

CERTIFIED MAIL

March 29, 1983

Mr. Michael Krall
c/o Mr. Joseph M. Fagundes III
P. O. Box 1837
Kailua-Kona, HI 96740

Dear Mr. Krall:

Variance Application (V83-1)
Michael Krall
Tax Map Key 8-1-16:41

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

1. 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 designed to provide for other concerns including accommodation for adequate sight distance at intersections, and adequate space for emergency vehicles for maneuvering and positioning when required. 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 3-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.

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2. There are other reasonable alternatives that would resolve the difficulty. Incremental improvement commensurate with anticipated levels of impact from proposed developments is one alternative which can be used in 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 pavement widths would ultimately be available.

Such an incremental approach to improvement of the pavement would result in providing adequate traffic circulation for the users of the road, and thus under the circumstances be reasonably consistent with the purpose and intent of the Subdivision Control Code.

3. While there may be special or unusual circumstances in regards to the existing right-of-way width that apply to the subject property which may deprive the petitioners of substantial property rights that would otherwise be available, these circumstances do not prevent the incremental improvement of the road surface within the existing right-of-way.

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 access 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.

Based on the above findings, the Planning Director has concluded that the request should be denied.

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.

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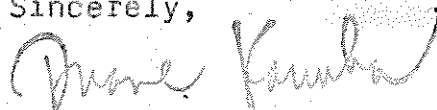
Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety (90) days from the date of receipt of a properly filed appeal. Within sixty (60) days after the close of the public hearing or within such longer period as may be agreed to by the appellant, 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.

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,



for SIDNEY M. FUCE
Planning Director

KK:ds

cc: Planning Commission