

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
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County of Hawai'i
PLANNING DEPARTMENT

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

February 20, 2015

Mr. Harvey Taira, Properties Manager
Suisan Company, Ltd.
333 Kilauea Avenue
Hilo, HI 96720

Dear Mr. Taira:

SUBJECT: Application: Variance VAR-14-000260
**Applicant: HARVEY TAIRA/PROPERTIES MANAGER/
SUISAN COMPANY, LTD.**
Owners: SUISAN COMPANY, LTD.
**Request: Variance from Chapter 25, Zoning, Article 5, Division 15,
Section 25-5-156, Minimum Yards, and Section 25-4-44,
Permitted Projections into Yards and Open Space
Requirements. (Encroachment into Front (South) Yard
Setback)**
TMK: 2-1-006:039

The Planning Director certifies the **approval** of Variance 14-00260, subject to conditions. The variance will allow for the proposed one-story cold storage building to be constructed, with a minimum 5-foot front (south) yard setback and 5-foot front yard open space in lieu of the minimum required 20-foot front (south) yard setback and 14-foot front yard open space requirement. The variance is from the subject property's minimum 20-foot front yard setback and 14-foot front yard open space requirements pursuant to the Hawaii County Code, Chapter 25, Zoning, Article 5, Division 15, Section 25-5-156, Minimum yards and 25-4-44(a), Permitted projections into yards and Open space requirement.

BACKGROUND AND FINDINGS

1. **Location.** The subject property contains approximately 62,486 square feet (1.4345 acres) and is situated in Waiakea, South Hilo, Hawai'i. The subject property street address is 1945 Kamehameha Avenue.

2. **County Zoning.** General Industrial – 1 acre (MG-1a).
3. **State Land Use Designation.** Urban.
4. **Setback Requirements.** Front yard, twenty feet; and Side and Rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.
5. **Variance Application.** The applicant/owner submitted the variance application, attachments, filing fee, and associated materials on November 28, 2014. The variance application's site plan map is drawn to scale, and prepared by DRA Architecture, LLC, denotes the portion of the open carport built into the Front (south) yard setback.

The owner/applicant submitted the variance application to address or resolve the encroachment of the proposed one-story cold storage building into the 20-foot front (south) yard setback, as required by the Zoning Code.

The site plan shows that a portion of the proposed one-story cold storage building will encroach 15 feet into the 20-foot front (south) yard setback and 9 feet into the 14-foot front yard open space.

6. **Special Management Area.** The subject property is located within the Special Management Area (SMA). Special Management Area Use Permit Application (SMA 06-000011) was issued on June 2, 2006 to allow the replacement of two existing warehouse buildings, an existing office/warehouse building, maintenance storage building and a chill box with two new warehouse buildings, a new office building, parking and related improvements. An administrative time extension was granted by the Planning Director until June 2, 2016 to complete construction of Phase 1 of the project.
7. **County Building Records.** Hawai'i County Real Property Tax Office records indicate that various building permits were issued to the subject property with the original building permit dating back to 1922.
8. **Agency Comments and Requirements.**
 - a. The State Department of Health (DOH) memorandum dated November 29, 2014. (Refer to attached DOH memorandum).
 - b. No comments were received from the Department of Public Works Building Division.
 - c. The Department of Public Works – Traffic Division dated December 29, 2014. (Refer to attached DPW – Traffic Division Memorandum)

- d. No comments were received from the State of Hawai'i – Department of Transportation.
9. **Public Notice.** The applicant filed a transmittal letter with copy of the notices sent to surrounding property owners via USPS. According to USPS certificate of mailing receipts and affixed postal receipts, the first and second notices were mailed on December 12, 2014 and December 15, 2014, respectively. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on December 16, 2014.
10. **Time Extension.** The applicant's variance application was acknowledged by letter dated December 23, 2014 and additional time to review the application was required. The applicant granted the Planning Director an extension of time for decision on the Variance Application to February 27, 2015.
11. **Comments from Surrounding Property Owners or Public.** Objection letter received on December 17, 2014 from Chris A. Tramm. (See attached objection letter)

GROUND FOR APPROVING VARIANCE

Special and Unusual Circumstances

- (a) *There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives 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 property.*

The Variance application meets criterion (a) for the following reasons:

The owner/applicant submitted the variance application to address or resolve the encroachment of the proposed cold storage building into the 20-foot front (south) yard setback as required by the Zoning Code.

