

William P. Kenoi
Mayor



Duane Kanuha
Director

Joaquin Gamiao-Kunkel
Deputy Director

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74-5044 Ane Keohokalole Hwy
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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

March 18, 2016

William McCowan
Koa Architects, Inc.
65-1285C Kawaihae Road
Kamuela, HI 96743

Dear Mr. McCowan:

SUBJECT: Application: Variance - VAR-15-000312
Applicant: KOA ARCHITECTS INC./WILLIAM MCCOWATT
Owner: C&S PROPERTIES INC.
Request: Variance from Chapter 25, Zoning, Division 5 Off-Street Parking and Loading. Section 25-4-51, Off-Street Parking and Loading & Section 25-4-59, Location and Improvement of Loading Spaces.
Tax Map Key: 7-5-006:014 (Lot 1)

The Planning Director certifies the **approval** of Variance No. 15-000312, subject to variance conditions. The variance will allow for the proposed expansion of the Fish Hoppers Restaurant to be established without conforming to the requirement of number of parking spaces and loading improvements. These exceptions are from the Hawai'i County Code, Chapter 25, Zoning, Section 25-4-51, Required number of parking spaces and Section 25-4-59 (a), Loading and improvement of loading spaces.

BACKGROUND AND FINDINGS

1. **Location.** The subject property, consisting of approximately 17,402 square feet of land, is located in Kailua Village, situated at Lanihau 1st and Keopu 1st, North Kona, Hawai'i. The subject property's street address is 75-5683 Ali'i Drive.
2. **Zoning.** Resort-Hotel – 750 sq. ft. (V-.75).
3. **Height Limit.** Section 25-5-93 (a) Height limit in the V district shall be forty-five feet.
4. **State Land Use.** Urban.

5. **Required Setback.** 20-foot front and rear, 8-foot sides for one-story, and an additional two feet for each additional story.
6. **Variance Application-Site Plan.** The applicant submitted the variance application, attachments, and filing fee on September 28, 2015, and other submittals related to the variance request and variance application. The variance application's site plan, drawn to scale and prepared by William McCowatt, (Koa Architects Inc.), shows existing restaurant with existing parking stalls and bike rack. (See attached exhibit D)

The renovation to the second floor requires additional parking and loading zone per Hawai'i County Code, Chapter 25, Zoning, Section 25-4-51, Required number of parking spaces and Section 25-4-59 (a), Loading and improvement of loading spaces.

7. **County Building Records.** Hawaii County Real Property Tax Office records date back until 1942; however, historical records indicate that The Fish Hopper Restaurant, which was previously known as The Ocean View Restaurant has a history dating back 100 years. The initial use of the restaurant was for an inn on the first floor and the boarding room on the second floor. The first floor was used as a restaurant with the second floor used as a boarding room and residence.
8. **Agency Comments and Requirements.**
 - a. The State Department of Health (DOH) memorandum, dated October 23, 2015. See attached memorandum - Exhibit A.
 - b. The Hawaii County Public Works Department-Engineering Division memorandum, dated October 26, 2015. See attached memorandum - Exhibit B.
 - c. The Hawaii County Public Works Department-Building Division memorandum, dated October 27, 2015. See attached memorandum - Exhibit C.
9. **Notice to Surrounding Property Owners.** The applicant submitted a copy of notice mailed to surrounding property owners (including affidavits) by USPS. According to these submittals, the first and second notices were mailed on October 23, 2015 and December 10, 2015, respectively. Notice of this application was published in the Hawai'i Tribune Herald and West Hawai'i Today on October 14, 2015.
10. **Time Extension.** The applicant's variance application was acknowledged by letter dated October 7, 2015 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 March 18, 2016.
11. **Comments from Surrounding Property Owners or Public.** No written comments or

objections from surrounding property owners or general public were received by the Planning Department.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

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 criteria **(a)** for the following reasons:

The site plan shows the existing restaurant with fourteen (14) standard stalls, one (1) ADA van accessible stall, one (1) scooter/motor cycle stall and one five (5) capacity bicycle rack. The renovation of the second floor would require an additional 17 stalls.

