

Return to Norman  
March 15, 1982

Mr. Norman Catton  
Kona Lure Sportfishing Charters  
P. O. Box 4438  
Kailua-Kona, HI 96740

Dear Mr. Catton:

Variance Permit No. 607  
Tax Map Key 7-5-06:10

This is in regards to the subject variance permit, granted by the Planning Commission effective December 12, 1979, relative to the existing kiosk on the subject property.

As was stated in our December 3, 1981, letter to you, the permit was approved subject to the following conditions:

1. That the petitioner, or its authorized representative, shall submit plans and secure final plan approval within one (1) year from the effective date of the Variance Permit.
2. That construction of the kiosk shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within one (1) year thereafter.
3. That prior to the issuance of occupancy permit the petitioner, or its authorized representative, shall submit documents showing that a parking stall on the Kailua Pier is being rented by the petitioner. Further, such documents shall be submitted every six (6) months from the date of issuance of the occupancy permit.

In reviewing our files and also checking with the Building Division of the Department of Public Works, we find that to date no action has been taken to comply with the foregoing conditions since our December 3, 1981, letter was sent to you. As such, this is to inform you that we have no alternative but to initiate the nullification of the permit with the Planning Commission.

MAR 16 1982

Mr. Norman Catton

Page 2

March 15, 1982

Should you have any questions, please feel free to contact our department at 961-8288.

Sincerely,

*Sidney Fuke*  
SIDNEY FUKU  
Planning Director

AK:smn

cc: Mr. Damien Wong  
Planning Commission  
Building Division, Department of Public Works

CERTIFIED MAIL

March 23, 1982

Mr. Norman Catton  
Kona Lure Sportfishing Charters  
P. O. Box 4438  
Kailua-Kona, HI 96740

Dear Mr. Catton:

Variance Permit No. 607  
Tax Map Key 7-5-06:10

This is in reference to our letter dated March 15, 1982 to you relative to the subject permit and the existing kiosk on the subject property.

Although the Planning Commission granted the subject permit, the recent amendment to the Hawaii County Charter now authorizes the Planning Director to administratively grant variances. As such, in our March 15, 1982 letter, we rescind our statement "to initiate nullification of the permit with the Planning Commission." Instead, this is to inform you that the subject Variance Permit No. 607 is hereby deemed null and void due to non-compliance with the conditions of approval.

For your information, the existing kiosk and the use that is established is in violation of the Zoning Code - Chapter 8, Article 22 (Plan Approval), Section 2 which states that "No structures may be erected, no use may be established...unless 'Plan Approval' has first been secured for such structures, use, development or improvement."

Additionally, since the subject parcel is situated within the Special Management Area (SMA) and the established kiosk was not processed in compliance with this requirement, it is also in violation of these SMA rules and regulations. As such, the subject kiosk will be subject to penalties as provided for in Section 9.15 of Rule No. 9.

MAR 24 1982

Mr. Norman Catton

Page 2

March 23, 1982

Based on the foregoing, the existing kiosk and the business must be terminated and the kiosk removed within one (1) week upon receipt of this letter. We would appreciate your earliest action on this matter. We regret that this action must be taken, however, although businesses which were established after the adoption of the Zoning Code and were not cited for a violation, the present use cannot go unnoticed in view of existing laws. Therefore, we must inform you that should no remedial action be taken, we shall refer this matter to the Corporation Counsel's office for appropriate action.

We hope that you understand our actions on this matter. Should you have any questions in the meantime, please do not hesitate to contact our office at 961-8288.

Sincerely,



SIDNEY FUKU  
Planning Director

AK:gs

cc: Planning Commission  
Corporation Counsel  
Kailua Village Special District  
Commission  
Building Division, DPW  
(Hilo and Kona)  
Damien Wong

CERTIFIED MAIL

December 3, 1981

Mr. Norman Catton  
Kona Lure Sportfishing Charters  
P. O. Box 4438  
Kailua-Kona, HI 96740

Dear Mr. Catton:

Variance Permit No. 607  
Tax Map Key 7-5-06:10

This is in regards to the subject Variance Permit which was granted to you by the Hawaii County Planning Commission effective December 12, 1979, to allow the provision of an off-site parking stall approximately 600 feet away from a proposed kiosk in lieu of the maximum distance limitation of 500 feet and the waiving of the easement requirement for the off-site parking stall. The permit was approved subject to the following conditions:

1. That the petitioner, or its authorized representative, shall submit plans and secure final plan approval within one (1) year from the effective date of the Variance Permit.
2. That construction of the kiosk shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within one (1) year thereafter.
3. That prior to the issuance of occupancy permit the petitioner, or its authorized representative, shall submit documents showing that a parking stall on the Kailua Pier is being rented by the petitioner. Further, such documents shall be submitted every six (6) months from the date of issuance of the occupancy permit.

A review of our files shows that to date no final plan approval was secured, and no documents showing a rented parking stall on the Kailua Pier were submitted for the proposed development. Further, in checking with the Building Division of the Department of Public Works, no building permit was issued. Consequently, the conditions of approval for the Variance Permit have not been complied with.

Mr. Norman Catton  
Page 2  
December 3, 1981

Further, it has come to our attention that you are operating your business in a kiosk on the subject property. Therefore, we are requesting your compliance with the stated conditions of approval. If no action is taken to comply, we will have no alternative but to initiate the nullification of the permit. Please submit a report to us within two (2) weeks from the date of receipt of this letter indicating how and when you intend to comply with these conditions.