The plot plan prepared by DRA Architecture, LLC, shows that a portion of the proposed one-story cold storage building, if allowed to be built within the existing footprint, will encroach 15 feet into the 20-foot front (south) yard setback.

The primary original buildings were constructed in the 1920's when setback requirements were different. On May 15, 2014, Suisan Company's main office/warehouse building was destroyed by fire. The owner wishes to replace the damaged building with a sizeable cold storage building to accommodate their storage needs. However, the surrounding buildings limit the placement of the proposed cold storage building, which makes it difficult for the owner to comply with current zoning requirements. Therefore, the owners request that they be allowed to maintain the original building envelope which results in a 5-foot front yard setback along Kamehameha Ave.

Denial of this variance would require the owners to construct a much smaller cold storage building which would reduce the building size by 24 percent from 13,300 square feet to 10,100 square feet. The reduction in floor space would restrict the overall functionality of the building by the lost of valuable product storage space and hinder the overall maneuverability for forklifts.

Therefore, based on the above-mentioned information, special and unusual circumstances do exist to an extent that they 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 subject property.

Alternatives

(b) There are no other reasonable alternatives that would resolve the difficulty.

The Variance application meets criterion (b) for the following reasons:

Alternatives available to the current owners to correct and/or address the building encroachments constructed into the affected front yard of the subject property include the following actions:

Redesign or relocate the proposed one-story cold storage building to be constructed upon the subject property to fit within the correct building envelope as prescribed by the Zoning Code.

As mentioned above, redesigning the cold storage building to meet setback requirements would compel the owners to construct a much smaller cold storage building which would reduce the building size by 24 percent from 13,300 square feet to 10,100 square feet. The reduction in floor space would restrict the overall functionality of the building by the lost of valuable product storage space for the business and will hinder the overall maneuverability for forklifts within the structure.

Because the encroachment is within the front yard setback, to consolidate the subject property with the roadway and re-subdivide the property to modify property lines and adjust minimum front yard setbacks are not viable options; there are no reasonable alternatives to resolve the encroachment issue.

Intent and Purpose

(c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

The Variance application meets criterion (c) for the following reasons:

The intent and purpose of requiring building setbacks for a lot are to assure that adequate air

circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

The encroachment of 15 feet into the front (south) yard setback and resulting 5 foot front yard open space still allows for adequate air circulation, as the affected area is within the front setback adjacent to roadway frontage and the airport runway which is across the street from the subject property. Although the new building will project into the front yard setback, it will still be situated entirely within the subject property boundaries.

An objection letter was received on December 17, 2014 from Chris A. Tramm expressing concerns regarding the variance. Mr. Tramm has stated: *"When we acquired our properties (10 to 15 years ago), were informed by several county employees, including the traffic department, that there is a vision to convert Kamehameha, Silva, and Kalaniana'ole, to one way traffic, i.e. from Ken's House of Pancakes, traffic would flow eastwards along Kamehameha, round the bend into Silva, and then left into Kalaniana'ole back to Ken's House of Pancakes. (The roundabout on Kamehameha would be removed.) We would certainly encourage such a change to the traffic flow, and believe this change would ease the congestion on Kalaniana'ole and improve public access to the Port and various businesses in the area. We learned at that time that there are several reasons not to expect change in the immediate future – one of the reasons being the existence of the Suisan property setback now in question. Apparently there is not sufficient space between the existing building and the airport property for the construction of a proper road along with any space for shoulders.*

While we have no reason to oppose the Suisan variance application in isolation, we would be very much in favor of the introduction of the above-described change in the traffic flow, and to the extent that Suisan application might hinder that change, we have no alternative but to oppose the application."

With regards to Mr. Tamm's objection letter, comments from the Hawai'i County Public Works-Traffic Division and the State of Hawai'i – Department of Transportation were solicited. The Department of Public Works – Traffic Division had no comments (see attached letter) and the Department of Transportation, although, originally objected to the variance due to a misinterpretation of the request. Subsequently, they rescinded their objection letter and provided a new letter with conditions that no parking be allowed within the highway right of way. (See attached letter with conditions).

