

May 12, 1972

Mr. Walter Low  
81 Puainako Street  
Hilo, Hawaii 96720

Re: Variance Application  
TMK: 2-2-36:8

The County Planning Commission, at its preliminary hearing of May 11, 1972, reviewed your application for a variance to allow the construction of an additional unit over the maximum allowable density of five (5) units as regulated by the Duplex-residential (RD-3.75) zoned district.

This is to inform you that the Commission voted to deny your request as it was found that there are no apparent hardships that would be satisfied with the granting of the request. Density variances of the requested nature, namely requesting a 66.7% deviation, are normally processed as a change of zone request.

Please be informed that although the recommended procedure is for a change of zone, this does not directly imply that the Commission would necessarily look favorably upon your request, should such be submitted. Your request will still have to be evaluated in light of the pertinent policies and standards of the General Plan document.

Should you decide to appeal the decision of the Commission in the denial of your variance request, a petition setting forth the following shall be submitted to the Board of Appeals:

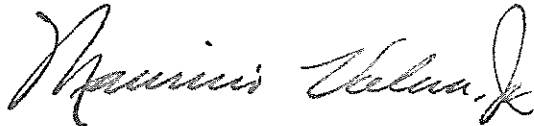
- a. Name, mailing address and telephone number;
- b. identification of the property and interest therein;
- c. the particular provision of the zoning ordinance or subdivision ordinance or regulation in question;
- d. all pertinent facts;
- e. the action of the Commission;
- f. reasons for the appeal, including a statement as to why

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the appellant believes that the Commission's action was based on an erroneous finding of a material fact, or that the Commission has acted in an arbitrary or capricious manner, or had manifestly abused its discretion.

Should any questions arise, please do not hesitate to contact the Commission or the Planning Department.

Your filing fee of one hundred (100) dollars will be refunded under separate cover as the request was denied prior to a public hearing.



Mauricio Valera, Jr.  
Vice Chairman  
For  
O. W. Efurd, Jr.  
Chairman

GM:y

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal of )  
Walter Low/Joyce Low )  
Tax Map Key 2-2-36:8 )  
\_\_\_\_\_ )

Variance Application

No. 291

FINDINGS OF FACT

CONCLUSIONS OF LAW

AND

DECISION AND ORDER

PLANNING COMMISSION OF THE PLANNING DEPARTMENT  
COUNTY OF HAWAII

In the Matter of the Appeal of )	
Walter Low/Joyce Low )	Variance Application
)	
Tax Map Key 2-2-36:8 )	No. 291
)	

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FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND  
DECISION AND ORDER

The above-entitled matter was brought on for hearing before the Planning Commission of the Planning Department, County of Hawaii, on the 11th day of May, 1972, in the Planning Department's Conference Room, County Building, Hilo, Hawaii, at which hearing Joyce Low appeared on behalf of the applicants. The Planning Commission having heard the testimony and having examined the exhibits does hereby declare its Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

1. An application requesting a variance from the maximum allowable density as regulated by the duplex-residential zoned district for property located in the Waiakea Houselots, South Hilo, was received on March 29, 1972.
2. A preliminary hearing concerning the above matter was held on May 11, 1972.
3. The subject property fronts Mililani Street approximately one hundred feet Puna side of Kekuanaoa Street.
4. The subject application requested the construction of an additional unit over the maximum allowable density of five (5)

units. The allowable density for the 20,000 square foot parcel is based on one unit per 3750 square feet of land area or five (5) units. The variance requested requests an approximately 66.7 per cent deviation from the allowable density.

5. Presently situated on the subject property are two duplex structures containing a total of four (4) dwelling units and two (2) accessory units which have no kitchen facilities in them.

6. The subject property is served with adequate utilities and has no adverse terrain problems.

7. It was recommended by the staff that the request be denied at this preliminary hearing as it was found that there are no apparent hardships that would be satisfied with the granting of the request. Requested density variances of this nature, namely requesting a 66.7 per cent deviation, are normally processed as a change of zone application.

8. It was moved to concur with the recommendation of the staff to deny the subject request. The motion was seconded and carried that the request be denied based on the staff's findings.

#### CONCLUSIONS OF LAW

1. The Planning Commission has jurisdiction to hear and determine appeals requesting variances from the Subdivision and Zoning Ordinances.

2. All procedural requirements as prescribed by law have been complied with.

3. Under Section 5-4.3(g) of the Hawaii County Charter, a variance may not be granted unless there are special or unusual circumstances applying to the subject property which would result in unnecessary hardship if the ordinance were literally enforced, and the granting of the variance would not be contrary to the public interest.

4. The requirements for the granting of a variance have not been met.


#### DECISION AND ORDER

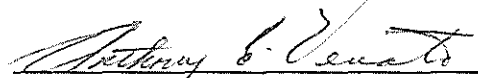
Based upon the testimony and exhibits introduced at the hearing and the foregoing Findings of Fact and Conclusions of Law, it is the decision of the Planning Commission and it is hereby ordered that a variance from the requirements of Section 10 of Zoning Ordinance No. 63, pertaining to allowable densities, of Tax Map Key 2-2-36:8 located in the Waiakea Houselots, Waiakea, South Hilo, Hawaii, be and is hereby denied on its merits.

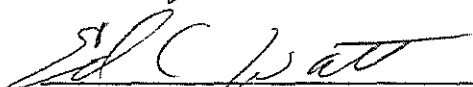
Dated at Hilo, Hawaii, this 13th day of July, 1972.

  
MAURICIO VALERA, JR., Vice Chairman

  
CLARA K. KAHUMOKU, Member

  
SHIGEJI KAWASAKI, Member

  
ANTHONY C. VERIATO, Member

  
ED C. WATT, Member