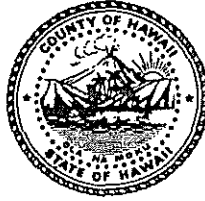


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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NOV 05 2001

Lloyd T. Sueda, AIA
Sueda and Associates, Inc.
Architects and Planners
905 Makahika Way, Mauka Suite
Honolulu, HI 96826-2869

Dear Mr. Sueda:

Sign Variance Application No. 01-03

Applicant: Outback Steakhouse

Request: Sign Variance to Allow Deviations from the Requirements of
Chapter 3 (Advertising and Signs), Article 2 (Kailua Village Signs) of
the Hawaii County Code

Tax Map Key: 7-5-9:25 and 28

The Planning Commission at its duly held public hearing on October 5, 2001, voted to partially approve the above-referenced application. The applicant had requested a sign variance to allow certain deviations from the requirements specified within Article 2 (Kailua Village Signs), Chapter 3 (Advertising and Signs) of the Hawaii County Code, as amended. Specific deviations would have applied to the sign and lettering size, height and number of signs, and prohibited signs. The Planning Director recommended that the sign variance request for increasing the lettering size from 9 inches to 17.5 inches be denied and the request for increasing the number of signs from two to three wall signs and sign height from 5.5 feet to 14 feet be approved by the Planning Commission. However, upon careful review of the applicant's request against the guidelines for granting a Sign Variance, and after a site inspection, the Planning Commission denied the request for increasing the lettering size from 9 inches to 17.5 and approved the sign

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variance request for increasing the number of signs from two to three signs, with the condition that one sign be a ground sign; and approved the request to increase the sign height from 5.5 feet to 14 feet. Therefore, Sign Variance No. 17 is hereby issued as stated above. The property is located between Kuakini Highway and Alii Drive at the existing Coconut Grove Marketplace, Auhaukeae, North Kona, Hawaii.

This decision is based on the following:

The subject parcel is situated within the Kailua Village core area of the Kailua Village Special District. This core area, is described as that area bounded by Alii Drive, Palani Road, Kuakini Highway and Hualalai Road. The subject property has been developed as the Coconut Grove Marketplace. The Outback Steakhouse is a proposed restaurant to be constructed toward the center of the subject parcel behind existing buildings. It will not have direct frontage along Alii Drive, however, the building will be located near the parking area which has frontage and is accessed from Kuakini Highway.

The primary intent and purpose of the Kailua Village Sign Code is to encourage and foster good sign design in harmony with the Kailua Village Design Plan theme and related elements of building design, scale, proportion and image. Attractive harmonious integrated signs have been found to promote and enhance business identification within commercial developments. In consideration of the foregoing, there is a need to give special thought to the relationship of signage to building design that is sensitive and reasonable. To implement these objectives, the Kailua Village boundaries receive special consideration within the Village boundaries, with respect to sizes of signs. Excerpts of the Kailua Village Sign Code include:

Section 3-72 Sign and lettering size states as follows:

- (a) Unless otherwise provided, the maximum permitted surface area of any sign oriented to any public street or vehicular access shall be:
 - (1) Twelve square feet on any building or portion of a building under separate management or control having property frontage of thirty feet or less, except the total surface area of all signs shall not exceed, in the aggregate, twelve square feet on any building frontage.
 - (2) Forty percent of the building frontage or twenty-two square feet, whichever is less, on any building or portion of a building under separate management or control having a property frontage of at least thirty feet, except the total surface area of all signs shall not exceed in the aggregate, twenty-two square feet on any building frontage.

- (3) Twelve square feet for any sign not fronting a public street or vehicular access or for any sign located within the Kailua Village core.
- (c) Any lettering or symbol, including free-standing letters, shall not exceed nine inches in height.

Section 3-73 Number of signs states as follows:

- (a) Only one sign for any business or one sign for any street or vehicle access on which a building has frontage is permitted.

Section 3-74 Sign height states as follows:

- (3) Window or Wall sign. A window or wall sign shall not exceed five and one-half feet in height.

The subject property is the site of the Coconut Grove Marketplace within Kailua Village. The shopping center has pedestrian frontage along Alii Drive with access to a parking area fronting Kuakini Highway. Within the Kailua Village Special District, the maximum letter size is limited to 9 inches in height. The rationale for the limitation on sign size is due to the visitor/pedestrian-oriented nature of the Village. If we are serious that we want to maintain the ambiance and unique atmosphere of the Kailua Village charm, it would be in the best interest of the Village that we take a closer look at the importance of keeping with and ensuring that the guidelines set forth for signs are adhered to.

