

PLANNING DEPARTMENT
County of Hawaii
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE)
by)
CONSOLIDATED AMUSEMENT COMPANY, LTD.) ADMINISTRATIVE
from) VARIANCE NO. 17
Minimum parking requirement)
in)
Hienaloli, North Kona, Hawaii)

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on May 12, 1980, on the application of CONSOLIDATED AMUSEMENT COMPANY, LTD. for a variance from the minimum parking requirement, more specifically, to allow the joint use of parking stalls for the Hualalai Center Office complex and a proposed theater complex at Kailua Village, Hienaloli, North Kona, Hawaii, Tax Map Key 7-5-8:23.

After hearing the case, the Planning Director has found:

The purpose of this request is to allow the concept of joint usage of the existing 151 parking stalls for the Hualalai Center Office complex and a proposed theater. The present office complex would require a minimum of 79 stalls; therefore, there will be an excess of 72 stalls. The proposed theater, however, will require an additional 142 stalls. Since there are presently only 151 stalls for the total complex, an additional 70 stalls will be required. The theater, however, will be in operation only during periods when the office complex is closed; specifically, after 5:00 p.m. on weekdays and all day on Saturdays, Sundays, and holidays. Therefore, although the combined number of parking stalls available is technically insufficient to provide for both uses simultaneously, since the uses will be in operation during different times of the day, there will be no direct conflict in the usage of the same parking stalls. It is therefore felt that the granting of this particular request under the stated circumstances will not be inconsistent with the general purpose of the zoned district or with the spirit and intent of the Zoning Code.

Additionally, legal assurances to avoid overlapping use of the parking areas will be made a condition of this variance permit.

The proposed office uses generate different parking demands from those more retail-oriented, such as restaurants, shops, and so forth. Office hours are relatively fixed and of a diurnal nature; whereas retail activities are variable, occurring both during diurnal and nocturnal periods. As such, with an agreement binding said uses, it is felt that the potential for possible conflicting use of the parking areas would be minimal.

Further, since adequate parking stalls will be available for both uses at different times of the day, it is felt that the granting of this variance will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to properties in the immediate vicinity.

The granting of this request also will not necessarily constitute a grant of personal privilege inconsistent with the limitations placed upon other properties under identical district classification. If the total amount of stalls available on the property were allocated to each use separately, the minimum parking requirement for each use would be adequately met.

Based on the above, it is determined that there are unusual circumstances applying to the subject uses which do not generally apply to other uses within the same zoned district.

Therefore, the Planning Director hereby grants to the applicant a variance to allow the joint use of parking stalls for the Hualalai Center Office complex and a proposed theater complex at Kailua Village, Hienaloli, North Kona, Hawaii, Tax Map Key 7-5-8:23, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the petitioner or its authorized representative shall submit plans to the Planning Department and secure Final Plan Approval within one (1) year from the effective date of approval of the Variance Permit.
2. That construction shall commence within one (1) year from the effective date of receipt of Final Plan Approval and be completed within two (2) years thereafter.
3. That access(es) to the subject property shall meet with the approval of the Department of Public Works.
4. That the petitioner and landowner shall enter into an agreement with the County of Hawaii, through its Planning Department, which would run with the land and be recorded with the State Bureau of Conveyances. The landowner or its authorized representative shall be responsible for the drafting of the agreement meeting with the approval of the Planning Department and the Corporation Counsel. This agreement shall be executed and accepted by the County prior to issuance of the building permit for the theater. The agreement shall also reflect the following terms:
 - a. The theater use shall be restricted to after 5:30 p.m. during weekdays, not including Saturdays, Sundays, and retail or Chamber holidays.
 - b. During after office hours, the parking stalls for the theater complex shall not be used by the tenants/clients of the office complex. A minimum of 142 stalls shall be made available for the theater whenever it is in operation.
 - c. Should the affected property be subdivided, the landowner shall provide within the agreement a statement to guarantee that all of the affected uses

*see PA # 3118 4589
for agreement*


shall have an easement to the parking stalls. Further, the affected stalls on the entire property shall be made available to the theater and the Hualalai Center Office complex.

- d. Should any of the office spaces be converted to a conflicting use with the theater, i.e. restaurant, retail stores, the landowner petitioner or their authorized representative shall provide the additional parking stalls on the subject property. This would also apply to any new buildings which would have conflicting hours of operation with the theater.
 - e. No further parking variance of any kind shall be applied for any portion of the affected property.
5. That all other applicable rules, regulations, and requirements, including those of the Department of Public Works, Fire Department, and State Department of Health shall be complied with.

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

The effective date of this permit shall be from June 3, 1980.

Dated at Hilo, Hawaii, this 19th day of September, 1980.