Should you have any questions, please feel free to contact our office at 961-8288.

Sincerely,



SIDNEY LUKE  
Planning Director

AK:lrp

cc: Mr. Damien Wong  
Planning Commission  
Dept. of Public Works  
Building Division

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR VARIANCE )  
By )  
KONA LURE SPORTFISHING CHARTERS )  
From )  
MAXIMUM DISTANCE LIMITATION FOR )  
OFF-SITE PARKING REQUIREMENTS )  
AND EASEMENT REQUIREMENT )  
In )  
Kailua, North Kona, Hawaii )

VARIANCE NO. 607

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on December 12, 1979, considered the application of KONA LURE SPORTSFISHING CHARTERS for a variance from Article 26, Section 6, Chapter 8 (Zoning Code), of the Hawaii County Code, as amended, more specifically, to allow the provision of an off-site parking stall approximately 600 feet away from a proposed kiosk in lieu of the maximum distance limitation of 500 feet and the waiving of the easement requirement for the off-site parking stall as stipulated in Supplementary Off-Street Parking and Loading Regulations in Kailua, North Kona, Hawaii, Tax Map Key 7-5-06:10.

The Commission has found:

That unusual conditions apply to the subject area which do not generally apply to other similarly zoned districts on the island. Kailua Village currently is the largest resort-oriented commercial area on the island. In this particular area pedestrian traffic is quite common and is encouraged by the adopted Kailua Village Design Plan. The plan recommends that future parking areas be provided in central locations financed by an improvement district which would relieve the participating properties from providing parking on-site. The plan also states that the principal area of concern is the area bounded by Kuakini Highway, Palani Road, the Ali'i Drive and Hualalai Road. Within this block the plan suggests four (4) central parking areas, and as proposed these parking lots would be a maximum distance of approximately 1,000 feet from some of the properties within the block. Thus, the potential for rather extensive pedestrian movement is recognized and incorporated within the Kailua Village Design Plan. In view of these circumstances particular to Kailua Village, the strict and literal enforcement of the Zoning Code provisions would interfere with the best manner of development of Kailua Village and be contrary to the adopted design plan.

That the approval of the request to exceed the maximum distance requirements are not anticipated to adversely affect surrounding properties. As previously stated, Kailua Village is pedestrian oriented. Many of the patrons to the Village arrive in cars, but do not necessarily park at the establishment which they will be visiting. In fact, given the retail nature of many of the businesses in the village, visits to many shops in one (1) trip are common without re-parking the vehicles for each stop. Given these circumstances, the provision of an off-site parking stall at a distance of approximately 600 feet is not anticipated to adversely affect surrounding properties.

Staff would like to emphasize that the requested variance is different from the original request to waive all parking requirements. In that case the overall parking shortage would be aggravated which would, over the long run, be detrimental to the continued viability of Kailua Village.

Further, the request to waive the easement requirement for the proposed off-site parking stall is not contrary to the purpose and intent of the Zoning Code. The purpose of this particular provision is to insure that any off-site parking stall provided will continue to be available for the proposed use. In this particular case, a waiver from this provision can be approved in keeping with the intent of the Zoning Code provided that the petitioner submit documents to the Planning Department every six (6) months showing that the parking stall on the Kailua pier is being rented by the petitioner. Should the parking stall rental be terminated the kiosk can be easily removed given its small size and portable nature with no extensive permanent foundations. Thus, through compliance with recommended conditions the intent of the Zoning Code provisions can be maintained.

Therefore, the Commission hereby grants to the applicant a variance to allow the provision of an off-site parking stall approximately 600 feet away from a proposed kiosk in lieu of the maximum distance limitation of 500 feet and the waiving of the easement requirement for the off-site parking stall as stipulated in Supplementary Off-Street Parking and Loading Regulations in Kailua, North Kona, Hawaii, Tax Map Key 7-5-06:10 pursuant to the authority vested in it by Article 1, Section 7 of the Zoning Code, subject to the following conditions:

1. That the petitioner, or its authorized representative, shall submit plans and secure final plan approval within one (1) year from the effective date of the Variance Permit.
2. That construction of the kiosk shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within one (1) year thereafter.
3. That prior to the issuance of occupancy permit the petitioner, or its authorized representative, shall submit documents showing that a parking stall on the Kailua Pier is being rented by the petitioner. Further, such documents shall be submitted every six (6) months from the date of issuance of the occupancy permit.

12/1/89  
red up documents  
showing parking stall



4. Should the parking stall rental on the Kailua Pier be terminated, the Variance Permit shall automatically become null and void, and the subject kiosk shall be removed within one (1) week after official notification of the Variance Permit nullification.
5. That all other applicable rules, regulations, and requirements 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 December 12, 1979.

Dated at Hilo, Hawaii, this 10th day of April, 1980.

*for: William F. Mielcke Jr.*  
\_\_\_\_\_  
WILLIAM F. MIELCKE, CHAIRMAN  
PLANNING COMMISSION

APPROVED AS TO FORM  
AND LEGALITY:

*R. Ben Tsalazali*  
\_\_\_\_\_  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date: 3 April 80