

CERTIFIED MAIL

September 29, 1987

Mr. Michael Reilly
S.R. Box 26
Captain Cook, HI 96704

Dear Mr. Reilly:

Variance Application (V87-23)
Roadway Standards of the Subdivision Code
Tax Map Key 8-9-01:08

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

There are no special and unusual circumstances applying to the subject property which deprive the petitioner of substantial property rights that would otherwise be available, or which interfere with the best use or manner of development of the property.

The applicant contends that the standard road width "subtracts from the usable agricultural purposes" and the 20-foot wide pavement requirement is "more costly" than his preferred 16-foot.

These are not special and unusual circumstances applying to the land which are the criteria to be met for a variance request. They are in fact considerations common to most all agricultural lands being subdivided which are required to have interior roads.

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Subdivision roadway and pavement standards have been developed to suit local conditions and usage taking into general account the capability of large lots themselves being subdivided into smaller ones, at some future time, as well as the vehicular 2-way traffic they would presently serve. Once roadways are finally platted, they are for almost all intents and purposes, a permanent width and alignment, as the lots are sold and development on them occurs. Further, (future) public road widening can occur only through condemnation, and private widening only from a willing seller--both of which are costly pursuits. Thirty-foot roadways are too narrow for safe and adequate two way auto traffic, as the County has experienced in the innumerable homestead roads created by the State (Territorial government) 50 to 75 years ago which traverse the Hilo, Hamakua and Kona countryside. These narrow homestead roads remain a problem for the County and 16-foot pavements are the County minimum requirement for 4 to 6 small lots only for privately owned roads, whereas 10 large lots are being developed in this case to use the road in question. There is potential for future subdividing of these lots in the decades to come.

There are no extenuating circumstances ascribed to the land which are unusual or which cause hardship, and meeting these criteria are, under the County Code, necessary to warrant consideration of a variance request.

Based on the foregoing, it has been determined that there are no special and unusual circumstances applying to the subject property which exist to a degree which deprive the owner of substantial property rights that would otherwise be available, or which unreasonably interfere with the best use or manner of development of the property.

INTENT AND PURPOSE

The intent and purpose of the roadway width requirement is to ensure that vehicular safety and adequate standards are incorporated in road design to serve both the immediate development and, where large lots can foreseeably be further subdivided, in the future. Land uses and ownership constantly change (as in even this case) and future intensification and higher densities must be provided for by requiring sufficient roadway widths.

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 Code and the County General Plan.

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Therefore, the Planning Director has concluded that this request 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.

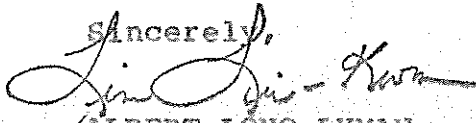
Should you decide to appeal, the Planning Commission shall conduct a public hearing within a period of ninety days from the date of receipt of a properly filed appeal. Within sixty days after the close of the public hearing or within such longer period as may be agreed to by the appellant, the Planning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

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

DT:dh
Enc: Background Report
cc: Planning Commission (w/enc.)
Subdivision File 83-181