

CERTIFIED MAIL

November 1, 1982

Mr. and Mrs. George Maragos
Mr. and Mrs. Samuel McCorkell
P. O. Box 861
Kealahou, HI 96750

Dear Folks:

Variance Application - (V82-31)
Tax Map Key: 7-6-05:32

We regret to inform you that after reviewing your variance application and the information presented in its behalf, the Planning Director is hereby denying your variance request. The reasons for the denial area are as follows:

1. There has been no evidence either submitted or found that there are special or unusual circumstances that apply to the subject property which deprive the petitioners of substantial property rights that would otherwise be available.

Furthermore, these considerations also show that there are no special or unusual circumstances which interfere with the best use or manner of development of the property, including subdivision. In the immediate area, there are approximately 66 lots and 627 acres of Agricultural zoned lands. This area which is confined to the mauka portion of the Highway is called the Holulaloa Partition Lots subdivision. This subdivision was created prior to 1948 according to the County Tax Office. In evaluating the variance request for complete relief from the access requirements, the cumulative impact of the potential density and the need for providing adequate access and vehicular circulatory patterns was a primary concern. The fact that this property is situated within this non-conforming subdivision with inadequate road accesses, road alignment, drainage facilities,

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sight distance, etc. further requires that the variance request be denied. Should this request for no roadway improvements be granted, there definitely will be a negative cumulative impact for the orderly development of this area.

The only substantive reason given by the petitioners is that "...it would be financially impossible to absorb the expense incurred for a twenty (20) foot paved road in addition to the high cost of the land and inflated building cost." The reasons for subdividing properties by requesting relief from subdivision standards simply for economic hardship purposes is a consideration but should not be the sole basis for consideration of any deviation from such standards. The Subdivision Code requirements were established to insure safe and adequate subdivision development for the public's welfare as stated in the goals, policies, standards and courses of actions in the County General Plan. Thus, these standards were developed to ensure that all future subdivisions in the County are provided with standard access, water, and drainage, improvements to mitigate the effects of present and future land partitioning in developing areas.

Further, since there are no topographical constraints that would prohibit the petitioner from providing the necessary roadway improvements, it cannot be concluded that a special or unusual circumstance exists which is particular to this property.

2. There are other reasonable alternatives that would resolve the difficulty. The recently passed legislation concerning "Ohana Zoning" may permit the petitioner to construct an additional single family dwelling on the subject property. The petitioner is also permitted to construct additional "farm dwellings" under certain "Agricultural" conditions and with Planning Director's approval. More importantly, incremental improvement commensurate with anticipated levels of impact from proposed developments is one alternative to upgrading substandard roadways. The petitioner could provide some level of improvement or propose other methods of roadway improvement participation to assure that, in conjunction with future developments in the subject area, the required roadway and related right-of-way would ultimately be available.
3. This variance request is not found to be consistent with the general purpose of the Zoning District and the intent and purpose of the Subdivision Code and General Plan. The purpose of the minimum roadway improvement requirements is to ensure that minimum safety standards relative to traffic and drainage are provided for. In addition, these minimum standards were

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designed to provide for other concerns including accommodation for adequate sight distance for on-street parking and intersections, adequate space for emergency vehicles for maneuvering and positioning when required, and to ensure personal services such as mail delivery, street addresses, and street maintenance. Thus, it is concluded that the granting of this variance would be materially detrimental to the public welfare and may cause substantial cumulative adverse impacts to the area and to adjoining properties. While it may be construed that the impact of granting the requested relief to this particular 2 lot subdivision may be minor or negligible, the cumulative impact of not improving the existing substandard roadway system for this and future subdivision requests in conjunction with the total vehicular circulation pattern for this area, would not be in keeping with the purpose and intent of establishing improvement standards through the General Plan and Subdivision Code.

The Director's decision is final, except that within ten (10) working days after receipt of this letter, you may appeal the decision in writing to the Planning Commission in accordance with the following procedures:

1. Non-refundable filing fee of one hundred dollars (\$100.00); and
2. Ten (10) copies of a statement of the specific grounds for the appeal.

Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety (90) days from the date of receipt of a properly filed appeal. Within sixty (60) days after the close of the public hearing or within such longer period as may be agreed to by the appellant, the Planning Commission shall affirm, modify or reverse the Director's action. A decision to affirm, modify or reverse the Director's action shall require a majority vote of the total membership of the Planning Commission. A decision to defer action on the appeal shall require a majority vote of the Planning Commission members present at the time of the motion for deferral. If the Planning Commission fails to render a decision to affirm, modify, or reverse the Director's action within the prescribed period, the Director's action shall be considered as having been affirmed.


All actions of the Planning Commission are final except that, within ten (10) working days after notice of action, the applicant or an interested party as defined in Section 7.05 of this article in the proceeding before the Planning Commission may appeal such action to the Board of Appeals in accordance with its rules.

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All actions of the Board of Appeals are final except that they are appealable to the Third Circuit Court in accordance with Chapter 91 of the Hawaii Revised Statutes.

Should you have any questions on this matter, please feel free to contact our office at 961-8288.

Sincerely,


SIDNEY M. FOKÉ
Planning Director

RHY:db

cc: Planning Commission