

CERTIFIED MAIL

April 17, 1985

Mr. Michael M. Shibuya
Paradise Beverages, Inc.
2850 Paa Street
Honolulu, Hawaii 96819

Dear Mr. Shibuya:

Variance Application (V85-5)
Variance from Minimum Parking Requirements
Tax Map Key 7-3-51:22

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 a warehouse facility with 18 parking stalls in lieu of the minimum 31 parking stalls as required by Section 25-73 (a)(14) of the Zoning Code in Unit 1 of the Kaloko Light Industrial subdivision in Kaloko, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The State Land Use Commission approved the Urban district designation for the Kaloko Light Industrial Subdivision in 1981.
2. The County Council redesignated the subject area to an Industrial classification on the General Plan Land Use Pattern Allocation Guide map in 1983.
3. The subject property was zoned for Limited Industrial uses in 1983.
4. A condition of the change of zone required the petitioner to have a "Design Manual" developed to provide architectural and design elements to be considered in a development. Design elements which were to have been given consideration were building bulk, parking areas, landscaping, view plane considerations, etc.

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5. Unit 1 of the Kaloko Light Industrial Subdivision was approved in 1984.

6. The subject property consists of 43,566 square feet and meets with the minimum building site area and minimum building average width requirements.

7. The minimum parking requirements, as stated in the Zoning Code, requires 1 parking stall for each 1000 square feet of gross floor area plus 1 stall for each employee on the largest work shift. Parking for office spaces is based on 1 parking stall for each 400 square feet of gross floor area.

8. The proposed business is a wholesale liquor distributorship with no retail activity.

9. The petitioner states that a total of 6 employees will be employed, 4 of whom will be on the premises during business hours. This would leave a total of 14 stalls on the property which would be available for customers.

10. The subject property slopes from east to west with an 18 feet wide strip of the west side property area graded to a 61 percent slope approximately 10 feet high. This area, of approximately 4,873 square feet, reduces the buildable area of the property to 38,692 square feet, or almost 89 percent of the total area.

11. The imposition of the minimum 15-foot front yard setback from the two front yards reduces the net buildable area to 33,978 square feet or about 78 percent of the total land area.

12. Because of the steep sloped area on the west side of the property, there is an approximately 4,873 square foot, or 22 percent, difference of land area between this property and an otherwise flat parcel with the same land area for this type of industrial development.

13. The existence of the topographical conditions related to the land affects the amount of buildable land area for the proposed development. Therefore, the topographical conditions do present a form of hardship to the petitioner in not being able to meet the minimum parking requirements.

14. These foregoing facts show that there exist special or unusual circumstances related to the land which warrants the reduction of the minimum parking requirements for this development.

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Based on these findings, we have determined that the special or unusual circumstances applying to the subject property exist either to a degree which deprive the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

ALTERNATIVES

The petitioner may have other alternatives available in resolving its problem without the necessity of a parking variance. The following findings show that although other design alternatives are available, the only reasonable alternative is the one proposed by the petitioner.

1. The "Design Manual" for the Kaloko Light Industrial Subdivision states that the parking, landscaping and building design should be compatible with each other.

2. The proposed building design covers approximately 24,975 square feet or 57.33 percent of the total land area. However, the imposition of the minimum front yard setbacks and the 61 percent sloped area on the west side of the property reduces the net buildable area to approximately 33,977 square feet or approximately 78 percent of the total land area because of the front yard setback requirements and the 61 percent sloped area on the west side of the property. Therefore, because of the sloping topography, there are design constraints which are greater than on a flat building site.

3. The proposed landscaping encompasses approximately 9,773 square feet or 22.43 percent of the total land area.

4. The proposed parking area utilizes approximately 8,818 square feet or 20.24 percent of the total land area. Therefore, approximately 42.67 percent of the property is either semi-open or landscaped.

5. Relocation and redesign are two alternatives the petitioner can consider in the site analysis for the development of the proposed warehouse. However, the petitioner's decision to site the warehouse in its proposed location is primarily due to the fact that this property has two frontages and access is restricted to one frontage. The north property frontage is restricted with no access and a 10 foot wide planting easement. The west side of the subject property has an approximately 18 foot wide area with a 61 percent unretained slope, approximately 10 feet high, which can only be used for landscaping purposes.

The redesign alternative for a smaller warehouse would not satisfy the minimum space required by the petitioner's needs. The reduction of the warehouse space to accommodate additional parking would also be unreasonable in light of the reduced buildable area.

6. The proposed warehouse is a one-story building, approximately 30 feet in height and totaling 24,975 square feet in area, located 15 feet from the north property line and 74 feet from the south property line with 42.67 percent of the property either semi-open or landscaped. Therefore, it has been determined that the proposed warehouse structure will be a compatible industrial structural development consistent with the requirements of the Design Manual, the industrial zoning and the character of the area.