The owners are proposing to renovate the second floor which was originally a boarding room and residence to be converted it into a bar/dining area. The subject site is 100 percent built-up with no additional area to accommodate the additional parking and loading/unloading space required for the second floor expansion.

Therefore, based on the information stated above special and unusual circumstances do exist on the subject property which would interfere with the highest and best use of the subject property.

(a) 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 address the parking and loading requirements include the following actions:

The subject neighborhood is virtually 100 percent built-up with very few additional parcels to acquire and building a parking deck to meet the parking requirement is not feasible.

A no action or denial of this variance would deny the owners highest and best use of the subject property.

(b) 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's welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

The variance application meets criteria (c) for the following reasons:

The intent and purpose of requiring parking and loading standards are intended to minimize street congestion and traffic hazards, and provide safe and convenient access to residences, businesses, public services and places of public assembly.

The County of Hawai'i – Department of Public Works (Engineering Division) had the following comments: *"It is DPW-ENG policy to recommend the requirement of adequate off-street parking. However the existing one lane driveway is of most concern to DPW-Eng. The existing condition is conducive to conflicts between motorists entering and exiting the rear parking lot and driveway approach to Ali'i Drive which can negatively impact flow of traffic on Ali'i Drive. Any increase in trip generation will increase the effect."* As mentioned earlier, the subject property is 100 percent built-up; therefore, widening of the existing driveway is impractical. As such, the approval of this variance would address Department of Public Works – Engineering Division concern.

The subject property is located in Kailua Town, which is approximately 100 percent built-up with few vacant parcels. Kailua Town is a pedestrian friendly tourist community with a 116 car County parking facility approximately 500 feet northeast of the subject site and a private paid parking facility approximately 1,500 feet east of the subject site.

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. As such, it is felt that the issuance of this variance will not depreciate or detract from the character of the surrounding properties.

This can be substantiated, to some degree, by the fact that no comments or objections were received from the surrounding property owners or general public in response to the Notification of Surrounding Property Owners.

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 intents and purposes of the Zoning Code, Subdivision Code, and the County General Plan. Furthermore, 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 the proposed alterations on the subject property will not meet the minimum parking and loading requirements pursuant to Hawai'i County Code, Chapter 25, (Zoning Code).

This variance request is **approved** subject to the following 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 Hawai'i 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. The applicant/owner(s), shall submit an Application for Plan Approval and other required submittals (SMA Assessment, etc.) to the County of Hawaii Planning Department for review. Plan Approval and other required entitlements shall be secured prior to submitting detailed building plans and specification for a County Building Permit.
4. Since a total of thirty-four (34) stalls are required for the subject development, two (2) ADA stalls shall be required on the subject site, one of which shall be ADA van accessible.
5. Building improvements on the subject property are subject to State Law and County Ordinances and regulation pertaining to building construction and building occupancy. The proposed additions shall be constructed in accordance with approved building plans and building specifications.

Should any of the foregoing variance conditions not be complied with, the Planning Director may proceed to declare subject Variance VAR-15-000312 null and void.

Sincerely,



DUANE KANUHA
Planning Director

LHN:nci

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xc: Planning Department-Kona
Real Property Tax Division-Kona
Gilbert Bailado, GIS (via email)



OCT 27 PM 3 44

PLANNING DEPARTMENT
COUNTY OF HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: October 23, 2015

TO: Mr. Duane Kanuha
Planning Director, County of Hawaii

FROM: Eric Honda *EH*
District Environmental Health Program Chief

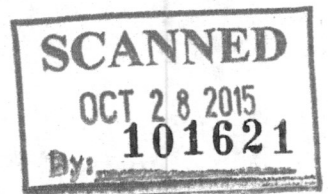
SUBJECT: Application: Variance VAR-15-000312
Applicant: KOA ARCHITECTS INC./ WILLIAM MCCOWATT
Owner: C&S PROPERTIES INC.
Request: Variance from Chapter 25, Zoning, Division 5. Off Street
Parking and Loading. Section 25-4-51, Off-Street Parking and
Loading & Section 25-4-59, Location and Improvement of
Loading Spaces.
TMK: 7-5-006:014 (Lot 1)

The Health Department found no environmental health concerns with regulatory implications in the submittals.

