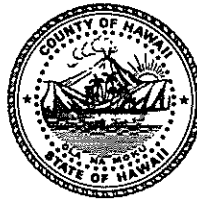


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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CERTIFIED MAIL  
Z 095 323 980

AUG 20 1997

Mr. Terry K. Dunlap  
Maryl Development, Inc.  
P.O. Box 1928  
Kailua-Kona, HI 96745-1928

Dear Mr. Dunlap:

Sign Variance Application No. 97-2

Applicant: Borders

Request: To Allow Certain Deviations from the Requirements of

Article 2 (Kailua Village Signs), Chapter 3 of the Hawaii County Code

Tax Map Key: 7-5-4:58

The Planning Commission at its duly held public hearing on August 8, 1997, voted to approve the above-referenced application. Sign Variance No. 12 is hereby issued 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 apply to the height, letter size and size of signs. The property is located within the Cross Roads development at the southeast corner of the Queen Ka'ahumanu Highway and Henry Street intersection at Lanihau, North Kona, Hawaii.

Approval of this request is based on the following:

The subject parcel is situated within the CrossRoads commercial development which was approved prior to portion of the subdivision being included in the Kailua Village Special District and subject to the Kailua Village Sign Code requirements. The concept of the CrossRoads commercial development included its reliance on their ability to have their signage allowed under the County Sign Code and not under the Kailua Village Sign Code requirements. The following chronology shows this to be the case as:

- a. 1992 - State Land Use Boundary amendment from Agriculture to Urban.
- b. 1993 - Change of Zone from Agriculture 1-acre (A-1a) to General Commercial.
- c. August 3, 1994 - Subdivision No. 6445 approved for CrossRoads, 9-lot Subdivision.

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- d. November 17, 1994 - Wal-Mart was issued Building Permit No. 941672.
- e. June 27, 1995 - Sign Permit No. S955024 was issued to Wal-Mart under the County Sign Ordinance.
- f. June 27, 1995 - Sign Permit No. S955025 was issued to Wal-Mart under the County Sign Ordinance.
- g. June 27, 1995 - Sign Permit No. S955026 was issued to Wal-Mart under the County Sign Ordinance.
- h. August 30, 1995 - Wal-Mart Building Permit No. 941672 closed.
- i. December 7, 1995 - Sign Permit No. S955043 issued for CrossRoads Sign.
- j. April 19, 1996 - Safeway Building Permit No. 960527 issued.
- k. September 26, 1996 - Kailua Village Special District boundaries amended by Ordinance No. 96-116 which includes portion of the Wal-Mart and Borders parcels. Since this date, the Borders building sign requirements came under the jurisdiction of the Kailua Village Sign Code.
- l. October 11, 1996 - Sign Permit No. S965023 was issued to Safeway.

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 within the Village boundaries, special consideration is given with respect to sizes of signs.

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.

Section 3-73 Sign and lettering size states as follows:

- (c) Any lettering or symbol, including free-standing letters, shall not exceed nine inches in height.

The subject property is located mauka and outside of Kailua Village's defined central core area. The core area, described as that area bounded by Alii Drive, Palani Road, Kuakini Highway and Hualalai Road, allows a maximum size of a sign to 12 square feet on any building or portion of a building under separate management or control having a property frontage of thirty feet or less, with 9-inch lettering and 1 sign per business for any street or vehicular access. For the rest of the properties and structures within the Kailua Village Special District, the maximum sign size is 22 square feet. The rationale for the smaller sign size within the Kailua Village core was due to the visitor/pedestrian oriented nature of the village.

The proposed sign variance requests deviate from the maximum sign dimension standards regulated by the Kailua Village Sign Code. The CrossRoads commercial development was zoned and subdivided and partially developed prior to having a portion of its subdivision fronting the Queen Ka'ahumanu Highway being included in the Kailua Village Special District. Under these circumstances and with the creation of different land and building patterns in this particular area, the physical location of the shopping complex is dependent upon exposure to vehicular traffic as well as pedestrian traffic within the center. Therefore, the primary deference to the more distinctive Village atmosphere along Alii Drive has to be recognized and evaluated. It is determined that there is a distinct difference between the scale and size of the CrossRoads commercial center and the existing development of the makai area of the Kailua Village Special District. In recognition of this difference, special circumstances relating to the variance requests revolve around the varying signage needs of both areas; the applicant's development of an integrated and organized signage program for the proposed Borders building; and the inclusion of the elements of the Kailua Village Sign Code related to design, material and color criteria within the applicant's signage program.

