

February 10, 1976

Mr. Owen Miyamoto, Chief
Airports Division
Department of Transportation
Honolulu International Airport
Honolulu, HI 96819

Re: Variance Application
TMK: 2-1-12:Portion of 09

The Planning Commission at its preliminary hearing held on February 9 considered your application for a variance from the minimum building site area requirement of the Zoning Code and from the roadway requirement of the Subdivision Control Code.

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 and use which do not generally apply to surrounding properties or improvements in similarly zoned districts. It has been found that the area under consideration has no special or unusual topographic or similar features which would render the land unusable to the petitioner or which would interfere with the best use or manner of development of the subject property. There are no unusual or special circumstances evident on the subject property which would deprive the owner of substantial property rights otherwise available.

The purpose of the variance request is to allow the creation of a 16-lot subdivision with five of the lots less than the minimum lot size required by the Zoning Code and with the roadway serving the lots in the proposed subdivision being less than the standards set forth in the Subdivision Control Code. The proposed subdivision lots would be leased to ground transportation operators who will locate at the new Hilo Airport Terminal facility. The ground transportation operators would be using the proposed lots for base yard operations for storage, service, and maintenance of U-drive vehicles. The petitioner has stated that smaller lots would be desirable for leasing in that some of the potential lessees would have no need for lots of 20,000+ square feet. The petitioner has also stated that it is the intent to designate the roadway serving the lots one-way for traffic flow and that the granting of the variance from the minimum roadway requirement

FEB 10 1976

would provide a net increase of 40,000 square feet of additional area which could be leased. While the need for base yard lots for ground transportation operators is recognized as being an essential component of any airport facility, the factors cited by the petitioner do not justify the granting of the variance. The intent of variances is to provide flexibility to accommodate those circumstances in which, through no previous action of the applicant, the strict and literal enforcement of the law would cause undue hardship to the petitioner and would deprive him of substantial property rights. In this instance, the strict and literal enforcement of the law would not cause any undue hardship to the applicant nor would it be confiscatory or deprive him of substantial property rights, but simply prevent him from attaining his own goals. It should also be noted that the shape of the subject property which the petitioner cited as being an unusual circumstance was created by the petitioner's own action in laying out the new airport facilities.

2. That due to the lack of special or unusual circumstances applying to the subject property and use, the granting of the subject variance would in essence constitute a grant of special privilege inconsistent with limitations upon other properties which are identically zoned. Other property owners with lands having similar characteristics would be required to comply with the requirements of the Zoning and Subdivision Codes.
3. That the approval of the subject request would be inconsistent with the general purpose and the intent of the Subdivision and Zoning Codes. The purpose of the request is to allow the creation of additional lots as well as lots below the minimum requirement. To use the variance procedure for such purposes without sufficient cause shown would constitute a circumvention of the purpose of the Zoning Code. Further, the petitioner has not shown that there are any special or unusual circumstances which would justify granting relief from the roadway requirement. The purpose of the roadway requirement is to assure that access to properties is safe and suitable for the type of traffic which will be using the roadway. The proposed subdivision is intended for the use of U-drive vehicle operators. These operators will store, service and maintain their vehicles within the proposed subdivision. The vehicles will be shuttled between these proposed base yard lots and the operators' terminal facilities. Although the petitioner has proposed that the traffic pattern be one-way, it has been determined that this does not constitute sufficient cause for relief from the roadway standard, particularly in light of the fact that the users of the roadway will be moving a high number of vehicles on and off the base yard lots. Unless the standards set forth for roadways are determined to be unrelated to the actual circumstances, relief from such standards are unwarranted.

Mr. Owen Miyamoto
Page 3
February 10, 1976

Further, there is an additional consideration to be taken into account. While the lot sizes and the roadway which are proposed may be adequate for the use which is proposed, they may not be adequate if the use of the subject land were to change. If, in the future, there may be a need to use the subject area for other than that which is presently proposed, the options for alternative uses would be limited by the lot sizes and by the limited roads. Individually, the lots would be less capable of supporting alternate uses especially in view of the width of the proposed right-of-way.

