

CERTIFIED MAIL

November 5, 1985

Mr. Stephen Drogin  
P. O. Box AO  
Kailua-Kona, HI 96745

Dear Mr. Drogin:

Shoreline Setback Variance Application  
Tax Map Key: 7-7-10:17

The Planning Commission at its duly held public hearing on October 30, 1985, voted to approve your application, Shoreline Setback Variance Permit No. 632, to allow the construction of certain structural additions to an existing single family dwelling, including a swimming pool, sundeck, planters, lanai, bathroom and master suite, within the 20-foot shoreline setback area at Laaloa, North Kona, Hawaii.

Approval of this request is based on the following:

The Shoreline Setback Law was enacted by the State Legislature in 1970 for the protection of the shoreline from undue man-made improvements. Many of the improvements have disturbed the natural shoreline processes and have caused erosion of the shoreline. To prevent unnecessary encroachment of structures and other improvements upon the shoreline, the Legislature felt that it is in the best interest of the public to establish shoreline setbacks and to regulate the uses and activities within the shoreline setback area.

The Legislature, however, also recognized that certain activities and improvements may be required to be done or constructed within the shoreline setback area for protection of certain shoreline properties. In recognizing this need, the Legislature authorized the respective authorities within the various counties, in this case, the Planning Commission, to grant variances for certain activities and improvements within the shoreline setback area. In accordance with Section 205-35(b) of the Hawaii Revised Statutes, and

NOV 5 1985

Mr. Stephen Drogin  
November 5, 1985  
Page 2

Section 8.9 of the Planning Commission's Rule No. 8, related to Shoreline Setback, the Planning Commission may grant variances for certain actions and improvements within the shoreline setback area if it is found that:

1. Such structures, activities or facilities are in the best public interest; or
2. Hardship will be caused to the applicant if the proposed structure, activity or facility is not allowed on that portion of the land within the shoreline setback.

The proposed development is not anticipated to have any substantial adverse environmental or ecological effects. The proposed request is to allow an addition to a single-family dwelling with the creation of a two-foot wide mauka-makai public shoreline access path.

The establishment of the mauka-makai path will facilitate public shoreline access. Therefore, the proposed improvements including the establishment of a mauka-makai public shoreline access is clearly in the public interest.

Based on the foregoing, it is therefore determined that the proposed improvements and the establishment of a public pedestrian shoreline access are consistent with the purpose and intent of Rule No. 8 of the Planning Commission, relating to Shoreline Setback public interest.

Approval of this Shoreline Setback Variance request is subject to the following conditions:

1. The petitioner, successors or its assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant, its successors and assigns, shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
3. Secure Final Approval from the Board of Land and Natural Resources for the structural encroachment within the State of Hawaii's property.

Mr. Stephen Drogin  
November 5, 1985  
Page 3

4. Secure Final Plan Approval which will include a Single-Family Dwelling Agreement.
5. A minimum 3-foot wide mauka-makai public pedestrian easement to the Shoreline shall be provided. The type of improvements within the public pedestrian easement, its specific location including signage related to public access shall be reviewed and approved by the Planning Director. The access easement shall be recorded with the Bureau of Conveyances to provide a perpetual right-of-pedestrian shoreline access to the public. A copy of the recorded access document shall be filed with the Planning Department.
6. Comply with all requirements of the Department of Public Works and the State Department of Health.
7. Comply with all other applicable rules, regulation and requirements.
8. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Shoreline Setback Variance shall be void.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,

*Barbara A. Koi*

Barbara A. Koi  
Chairman Pro Tem, Planning Commission

cc: Warren Sunnland, AIA  
DPED, CZM Program w/background  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
County of Hawaii, Kona Office

bcc: Plan Approval Section