

CERTIFIED MAIL

August 24, 1987

Mr. Lloyd Sueda
Wong, Sueda & Associates
905 Makahiki Way, Mauka Suite
Honolulu, HI 96826

Dear Mr. Sueda:

Variance Application (V87-36)
Better Brands & Cereal & Fruits
Tax Map Key 7-3-51:14

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 an office and warehouse facility with 18 off-street parking stalls in lieu of the 30 off-street parking stalls required in the Zoning Code. The subject property is 43,562 square feet in area, identified by tax map key 7-3-51:14 and is located on the west (makai) side of proposed Kanalani Street, approximately 2,000 feet south of the Mauka/Makai Road-Kanalani Street intersection in the Kaloko Light Industrial Subdivision Kaloko, North Kona, Hawaii.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject property which deprive the petitioner of substantial property rights that would otherwise be available, or which interfere with the best use or manner of development of the property.

The General Industrial zone allows a variety of industrial uses. Warehousing, a permitted use which is proposed in this application, requires 1 parking stall for every 1,000 square

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feet of gross floor area, but in this particular case, the company states that 95% of their business of wholesaling liquor, beer and wine, will be deliveries conducted by their own trucks.

What this type of business usually needs more of, and which they intend to supply, is loading space. Employee parking would be fully accommodated for their six employees.

The peculiarity of this particular wholesaling and warehouse operation is that the County liquor laws strictly prohibit any retailing of liquor, beer or wine from the designated warehouse. Fines and loss of liquor license would result from any violation of this law. Bulk deliveries then, comprise the main vehicular traffic for the premises. Occasionally small store proprietors pick up their supplies at the warehouse.

Therefore, liquor controls are an additional regulation beyond zoning controls, depriving, in a sense, the distributor from engaging in even part-time retailing activity. Such is not the case for other typically permitted industrial uses in this zone. While the applicant has always been aware of this constraint and accepts it, the restriction causes a lesser demand for customers or clientele visiting or calling at the site. By the same token, it increases the need for loading space since most of the merchandise is delivered out rather than picked up.

Based on the foregoing, it has been determined that there are special and unusual circumstances applying to the subject property which exist to a degree which deprive the owner of substantial property rights that would otherwise be available, or which unreasonably interfere with the best use or manner of development of the property.

ALTERNATIVES

There are some design alternatives available, the most obvious being to decrease the building size and thus the floor area upon which the parking requirement is predicated. While this is a possibility, it would still not address the fact of the matter which is - a wholesale liquor warehouse can not retail even a small percentage of its inventory, which other product warehouses may do in the industrial zone. Consequently, the high volume retail customers who would otherwise need off-street parking when doing their purchasing is non-existent. Thus there is, in liquor warehouses, a distinctly lessened need for customer off-street parking.

INTENT AND PURPOSE

The intent and purpose of the parking requirement is to ensure that the landowner or developer utilizes his land to accommodate the customers he is drawing to his business. This allows the fronting and nearby public roads and streets to be more traversible by the general public instead of being crowded with on-street parking. Naturally, different land uses have different parking requirements.

In this case, the wholesale liquor use is peculiar in that no retail activity at all is permitted by the county's liquor laws. Thus, the normal complement of industrial warehouse parking is not needed, as there are virtually no drive-in customers.

A precaution is necessitated however, in that building uses as well as ownership of land and/or building change over the years. For this particular use, warehouse and office for liquor, beer, and wine, a lessened parking requirement is warranted because of the county liquor law. But should the ownership of business change, in the years to come, to one with more intense parking needs, the new business should be required to provide for any increased parking needs. Should such a requirement not be imposed, the insufficient parking situation now prevalent in older industrial subdivisions would reappear and the county would have been remiss in not foreseeing that possibility and tending to it. Therefore, a condition is imposed regarding this possibility. This concern is also expressed in the comments received from the Department of Public Works.

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 Code and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and adjoining properties.

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

1. The petitioner, its assigns or successors, shall be responsible for complying with all stated conditions of approval.
2. The petitioner, its assigns or successors, shall file a document with the County which shall be recorded with the State of Hawaii Bureau of Conveyances, stipulating that if

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the property is sold, leased or conveyed, and/or the wholesale liquor distributorship is changed to other uses, the petitioner, its assigns or successors, shall provide any additional parking required of the new or changed use of the subject building, or portions thereof, in accordance with the parking requirements of the Zoning Code. Said document shall be reviewed by the Planning Director, and recorded prior to the issuance of the Certificate of Occupancy for the subject building. If in the future additional parking is required pursuant to the zoning code, it shall be provided either on site, within the structure developed but not within any landscaping area, or off-site, as allowed by the zoning code.

3. Plans for the proposed warehouse/office shall be submitted for Plan Approval within one year from the effective date of approval of this Variance Permit. The building permit shall be applied for within one year of plan approval; the building shall be completed within one year of the issuance of the building permit.
4. All other applicable State and County rules and regulations shall be complied with, including item 2 of the comments from the Department of Public Works dated July 30, 1987.

Should any of the foregoing conditions not be met, this variance shall be deemed null and void.

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

Sincerely,


ALBERT LONO LYMAN
Planning Director

DT:dh