As you know, you may appeal the Commission's decision if you feel that its action was based on an erroneous finding of a material fact, or that the Commission acted in an arbitrary or capricious manner, or has manifestly abused its discretion in this matter.

Should you decide to appeal this decision of the Commission, a petition setting forth the following information should be submitted to the Board of Appeals within thirty (30) days from the date of this action, accompanied by a filing fee of ten (\$10) dollars:

1. Name, mailing address, and telephone number;
2. Identification of the property and interest therein;
3. The particular provisions of the Zoning and Subdivision Ordinances in question;
4. All pertinent facts;
5. The action of the Commission; and
6. Reasons for the appeal, including a statement as to why you believe that the Commission's action is appealable.

Since no public hearing was held on this matter, we shall be returning your filing fee as soon as the refund is processed. We shall also forward you a certified copy of the Order as soon as the document is prepared. Should you have any questions regarding any of the foregoing, please feel free to contact Norman Hayashi or Ilima Piianaia of the Planning Department, at 961-8288.


LEON K. STERLING, Chairman
Planning Commission

IAP:rfd

cc: Corporation Counsel
DPW, Chief Engineer
DPW, Building Bureau

FEB 10 1976

PLANNING COMMISSION OF THE PLANNING DEPARTMENT

COUNTY OF HAWAII

In the Matter of the Appeal)
 of)
 STATE OF HAWAII)
DEPARTMENT OF TRANSPORTATION)
 AIRPORTS DIVISION)
Tax Map Key: 2-1-12:por. of 9)
_____)

Variance Application No. 462

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)
 STATE OF HAWAII)
DEPARTMENT OF TRANSPORTATION)
 AIRPORTS DIVISION)
Tax Map Key: 2-1-12:por. of 9)
_____)

Variance Application No. 462

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND
DECISION AND ORDER

The above-entitled matter was brought on for a preliminary hearing on the 9th day of February, 1976, before the Planning Commission of the Planning Department, County of Hawaii, in the Conference Room, State Building, Hilo, Hawaii, at which hearing Tom Izumi and Harold Kelley appeared in behalf of the application.

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 variances from the minimum building site area and roadway requirements was received on January 12, 1976.

2. The request was to allow the creation of five (5) lots below the minimum building site area requirement of 20,000 square feet as stipulated within the Limited Industrial - 20,000 square foot (ML-20) zoned district. The proposed lots consist of 10,000, 13,988, 11,001, 10,022 and 10,006 square feet. Also requested was a variance

to allow the creation of a roadway with a 28-foot right-of-way and a 12-foot wide pavement in lieu of the required 60-foot right-of-way with a 24-foot pavement.

3. The area involved is the proposed Ground Transportation Operators Area Subdivision in Waiakea, South Hilo, Tax Map Key 2-1-12:portion of 9. More specifically, the subject area is an 8.18-acre triangular piece of land located approximately 1,000 feet southwesterly of the new Hilo Airport terminal building which is presently under construction.

4. The use of the proposed Ground Transportation Operators (GTO) Subdivision is for baseyard operations for storage, service and maintenance of U-Drive vehicles. The proposed subdivision consists of sixteen (16) lots, the largest being 39,897 square feet in size. The roadway for which the variance was requested will serve the proposed lots.

5. The new airport terminal facility is expected to be in operation by April 1, 1976.

6. Upon review of the application, the Department of Public Works requested to review a cross-section of the 28-foot road which shows utility and pedestrian facilities.

7. All other cooperating agencies had no comments on or objections to the requested variances.

8. In request of the variances, the applicant had stated the following:

"Providing adequate space for the GTO (ground transportation operators) is an integral part of the development of the airport since the GTO is an established tenant group that supports the air terminal with one mode of ground transportation. Two sites are generally required for each of the GTO firms: the first site in immediate

proximity to the terminal itself is used for car rental offices and assigned rental car "ready" areas; and the second site, somewhat farther from the terminal, is used for the storage and maintenance of vehicles. Since maintenance and storage of vehicles is a supplementary function to the car rental offices, proximity to the car rental office site and ease of car movement between the storage and car "ready" areas are requisites for efficient operations. With the exception of the need for maintenance and/or office facilities, this GTO subdivision area is, in fact, an extension of the parking lot and is to be developed for this purpose.

