35-foot side (south) open space requirement. This exception is in lieu of the required 20.0-foot rear (east) yard setback and 5.0-foot (south) open space, as required by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards requirements and 25-4-44(a), Permitted Projections into Yards and Open Space Requirements. No evidence has been found to show indifference or premeditation by the past owners or builders to deliberately create or intentionally allow the building encroachment problems to occur. It appears that the original dwelling improvements was constructed in 1990, approximately 32 years ago, and it also appears that past building permit inspections of the premises by the affected agencies during construction of the dwelling improvements did not disclose any building encroachment issues or building setback irregularities at that time.

The above special and unusual circumstances determine the owner was not at fault in creating the encroachment violation and requiring them to fix the encroachments would interfere with best use and development of the subject property.

The above special and unusual circumstances determine the owner was not at fault in creating the encroachment violation and requiring them to fix the encroachments would interfere with best use and development of the subject property.

### **Alternatives**

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

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

Alternatives available to the current owners to correct and/or address the building encroachments constructed into the affected rear yard and side open space requirement of the subject property include the following actions:

This Variance Approval (PL-ZVAR-2022-000024) supersedes and replaces Variance Permit No. 05-012, approved on June 21, 2005, that will allow portions of the dwelling walls in CPR Unit 2 to remain with minimum 19.77-foot rear (east) yard setback and 18.93-foot (east) yard setback and 4.35-foot side (south) open space requirement. This exception is in lieu of the required 20.0-foot rear (east) yard setback and 5.0-foot (south) open space, as required by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards requirements and 25-4-44(a), Permitted Projections into Yards and Open Space Requirements.



Remove the building encroachments and/or redesign the east and south portions of the two-story dwelling denoted on the survey map to fit within the correct building envelope as prescribed by the Zoning Code. This alternative would be deemed unreasonable, especially when the owners complied with the building permit process and were under the impression that the single-family dwelling was in compliance with all County requirements. Any structural or design correction of the single-family dwelling to meet setback requirement would leave unattractive reconstruction scars.

There are no reasonable alternatives to resolve the encroachment issue.

### **Intent and Purpose**

*(c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the 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:**

The intent and purpose of requiring building setbacks for a lot are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

This Variance Approval (PL-ZVAR-2022-000024) supersedes and replaces Variance Permit No. 05-012, approved on June 21, 2005, that will allow portions of the dwelling walls in CPR Unit 2 to remain with minimum 19.77-foot rear (east) yard setback and 18.93-foot (east) yard setback and 4.35-foot side (south) open space requirement. This exception is in lieu of the required 20.0-foot rear (east) yard setback and 5.0-foot (south) open space, as required by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards requirements and 25-4-44(a), Permitted Projections into Yards and Open Space Requirements.

No evidence has been found to show indifference or premeditation by the owners or builders to deliberately create or intentionally allow the building encroachment problems to occur.

The variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties. The original dwelling has been in existence for approximately 44 years and was constructed under valid building permits issued by the County of Hawai'i. The encroachments were originally discovered when a survey was performed on January 6, 2005 and following the submittal of an application for a variance from zoning, Variance Permit No. 05-012, was approved on June 21, 2005, allowing for the dwelling and deck encroachments to remain, "AS-BUILT" on Lot 16 with minimum 19.0-feet to minimum 19.6-foot rear yard and 4.7-foot side yard open space. Due to additional efforts by the owner to re-survey the dwelling, it was found in the newly submitted

survey map, dated May 4, 2022, showed that the “AS-BUILT” encroachments of the dwelling and the deck have increased slightly due additional measurements provided with the recent survey, dated May 4<sup>th</sup>, 2022. It is felt that the issuance of this variance will not depreciate or detract from the character of the surrounding properties.

Based on the foregoing findings and unusual circumstances, the applicant’s request for variance would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan.

This can be substantiated, to some degree, by the fact that no comments or objections were received from the surrounding property owners or general public in response to the Notification of Surrounding Properties Owners.

Therefore, the variance would be consistent with the general purpose of the zoning district and not be materially detrimental to the public’s welfare or cause substantial adverse impact to the area’s character or to adjoining properties.

### **PLANNING DIRECTOR’S DECISION AND VARIANCE CONDITIONS**

Based on the variance application’s survey map, the single-family dwelling built on the subject property (“LOT 16”) will not meet the minimum rear (east) yard and side (south) open space requirement pursuant to Hawai‘i County Code, Chapter 25, (Zoning Code).

