

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for)
SHORELINE SETBACK VARIANCE)
by)
KAILUA-KONA VILLAGE)
DEVELOPMENT GROUP)
from)
CONSTRUCTION OF)
EARTH MOUND STAGE)
AND RAILING REPAIRS)
in)
Kailua-Kona, North Kona, Hawaii)

VARIANCE NO.

599-A

559-A

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on December 14, 1978, considered the application of KAILUA-KONA VILLAGE DEVELOPMENT GROUP for a variance from the Planning Commission's Rule No. 8, Rules and Regulations Relating to Shoreline Setback; more specifically, to allow the construction of an earth mound stage and also to make repairs to an existing railing within the shoreline setback area in Kailua-Kona, North Kona, Hawaii, Tax Map Key 7-5-05:3, 21, 25, 63 and 64 and 7-5-8:12 and 22.
7-5-07: 3, 25, 63, 64

The Commission has found:

That approval of the shoreline setback variance request will not be inconsistent with the purpose and intent of the Shoreline Setback Rules and Regulations or with Chapter 205, Hawaii Revised Statutes. The purpose of these statutory provisions is to prevent structural encroachment upon the shoreline area which might disturb natural shoreline processes and cause erosion. They are also intended to preserve the shoreline and its open space character as well as to restrict the removal of materials such as sand, coral and rocks for commercial use.

The proposed improvements within the shoreline setback area are of a minor nature and consist of the construction of an earth mound approximately 18 inches above the existing grade. The mound will be grassed and will serve as an outdoor stage. This improvement is not expected to have any significant adverse impacts. It is not anticipated to disturb natural shoreline processes or otherwise be contrary to the purpose of the Shoreline Setback Rules and Regulations. This is further reinforced by the fact

that the shoreline in the subject area is defined by an existing seawall and the proposed improvement will not affect the seawall. It is further determined that the proposed improvement will be in the public interest in that the area makai of the existing structural development on the subject property will remain in open space except for the proposed improvements. This open space area will continue to be available for public enjoyment as will the proposed improvement.

Therefore, the Commission hereby grants to the petitioner a variance to allow the construction of an earth mound stage and also to make repairs to an existing railing within the shoreline setback area in Kailua-Kona, North Kona, Hawaii, pursuant to the authority vested in it by Rule No. 8, subject to the conditions as outlined in Variance Permit No. 559.

Should any of the conditions not be met, the Shoreline Setback Variance Permit may be deemed null and void by the Planning Commission.

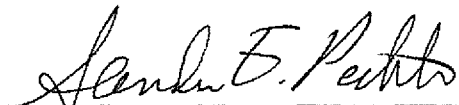
The effective date of this permit shall be from December 14, 1978.

Dated at Hilo, Hawaii, this 8th day of March, 1979.



William F. Mielcke
Chairman, Planning Commission

APPROVED as to
FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date: MAR 7 1979

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for)
VARIANCE)
by)
KAILUA-KONA VILLAGE)
DEVELOPMENT GROUP)
from)
MINIMUM FRONT YARD SETBACK/)
PARKING REQUIREMENTS)
in)
Land Divisions of Keopu 3rd,)
Honuaula and Hienaloli,)
North Kona, Hawaii)

VARIANCE NO. 559

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on December 14, 1978, considered the application of KAILUA-KONA VILLAGE DEVELOPMENT GROUP for variances from the minimum front yard setback and parking requirements, more specifically, the requests were as follows:

1. To allow the construction of certain additions to existing structures, as well as some new structures, with zero (0) front yard setback in lieu of the minimum requirement of twenty (20) feet.
2. To allow twenty-five percent (25%) of the required parking stalls to be of compact size in lieu of the maximum allowable of ten percent (10%).

The properties involved are located in the land divisions of Keopu 3rd, Honuaula and Hienaloli, North Kona, Hawaii, Tax Map Key 7-5-05:3, 21, 25, 63, and 64 and 7-5-8:12 and 22.

The Commission has found:

That approval of the request for relief from the minimum front yard setback requirements will not be contrary to the purpose and intent of these provisions of the Zoning Code, particularly as applied in the Kailua Village Special District. A portion of Ali'i Drive including the section fronting the subject property is proposed to be converted to a pedestrian mall. At the time that the mall conversion is completed there will be an approximately fifty (50) foot wide pedestrian and landscaping area between the subject property and

the ones across Alii Drive. Such a width is more than adequate to provide full pedestrian traffic flow and a sense of openness within the Kailua Village area. On the other hand the strict and literal enforcement of the twenty (20) foot frontyard setback requirement together with the existing fifty (50) foot right-of-way could result in the landscaping and pedestrian area being ninety (90) feet wide. Such a width would be less conducive to the free flow of pedestrian movements between attractions on opposite sides of the Ali'i Drive pedestrian mall. Based on these considerations it is determined that unusual circumstances apply to the subject area which do not apply to Resort zoned properties in general, and which interfere with the best manner of development of the subject area.

