

CERTIFIED MAIL

August 15, 1983

Mrs. Elizabeth G. Richards  
P. O. Box 87  
Kealahou, HI 96750

Dear Mrs. Richards:

Variance Application (V 83-21)  
Variance From Minimum Roadway Pavement Requirements  
Tax Map Key 8-1-07:1

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:

There are no unusual or special circumstances relating to the subject request and the real property that would interfere with the best manner of development of the subject property or which deprives the owner of property rights. The petitioner is requesting that the improvement requirements be deferred until such time that proposed lot No. 1 is developed. The requirements of the subdivision code allows for the deferral of improvements through the process of bonding the improvements. Through the use of this mechanism the petitioner would be able to receive final subdivision approval to complete any conveyances that the petitioner deems appropriate. Thus through the existing options within the subdivision code, the petitioner could realize the same development and enjoy the same property rights being sought through the subject request.

The above-mentioned bonding alternative is further deemed to be a reasonable one and one which is a standard part of subdivision development in the County of Hawaii.

AUG 17 1983

Mrs. Elizabeth G. Richards

Page 2

August 15, 1983

The proposal to defer development of the necessary infrastructure would be contrary to the intent of the bonding provisions of the subdivision control code. The purpose of these provisions are to allow the conveyance of subdivided lot prior to the actual installation of infrastructure subject to the condition that adequate and legally binding financial assurances are given that the improvements will in fact be installed, and be installed in timely manner. The proposed deferral provides no such assurances, and appears to be a moot point in view of the petitioner's proposal that these improvements be installed in conjunction with the development of lot No. 1, since any further development of lot No. 1 would result in these improvements.

Instead of meeting with the intent of subdivision control code, the approval of the variance request would go directly against the intent of the code by allowing for subdivision without providing for the necessary improvements. Should the subject request be approved, it would create a precedent for similar requests to be made by other property owners and which ultimately would undermine the basic purpose of the subdivision control code which is to assure that all lots created be of suitable configuration and usable for the purposes expressed by the zoning of that property.

Based on the above findings the director has concluded that the request should be denied. This denial decision is based on the merits of the request as presented. It should be noted that this does not preclude variance requests from other provisions of the 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

Mrs. Elizabeth G. Richards  
Page 3  
August 15, 1983

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,



SIDNEY M. FUKÉ  
Planning Director

KK:gs

cc: Planning Commission  
Mr. John Weeks