This variance application is approved subject to the following variance conditions:

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawai‘i harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. Should the dwelling walls and roof overhangs (eaves) built on the subject property be destroyed by fire or other natural causes, the replacement structure shall comply with the Hawai‘i County Code, Chapter 25, (Zoning) and be subject to State law and County ordinances and regulations pertaining to building construction occupancy.
4. Future or new building improvements and permitted uses shall be subject to State law and County Ordinances and Regulations pertaining to building construction and building



Mark Krzyzanowski  
MK Planning LLC  
October 14, 2022  
Page 7

occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Director may initiate proceedings to null and void PL-ZVAR-2022-000024.

Sincerely,

*Zendo Kern*

Zendo Kern (Oct 17, 2022 13:04 HST)

ZENDO KERN  
Planning Director

RJN:ad

P:\public\Admin Permits Division\Variance\2022\PL-ZVAR-2022-000024-Krzyzanowski Setback\Approval.doc

xc: DPW Engineering Division (Kona)  
Real Property Tax Office (Kona)  
Gilbert Bailado, GIS

Ruslan and Emily Bachinsky  
STRJ, LLC  
P.O. Box 2346  
North Highlands, CA 95660-8346

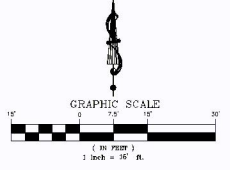
NOTE: BASIS OF AZIMUTH DERIVED USING HEMISPHERE GPS RTK SYSTEM

NOTE: ALL CORNERS ARE FOUND FROM PIPES UNLESS OTHERWISE NOTED

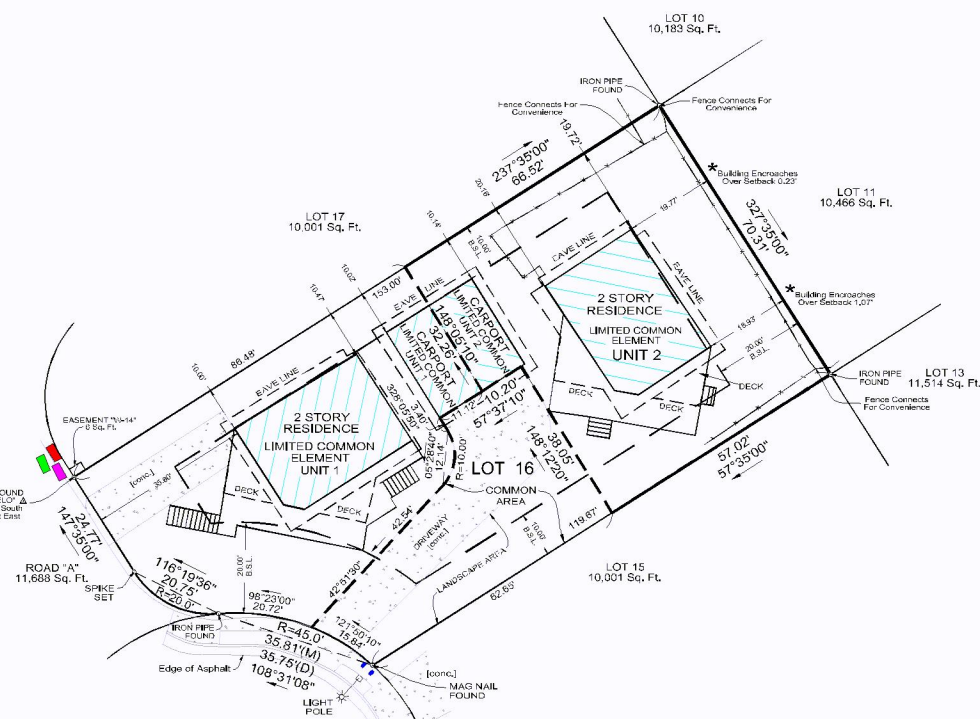
NOTE: ALL AZIMUTHS & DISTANCES ARE SHOWN & MAPPED HEREIN IN A CLOCKWISE DIRECTION

MAP SHOWING EXISTING CONDITIONS UPON UNIT 2 of "KAUNAOA BAY CONDOMINIUM PROJECT" Being a Portion of Lot 16 in Subdivision Map 4965-Revised at Holualoa, North Kona, County of Hawaii, State of Hawaii TMK (3) 7-6-024:016-0002

TRUE NORTH



LEGEND	
UTILITY BOXES	
[Red Box]	B.S.L., BUILDING SETBACK LINE
[Blue Box]	HELCO
[Green Box]	WATER METER
[Yellow Box]	MT
[Purple Box]	CATV
[Grey Box]	CONCRETE



- NOTES:
- 1) No boundary encroachments were found.
  - 2) Violations of County zoning setback codes were found.
  - 3) The distances shown between the property lines & the features, shown hereon, are based on selected found boundary monuments & acceptable tolerances for properties of this type.
  - 4) The features, shown hereon, were located by an actual survey performed on the ground on April 28th, 2022.
  - 5) See accompanying report pertaining to setbacks and encroachments.