The denial recommendation of the applicant's request to increase the size of the lettering from 9 inches to 17.5 inches is based on the following findings:

According to Article 2 (Kailua Village Signs), Chapter 3 (Advertising and Signs) of the Hawaii County Code, as amended, no variance may be granted unless the Commission finds that:

1. *There are special and unusual circumstances which do not generally apply to surrounding property, buildings or signs in the same district, including but not limited to a sign's long-term historical or traditional association with Kailua Village.*

There are no documented long-term historical or traditional elements of the proposed signs associated with the Kailua Village that would require the need for larger lettering, thereby, deviating from the requirements of the Kailua Village Sign Code. This is a proposed building that has not yet been constructed. There

are no special or unusual circumstances with the proposed sign request which generally apply to surrounding property, buildings or signs in the same district.

2. *Special or unusual circumstances either deprives the owner or applicant of substantial property rights which would otherwise be available, or obviously interfere with the best use of signage on the property.*

There are no special or unusual circumstances submitted or demonstrated by the applicant that there would be a deprivation of substantial property right which would otherwise be available or obviously interfere with the best use of signage on the property. The Kailua Village Design Code was created to ensure that special attention be paid to maintain the unique and unhurried atmosphere of the Kailua Village charm. Although the proposed building will be located behind existing structures which have frontage along the Alii Drive, the Kailua Village is designed to be a pedestrian-oriented shopping area. There is a directory sign existing along Alii Drive, where the new restaurant's name can be also posted that would assist pedestrians in locating the site. Further, the proposed Outback Steakhouse, is not the only business that does not have frontage along Alii Drive. Small shopping complexes in a pedestrian-oriented area do not allow for all businesses to have roadway frontage, but it allows pedestrians to meander through, explore and inquire with others about the area. People in cars travelling along Kuakini Highway would be passing at low speed, and therefore the existing signage would also be visible.

3. *The granting of the variance does not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical ordinances, statues, or rules.*

We do not agree that the applicant's situation constitutes as a special or unusual circumstance for this variance request. Increasing the size of lettering, will definitely move away from the intent of the Kailua Village Sign Code. Larger signs would grant special privilege by bringing special attention to the proposed building. Without the necessary substantiation or any special circumstances related to the proposed signage, the granting of this variance request would be contrary to the limitation placed on other adjacent properties under similar circumstances.

4. *The granting of the variance does not violate the intent and purpose of the Kailua Village Design Plan or the intent and purpose of this article, does not militate against the County General Plan, and does not materially affect the public welfare and is not injurious to improvements or property rights in the near vicinity.*

The granting of the variance to increase the size of lettering would be contrary to the intent and purpose of the Kailua Village Design Plan. An element of the Kailua Village Design Plan, which was adopted by the County Council in 1979, as Ordinance No. 481 (Kailua Village Sign Code), defined the criteria and requirements for signage within the Kailua Village Special District. Again, we emphasize the unique pedestrian-oriented nature of the Kailua Village and the need to maintain this theme. In addition, the Kailua Village Design Commission unanimously voted to forward an unfavorable recommendation of the sign variance request to the Planning Director as it also found that the request for a variance did not meet the criteria for granting a sign variance.

Based on the above findings, the Planning Commission denied the sign variance to increase the size of the lettering from 9 inches to 17.5 inches.

The approval of the request to increase the number of signs from two to three wall signs, with the condition that one sign be a ground sign; and to increase the sign height off-ground from 5.5 feet to 14 feet is based on the following:

According to Article 2 (Kailua Village Signs), Chapter 3 (Advertising and Signs) of the Hawaii County Code, as amended, no variance may be granted unless the Commission finds that:

1. *There are special and unusual circumstances which do not generally apply to surrounding property, buildings or signs in the same district, including but not limited to a sign's long-term historical or traditional association with Kailua Village.*