The Sign Variance Criteria, the foregoing circumstances and overall integrated harmonious purpose of the Kailua Village Sign Code would allow this requested variance.

Sign Variance Criteria:

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 signs long term historical and traditional association with Kailua Village.

There are special or unusual circumstances with the proposed sign request which would allow deviation from the Kailua Village Sign Code. 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, scale, proportion and image. Attractive harmonious integrated signs have been found to promote and enhance business identification within shopping malls. 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 Sign Code initially identified a core area within the Village boundaries which receive special consideration with respect to sizes of signs. In this core area, described as that area bounded by Alii Drive, Palani Road, Kuakini Highway and Hualalai Road, the maximum area that a sign can have is 12 square feet. For the rest of the properties and structures within the Kailua Village Special District, the maximum sign size is 22 square feet. The rationale for the smaller sign size within the Kailua Village Core was due to the visitor/pedestrian oriented nature of the Village.

The proposed sign variance requests are determined to be reasonable given the following physical features, the proposed sign design in relationship to the proposed building design and unified theme of the development, the location of the subject development mauka and outside of Kailua Village's defined central core, and the applicant's intent to foster a quality and organized signage program for their business.

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.

Unusual circumstances that exist to a degree which interfere with the best use of signage for this particular development in that the applicant would have been allowed to install their signage in compliance with the County's Sign Code, had not this area been included within the Kailua Village Special District. It should also be noted that the ordinance to amend and include the portion of the CrossRoads development along the Queen Ka'ahumanu Highway frontage was after substantial development and signage was already approved and in place for the commercial development is the property elevation and lack of visibility from Kuakini Highway or Palani Road. Therefore, the requested sign size, letter dimensions and integrated compatible sign size design to building themes of the Kailua Village Sign Code should not pose a negative visual impact from the Queen Ka'ahumanu Highway.

The sign program complements the rest of the CrossRoads commercial Center and it identifies with the theme of Kailua's village way of life as described in the Kailua Village Design Plan. The overall size and lettering height of the proposed signs does not dominate the property or the buildings which it identifies.

3. The granting of the variance would constitute a grant of a personal or special privilege in consistent with the limitations upon other properties under identical ordinances, statues or rules.

The applicant has submitted evidence that would constitute as special or unusual circumstances for this variance request. The granting of this variance would not be contrary to the limitation placed on other retail establishments under similar circumstances. In addition the proposed sign design and visibility from existing infrastructure have been adequately addressed without compromising the intent of the Kailua Village Sign Code. Accordingly, the proposed sign variance requests would not militate against these purposes, nor would it materially affect or be injurious to the pubic welfare, improvements or property rights in the near vicinity. The proposed sign design is in relationship to the location of the subject development and the CrossRoads commercial Center's intent to foster a quality and organized signage program for their businesses. The sign size and letter dimensions should be integrated and compatible with the building theme and should not pose a negative visual impact from Queen Ka'ahumanu Highway.

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. The applicant has shown that the proposed variance request would not violate the intent and purpose of the Kailua Village Sign Code. In addition, the Kailua Village Design Commission unanimously voted to forward a favorable recommendation of the sign variance request to the Planning Director.

Based on the above findings, the proposed sign variance request is hereby approved.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially compiled 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 what was requested and 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 associated with the Borders development unless otherwise, exempted by the Kailua Village Sign Code.
4. All other applicable State and County rules and regulations shall be complied with. The hours of sign energization shall comply with the Hawaii County Code Chapter 14, Article 9, relating to Outdoor Lighting.

This 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 feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman  
Planning Commission

LBorde01.PC

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

EFFECTIVE DATE: AUG 2 1997