

THIS SHORELINE SETBACK VARIANCE APPLICATION SHALL BE ACCOMPANIED BY THE FOLLOWING BACKGROUND INFORMATION:

1. A Final Environmental Assessment consistent with the requirements of Chapter 343, HRS. Note: Prior to processing the Shoreline Setback Variance Application, a Final Environmental Assessment (EA) and Determination of Impact shall be prepared and published in the OEQC Bulletin, in accordance with the requirements of Chapter 343, HRS, Environmental Impact Statements.
2. Detailed written description of the proposed project and a statement of objectives and reasons for the request, including a statement as to how the request complies with the criteria within Rule 8-10 (attached).
3. Description of the subject property in sufficient detail to precisely locate the property. Describe existing uses, structures and topography.
4. State/County Plans affecting the subject request: General Plan designation and Community Development Plans.
5. A written statement discussing the proposed development in relationship to the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein.
6. Surrounding zoning and land uses.
7. Flood Insurance Rate Map (FIRM) designation (contact Department of Public Works - Engineering Division).
8. Floral and Faunal Resources.
9. Valued Cultural Resources: Identify any traditional and customary native Hawaiian rights that are exercised in the area; the extent in which the proposed development will affect these rights; and feasible action to be taken to protect native Hawaiian rights if they exist.
10. Public Access: Existing public access to and along the shoreline or to mountain areas and knowledge of whether public access is being used.
11. Description of access(es) to the area (e.g. width, type of surface and condition of roadway). If a private roadway, submit evidence of access rights.
12. Traffic impacts - assessment of existing traffic conditions, anticipated increase in traffic and traffic impacts from proposed use (a formal study may be requested by Department of Public Works or Department of Transportation during the review process).
13. Availability of Utilities: Water, telephone, electricity, sewage disposal.
14. A detailed justification of the proposed project, which addresses the criteria and conditions set forth in Rule 8-10 of these rules (see attached).
15. The submitted site plan must show:

- A. All existing and proposed structures with elevations, uses and improvements; and reference points such as roadways, shoreline, etc.
- B. Existing natural and man-made features and conditions within the shoreline setback area;
- C. Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
- D. The certified shoreline;
- E. The shoreline setback line;
- F. Contours at a minimum interval of five feet unless waived by the Department;
- G. Proposed development and improvements reflecting new conditions.

16. A certified shoreline survey map.

A COPY OF RULE 8, SHORELINE SETBACK CAN BE OBTAINED FROM THE COUNTY OF HAWAII PLANNING DEPARTMENT FOR REFERENCE TO THE ABOVE SUBMITTAL REQUIREMENTS.

**EXCERPTS FROM PLANNING COMMISSION
RULE 8 - SHORELINE SETBACK
(Effective February 17, 1997)**

8-10 Criteria for Approval of a Variance

- (a) A variance may be granted for a structure or activity otherwise prohibited by these rules if the Planning Commission finds in writing, based on the record, that the proposed structure or activity is necessary for or ancillary to:

- (1) Cultivation of crops;
- (2) Aquaculture; or
- (3) Landscaping.

- (b) A variance may also be granted upon a finding that, based upon the record, the proposed structure or activity meets one of the following standards of this subsection:

- (1) Shoreline-dependent Facility Standard.

A variance may be granted for an activity or structure that is necessary for or ancillary to a shoreline-dependent facility or improvement, including drainage facilities and boating, maritime or ocean sports recreational facilities; provided that the proposal is the practicable alternative which best conforms to the purpose of this rule.

- (2) Public Interest Standard.

A variance may be granted for an activity or structure which is undertaken by a public agency or by a public utility regulated under Chapter 269, Hawaii Revised Statutes, or a private facility or improvement which is undertaken by a private entity and is clearly in the public interest; provided that the proposal is the practicable alternative which best conforms to the purpose of this rule.

- (3) Hardship Standard.

- (A) A structure or activity may be granted a variance upon grounds of hardship only if:

- (i) The applicant would be deprived of reasonable use of the land if required to comply fully with this rule; and
- (ii) The request is due to unique circumstances and does not draw into question the reasonableness of this rule; and
- (iii) The request is the practicable alternative which best conforms to the purpose of this rule.

- (B) Before granting a hardship variance, the Commission must determine that the request is a reasonable use of the land. The

determination of the reasonableness of the use of land shall consider factors such as shoreline conditions, erosion, surf and flood condition, and the geography of the lot as it relates to health and safety.

- (C) If a structure is proposed to artificially fix the shoreline, the Commission must also determine that shoreline erosion is likely to cause hardship if the structure is not allowed within the shoreline area.
- (D) Hardship shall not be determined as a result of a zoning amendments, planned unit development (PUD) permits, cluster plan development (CDP) permits, or subdivision approvals after June 16, 1989.

(c) No variance shall be granted unless appropriate conditions are imposed as applicable:

- (1) To comply with Chapters 10 and 27 of the Hawaii County Code relating to Erosion and Sedimentation Control and Flood Control, respectively;
- (2) To maintain safe lateral access along the shoreline or adequately substitute for its loss;
- (3) To minimize risk of adverse impacts on beach processes;
- (4) To minimize risk of structures failing and becoming loose rocks or rubble on public property; and
- (5) To minimize adverse impacts on public views to, from, and along the shoreline.