

CERTIFIED MAIL

445  
July 5, 1991

Mr. R. C. Porter  
Hawaii Petroleum Distributors, Inc.  
999 Kalaniana'ole Avenue  
Hilo, HI 96720

Dear Mr. Porter:

Variance Application (V91-13)  
Expansion of Non-Conforming Use  
Tax Map Key: 4-5-4:72

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 expansion of an existing non-conforming service station establishment within the Single Family Residential (RS-10) zone district. The property involved consisting of approximately 5.07 acres, is situated along and on makai (north) side of Mamalahoa Highway, approximately 1,000 feet west of the intersection of Loke Street and Mamalahoa Highway, and abutting the Kukuiaonanipahu Gulch, Kaa, Hamakua, Hawaii, TMK: 4-5-4:72.

The existing Honokaa Service Station establishment has been in operation since 1951; therefore, the use and the structure itself are considered non-conforming with respect to the Zoning Code which does not permit service station uses.

The approval is based on the following:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances applying to the subject real property which exist to a degree which interfere with the best use or manner of development of the property.

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The existing service station has been in continuous operation since 1951, and therefore its use and structure are considered non-conforming relative to the Zoning Code requirements. As a non-conforming use and structure, however, neither the building nor the use may be expanded without meeting all present requirements. It presently takes up only a small percentage of the entire property, yet the entire property is classified as Urban and designated for residential uses. Under the present Zoning Code, service stations would only be considered a permitted use within certain Commercial and within Industrial zoned districts.

Given the existing land use entitlements and fact that the petitioner does not intend to change the nature of the existing service station operation, but merely proposes to expand and improve upon it by the installation of new, and upgraded storage tanks, and higher and safer canopy over the fueling area, it is determined that these circumstances do not interfere with the best use and manner of development of the subject property.

#### ALTERNATIVES

In terms of other reasonable alternatives available which would resolve the difficulty, the petitioner could apply for a change of zone from Single Family Residential to Commercial or Industrial zoned district to accomplish the objective of expanding the existing service station operation as proposed. The change of zone request, however, could result in the creation of an unfavorable land use pattern, given the residential atmosphere of the area from the standpoint that commercial or industrial zoning, if granted, would not limit the use of the structures to the specific existing service station as proposed.

Therefore, while a change of zone request is available and could be considered as a reasonable alternative, the variance procedure in this instance does much more to protect and preserve the specific and strictly limited ongoing service station operation.

#### INTENT AND PURPOSE

The granting of the variance request would be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the General Plan, and will not be materially detrimental to the public welfare or cause substantial adverse impact to the area's character or to adjoining properties.

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Since the purpose of this variance request is to perpetuate an existing economic activity which is clearly identified with this particular segment of the Honokaa community since 1951, it is concluded that the granting of the requested variance to allow the expansion and upgrading of an existing service station operation within this zoned district would be consistent with the purposes and intent of this district.

Furthermore, because the variance procedure will effectively limit the use potential of the proposed improvements to those operations and activities directly related to the service station use, this approval should not be materially detrimental to the public welfare nor result in substantial adverse impact to the area's character or adjoining properties.

This variance request is further approved subject to the following conditions:

1. The petitioner, successors, or assigns shall be responsible for compliance with all of the stated conditions of approval.
2. Plans for the proposed expansion shall be submitted to the Planning Department for Plan Approval within one (1) year from the effective date of approval of this variance. Plans shall show the location, size and use of all structures; all yards and open spaces; parking, loading, and circulation; and landscaping and planting details. No uses may be established until Plan Approval has been secured.
3. Construction of the proposed improvements shall commence within one (1) year from the effective date of Final Plan Approval and be completed within two (2) years thereafter.
4. All applicable requirements of the State Department of Health and the County Department of Public Works shall be complied with prior to the receipt of occupancy for the expansion area.
5. All other applicable State and County laws, rules, regulations, and requirements shall be complied with.

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

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If you have any questions on this matter, please feel free to contact Alice Kawaha of this office at 961-8288.

Sincerely,



NORMAN K. HAYASHI  
Planning Director

AK:mra  
2337D

cc: Building Division, DPW