

June 2, 1973

Mr. James M. Whitman
Business Manager
Parker Ranch
Kamuela, HI 96743

Re: Variance Application
Tax Map Key 6-5-03:11

The Planning Commission at its preliminary hearing on May 31, 1973 reviewed your application for a variance to allow relief from roadway requirements for a proposed 8-lot residential subdivision located in Waimea Homesteads, South Kohala, Hawaii.

This is to inform you that the Commission voted to deny your request based on the following considerations:

1. That there are no special conditions or circumstances which are not general conditions or circumstances affecting other similarly situated properties. The allowance of variances is designed to allow deviation from the literal enforcement of ordinances which, if strictly applied, would deny a property owner all beneficial use of the land and thus amount to confiscation of the property. This is not the situation facing the applicant;
2. That financial hardship alone to construct a roadway meeting applicable regulations is not enough to constitute unnecessary hardship. The granting of such a request would have negative effect on that section of the subdivision ordinance pertaining to roadway standards; and
3. That the front portion of the lot is already zoned for commercial uses and that the commercial potential is available. the development of such commercial uses would necessitate the providing of a 60 foot right-of-way within which to construct sidewalks, curbs, gutters, etc.

As your request has been denied, you may appeal the decision of the Planning Commission if you find that the action of the

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Planning Commission 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 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 within fifteen (15) days from the date of action and accompanied by a filing fee of ten dollars (\$10.00):

1. Name, mailing address and telephone number;
2. Identification of the property and interest therein;
3. The particular provision of the Zoning Ordinance or Subdivision Ordinance or regulation in question;
4. All pertinent facts;
5. The action of the Commission; and
6. Reasons for the appeal, including a statement as to why 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.

Inasmuch as no public hearing will be held on this matter, we will be returning your filing fee as soon as the refund is processed. We will be forwarding you a certified copy of the Order as soon as the document is prepared.

Should you have any questions regarding the above, please feel free to contact Glenn Miyao or Norman Hayashi of the Planning Department at 935-5721, extension 221.



Ed C. Watt
Chairman

lat

cc Corporation Counsel
Chief Engineer, Public Works

PLANNING COMMISSION OF THE PLANNING DEPARTMENT
COUNTY OF HAWAII

In the Matter of the Appeal)
 of)
 PARKER RANCH)
))
 Tax Map Key 6-5-03:11)
_____)

Variance Application
No. 335

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)
 PARKER RANCH)
)
Tax Map Key 6-5-03:11)
_____)

Variance Application

No. 335

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND
DECISION AND ORDER

The above-entitled matter was brought on for a preliminary hearing before the Planning Commission of the Planning Department, County of Hawaii, on the 31st day of May, 1973, in the Planning Department's Conference Room, County Building, Hilo, Hawaii, at which hearing James Whitman appeared in behalf of the applicant. 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 to allow relief from roadway requirements for a proposed 8-lot residential subdivision located in Waimea Homesteads, South Kohala, was received on May 1, 1973.
2. A preliminary hearing on the above matter was held on May 31, 1973.
3. The subject property is zoned for Village Commercial (CV-7.5) and Single Family Residential (RS-10), and is located along the

Kona side of Kawaihae Road, approximately 1,450 feet west of the Kawaihae-Lindsey Road junction. It is situated adjacent to Yoso's Restaurant across from the Waimea Village Inn.

4. The request is to allow the construction of a 50-foot roadway with an existing 15-foot pavement within a pending subdivision.

*use appropriate
Code provisions*

As stated in Section 9-C(2) of Subdivision Ordinance 62, relating to minimum right-of-way and pavement widths, the required road right-of-way in the CV zone district is 60 feet with a 25-foot pavement. Right-of-way requirement in the RS zoned district is 50 feet wide with a 20-foot pavement.

5. As a condition of subdivision approval, it is required also that the end of the cul-de-sac be extended to the south boundary (end of Lots 5 and 6) of the proposed subdivision, creating a minor street. As regulated by the Subdivision Ordinance, a cul-de-sac shall not be more than 600 feet in length. The proposed cul-de-sac is approximately 875 feet in length, and ends at the front portion of the Lots 5 and 6.

6. Presently situated on the 7.6 acre parcel are single-family dwelling units.

7. The applicant's intent of subdividing the property is to create houselots for the eight existing homes on the property for the explicit purpose of selling the homes and houselots to the present occupants, all employees of Parker Ranch, at an extremely favorable price.

8. The General Plan land use allocation guide map designates the area for medium density urban development.

9. It was recommended by staff that the request be denied as it was found that:

- a. There are no special conditions or circumstances which are not general conditions or circumstances affecting other

similarly situated properties. The allowance of variances is designed to allow deviation from the literal enforcement of ordinances which, if strictly applied, would deny a property owner all beneficial use of the land and thus amount to confiscation of the property. This is not the situation facing the applicant.

- b. Financial hardship alone to construct a roadway meeting applicable regulations is not enough to constitute unnecessary hardship. The granting of such a request would have negative effect on that section of the Subdivision Ordinance pertaining to roadway standards.
- c. The front portion of the lot is already zoned for commercial uses and that the commercial potential is available. The development of such commercial uses would necessitate the providing of a 60-foot right-of-way within which to construct sidewalks, curbs, gutters, etc.

10. After discussion, it was moved and seconded that the request be denied. The motion was carried.

CONCLUSIONS OF LAW

1. Pursuant to Section 5-4.3(g) of the County Charter, the Planning Commission has jurisdiction 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 9 of Subdivision Ordinance No. 62, pertaining to roadway requirements, of Tax Map Key 6-5-03:11 located in Waimea Homesteads, South Kohala, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 2nd day of November 1973.


Ed C. Watt, Chairman

