

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for VARIANCE)
by)
BURGESS, INC.)
from)
MINIMUM SETBACK AND)
PARKING REQUIREMENT)
in)
Kailua Village,)
North Kona, Hawaii)

Variance No. 494

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on April 28, 1977, considered the application of BURGESS, INC. for a variance from Chapter 8 (Zoning Code), Article 9, Section 7, and Article 26, Section 6, Hawaii County Code, as amended. More specifically, the variance is to allow the following on property in Kailua Village, North Kona, Hawaii, Tax Map Key 7-5-06:11 & 12:

1. Seven (7)-foot front yard setback along Alii Drive in lieu of the minimum requirement of twenty (20) feet.
2. Ten (10)-foot front yard setback along Likana Lane in lieu of the minimum requirement of twenty (20) feet.
3. Five (5)-foot and eight (8)-foot side yard setbacks from the south and north property lines respectively in lieu of the minimum requirement of ten (10) feet.
4. Waiver of the fifty-seven (57) on-site parking stalls requirement.

The Commission has found:

That approval of the subject request is in keeping with and will serve to implement the goals and objectives of the Kailua Village Design Plan, which was adopted as Ordinance 217 by the County Council in July 1976. The ultimate purpose of the subject request is to allow the expansion of an existing shopping mall. The petitioner is seeking to have the setback requirements lessened and the parking requirement waived for the proposed expansion. The request is made in anticipation of proposed future changes for the village of Kailua-Kona which are enunciated in the Kailua Village Design Plan. These proposed changes center on the conversion of a portion of Ali'i Drive into a pedestrian mall, including that area fronting the petitioner's property. The proposed mall conversion is dependent upon the construction of proposed improvements to Kuakini Highway and the provision of adequate off-street parking. In regard to the provision of parking for this particular portion of the village, the Kailua Village Design Plan explicitly stated that:

"Off-street parking requirements for commercial buildings should be waived when the properties participate in an

improvement district combining the parking space requirements in a common public parking area. Property not immediately adjoining this combined public parking must provide their own separate independent loading space."

This course of action is based on the Plan's objective of emphasizing the natural features of the area, which in this case is Kailua Bay, as well as the objective of facilitating pedestrian movement and reducing the prominence of the automobile. By waiving the parking requirement for the proposed expansion, the integrity of this portion of Kailua Village can be retained and the objectives of the Kailua Village Design Plan can be implemented.

It is necessary to note that approval of the subject request will not in fact alleviate the petitioner's responsibility to provide for the parking need generated by the proposed expansion. A condition of approval recommended below is that the petitioner meet the parking requirements through means other than by providing them on-site. The petitioner has indicated a willingness to participate in an improvement district or a similar form of assessment to assure that parking facilities will be provided in this area of Kailua Village.

the Further, approval of the request to lessen the setback requirements for the proposed addition will not be materially detrimental to the public welfare nor injurious to improvements or property rights in the near vicinity. The area surrounding the subject property is already developed. The subject property is bounded by roadways on two sides and there are structures on the two adjacent parcels. The proposed second- and third-story additions on the southern side of the development shall follow the existing building lines of the present structure. This proposed addition will not increase the horizontal encroachment into the setback area since it is a vertical extension.

In addition, the design of the proposed expansion takes into account the objectives of the Kailua Village Design Plan and incorporates the Ali'i Drive mall concept. The proposed expansion will essentially blend into the future mall and will aid in the development of an integrated character for this area of the village. The proposed expansion will also provide a linking corridor between the existing County parking lot on Likana Lane and Ali'i Drive. The petitioner's plans include an open pedestrian access between these two area, and will contribute to meeting the overall goals and objectives of the Kailua Village Design Plan.

Based on the above, it is determined that the granting of the subject request will not be inconsistent with the general purpose of the zoned district and will encourage the best manner of development of the subject property. Approval of the subject request will also not militate against the County General Plan, particularly in view of the fact that the proposed development is in keeping with the Kailua Village Design Plan which is intended to implement the General Plan.

Therefore, the Commission hereby grants to the applicant the following variances for a proposed addition to the existing Banyan Court Mall Complex in Kailua Village, North Kona, Hawaii: pursuant to the authority vested in it by Article 1, Section 7 of said Code;

1. Seven (7)-foot front yard setback along Alii Drive in lieu of the minimum requirement of twenty (20) feet.

2. Ten (10)-foot front yard setback along Likana Lane in lieu of the minimum requirement of twenty (20) feet.
3. Five (5)-foot and eight (8)-foot side yard setbacks from the south and north property lines respectively in lieu of the minimum requirement of ten (10) feet.
4. Waiver of the fifty-seven (57) on-site parking stalls requirement.

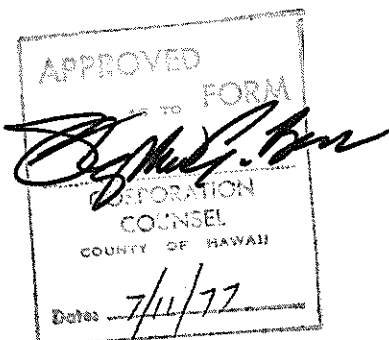
This approval is subject to the following conditions: Section 7 of said Code, subject to the following conditions:

1. That the petitioner or its authorized representative submit plans for Plan Approval, including a landscaping plan, within one (1) year from the effective date of approval of the Variance Permit.
2. That construction of the proposed addition commence within one (1) year after receipt of Final Plan Approval and be completed within two (2) years thereafter.
3. That the rules, regulations, and requirements of the State Department of Health and County Department of Water Supply shall be complied with.
4. That prior to issuance of a building permit, the petitioner shall enter into an agreement with the County to lease the required amount of parking stalls from the adjacent County parking lot. Said lease shall be effective upon the issuance of the occupancy permit for the addition and it shall be effective for a maximum period of three (3) years. After the three (3) year has expired, the petitioner shall be responsible in meeting the parking requirement by either a) providing the required parking stalls within a distance of 500 feet from the subject property or b) if a Parking Improvement District or similar arrangements are made and accepted, the petitioner may participate in it to fulfill the parking requirement.
5. That the petitioner shall provide a loading space for the proposed development, to be reviewed and approved at the time of plan approval.
6. That all other applicable rules, regulations, and requirements, including the conditions of the Special Management Area (SMA) Use Permit, shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from April 28, 1977.

Dated at Hilo, Hawaii, this _____ day of _____, 1977.



(Mrs.) Lorraine R. Jitchaku
Chairman