Therefore, although other alternatives are available, it has been determined that the most reasonable alternative is the one proposed by the petitioner. In the review of variance applications of this nature, the question of reasonableness has to be viewed against all the established criteria for the granting of a variance and not solely on the reasonableness of the alternatives in trying to resolve the difficulty.

In the evaluation of this application, it was found that the imposition of the Zoning Code's minimum 31 parking stall requirement for the proposed warehouse development is excessive in light of the circumstances surrounding this request when other reasonable alternatives are available.

INTENT AND PURPOSES

The basic purpose of minimum parking requirements is to ensure that adequate on-site area is available for the intended use and development of the property.

1. This property is situated within the Kaloko Light Industrial subdivision Unit 1, which consists of approximately 67.8 acres and 55 lots. Lots in this subdivision unit range from 43,560 to 59,797 square feet in size and total approximately 67.8 acres of land.
2. The topography of the area has been graded to create lots with an east to west slope.
3. The subject property has two frontages. The frontage from the future mauka-makai road is restricted for access purposes and is required for a 10-foot wide planting easement.

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4. The access to the subject property is from Olowalu Street which has a 60-foot wide right-of-way with a 24-foot pavement.

5. The petitioner states that the proposed business will require only six employees at this time; that their parent company is purchasing this property and will lease back the entire parcel to the petitioner with a lifetime lease; that this will be the petitioner's permanent home base warehouse distribution center for its operations in Kona; that it is a wholesale liquor distributor with no retailing activities and virtually no walk in customers; that there will be 14 additional stalls available on the lot for customers; and that the parent company and Paradise Beverages, Inc. will be owner/occupants of the project; and that they have no plans to relocate.

6. While it may be true that the petitioner may not require the full use of the required 31 parking stalls at this time, the minimum parking requirements of the Zoning Code were established to ensure that parking is available not only for present but for future uses. As such, this variance is being approved subject to the condition that the subject property's deed shall include a recorded covenant which will specify that in the event that the subject building is changed for any purposes in the future, the petitioner or future owners must provide the necessary parking in accordance with the requirements of the Zoning Code, should it be necessary.

7. A major factor in the adoption of the zoning ordinance was to ensure that substandard parking for land use development would not occur in the future. In this particular instance, the reduction of land area and the parking demands of this particular business will not be substandard in light of the circumstances.

8. The minimum parking requirements in certain mixed industrial use developments in the County have been found to be inadequate for actual uses. However, if looked at closer, existing evidence shows that in such situations the minimum parking does not satisfy certain use requirements primarily because of the accessory retail activities conducted by mixed uses in a development. In this particular instance, the wholesale liquor distributorship will be the only business in this development. Therefore, a favorable action in this instance would not be materially detrimental to the public safety and will not cause substantial long term adverse impacts to the surrounding community and adjoining properties inasmuch as adequate safeguards through conditions of approval to

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anticipate long term concerns are included in this action. Such a planning practice would also not debilitate the implementation of the standards set forth in the Zoning Code as well as violate the spirit and intent of the law.

Based on the foregoing findings, the variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes, and the County General Plan and will not be materially detrimental to the public's welfare or cause substantial adverse impact to the area's character and to adjoining properties.

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

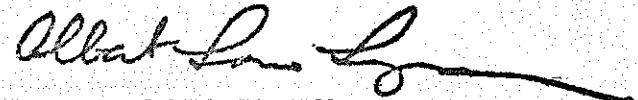
- A. The petitioner, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- B. The plans for the proposed warehouse shall be submitted for Plan Approval within one year from the effective date of approval of this Variance Permit.
- C. The construction of the proposed improvements shall commence within one year from the effective date of final Plan Approval and be completed within two years thereafter.
- D. The petitioner shall file a document with the County and which shall be recorded with the Bureau of Conveyances that stipulates that if the property is sold, leased or conveyed and/or the wholesale liquor distributorship be changed to other uses, the petitioner or future owner shall provide the additional required parking prior to any change of use in the subject building, should it be necessary. This document shall be executed, approved and recorded prior to the issuance of the certificate of occupancy for the subject building.
- E. Curbing or other similar barriers along the Olowalu Street frontage to deter on-street parking and assure drainage flow disposal on site meeting with the approval of the Department of Public Works shall be provided prior to the issuance of the certificate of occupancy for the subject building.
- F. All other applicable State and County rules and regulations shall be complied with.

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

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

Sincerely,



ALBERT LONO LYMAN
Planning Director

RHY:wkm

Encl.

cc: Planning Commission