

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

January 25, 2011

Mr. Sidney Fuke  
Planning Consultant  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke,

**SUBJECT:**

<b>Request:</b>	<b>Variance from Zoning Code</b>
<b>Project:</b>	<b>Bongo Ben's Café/Coconut Grove Marketplace</b>
<b>Owner:</b>	<b>Anekona LLC, LRG Real Estate LP (by Receiver), Marci Gregory, Trustee, Eugene K. Gregory Trust</b>
<b>Applicant:</b>	<b>Peter J. Piper</b>
<b>Property:</b>	<b>TMK (3) 7-5-009: 025, 027, 028</b>

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This letter is being provided to confirm receipt of your recently submitted variance applications (VAR 10-043 – Chimney Ventilation and VAR 10-051 – Loading Zoning). As discussed with you by Planning staff during the week of January 3, 2011, there has been dialogue between our staff and Corporation Council regarding the prior PUD and VAR decisions pertaining to the properties of interest as well as the various code compliance matters.

The department has concluded that a determination, on the zoning setback for the chimney as well as the deviation from zoning code pertaining to the loading zone, through the variance application process is not the proper route. This is based upon, among other considerations, questions over the appropriateness of having both PUDs and Variances granting deviations from code requirements, concerns which exist regarding other code violations that may necessitate additional variances, and that Section 25-2-51 Grounds for Variance (specifically, criteria (a.) special/unusual circumstances and, (b.) other reasonable alternatives) may not be able to be met.

In order to seek relief from county standards, the department suggests that your clients submit for consideration, a request for an amendment to the current PUD. As such, the attached VAR application materials are being returned to you. Reimbursement checks for both variance applications are being provided under separate cover.

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Should you have questions regarding this matter, please contact this office at (808) 961-8288.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

GS: nci

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cc: Planning – Kona  
Planning – Hilo  
Corporation Council  
TMK Files