

January 18, 1974

Mr. Richard T. Ishida
Attorney at Law
P. O. Box A
Kealahou, HI 96750

Re: Variance Application - Francis Foo
Tax Map Key 7-5-6:30

The Planning Commission at its preliminary hearing on January 17, 1974 considered your application for a variance from the parking requirement of the Zoning Code to permit the use of a lanai as a customer eating area without constructing the additionally required three (3) parking stalls in Kailua, portion of Lanikai 1st and Keolu 1st, North Kona, Hawaii.

This is to inform you that the Commission voted to deny your request based on the following considerations:

1. That there are no special or unusual circumstances applying to the subject property or its uses which do not generally apply to surrounding properties or improvements in the same district. The off-site vehicular and pedestrian facilities along that portion of Palani Road and throughout Kailua Village are deemed inadequate, thereby necessitating for safety and adequate circulation considerations the need for on-site parking facilities. Because of the inadequacy of parking in the area, should the request be approved, similar requests may be applied for by other commercial operators in Kailua Village proper;
2. That the granting of this variance request would be inconsistent with the general purpose and intent of the parking requirements stipulated in the Zoning Code, and would be materially detrimental to the public welfare. As indicated by the recent traffic survey conducted by the Department of Public Works, vehicular traffic for that portion of Palani Road is extremely high, especially during peak hours. Without adequate parking facilities, vehicle operators will tend to park along the roadway. Situations such

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as this would invite traffic congestion on a busy intersection; thus may be hazardous and inconvenient to other vehicle operators, as well as pedestrians; and

3. Should the request be granted, only seven (7) parking stalls will be available for a building which is occupied by a real estate agency, a retail sales outlet, and the proposed restaurant. Based on the minimum parking requirements, at least three (3) stalls must be set aside for the two (2) offices. This would mean that only four (4) stalls would be available for the restaurant use. However, it has been determined that parking must be provided not only for the customers but also for the employees of the building. Therefore, based on the existing uses and the proposed restaurant, seven (7) stalls for the entire building are deemed inadequate. Frequent observations of the existing parking area indicates that an average of four vehicles are parked daily in the stalls. Furthermore, the restaurant is still not in operation. Although the applicant makes a representation that majority of the customers for the Kentucky Fried Chicken restaurant will be from walk-in track, a use of this type, no less, would attract those with vehicles.

As your request has been denied, you may appeal the decision of the Planning Commission if you feel that the action of the Planning Commission was based on an erroneous finding of a material fact, or that the Commission has acted in an arbitrary or capricious manner, or had manifestly abused its discretion.

Should you decide to appeal the decision of the Commission in the denial of your variance request, a petition setting forth the following shall be submitted to the Board of Appeals within fifteen (15) days from the date of action and accompanied by a filing fee of ten dollars (\$10.00):

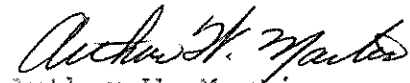
1. Name, mailing address and telephone number;
2. Identification of the property and interest therein;
3. The particular provision of the Zoning Ordinance or Subdivision Ordinance or regulation in question;
4. All pertinent facts;
5. The action of the Commission; and
6. Reasons for the appeal, including a statement as to why the appellant believes that the Commission's action was based on an

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erroneous finding of a material fact, or that the Commission has acted in an arbitrary or capricious manner, or had manifestly abused its discretion.

Inasmuch as no public hearing will be held on this matter, we will be returning your filing fee as soon as the refund is processed.

We will be forwarding you a certified copy of the Order as soon as the document is prepared. Should you have any questions regarding the above, please feel free to contact Norman Hayashi or Rodney Nakano of the Planning Department at 935-5721, extension 221.


Arthur W. Martin
Chairman

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cc Corporation Counsel
Building Department
Francis Foo

PLANNING COMMISSION OF THE PLANNING DEPARTMENT
COUNTY OF HAWAII

In the Matter of the Appeal)
 of)
 FRANCIS FOO)
))
Tax Map Key 7-5-06:30)
_____)

Variance Application
No. 380

FINDINGS OF FACT

CONCLUSIONS OF LAW

AND

DECISION AND ORDER

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal)
 of)
 FRANCIS FOO)
))
 Tax Map Key 7-5-06:30)
))

Variance Application

No. 380

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND
DECISION AND ORDER

The above-entitled matter was brought on for a preliminary hearing before the Planning Commission of the Planning Department, County of Hawaii, on the 17th day of January, 1974, in the County Council Room, County Building, Hilo, Hawaii, at which hearing Richard T. Ishida appeared in behalf of the applicant.

