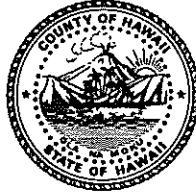


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Norman Olesen  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

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

CERTIFIED MAIL  
P 364 320 390

October 18, 1995

Mr. Richard Takase  
Interstate Maui Realty, Inc.  
270 Waiehu Beach Road, Suite 214  
Wailuku, HI 96793

Dear Mr. Takase:

Variance Permit (VAR 703)  
Applicant: Shell Oil Company  
Variance From Minimum Front Yard Setback Requirements  
of the Zoning Code  
Tax Map Key: 2-1-07:2

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request to allow the construction of a new canopy (open) with a front yard setback of one (1) foot, four (4) inches in lieu of the required twenty feet front yard setback of the Zoning Code.

The subject property is located at 661 Kalaniana'ole Avenue in the vicinity of Kuhio Wharf (Industrial Area), Waiakea, S. Hilo, Hawaii, Tax Map Key: 2-1-07:2.

The Planning Director has concluded that the variance request from the minimum front yard setback requirements should be approved based on the following findings.

#### Special and Unusual Circumstances

1. The subject property is part of the Kuhio Wharf Industrial Area consisting of 1.24 acres of land area.

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2. A survey map dated August 29, 1995, prepared and certified by Payton Engineering shows the proposed open canopy with a front yard setback of one (1) foot and 4 inches. As such, the facility encroaches into the front yard setback at the front of the facility by 18 feet, 9 inches.
3. The project consists of the demolition of the existing canopy and the construction of a new canopy that will approximately double the area of coverage in order to decrease the impact of contact water at the existing industrial oil facility for safety reasons.

Therefore, considering the foregoing facts, it is determined that there are special and unusual circumstances applying to the subject property which exist 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

There are no reasonable alternatives in resolving the minimum front yard setback requirement.

1. The site is the existing Shell Oil facility with numerous structures and operations. To relocate any of the existing structures to meet the minimum front yard setback requirements would create undue and excessive hardship on the applicant when other more reasonable options are available.
2. Any architectural alternatives or design changes to the proposed new canopy to conform with the minimum front yard setback requirement would defeat the objective of the structure to decrease the amount of contact water within the loading rack area for safety purposes.

Based on the above-cited considerations, there are no reasonable available solutions without excessive demands placed on the applicant when a more reasonable alternative is available by the granting of this variance application.

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Intent and Purpose

The intent and purpose of requiring a building setback is to assure that adequate air and light circulation is available between structures and property lines. The proposed new canopy will be situated one (1) foot, four (4) inches from the front property line. Therefore, although only one (1) foot and four (4) inches front yard setback is being provided against the front property line, the 18 foot, 9 inch encroachment of the open canopy (no walls) is minor and will not diminish the ability for adequate light, air and open space between the proposed open structures and the front property line.

Therefore, while the Zoning Code requires a minimum twenty (20) foot front yard setback, in this particular case, the open canopy encroachment is minor and will not physically impact or be adverse to any adjacent properties or development with the granting of this variance, the rest of the existing facility complies with the minimum yard setback requirements of the Zoning Code.

There were no objections from any of the participating government agencies or surrounding property owners.

Based on the foregoing findings, this 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; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the area's character and to adjoining properties.

This variance request is approved subject to the following conditions:

1. The applicant, its assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The approval of this variance shall be included in the conveyance document for the subject property, and a copy of the recorded conveyance document shall be submitted to the Planning Department within one (1) year from the effective date of approval of this variance.

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3. All other applicable State and County rules and regulations shall be complied with.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

EC:mjs

xc: Shell Oil Company  
Plan Approval Section w/plans