SIDNEY M. FUKE, Director
Planning Department

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Hawaii

Date: 12 Sept 80

CERTIFIED MAIL

June 3, 1980

Consolidated Amusement Co., Ltd.
P. O. Box 3737
Honolulu, HI 96812

Gentlemen:

Variance Application
Minimum Parking Requirement
TMK: 7-5-07:20

??? this TMK is
incorrectomundo!!!

After review of your application and the information provided at the administrative public hearing on May 12, 1980, the Planning Director is hereby certifying the approval of your variance to allow the joint usage of the 151 parking stalls by the Hualalai Center Office complex and the proposed theater at Kailua-Kona, Hienaloli, North Kona, TMK: 7-5-8:23.

Approval of this request is based on the following findings:

The purpose of this request is to allow the concept of joint usage of the existing 151 parking stalls for the Hualalai Center Office complex and a proposed theater. The present office complex would require a minimum of 79 stalls; therefore, there will be an excess of 72 stalls. The proposed theater, however, will require an additional 142 stalls. Since there are presently only 151 stalls for the total complex, an additional 70 stalls will be required. The theater, however, will be in operation only during periods when the office complex is closed; specifically, after 5:00 p.m. on weekdays and all day on Saturdays, Sundays, and holidays. Therefore, although the combined number of parking stalls available is technically insufficient to provide for both uses simultaneously, since the uses will be in operation during different times of the day, there will be no direct conflict in the usage of the same parking stalls. It is therefore felt that the granting of this particular request under the stated circumstances will not be inconsistent with the general purpose of the zoned district or with the spirit and intent of the Zoning Code.

Additionally, legal assurances to avoid overlapping use of the parking areas will be made a condition of this variance permit.

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The proposed office uses generate different parking demands from those more retail-oriented, such as restaurants, shops, and so forth. Office hours are relatively fixed and of a diurnal nature; whereas retail activities are variable, occurring both during diurnal and nocturnal periods. As such, with an agreement binding said uses, it is felt that the potential for possible conflicting use of the parking areas would be minimal.

Further, since adequate parking stalls will be available for both uses at different times of the day, it is felt that the granting of this variance will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to properties in the immediate vicinity.

The granting of this request also will not necessarily constitute a grant of personal privilege inconsistent with the limitations placed upon other properties under identical district classification. If the total amount of stalls available on the property were allocated to each use separately, the minimum parking requirement for each use would be adequately met.

Based on the above, it is determined that there are unusual circumstances applying to the subject uses which do not generally apply to other uses within the same zoned district.

The conditions of approval of the variance are as follows:


1. That the petitioner or its authorized representative shall submit plans to the Planning Department and secure Final Plan Approval within one (1) year from the effective date of approval of the Variance Permit.
2. That construction shall commence within one (1) year from the effective date of receipt of Final Plan Approval and be completed within two (2) years thereafter.
3. That access(es) to the subject property shall meet with the approval of the Department of Public Works.
4. That the petitioner and landowner shall enter into an agreement with the County of Hawaii, through its Planning Department, which would run with the land and be recorded with the State Bureau of Conveyances. The landowner or its authorized representative shall be responsible for the drafting of the agreement meeting with the approval of the Planning Department and the Corporation Counsel. This agreement shall be executed and accepted by the County prior to issuance of the building permit for the theater. The agreement shall also reflect the following terms:

- a. The theater use shall be restricted to after 5:30 p.m. during weekdays, not including Saturdays, Sundays, and retail or Chamber holidays.
 - b. During after office hours, the parking stalls for the theater complex shall not be used by the tenants/clients of the office complex. A minimum of 142 stalls shall be made available for the theater whenever it is in operation.
 - c. Should the affected property be subdivided, the landowner shall provide within the agreement a statement to guarantee that all of the affected uses shall have an easement to the parking stalls. Further, the affected stalls on the entire property shall be made available to the theater and the Hualalai Center Office complex.
 - d. Should any of the office spaces be converted to a conflicting use with the theater, i.e. restaurant, retail stores, the landowner, petitioner or their authorized representative shall provide the additional parking stalls on the subject property. This would also apply to any new buildings which would have conflicting hours of operation with the theater.
 - e. No further parking variance of any kind shall be applied for any portion of the affected property.
5. That all other applicable rules, regulations, and requirements, including those of the Department of Public Works, Fire Department, and State Department of Health shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be nullified by the Planning Director.

Please be informed that the official Variance Permit will be forthcoming under separate cover.

Should you have any questions in the meantime, please feel free to contact us.

Sincerely,

SIDNEY FUKU
Planning Director

NH:lkt

cc: Planning Commission
George Heneghan
Mark Van Pernis (Sterry, Mah, & Gallup)