

PLANNING DEPARTMENT  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE )  
by )  
SOUTHERN STAR THEATRE ) ADMINISTRATIVE  
from ) VARIANCE NO. 50  
MINIMUM PARKING REQUIREMENTS )  
in )  
NAALEHU, KAWALA, KA'U, HAWAII )  
\_\_\_\_\_ )

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on January 6, 1981, on the application of SOUTHERN STAR THEATRE for a variance from the minimum parking requirements, more specifically, to allow the waiving of the minimum parking requirement by utilizing the parking stalls within the Naalehu Shopping Center Complex on a dual concept at Naalehu, Kawala, Ka'u, Hawaii, Tax Map Key 9-5-21:8.

After hearing the case, the Planning Director has found:

1. That there are special circumstances applying to the subject structure which do not generally apply to surrounding property or improvements in the same district. The subject structure has been mentioned in the Historic Sites section of the draft Ka'u Community Development Plan as being associated with a past or continuing institution which has contributed substantially to the life of the community. As such, the subject structure has an established function which is recognized on a community wide basis. However, the theatre has been closed for a number of years and no other structure has been utilized to take its place.
2. That should this variance request be denied the special circumstances described above exists to a degree which would obviously interfere with the best use and manner of development of the subject property. Without this variance the theatre use could not be re-established on the subject property. In fact, it would be extremely difficult to establish any use on the subject property unless the existing structure is demolished and a much smaller structure erected. Therefore, the best use and manner of development of the subject property, as a theatre and community resource, would be denied.
3. That the granting of the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. The special circumstances described above adequately distinguish this application from others which may be submitted.

4. That the granting of the variance will not be inconsistent with the general purpose of the Village Commercial district or the intent and purpose of the Zoning Code. Furthermore, the approval of this request will not militate against the General Plan nor will it be materially detrimental to the public welfare or injurious to improvements or property rights.

The purpose of this request is to allow the concept of dual usage of the existing 75 parking stalls for the Naalehu Shopping Center and the old Naalehu Theatre. The shopping center's present parking requirement is 56 stalls; therefore, there is an existing excess of 19 parking stalls.

The proposed theatre and food concession will require an additional 72 parking stalls. The combined parking requirement for the theatre and shopping center amounts to 128 parking stalls which is 53 more than is presently available in the shopping center. However, the theatre will be in operation only during periods when the businesses in the shopping center are closed. More specifically, between 6:15 p.m. to 10:30 p.m., Thursday through Sunday. 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 Village-Commercial district or with the spirit and intent of the Zoning Code. 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 militate against the General Plan nor will it be materially detrimental to the public welfare nor be injurious to improvements or property rights related to properties in the immediate vicinity.

It should be noted that although the food concession requiring 2 stalls, will be operating simultaneously with the shopping center, adequate parking will still be available because of the current excess of 19 stalls. To avoid further overlapping use of the parking area, beyond the remaining excess of 17 stalls, legal limitation will be made a condition of this variance permit.

Therefore, the Planning Director hereby grants to the applicant a variance to allow the waiving of the minimum parking requirement by utilizing the parking stalls within the Naalehu Shopping Center Complex on a dual concept at Naalehu, Kawala, Ka'u, Hawaii, Tax Map Key 9-5-21:8, 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 of any alterations 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 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 theatre. The agreement shall also reflect the following terms:
  - a. The theatre use shall be restricted to after 6:15 p.m. Thursdays through Sundays.
  - b. After 6:15 p.m. Thursday through Sunday, the parking stalls for the theatre complex shall not be used by the tenants/clients of the Naalehu Shopping Center. A minimum of 70 stalls shall be made available for the theatre whenever it is in operation.
  - c. Should any additional uses be proposed for either the Naalehu Shopping Center or the old Naalehu Theatre structure requiring more than 17 stalls and having conflicting schedules with the theatre, the landowner will be required to provide additional stalls as necessary.
  - d. No further parking variance of any kind shall be applied for any portion of the Naalehu Shopping Center or old Naalehu Theatre properties.
4. 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 January 29, 1981.

Dated at Hilo, Hawaii, this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
SIDNEY M. FUKU, Director  
Planning Department

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Hawaii

Date: \_\_\_\_\_

January 29, 1981

Mr. Rutledge Bray  
Southern Star Theatre  
P. O. Box 588  
Naalehu, Hawaii 96772

Dear Mr. Bray:

Variance Application (V80-41)  
Minimum Parking Requirements  
Tax Map Key: 9-5-21:8

After review of your application and the information presented at the administrative public hearing on January 6, 1981, the Planning Director is hereby certifying the approval of the variance to allow the waiving of the minimum parking requirement by utilizing the parking stalls within the Naalehu Shopping Center Complex on a dual use parking concept.

Approval of the request is based on the following findings:

1. That there are special circumstances applying to the subject structure which do not generally apply to surrounding property or improvements in the same district. The subject structure has been mentioned in the Historic Sites section of the draft Ka'u Community Development Plan as being associated with a past or continuing institution which has contributed substantially to the life of the community. As such, the subject structure has an established function which is recognized on a community wide basis. However, the theatre has been closed for a number of years and no other structure has been utilized to take its place.
2. That should this variance request be denied the special circumstances described above exists to a degree which would obviously interfere with the best use and manner of development of the subject property. Without this variance the theatre use could not be re-established on the subject property. In fact, it would be extremely difficult to establish any use on the subject property unless the

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existing structure is demolished and a much smaller structure erected. Therefore, the best use and manner of development of the subject property, as a theatre and community resource, would be denied.

3. That the granting of the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical district classification. The special circumstances described above adequately distinguish this application from others which may be submitted.
4. That the granting of the variance will not be inconsistent with the general purpose of the Village Commercial district or the intent and purpose of the Zoning Code. Furthermore, the approval of this request will not militate against the General Plan nor will it be materially detrimental to the public welfare or injurious to improvements or property rights.

The conditions of approval 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 of any alterations 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 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 theatre. The agreement shall also reflect the following terms:
  - a. The theatre use shall be restricted to after 6:15 p.m. Thursdays through Sundays.
  - b. After 6:15 p.m. Thursday through Sunday, the parking stalls for the theatre complex shall not be used by the tenants/clients of the Naalehu Shopping Center. A

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minimum of 70 stalls shall be made available for the theatre whenever it is in operation.

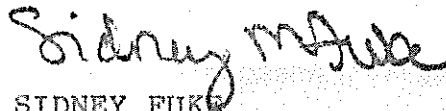
- c. Should any additional uses be proposed for either the Naalehu Shopping Center or the old Naalehu Theatre structure requiring more than 17 stalls and having conflicting schedules with the theatre, the landowner will be required to provide additional stalls as necessary.
  - d. No further parking variance of any kind shall be applied for any portion of the Naalehu Shopping Center or old Naalehu Theatre properties.
4. 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.

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

BN:lkt

cc: Planning Commission