

Void

April 17, 1986

Mr. Michael Reilly, Plant Manager
Mrs. Fields Macadamia Nut Company
P.O. Box 2167
Kealahou, HI 96750

Dear Mr. Reilly:

Kona Hawaiian Macadamia Company
Variance Permit No. 148
TMK: 8-1-03:40

This is in response to your letter dated April 10, 1986, regarding the covered area that was permitted under Variance Permit No. 148 which became effective on September 13, 1983. In reviewing our file, we have the following comments to offer:

1. Condition B of Variance Permit No. 148 stated that "The plans for the proposed open covered walkway be submitted for final 'Plan Approval' review within one year from the date of receipt of this Variance Permit." Final Plan Approval was granted for the Open Covered Walkway Addition on September 13, 1983.
2. Condition C stated that "The construction of the proposed improvements shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter."
3. Building Permit No. 831539 was approved for the porch addition on September 16, 1983. A check with the Building Division showed that the permit was finalized and closed. The porch addition was never completed.

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Since the porch addition construction was not started within the one year period from the date of Final Plan Approval, the conditions of the variance have not been complied with. It is stated in the Variance Permit that "Should any of the above conditions not be complied with, the variance shall automatically be void." In view of this, Variance Permit No. 148 is void due to non-compliance of the variance conditions. In order to construct the proposed porch addition, a new variance application must be applied for.

Should you have any further questions, please feel free to contact this office.

Sincerely,



ALBERT LONO LYMAN
Planning Director

MO:lv

bcc: PA-846

CERTIFIED MAIL

August 25, 1983

Mr. James A. Makaweo, President
Kona Hawaiian Macadamia Company
P. O. Box 16
Kealahou, HI 96750

Dear Mr. Makaweo:

Variance Application (V83-25)
Variance From Minimum Open Clearspace Yard Requirements
Tax Map Key 8-1-03:40

After reviewing your application and the information submitted in behalf of it, the Planning Director by this letter hereby certifies the approval of your variance request to allow the construction of an open type covered walkway with a front yard open clearspace of 3 feet 6 inches in lieu of the minimum 10-foot open clearspace yard as required for open type projections in the Village Commercial zoned district, in Haleki'i, South Kona, Hawaii.

The approval is based on the following:

Special and Unusual Circumstances:

Two warehouse buildings were constructed on this property in 1979. The rear warehouse is used for the manufacturing and processing aspect of the macadamia nut operation while the warehouse fronting Haleki'i Street is used for general warehouse storage/office purposes.

A limited 280 square feet retail store operation for the sale of macadamia nut products is also situated in the front portion of the warehouse along Haleki'i Street. This aspect of the facility uses only 5% of the entire warehousing/processing floorspace.

The proposed improvements are directly related to the protection and comfort of visitors to the retail sales area of this operation and are not for the purposes of physically expanding the retail sales area.

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Due to the existing orientation of the warehouses, the proposed improvements cannot be constructed anywhere else on the subject property without substantial reorganization of the interior floor plan and operational function of this macadamia nut processing facility.

Furthermore, the separation of retail/sales activity from the manufacturing, processing, and storage activities of the facility is essential for safety and operational purposes.

Based on the above, it is determined that a special circumstance exists to a degree which interferes with the best manner of development of this property.

Alternatives:

From an absolute standpoint, there are various alternatives available to the petitioner including the construction of a smaller covered walkway area to comply with the front yard setback requirements (6 feet, 6 inches by 26 feet); the redesign of a new entrance from the west side of the building (existing parking area); and a redesign to create an entrance from inside of the warehouse.

These and other possible redesign alternatives, though available, would not provide the most reasonable access, identity, and aesthetical functions as the proposed design.

The construction of a similar covered area which met the front yard setback requirements would not provide any substantial shelter or protection to patrons of the retail sales area.

Other entrance alternatives would require a significant disruption to the entire processing and warehouse operation in terms of both reorienting the loading/parking areas and undesirable interaction between the processing, warehousing and limited retail activity areas.

Therefore, although other alternatives are available, we have determined that the most reasonable and practical alternative is the one proposed by the petitioner.

Intent and Purposes:

The intent and purpose of the setback requirements is to ensure that air, light, physical and visual circulatory functions are available between structural developments and property lines.

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The proposed open shelter and walkway will only be 3 feet, 6 inches from the property line fronting Haleki'i Street, but with its post and beam construction, would still employ and afford the air, light, and circulatory functions that is the basis of requiring setbacks. The property frontage is improved with curb, gutter and sidewalk improvements in an established commercial area. The proposed structure would be situated at least ten feet from the existing sidewalk and almost twenty feet from Haleki'i Street.

Consequently, these improvements will complement both vehicular and pedestrian traffic in this area as it affords a direct access to the retail function of this business while providing convenience and protection from the elements for their customers.

The minor scale of the proposed improvements will not detract nor be adverse to the commercial environment of the surrounding area.

Based on the evaluation of the issues, we have determined that the granting of the variance shall be consistent with the general purpose of the zoning district, the intent and purposes of the Zoning Code and the General Plan.

The analysis of the above issues also has concurred that granting of the variance will not be materially detrimental to the public's welfare nor cause any substantial or adverse impact to the area's character or to adjoining properties.

The variance request is approved, subject to the following conditions:

- A. The petitioner, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- B. The plans for the proposed open covered walkway be submitted for final "Plan Approval" review within one year from the date of receipt of this Variance Permit.
- C. The construction of the proposed improvements shall commence within one year from the date of receipt of final Plan Approval and be completed within two years thereafter.
- D. The Department of Public Works requirements shall be complied with.

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E. All other applicable State and County rules and regulations be complied.

Should any of the above conditions not be complied with, the variance shall automatically be deemed void.


Finally, since the Planning Department did receive a letter of objection to the variance, we have the legal responsibility to inform the "interested party" that they do have a right to appeal the Planning Director's decision.

Chapter 8 (Zoning Code), Article 1, Section 7.05 allows any "interested party" to request that the Planning Commission review the Director's action. Such request must be made within ten working days after notice of the Director's decision and shall be in writing containing a statement of its grounds.

Therefore, the variance will not be effective until after the ten-day "appeal period" has passed and if no request is made by the "interested party." Should the "interested party" make a request, we shall inform you of the procedures that must be complied with.

If you have any questions on this matter, please feel free to contact us at 961-8288.

Sincerely,


for SIDNEY M. FUCE
Planning Director

RHY:gs

cc: Planning Commission
Alva Ushiroda