Setback Lines are shown hereon, but should be verified by building. The description on this plan was provided to us by the Owner, and does not guarantee, warranty, or liability to be compared to any State, District or Certificate of Title. All building conditions, building lines and easements may or may not be shown. Check your deed, zoning, title reports, and local ordinances, or contact the Planning Department of the County of Hawaii, before building. It is your responsibility to determine if such encroachments are shown in fact and deal with them, no encroachment is to be construed by statute.

SPECIAL ATTENTION: The heavy dashed line which appears on the Project Plan between Unit 1 and Unit 2 is for illustrative purposes only and does not represent a boundary. Any line intended only to show an Enclosed Common Area appears on each Unit.

AREA OF UNIT 1	= 3,925 Sq. Ft.
AREA OF UNIT 2	= 4,312 Sq. Ft.
AREA OF COMMON AREA	= 1,764 Sq. Ft.
TOTAL AREA OF LOT 16	= 10,001 Sq. Ft.

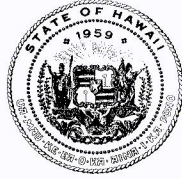
Exhibit "A"

I, Thomas G. Pattison, do hereby certify that this map is an accurate representation of a survey as made on the ground, by me, or under my direct supervision and that there are no apparent or visible encroachments or easements, known to me, except as shown and mapped hereon.

**-COPY-**

THOMAS G. PATTISON  
May 4th, 2022  
Hawaii License No. 10743





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

MEMORANDUM

DATE: September 22, 2022

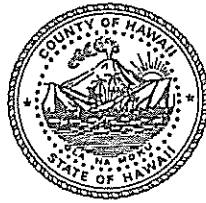
TO: Mr. Zendo Kern  
Planning Director, County of Hawaii

FROM: Eric Honda  
District Environmental Health Program Chief

SUBJECT: Application: VARIANCE- PL-ZVAR-2022-000024  
Applicant: Mark Drzyzanowski, MK Planning LLC  
Owners: STRJ, LLC  
Request: Variance from Chapter 25, Zoning, Article 5, Division 1  
Section 25-5-7, Minimum Yards  
TMK: 7-6-024:016

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

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

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

June 21, 2005

Mr. Klaus D. Conventz  
dba Baumeister Consulting  
P. O. Box 2308  
Kailua-Kona, HI 96745

Dear Mr. Conventz:

**VARIANCE PERMIT NO. VAR 05-012**  
**Applicant: KLAUS D. CONVENTZ**  
**Owner: DONNA M. SPRINGER**  
**Request: Variance from Minimum Yards,**  
**Pursuant to Chapter 25, the Zoning Code**  
**Tax Map Key: 7-6-024:016, Lot 16**

After reviewing your application and the information submitted, the Planning Director certifies the approval of your variance request subject to conditions. Variance Permit No. 05-012 allows the dwelling ("2-Story House") and deck encroachments to remain, "AS-BUILT", on Lot 16, with minimum 19.0 feet to minimum 19.6 feet rear yard and 4.7 feet side yard open space according to the variance site plan map dated January 26, 2005. The variance request is from the subject TMK property's minimum 20.0 feet rear yard and minimum 4.0 side yard open space requirements pursuant to the Hawaii County Code, Chapter 25, Zoning, Article 5, Division 1, Section 25-5-7, Minimum yards, (a) (2) (A), and Article 4, Division 4, Section 25-4-44, Permitted projections into yards and open space requirements, (a).

### BACKGROUND AND FINDINGS

1. **Location.** The subject property, Lot 16 containing 10,001 square feet, is within Kalani Makai, Unit I, being portions of R.P. 4475, L.C. Aw. 7713, Ap. 43 to V. Kamamalu and R.P. 8217, L.C., Aw. 3660 to John P. Munn, and situated at Holualoa 1<sup>st</sup> and 2<sup>nd</sup>, North Kona, Hawaii.

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

JUN 22 2005



The property is zoned Single-Family Residential (RS-10) by the County and designated "Urban" by the State Land Use (SLU) Commission. The TMK property is within the Special Management Area (SMA). However, the TMK property does not abut the shoreline.

Ohana Dwelling Permit (OD 89-242) "to construct the Ohana Dwelling" on the subject TMK property-Lot 16 was granted, subject to conditions, pursuant to the permit letter dated August 17, 1989.