EXHIBIT

A

WORD: VAR-15-000312.eh



2015 OCT 26 PM 2 32

DEPARTMENT OF PUBLIC WORKS PLANNING DEPARTMENT
COUNTY OF HAWAII COUNTY OF HAWAII
HILO, HAWAII

DATE: October 26, 2015

Memorandum

TO : Duane Kanuha, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief *BI*
Engineering Division *l*

SUBJECT : Variance Application (VAR 15-000312)
Applicant: KOA Architects Inc./William McCowatt
Request: Variance From Chapter 25 Zoning, Division 5. Off Street
Parking and Loading. Section 25-4-51, Off-Street Parking and
Loading & Section 25-4-59 Location and Improvement of Loading
Spaces
Location: Kailua Kona, HI
TMK: 3/ 7-5-006:014

We reviewed the subject application and have the following comment to the request:

It is DPW-ENG policy to recommend the requirement of adequate off-street parking. However the existing one lane driveway is of most concern to DPW-ENG. The existing condition is conducive to conflicts between motorists entering and exiting the rear parking lot and driveway approach to Alii Drive which can negatively impact flow of traffic on Alii Drive. Any increase in trip generation will increase the effect.

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 323-4851.

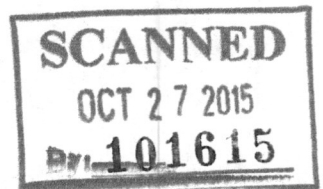
KE

copy: ENG-HILO/KONA

EXHIBIT

B

Hawaii County is an equal Opportunity Provider and Employer





BUILDING DIVISION – DPW

COUNTY OF HAWAII – 74-5044 Ane Keohokalole HWY. BLDG E 1st Floor KAILUA-KONA, HI 96740
Hilo Office (808) 961-8331 * Fax (808) 961-8410 Kona Office (808) 323-4720 * Fax (808) 327-3509

PLANNING DEPARTMENT
COUNTY OF HAWAII

2015 OCT 27 pm 3 43

Date of Notice: October 27, 2015
Applicant: KOA Architects Inc. / William McCowatt
Owner: C & S Properties
Mailing address: Keauhou Shopping Center Suite 429
65-1285C Kawaihae Road, Kamuela, Hawaii 96743

Address location of property: 75-5681 Ali'i Drive, Kailua-Kona, Hawaii 96740

SUBJECT: Request Variance from Chapter 25, Zoning, Article 5. Off street parking and loading & Section 25-4-50, Location and Improvement of Loading Spaces

T.M.K.: 7-5-006:014 (lot 1)

This is to inform you that our records on file, relative to the status of the subject, discloses that:

- No Building, Electrical and Plumbing permit was issued for work done on the premise.
- No building permit was issued for the change of occupancy.
- At the time of completion, the subject complied to all building regulations that were in effect.
- Variance from any building regulation (Building, Electrical, Plumbing, or Sign) was/was not granted.

The following permits (s) still outstanding:

Building Electrical Plumbing Sign

Others: Fences & Accessory Structures, Projections into Building Setbacks

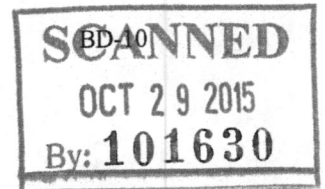
Should you have any questions regarding matters contained herein, please feel free to contact us.

Please note that the proposed Change of Use per 2006 IBC Chapter 34, will be required to meet all Current Codes. The submitted preliminary plans that were attached for preliminary review, as presented did not meet Current Code.