Based on the foregoing findings and unusual circumstances, the applicant's request for variance would be consistent with the general purpose of the zoning district and the intent and purposes of the Zoning Code, Subdivision Code and the County General Plan. The variance request 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.

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

Based on the variance application's site plan, the proposed cold storage building to be constructed upon the subject property will not meet the minimum side yard requirements pursuant to Hawai'i County Code, Chapter 25, (Zoning Code).

This variance application is approved subject to the following variance conditions.

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. Owners will comply with all conditions stated in State of Hawai'i, Dept. of Transportation - Highways Division letter dated January 27, 2015.
4. Future or new building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Director may initiate proceedings to null and void Variance-14-000260.

Sincerely,



DUANE KANUHA
Planning Director

LHN/SG:nci

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xc: Real Property Tax Office (Hilo)
Gilbert Bailado, GIS

Harvey Taira, Properties Manager
Suisan Company, Ltd.
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February 20, 2015

92 Kalaniana'ole LLC
And
Bay Lighting & Design LLC
543 Kaanini Street
Hilo HI 96720

PLANNING DEPARTMENT
COUNTY OF HAWAII

7800 17 26

Duane Kanuha
Planning Director
County of Hawaii
101 Pauahi Street, Suite 3
Hilo HI 96720

December 16, 2014

Dear Sir,

We have received the attached documents from Suisan regarding a variance to the setback on their property. We are neighbors with Suisan, immediately to the west, and would like to comment on their request for the variance.

When we acquired our properties (10 to 15 years ago), we were informed by several county employees, including the Traffic Department, that there is a vision to convert Kamehameha, Silva, and Kalaniana'ole, to one way traffic, i.e. from Kens House of Pancakes, traffic would flow eastwards along Kamehameha, round the bend into Silva, and then left into Kalaniana'ole back to Kens House of Pancakes. (The roundabout on Kamehameha would be removed.) We would certainly encourage such a change to the traffic flow, and believe this change would ease the congestion on Kalaniana'ole and improve public access to the Port and various businesses in the area. We learned at that time that there are several reasons not to expect this change in the immediate future – one of the reasons being the existence of the Suisan property setback now in question. Apparently there is not sufficient space between the existing building and the airport property for the construction of a proper road along with any space for shoulders.

While we have no reason to oppose the Suisan variance application in isolation, we would be very much in favor of the introduction of the above described change in the traffic flow, and to the extent that Suisan application might hinder that change, we have no alternative but to oppose the application.

Very truly yours

Chris A. Tamm
Member

CC Harvey Taira, Suisan Company Limited

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Harvey Taira, Properties Manager
Suisan Company, Ltd.
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February 20, 2015

DAVID Y. IGE
GOVERNOR OF HAWAII



PLANNING DEPARTMENT
KEITH YAMAMOTO
ACTING DIRECTOR OF HEALTH

2014 FEB 20 10:25

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 918
HILO, HAWAII 96721-0918

MEMORANDUM

DATE: December 29, 2014

TO: Duane Kanuha
Planning Director, County of Hawaii

FROM: *NI* Newton Inouye *NI*
District Environmental Health Program Chief

SUBJECT: Application: Variance VAR 14-000260
Applicant: HARVEY TAIRA, PROPERTIES MANAGER
Owner: SUISAN COMPANY, LTD/
MATSUNO ENTERPRISES, LTD.
Request: Variance from Chapter 25, Zoning, Article 5, Division 15,
Section 25-5-156, Minimum Yards, and Section 25-4-44,
Permitted Projection into Yards and Open Space
Requirements (Encroachment into Front (South) Yard
Setback and Open Space Requirement.
TMK: 2-1-006:039

The subject project is located within or near proximity to the County sewer system. All wastewater generated shall be disposed into the County sewer system.

WORD: VAR 14-000260 eh.

