

CERTIFIED MAIL

June 28, 1984

Mr. and Mrs. Ward Kuwada
P.O. Box 216
Kailua-Kona, HI 96745

Dear Mr. and Mrs. Kuwada:

Variance Application (V84-14)
Variance from Minimum Parking Requirements
Tax Map Key 7-5-06:9

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:

The office (TWO) building when it was approved met with the Zoning Code parking requirements of eight stalls. However, due to some alterations to the building, the parking area was reduced to 5 stalls which is below the minimum requirement. The subject request is to permit a further reduction of 6 stalls below the minimum requirement of 11 stalls.

The subject property is relatively level and is developed beyond the present requirements (building floor area/parking ratio) of the Zoning Code. A similar development with an equal floor area when constructed now, would be required to have a minimum of 23 parking stalls. The request as noted above is to permit the development to reduce its parking requirement to 5 stalls. There are no special or unusual circumstances (topographic conditions, easements, etc.) relative to the property which would require the petitioner to deviate from the parking requirements. As noted above, the floor area of the development far exceeds the floor area/parking ratio of the Zoning Code.

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Based on the foregoing, we have concluded that there are no special circumstances which unreasonably interferes with the best use of the property.

ALTERNATIVES

The petitioner does have alternatives to comply with the parking requirements.

Chapter 25, Article 1, Division 11, Section 25-75 states that "The off-street parking and loading spaces required in this division shall be located on the building site to which they are appurtenant but parking spaces may be located on other lots within five hundred feet of the nearest point of said building site and approved by the director and if a permanent easement to permit same is made a matter of public record." There is no record of any inquiry being made to acquire additional parking elsewhere.

As noted previously, the property as developed exceeds the maximum square footage allowed in relationship to the available parking. The use of the variance procedure to further compound the parking requirement without any special or unusual circumstances is unreasonable.

INTENT AND PURPOSE

The intent and purpose of the parking requirements is to ensure that adequate parking stalls are available to the patrons and employees of the various establishments.

The majority of the developments in the general area of the request do not have adequate parking for their development. In most developments, they have no parking available.

There is a County public parking lot (119 stalls) located to the north of the subject parcel. This parking lot was constructed to help alleviate the parking problem of Kailua-Kona but was not intended to provide for the required parking of various developments. Thus, an approval of a parking variance without any special or unusual circumstances related to the land would also compound the parking problem and could be a detriment to adjoining properties.

Further, the use of the variance procedure to enhance a property's development rights would violate the original intent

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of the parking requirements and thus may have a detrimental or adverse effect on the adjoining and surrounding properties. In addition, the granting of the variance without any substantiation of proof in conjunction with the criteria test for the variance would be setting precedence for the rest of the property owners in the area to request for the same type of relief from these standards.

Based on the foregoing, the Planning Director further concludes that the variance application should be denied.

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.

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.

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Should you have any questions, please feel free to contact us.

Sincerely,



SIDNEY M. FUKU
Planning Director

MO:lgv

Enc: Background Report

cc: Planning Commission (w/enc.)