

CERTIFIED MAIL

February 7, 1985

gao

Ms. Chrystal Thomas Yamasaki  
Wes Thomas & Associates, Inc.  
75-5722 Kalawa Street  
Kailua-Kona, Hawaii 96740

Dear Ms. Yamasaki:

Variance Application (V84-28)  
Pietschman, Gamble and Pietsch  
Tax Map Key 6-5-08:15 and 26

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 subject property along with the 30 foot private road was created by Subdivision No. 1496 on June 20, 1960. This right-of-way width of 30 feet met with the minimum requirement for streets outside the City of Hilo (Ord. No. 61, Rev. Ord. of 1947).

The subject properties with a total land area of 3.248 acres is situated within the County's "Agricultural" (A-1a) zoned district. The petitioners have not shown by the evidence in their application that there exist any special or unusual circumstances related to the land which would warrant or necessitate no increase in the pavements width from its present 16 foot. As such, we have determined that there is not conclusive evidence to show a deprivation of property rights which curtails or reduces existing property development rights.

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### ALTERNATIVES

The petitioners have 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 the present subdivision requirements may result in additional costs to the petitioners. Improvement costs, however, are borne by all subdividers of land. Economic consideration cannot be the sole basis for the granting of a variance, when other alternatives are available. In this particular case, the pavement width could be increase to 20 foot within the existing 30 foot wide private roadway. This is considered as a reasonable alternative to pursue in this situation.

### INTENT & 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 an existing 30 foot wide private roadway with a 16 foot pavement which is 452.02 feet in length. The road shoulder consist of grass. The existing pavement is not adequate to handle two way traffic without necessitating one vehicle to travel over the grassed shoulder. With the development of more homes on the vacant parcels, there will be impacts resulting from the new construction if the roadway is 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 properties. This kind of planning practice would debilitate the implementation of the standard set forth in the Subdivision Code as well as violate the spirit and intent of the law for which it was originally created for.

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

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Codes, and the County General Plan and will be materially detrimental to the public welfare and cause substantial adverse impact to the area's character and 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.

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,



ALBERT LONO LYMAN  
Planning Director

MO:ds  
Enc: Background Report  
cc: Planning Commission (w/enc.)