2. **Variance Application-Site Plan.** The applicant submitted the variance application, attachments, and filing fee to the Kona Planning Department on or about January 31, 2005. The applicant's variance application site plan or map drawing is drawn to scale and dated January 26, 2005. The variance application's site plan or survey map by Wes Thomas Associates denotes the building envelope, dwelling ("2-Story House-Deck") and other site improvements on "UNIT 2".

**Note:** The variance request and site plan map does not identify any cesspool location(s) or Independent Wastewater System (IWS) located on "UNIT 2". The location of the fencing and landscaping planting improvements near or along the property's boundary lines or straddling common boundary lines shall be addressed and resolved by the applicant/current owner(s).

3. **Agency Comments and Requirements-WH (VAR 05-012):**

- a. The Department of Public Works (DPW) memorandum dated March 9, 2005, states in part:

"We have reviewed the application and have no comments or objections."

- b. The State Department of Health (DOH) memorandum dated March 8, 2005, states:

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

4. **Notice to Surrounding Property Owners.** Proof of mailing a first and second notice was submitted to the Planning Department. For the record, it appears that the first and second notice was mailed on January 31, 2005 and March 7, 2005, respectively, by the applicant.

5. **Comments from Surrounding Property Owners or Public.** No further written agency comments or objection letters from surrounding property owners and public were received.

### **SPECIAL AND UNUSUAL CIRCUMSTANCES**

The building encroachment problems were identified pursuant to a survey map or variance site plan map dated January 26, 2005.

The applicant, on behalf of the owner, filed the variance request and application to address or resolve building encroachment issues. The site plan map was prepared by a surveyor and shows the dwelling and other site improvements, "AS BUILT", within "UNIT 2" or "LOT 16". A small portion of a dwelling's footprint or living area and deck is constructed beyond the denoted building set-back line or building envelope into the property's rear yard and one of Lot 16's minimum side yards pursuant to the Hawaii County Zoning Code. The current owner(s) or applicant became aware of the dwelling encroachment issues after the survey map was prepared. No evidence has been found to show indifference or premeditation by the owner(s) or builders to deliberately create or intentionally allow the building encroachment problems to occur. It appears that the 16 year old dwelling and deck improvements were constructed built circa 1989 according to the applicant and County building permit records. It appears that building inspections of the premises by the respective agencies during the construction of the dwelling improvements did not disclose any building encroachment issues or building setback irregularities in 1989. The location of any planting materials or landscaping improvements straddling common boundary lines or within the public right-of-way shall be resolved by the applicant/current owner (Refer to Variance Permit Conditions).

### **ALTERNATIVES**

Alternatives available to the applicant to address and correct the existing building encroachments include the following actions:

1. Removing the existing building encroachments or redesigning or relocating the dwelling and portion of the deck to fit within the correct building envelope prescribed by the Zoning Code.
2. Consolidation with portions of the adjoining property and resubdivision of the resultant lot to modify property lines and adjustment of minimum yards.



## **INTENT AND PURPOSE**

The intent and purpose of requiring building setbacks within subdivision are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

It appears that small portions of the dwelling and deck within the property's rear yard and affected side yard are not physically noticeable or visually obtrusive from adjacent property(s) or right-of-way (ROAD A). It appears that these building encroachments do not depreciate or detract from the character of the surrounding neighborhood and surrounding land pattern.

Therefore, it is felt that these building encroachments within the affected minimum yards identified on the variance application's site plan map will not detract from the character of the immediate neighborhood or the subdivision.

The subject variance application was acknowledged by letter dated February 22, 2005. Additional time to consider agency comments was deemed necessary. The applicant agreed to extend the date on which the Planning Director shall render a decision on the subject variance.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

## **PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS**

This variance request is approved subject to the following conditions:

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.

3. Portions of a "2-Story House and Deck" on "LOT 16-UNIT 2" will not meet Chapter 25, the Zoning Code's minimum rear and side yard requirements according to the variance application's site plan map dated January 26, 2005. The approval of this variance allows the dwelling improvements on "UNIT 2" or "LOT 16" to remain, AS BUILT, on the subject TMK property or "LOT NO. 9", pursuant to the variance site plan map.

Any fencing or landscaping improvements straddling common boundary line(s) shall be addressed between the applicant/current owner(s) prior to any change in ownership or sale of the property.

4. Future building improvements and permitted uses on the subject tax map key property-Lot 16 are subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

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

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

WRY: je/cd

P:\WP60\WRY\FORMLETT\VARAPPZCTMK76024016.BC

xc: Real Property Tax - Kona  
Planning Department - Kona  
OD 89-242