

CERTIFIED MAIL

November 19, 1979

Mr. Ralph Jewell  
P. O. Box 112  
Holualoa, HI 96725

Dear Mr. Jewell:

Variance Application - Ralph Jewell, et al  
Tax Map Key 7-6-4:28

The Planning Commission at its preliminary hearing on November 14, 1979, considered your application for a variance to allow the waiving of the minimum roadway improvement requirements for a proposed 2-lot subdivision at Holualoa, North Kona, Hawaii.

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

While it is recognized that unusual circumstances exist with regard to the history of the roadway construction in the area, it is recommended that the request be denied as its approval would be contrary to the purpose and intent of the Subdivision Control Code. The purpose and intent of the access provisions of the Subdivision Control Code is to provide for the safe and efficient movement of people and goods. The petitioner proposes to utilize a 10-foot wide pavement with a 12-foot wide right-of-way. Such a roadway does not allow for two (2) way traffic and is hazardous. The petitioners have indicated that an additional 10-foot wide strip may be available for widening the right-of-way, however, no pavement improvements are proposed. Thus, even with the possible expansion of the right-of-way two (2) way traffic would still not be possible due to the narrow pavement width.

ck # 39189 11/14/79  
\$100.00

NOV 20 1979

Mr. Ralph Jewell  
November 19, 1979  
Page 2

It is recognized that the subject request relates to the creation of only two (2) lots. However, there are other properties along the same roadway in this area. Should this request be approved these other lots may apply for similar relief and conceivably the situation could snowball. According to the easement document submitted by the petitioner and the Department of Taxation records there currently are 11 lots abutting the roadway within the Holualoa Mauka Partition Lots whose owners have easement rights over the Kaaihue Ranch roadway. These 11 lots could be subdivided into 17 lots based on the current County Zoning and lot configuration. Further, considering all the lots which physically abut the roadway within the Holualoa Mauka Partition Lots a total of 26 lots may be created using these same roadways. Should the subject request and other similar requests be approved there would be increased traffic hazards along the roadway which would be contrary to the public safety and welfare, and the intent of the access provisions of the Subdivision Control Code.

While the Commission is sympathetic to the petitioner's situation, based on the guidelines for granting a variance, the Commission must recommend that the request be denied.

As your request has been denied, you may appeal the decision of the Planning Commission if you feel that the action of the Planning Commission was based on an erroneous findings 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 thirty (30) days from the date of receipt of this letter 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;

Mr. Ralph Jewell  
November 19, 1979  
Page 3

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 the Planning Department at 961-8288.

Sincerely,

*J. Whitmarsh*  
*pr*

WILLIAM F. MIELCKE  
CHAIRMAN  
PLANNING COMMISSION

lgv

cc Corporation Counsel  
Chief Engineer, Public Works  
Kona Services Office

*cc Land Use Controls Div*