"Since we are working with an established tenant group much of the proposed GTO area has been requested by the operators at this time. Some of these U-drive operators are small firms with relatively few cars while some are large firms. As a consequence, prospective tenants have requested parcels ranging from 10,000+ s.f. to 40,000+ s.f. Approval for the incorporation of 10,000 s.f. parcels provides the variation in lot sizes that is desirable for both the prospective tenants and the Airports Division. Sizing parcels in this manner eliminates the need for undesirable joint or multiple tenancies that would be necessary if provisions for small tenants are not incorporated at this time. Lease transactions would be simplified for both tenants and the Airports Division with the availability of some smaller parcels.

"We plan to have a one-way road through the GTO area, which is compatible with and complements the major one-way

terminal periphery road. In view of this it is believed that a standard 60' right-of-way with (2) traffic lanes is not necessary and request approval of a 28' right-of-way with a single 12' wide roadway. While easily handling the daily traffic volume, the reduced right-of-way would increase the net leasable area by 40,000 s.f.

"The only vehicles entering the GTO subdivision area will be those driven by GTO employees or service vehicles such as postal and utility services. The U-Drive vehicles, which comprise the bulk of the traffic through the site, will be shuttled between the GTO subdivision area and the rental car "ready" areas at the terminal parking lot by GTO employees throughout the day, thereby minimizing "peak" traffic periods. There are approximately (80) parking stalls at the terminal parking lot for U-Drive vehicles which includes expansion requirements. Any additional requirement for parking stalls will be provided in the GTO subdivision.

"The GTO subdivision is considered a special case for several reasons. First, because of the shape of the land it best lends itself to divisions into smaller parcels. Secondly, because of the location of the site it best lends itself to rental car storage and maintenance due to the interdependency of this function and the rental car "ready" area. Thirdly, a number of the U-Drive firms are small and although they prefer their own storage and maintenance area, they do not need 20,000 s.f. for this purpose. Fourthly, since the roadway through the GTO area is to have restricted use, a necessity does not exist for

a two-way road with a 60' right-of-way. Lastly, the front-end costs of the development to the State Airports Division can be minimized while providing additional leasable areas.

"There are no personal or special privileges involved in this variance. The GTO function is an airport function and as such does not conflict with off-airport land use; since the land is to be used only for the one purpose of U-Drive rental car storage and maintenance the variance is not considered to be inconsistent with the limitations upon other properties under identical district classifications.

"The GTO subdivision area is completely surrounded by other State-owned property; the part that is not under the jurisdiction of the Airports Division is under the jurisdiction of the Hawaii National Guard. Further, it is accessible only through the airport property. In view of this it is not considered that the variance will be inconsistent with the general purpose of the district or the intent and purpose of the subdivision and/or zoning codes, nor will it militate against the County General Plan, nor will it be detrimental to the public welfare or injurious to improvements or property rights related to property in the near vicinity.

"In view of the above we request that the variance be approved."

9. Upon reviewing the request against the guidelines for considering a variance from the Zoning Code, the staff recommended denial of the application at the preliminary hearing on February 9, 1976, based on the following findings:

a. That there are no special or unusual circumstances

applying to the subject property and use which do not generally apply to surrounding properties or improvements in the same zoned district. It has been found that the area under consideration has no special or unusual topographic or similar features which would render the land unusable to the petitioner or which would interfere with the best use or manner of development of the subject property. There are no unusual or special circumstances evident on the subject property which deprive the owner of substantial property rights which would otherwise be available.