Further, the petitioner intends to maintain the area makai of the existing structural development in its existing state as open space. The amount of land within the area under consideration which would be left in open space would be compensated for by the proposed structures on the mauka side of the commercial/office complex. Allowing development to occur within the front yard setback area as proposed by the petitioner and in anticipation of the conversion of Ali'i Drive into a pedestrian mall would benefit the general public in that the makai area of the property adjacent to the shoreline would not be developed. Such a developmental proposal would be in keeping with the design goals of the Kailua Village Special District in that the lack of development of this shoreline area definitely contributes to the overall character of the village area.

The granting of the subject request will not be contrary to the General Plan. The General Plan designates Kailua as a Major Resort Area. Such designations refer to areas which can supply full range of visitor amenities in addition to providing sufficient visitor units to achieve commensurate economies of scale. In addition to providing visitor units, Kailua currently contains the largest concentration of visitor oriented retail shops and services in the County. These shops are concentrated along Ali'i Drive between the King Kamehameha Hotel and Hualalai Road. The physical developmental requirements for this commercial core are similar to other shopping complexes and include the diminishing prominence of vehicular traffic as opposed to pedestrian movements, and the grouping of shops and other services so that pedestrian movement between stores is convenient. Thus in regards to the physical development of structures and open spaces, it is felt that the setback requirements of the Village Commercial zoning designation are more appropriate design guidelines for the subject area. The CV zoned district requires a fifteen (15) foot setback in the front or rear, and no setback on the sides except as imposed during Plan Approval. These setbacks allow the development of commercial facilities up to the front property line where

pedestrian access is most feasible, and the construction of shops side by side to make pedestrian flow between stores more convenient. The subject request for relief from the frontyard setback requirement is consistent with the CV design guidelines, and thus approval of this request would be consistent with the commercial character of the subject area. Further, the commercial character of the subject area implements the General Plan requirement that Major Resort Areas provide complete facilities and amenities for a large scale resort complex. Thus, approval of the subject request is determined to be consistent with the General Plan.

Approval of the request to allow up to 25% of the required parking stalls to be for compact cars will not be contrary to the purpose of the parking provisions of the Zoning Code. The purpose of these provisions is to assure that adequate parking is provided in conjunction with any uses which are established. The petitioner intends to provide all of the parking required by the Zoning Code for the Kailua Village Center complex. Twenty-five percent (25%) of these stalls, however, would be for compact cars. In a study conducted by Belt, Collins & Associates in late 1977, it was found that the number of compact cars within the County of Hawaii exceeds the requested 25%. As such, the subject request would not militate against the Zoning Code provisions for parking and in light of the actual percentage of compact cars within the County would not be detrimental to the public interest or welfare. Further, the provision of the required number of parking stalls will not adversely affect surrounding properties or the Kailua Village core. It is expected that the proposed parking area will actually enhance surrounding improvements and will strengthen Kailua Village.

Therefore, the Commission hereby grants to the applicant variances from the minimum front yard setback and parking requirements pursuant to the authority vested in it by Article 1, Section 7 of the Zoning Code (Chapter 8), more specifically:

1. To allow the construction of certain additions to existing structures, as well as some new structures, with zero (0) front yard setback in lieu of the minimum requirements of twenty (20) feet; and
2. To allow twenty-five percent (25%) of the required parking stalls to be of compact size in lieu of the maximum allowable of ten percent (10%).

Approval of the variances are granted subject to the following conditions:

1. That the proposed development shall conform substantially to the plans submitted and the representations made by the petitioner.
2. That the petitioner or its authorized representative shall secure final plan approval within one (1) year from the effective date of approval of the Special Management Area Use Permit.

3. That construction of the proposed improvements shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within two (2) years thereafter.
4. That the building lines of the proposed structures shall be a minimum of four (4) feet from the front property line of tax map key 7-5-07:21 and further that no projections shall extend beyond the front property line.
5. That the petitioner shall submit a landscaping plan for review and approval at the time of plan approval.
6. That the compact car parking stalls shall be clearly marked as such. The proposed means of designating the compact car stalls shall be submitted for review and approval at the time of plan approval.
7. That the parking improvements shall be completed and the landscaping program shall be commenced prior to the issuance of an occupancy permit.
8. That the conditions of approval of Special Management Area Use Permit No. 54 shall be complied with.
9. That all other applicable rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from December 14, 1978.

Dated at Hilo, Hawaii, this 25th day of January 25,, 1979.



 William F. Mielcke
 Chairman, Planning Commission

<p>APPROVED as to FORM and LEGALITY</p> <p><i>Arthur O. Postler</i></p> <p>DEPUTY CORPORATION COUNSEL COUNTY OF HAWAII</p> <p>Date <u>JAN 16 1979</u></p>
