

CERTIFIED MAIL

March 15, 1984

Mr. Phillip D. Gray  
Quail Ridge Center #205  
1200 E. Alostia Avenue  
Glendora, CA 91740

Dear Mr. Gray:

Variance Application (V84-6)  
Variance From Minimum Roadway Improvement Requirements  
Tax Map Key 8-7-09:1

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:

SPECIAL AND UNUSUAL CIRCUMSTANCES

The first Subdivision Ordinance for the County of Hawaii was approved in the form of Ordinance No. 136 on November 22, 1944. According to the County Tax Office, the subject property was partitioned in the early 1940's and first assessed in 1944.

The subject property which consists of 118.48 acres is situated within the County's "Unplanned" zoned district. The petitioner has not shown by the evidence in his application that there exists any special or unusual circumstances related to the land which would warrant or necessitate the narrower pavement width to service the 6 lots in the proposed subdivision. As such, we have determined that there is no conclusive evidence to show a deprivation of property rights which curtails or reduces existing property development rights.

Additionally, based on these findings, there are no special or unusual circumstances applying to the subject property which obviously interferes with the best use or manner of development of the subject property.

### ALTERNATIVES

The petitioner has other alternatives in resolving this matter. In this particular situation, the question of reasonableness has to be viewed against all three criteria for the granting of a variance and not solely on the reasonableness or economic costs of the alternative in trying to resolve the difficulty.

In the evaluation of this application, the imposition of present subdivision requirements may result in additional costs to the petitioner. Improvement costs, however, are borne by all subdividers of land. Under sub-standard situations such as the petitioner's, improvement costs are always expected to be higher. Economic consideration cannot be the sole basis for the granting of a variance, when other alternatives are available. In this particular case, the petitioner claims that the full improvements would not be a viable option for them because of the number of lots. However, it is nevertheless considered as a reasonable alternative to pursue in this situation, in view of a lack of any unique or special topographical or land configuration characteristics for this property.

### INTENT AND PURPOSES

The purpose of the minimum roadway requirements is to ensure that minimum safety standards relative to traffic and drainage, etc. are provided for.

The access to the subject lots will be from the proposed private roadway. The proposed 12-foot wide one lane roadway towards the subject lots is approximately 950 feet in length. This is a substantial length of roadway that is required to provide for two-way traffic to the subject lots in the subdivision.

The allowable density of this area and the surrounding area under the present zoning is of major concern because of the potential infrastructural demands and impacts that will result from the development of these existing properties, if roadways are not brought up to higher standards. Furthermore, the approval of such variance requests in an area of existing substandard infrastructure would not be in the public interest and welfare of the County of Hawaii. A favorable action would only be materially detrimental to the public safety and would cause substantial long term adverse impacts to the surrounding community and adjoining properties. This kind of planning practice would debilitate the implementation of the standards set forth in the subdivision code as well as violate the spirit and intent of the law for which it was originally created for.

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Based on the foregoing findings, the variance request would not be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes, and the County General Plan and will be materially detrimental to the public's welfare and cause substantial adverse impact to the area's character and to adjoining properties.

The Director's decision is final, except that within thirty 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); and
2. Ten 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 days from the date of receipt of a properly filed appeal. Within sixty 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 thirty days after notice of action, the applicant or an interested party as defined in Section 25-27.2 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, please feel free to contact us.

Sincerely,



SIDNEY M. FUKE  
Planning Director

RHY:wkm

Enc: Background Report

cc: Planning Commission (w/enc.)  
Wes Thomas & Associates (w/enc.)