The purpose of the variance request is to allow the creation of a 16-lot subdivision with five of the lots less than the minimum lot size required by the Zoning Code and with the roadway serving the lots in the proposed subdivision being less than the standards set forth in the Subdivision Control Code. The proposed subdivision lots would be leased to ground transportation operators who will locate at the new Hilo Airport Terminal facility. The ground transportation operators would be using the proposed lots for baseyard operations for storage, service and maintenance of U-Drive vehicles. The petitioner has stated that smaller lots would be desirable for leasing in that some of the potential lessees would have no need for lots of 20,000+ square feet. The petitioner has also stated that it is their intent to designate the roadway serving the lots one-way for traffic flow and that the granting of the variance from the minimum roadway requirement would provide a net

increase of 40,000 square feet of additional area which could be leased. While the need for baseyard lots for ground transportation operators is recognized as being an essential component of any airport facility, the factors cited by the petitioner do not justify the granting of the variance. The intent of variances is to provide flexibility to accommodate those circumstances in which, through no previous action of the applicant, the strict and literal enforcement of the law would cause undue hardship to the petitioner and would deprive him of substantial property rights. In this instance, the strict and literal enforcement of the law would not cause undue hardship to the applicant nor would it be confiscatory or deprive him of substantial property rights, but would prevent him from attaining his own goals. It should also be noted that the shape of the subject property which the petitioner cited as being an unusual circumstance was created by the petitioner's own action in laying out the new airport facilities.

- b. That due to the lack of special or unusual circumstances applying to the subject property and use, the granting of the subject variance would in essence constitute a grant of special privilege inconsistent with limitations upon other properties which are identically zoned. Other property owners with lands having similar characteristics would be required to comply with the requirements of the Zoning and Subdivision Codes.
- c. That the approval of the subject request would be

inconsistent with the general purpose and the intent of the Subdivision and Zoning Codes. The purpose of the request is to allow the creation of additional lots as well as lots below the minimum requirement. To use the variance procedure for such purposes without sufficient cause shown would constitute a circumvention of the purpose of the Zoning Code. Further, the petitioner has not shown that there are any special or unusual circumstances which would justify granting relief from the roadway requirement. The purpose of the roadway requirement is to assure that access to properties is safe and suitable for the type of traffic which will be using the roadway. The proposed subdivision is intended for the use of U-Drive vehicle operators. These operators will store, service and maintain their vehicles within the proposed subdivision. The vehicles will be shuttled between these proposed baseyard lots and the operators' terminal facilities. Although the petitioner has proposed that the traffic pattern be one-way, it is determined that this does not constitute sufficient cause for the relief from the roadway standard, particularly in light of the fact that the users of the roadway will be moving a high number of vehicles off and on the baseyard lots. Unless the standards set forth for roadways are determined to be unrelated to the actual circumstances, relief from such standards are unwarranted.

Further, there is an additional consideration to be taken into account. While the lot sizes and the

roadway which are proposed may be adequate for the use which is proposed, they may not be adequate if the use of the subject land were to change. If, in the future, there may be a need to use the subject area for other than that which is presently proposed, the options for alternative uses would be limited by the lot sizes and by the limited roadway. Individually, the lots would be less capable of supporting alternate uses, especially in view of the width of the proposed right-of-way.

10. At the preliminary hearing, the Planning Commission voted to deny the variance request for the reasons as outlined by the staff. The vote to deny was recorded as five (5) ayes and two (2) noes.

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.

DECISION AND ORDER

Based upon the testimony and exhibits introduced at the pre-

liminary 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 the variance from the requirements of Article 14, Section 5 of the Zoning Code (Chapter 8) pertaining to the minimum building site area requirement and from the requirements of Article 2, Section 4.03.13 of the Subdivision Code (Chapter 9) pertaining to the minimum roadway requirements of Tax Map Key 2-1-12:9 located in Waiakea, South Hilo, Hawaii be and is hereby denied.

Dated at Hilo, Hawaii, this 17th day of February, 1976.

for Maile J. Sterling
Leon K. Sterling, Jr., Chairman