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PLANNING DEPARTMENT
COUNTY OF HAWAII
DEPARTMENT OF PUBLIC WORKS - TRAFFIC DIVISION
COUNTY OF HAWAII
PLAN REVIEW COMMENT SHEET

Memorandum No. 2014 - 553 Date Received: 12/29/2014
To: Duane Kanuha, COH, Planning Dept Date Transmitted: 12/29/2014
From: Traffic Division
Subdivision/Project: Suisan - Harvey Taira - Variance - VAR 14-000260
Subdivision/Project No: TMK: 2-1-006-039

SIGNS/MARKINGS:

1. R. Mangaoang Review Date: 12/29/14 Initial: _____
 No Review See Attached Comments Comments on Plan/Sketch
 Other Comments No Comments

2. C. Hatada Review Date: _____ Initial: _____
 No Review See Attached Comments Comments on Plan/Sketch
 Other Comments No Comments

STREET LIGHTS/TRAFFIC SIGNALS:

3. K. Tsutsui Review Date: _____ Initial: _____
 No Review See Attached Comments Comments on Plan/Sketch
 Other Comments No Comments

4. M. Ignacio Review Date: _____ Initial: _____
 No Review See Attached Comments Comments on Plan/Sketch
 Other Comments No Comments

Administration:

5. A. Takaba Review Date: _____ Initial: _____
 No Review See Attached Comments Comments on Plan/Sketch
 Other Comments No Comments

6. R. Thiel Review Date: 12/29/2014 Initial: _____
 No Review See Attached Comments Comments on Plan/Sketch
 Other Comments No Comments

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Harvey Taira, Properties Manager
Suisan Company, Ltd.
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DAVID Y. IGE
GOVERNOR



PLANNING DEPARTMENT

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FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION**

HAWAII DISTRICT
50 MAKAALA STREET
HILO, HAWAII 96720
TELEPHONE: (808) 933-8866 • FAX: (808) 933-8869

IN REPLY REFER TO
HWY-H 15-2.0018

January 16, 2015

Mr. Duane Kanuha
Director
County of Hawai'i
Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

Dear Mr. Kanuha:

Attn: Mr. Larry Nakayama

Subject: Variance (VAR 14-000260)
Suisan Company Ltd./ Matsuno Enterprises, Ltd.
T.M.K. 3rd Div. 2-1-006:039
Waiakea, South Hilo, Island of Hawai'i
Route 19, Kamehameha Avenue/Silva Street
Project No. F.A.P. STP-019-2(32)

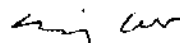
We wish to bring to your attention that this section of Kamehameha Avenue is under the jurisdiction of the Department of Transportation Highways Division.

We recommend that the variance be denied. The assertion that a new warehouse cannot be designed and constructed within the applicant's property to serve its purpose is difficult to accept. Please have the applicant provide a study certified by an independent Hawai'i licensed architect that such a new warehouse building cannot be constructed within the property under the current codes and regulations.

The applicant should be informed that no construction equipment or building material shall be stored within the highway right of way. A traffic assessment for the property should be submitted for our review and approval including construction plans for any work within the highway right of way such as the proposed driveway accesses.

If you have any questions please call me at (808) 933-8866.

Very Truly Yours,


Salvador C. Panem
Hawai'i District Engineer

c: HWY-HE

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Harvey Taira, Properties Manager
Suisan Company, Ltd.
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February 20, 2015

DAVID Y. IGE
GOVERNOR



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JAN 27 2015

FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSSAM HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION

HAWAII DISTRICT
50 MAKAALA STREET
HILO, HAWAII 96720
TELEPHONE: (808) 933-8866 • FAX: (808) 933-8889

IN REPLY REFER TO:
HWY-H 15-2-0025

January 27, 2015

Mr. Duane Kanuha
Director
County of Hawai'i
Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

Dear Mr. Kanuha:

Attn: Mr. Larry Nakayama

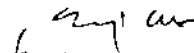
Subject: Variance (VAR 14-000260)
Suisan Company Ltd./ Matsuno Enterprises, Ltd.
T.M.K. 3rd Div. 2-1-006.039
Waiakea, South Hilo, Island of Hawai'i
Route 19, Kamehameha Avenue/Silva Street
Project No. F.A.P. STP-019-2(32)

We wish to inform you of the results of a meeting that we had on January 26, 2015 at 8:00 a.m. in attendance were Larry Nakayama, Robert Taira, and Sterling Chow.

We will rescind the recommendation to deny the variance with the following provision. No company, employee, supplier, or customer vehicles will be parked within the highway right of way for any purpose including loading or unloading of goods or material.

If you have any questions please call me at (808) 933-8866.

Very Truly Yours,


Salvador C. Panem
Hawai'i District Engineer

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