Kelly Wilson, Plans Examiner
County of Hawaii Department of Public Works Building Division

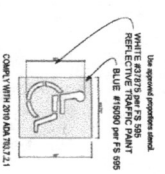
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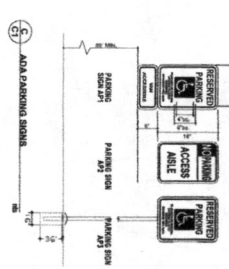


1/2" MAX. HOLES, 0/4" DIA. (SMOOTH TRANSITION)

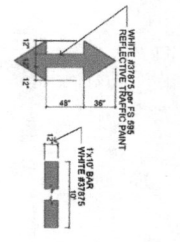
A WALKWAY TO SLAB, 1" x 1"



C1 INTERNATIONAL ACCESS SYMBOL



D WHEEL STOP



E PAVEMENT STAINS

PARKING CALCULATION

Category	Area	Notes
TOTAL TRUCK, HI. ST.	8,348 SF	1,200
TOTAL LIGHT TRUCK, HI. ST.	322 SF	1,200
Standard Parking Spaces req.	34	
Section 25-4-55 ADA Spaces req.	1	
Section 25-4-56 Loading Spaces req.	1	
Standard Parking Spaces prov.	14	
ADA Spaces prov.	1	
Section 25-4-55 ADA Spaces prov.	1	
Section 25-4-56 Loading Spaces prov.	1	
TOTAL Spaces prov.	18	
Variance Applied For	Section 25-4-56 Loading Spaces prov.	0

ALTERATIONS AREA TABULATION

Category	Area	Notes
Main Level Existing	5,690 SF +/-	
Main Level Alterations	500 SF +/-	
Upper Level Alterations	2,650 SF +/-	
Total Interior Alterations	3,150 SF +/-	
Site Level Area	922 SF +/-	
Total Interior Spaces	3,348 SF	

GENERAL INFORMATION

Trk. Map Key:	7-5-005 014
Site Address:	75-5883 ALII DRIVE
Legal Owners:	KALIYAKONA, LAMAI C & S PROPERTIES LLC
Contract:	TWO CANINERY ROW MONTENEY, CA 95040-1003 BRI@kayakona.com
Land Size:	17,402 SF

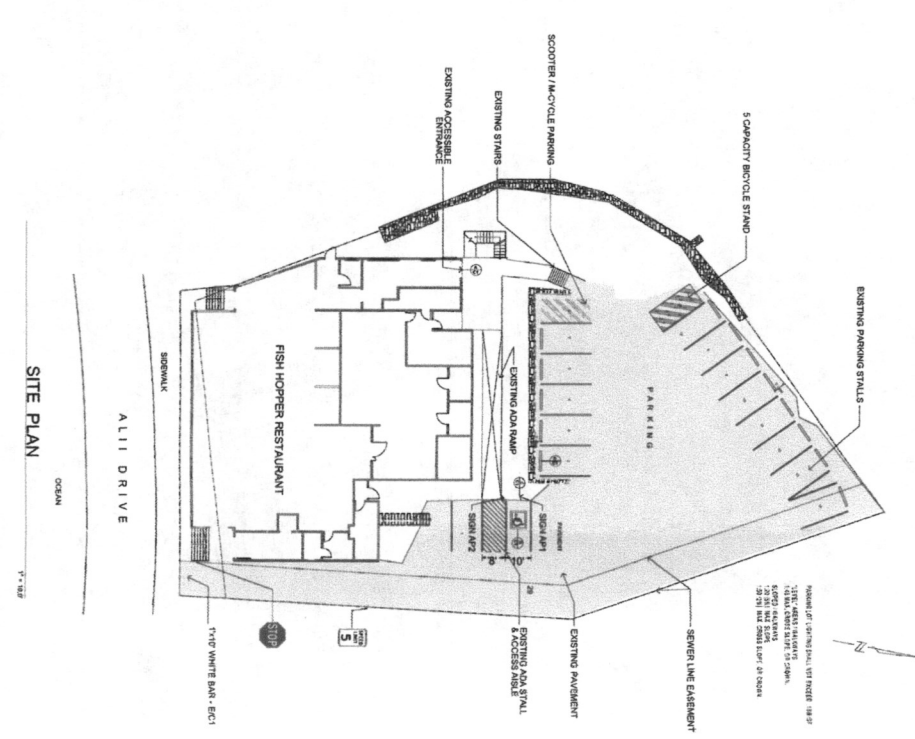


EXHIBIT
D