The Planning Commission having heard the testimony and having examined the exhibits does hereby declare its Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

1. An application requesting a variance from the Minimum Parking Requirement of the Zoning Code was received on December 19, 1973.

2. A preliminary hearing on the above matter was held on January 17, 1974.

3. The requested variance was to allow the use of a lanai as a customer eating area without constructing the additionally required three (3) parking stalls.

4. The variance resulted when Kentucky Fried Chicken intended to lease a portion of a commercial building to extend their

business. As a result of this action three (3) additional parking stalls were required.

5. The subject property is located adjacent to the Kona Seaside Hotel in Kailua, portion of Lanihau 1st and Keopu 1st, North Kona, Hawaii.

6. The staff recommended that the variance from the Minimum Parking Requirement be denied based on the following findings:

- a. That there are no special or unusual circumstances applying to the subject property or its uses which do not generally apply to surrounding properties or improvements in the same district. The off-site vehicular and pedestrian facilities along that portion of Palani Road and throughout Kailua Village are deemed inadequate, thereby necessitating for safety and adequate circulation considerations and the need for on-site parking facilities. Because of the inadequacy of parking in the area, should the request be approved, similar requests may be applied for by other commercial operators in Kailua Village proper;
- b. That the granting of this variance request would be inconsistent with the general purpose and intent of the parking requirements stipulated in the Zoning Code, and would be materially detrimental to the public welfare. As indicated by the recent traffic survey conducted by the Department of Public Works, vehicular traffic for that portion of Palani Road is extremely high, especially during peak hours. Without adequate parking facilities, vehicle operators will tend to park along the roadway. Situations

such as this would invite traffic congestion on a busy intersection; thus may be hazardous and inconvenient to other vehicle operators, as well as pedestrians; and

- c. Should the request be granted, only seven (7) parking stalls will be available for a building which is occupied by a real estate agency, a retail sales outlet, and the proposed restaurant. Based on the Minimum Parking Requirements, at least three (3) stalls must be set aside for the two (2) offices. This would mean that only four (4) stalls would be available for the restaurant use. However, it has been determined that parking must be provided not only for the customers but also for the employees of the building. Therefore, based on existing uses and the proposed restaurant, seven (7) stalls for the entire building are deemed inadequate. Frequent observations of the existing parking area indicate that an average of four vehicles are parked daily in the stalls. Furthermore, the restaurant is still not in operation. Although the applicant makes a representation that a majority of the customers for the Kentucky Fried Chicken Restaurant will be from walk-in traffic, a use of this type, no less, would attract those with vehicles.

7. It was moved and seconded that the Minimum Parking Requirement variance request be denied. Motion was carried.

CONCLUSIONS OF LAW

1. Pursuant to Section 5-4.3(g) of the Hawaii County Charter, the Planning Commission has jurisdiction to hear and determine appeals requesting variances from the Subdivision and Zoning Codes.

2. All procedural requirements as prescribed by law have been complied with.

3. Under Section 5-4.3(g) of the Hawaii County Charter, a variance may not be granted unless there are special or unusual circumstances applying to the subject property which would result in unnecessary hardship if the ordinance were literally enforced, and the granting of the variance would not be contrary to the public interest.

4. The requirements for granting of a variance have not been met.

DECISION AND ORDER

Based upon the testimony and exhibits introduced at the hearing and the foregoing Findings of Fact and Conclusions of Law, it is the decision of the Planning Commission and it is hereby ordered that a variance from the requirements of Article 26, Section 6 of the Zoning Code (Chapter 8), pertaining to Minimum Parking Requirements, of Tax Map Key 7-5-06:30 located in Kailua, portion of Lanihau 1st and Keopu 1st, North Kona, Hawaii, be and is hereby denied on its merits.

Dated at Hilo, Hawaii, this 2nd day of May, 1974.



Arthur W. Martin
Chairman