Based on the location of the property, being bordered by both Alii Drive and Kuakini Highway, the applicant is allowed to have two signs. Allowing a third sign along the side of the proposed door entry, a third face of the building, would not significantly impact the ambiance of the area as the building will be located behind existing structures that have frontage along Alii Drive. However, after a site inspection and discussion, it was proposed that the third sign should be a ground sign only. Due to the skewed angle of the front entry, a wall sign would not be visible from either Alii Drive or Kuakini Hwy. An additional ground sign, however, will allow for pedestrian visibility from Alii Drive. Many existing buildings have fronts that are multi-directional, and there are no limitations as to which face of the building a sign is posted. The applicant is also requesting a variance that would allow for an increase in the height of their wall sign from a maximum of 5.5 feet to a maximum height of 17.5 feet. To limit the height of the wall sign to a standard 5.5 feet is restrictive and unreasonable, in light of the fact that signs are usually placed with respect to the entire height of the building. Plans indicate that the proposed building will be approximately 22 feet in height.

Placing a 5.5 feet restriction would move away from the primary purpose of having a sign.

2. *Special or unusual circumstances either deprive the owner or applicant of substantial property rights which would otherwise be available, or obviously interfere with the best use of signage on the property.*

There are special or unusual circumstances submitted or demonstrated by the applicant that there would be a deprivation of substantial property rights that would otherwise be available or obviously interfere with the best use of signage on the property. This request is reasonable given the physical factors that the building is skewed in its siting and the building is relatively large. After a site inspection, it was felt that a third wall sign would not be visible from Alii Drive. Therefore, it was determined that a third ground sign, rather than a wall sign, would be adequate for identification of the Outback Steakhouse by pedestrians. The variances would be in keeping with the primary purpose of a sign is to promote identity, goods and services, or activities through visual communication.

3. *The granting of the variance does not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical ordinances, statutes, or rules.*

The applicant has submitted evidence that would constitute as special or unusual circumstances for this variance request. Without the necessary substantiation or any special circumstances related to the proposed signage, the granting of this variance would be contrary to the limitation placed on other retail establishments under similar circumstances. The applicant has demonstrated there are some physical limitations by being located behind existing structures fronting Alii Drive. The walking pedestrians will be approximately 200-feet away from the sign. Vehicular view from Kuakini Highway will be approximately 215 feet away. One does not consider the requested variance a privilege when the applicant is faced with physical limitations.

4. *The granting of the variance does not violate the intent and purpose of the Kailua Village Design Plan or the intent and purpose of this article, does not militate against the County General Plan, and does not materially affect the public welfare and is not injurious to improvements or property rights in the near vicinity.*

The granting of the variance would not be in violation of the intent and purpose of the Kailua Village Design Plan. An element of the Kailua Village Design Plan

which was adopted by the County Council in 1979, as Ordinance No. 481 (Kailua Village Sign Code) defined the criteria and requirements for signage within the Kailua Village Special District. These criteria and requirements were not intended to overcome the primary purpose of a sign, which is to promote an identity, goods and services, or activities. Further, increasing the number of signs or the height off-ground will not be injurious to other properties in the near vicinity since it does not bring any more attention to the proposed restaurant as the Director does not support to increase the lettering size.

The Kailua Village Design Commission, at its public hearing on July 17, 2001, voted to recommend denial of the entire applicant's request since based on their findings, the request did not meet the three criteria for granting of a sign variance. We believe that based on the findings contained within the accompanying Background Report and arguments made within this Recommendation that approval of the variance will be consistent with the guidelines for granting of a variance as detailed by the Kailua Village Sign Code.

Based on the above findings, the Planning Commission approved the request for a sign variance to allow the increase in the number of signs from two to three signs, with the condition that one sign be a ground sign; and to allow the increase in height off-ground from 5.5 feet to 14 feet be approved.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the sign variance permit.

1. The applicant, its assigns, tenants or successors, shall be responsible for complying with all stated conditions of approval.
2. The approval of this sign variance shall be only for increasing the number of signs from two to three signs, with the condition that one sign be a ground sign; and increasing the height off-ground from 5.5 feet to 14 feet, which shall not preclude the compliance with all other requirements of the Kailua Village Sign Code.
3. The applicant shall apply for and secure sign permits for all of the proposed signs unless otherwise exempted by the Kailua Village Sign Code.
4. All other applicable State and County rules and regulations shall be complied with.

Lloyd T. Sueda, AIA
Page 8

This partial approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

Loutbacksteakhouse01pc

cc: Department of Public Works, Building Division
County Real Property Tax Division
West Hawaii Office
Kailua Village Design Commission