

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

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County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

VAR 612

CERTIFIED MAIL

September 9, 1994

Mr. Frank Zuzak
3733 Bebee Point Drive
Theodore, AL 36582

Dear Mr. Zuzak:

Variance Application WH(VAR 94-45)
Applicant: Rodney K. Burgess, III (Banyan Tree Market Place)
Variance from Minimum Off-Street Parking Requirements
Tax Map Key: 7-5-06: 012

This is to inform you that the Planning Director has concluded that the subject variance request be approved to allow the establishment of an open air marketplace consisting of approximately 20 kiosks and a maintenance building of approximately 3,550 square feet with no off-street parking stalls in lieu of the minimum of eighteen (18) off-street parking stall as required by Chapter 25 (Zoning Code), Division 11 (Supplementary Off-Street Parking and Loading Regulations), Section 25-73 (a)(18)(Parking spaces required for various uses).

We have enclosed copies of the background and recommendation reports as well as a copy of the Planning Director's approval letter to the applicant on the subject application.

APPEAL PROCEDURES OF PLANNING DIRECTOR'S ACTION

We would like to inform you that in accordance with Chapter 25 (Zoning Code) Article 1 (General Provisions) Division 4 (Variances) Section 25-27.0 (Review of director's action (by non-applicant), it states that:

(a) Request for Review. If the director grants a variance over the timely written objection submitted by an "interested party," which means a person:

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- (1) Who has a property interest in the subject property;
- (2) Who owns property within three hundred feet of the subject property; or
- (3) Who can otherwise demonstrate to the satisfaction of the planning commission that such person will be so directly and immediately affected by the proposed variance that its interest in the action is clearly distinguishable from that of the general public, then that interested party may request the planning commission's review of 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.

(b) Procedure for Review.

(1) The planning commission shall consider a request for review of the director's action, at which time the applicant and the person who requested such review shall have an opportunity to be heard.

(2) Within forty-five days after the receipt of a request for review, the planning commission shall determine either that the director granted the variance properly or that sufficient cause exists for a public hearing on the matter.

(3) If the planning commission fails to make such determination within the prescribed time, the director's action shall be considered as having been affirmed.

(c) Notice and Hearing.

(1) If the planning commission determines that a public hearing is necessary, it shall promptly schedule the public hearing at which time the applicant and members of the general public shall have the opportunity to be heard on the application.

(2) Notice of the public hearing and its purposes shall be provided by the planning commission to owners of interests in property within three hundred feet of the perimeter of the subject property by mail postmarked at least ten calendar days prior to the date of the hearing.

(3) The planning commission's proceedings and action shall not be void should such an owner of a property interest fail to receive actual notice of the public hearing.

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(4) Notice of the public hearing and its purposes shall be published in a newspaper of general circulation in the County at least ten days prior to the date of the public hearing.

(d) Actions on Review.

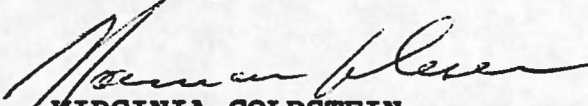
(1) Within sixty days of its decision to hold a public hearing on the matter, or within a longer period as may be agreed to by the applicant, the planning commission shall deny the application or approve it subject to conditions, stating the factual findings supporting the variance.

(2) If the planning commission fails to render a decision within the prescribed time, the director's action shall be considered as having been affirmed.

Thank you for submitting your concerns on this matter, however, should you wish to discuss this any further, please feel welcome to contact me.

Should you have any other questions, please feel welcome to contact Royden Yamasato of my staff at 329-4878.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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Enclosures: copy of variance background and recommendation reports,
and variance approval letter.

xc: Mayor's Office
West Hawaii Office