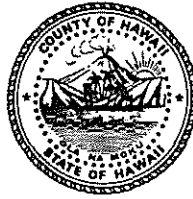


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
P 101 317 820

JUL 14 1999

Ms. Michele L. D'Amico
Bubba Gump Shrimp Company
AM Partners, Inc.
1164 Bishop Street, Suite 1000
Honolulu, HI 96813

Dear Ms. D'Amico:

Sign Variance Application No. 99-02
Applicant: Bubba Gump Shrimp Company
Request: To Allow Certain Deviations from the Requirements
of Article 2 (Kailua Village Signs), Chapter 3 of Hawaii County Code
Tax Map Key: 7-5-8:9

The Planning Commission at its duly held public hearing on July 2, 1999, voted to approve the above-referenced application. Sign Variance No. 13 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 number and size of signs. The property is located on the makai side of Alii Drive, the site of the existing Waterfront Row Development in Kailua Village, North Kona, Hawaii.

Approval of this request is based on the following:

The subject parcel is situated within the Kailua Village Special District. This project is part of the existing Waterfront Row Development consisting of various retail outlets and restaurants. The property is zoned Resort-Hotel. The surrounding properties include, the County of Hawaii's Hale Halawai Park to the north; St. Michael's Church and Kona Alii Condominium to the east, on the mauka side of Alii Drive. There are also resort shops and hotels in the immediate vicinity.

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

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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 a 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 shall be permitted.”

The subject property is located within the 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 sign size of 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 request deviates from the maximum sign dimension standards regulated by the Kailua Village Sign Code. Under these circumstances and with the creation of different land and building patterns in this particular area, the physical location of the restaurant complex is dependent upon exposure to vehicular traffic as well as pedestrian traffic. Special circumstances relating to the variance request revolves around the varying signage needs of the area; the design elements of the building's architecture, and compatible building style to the surrounding properties. The signage complements the building it identifies and is a planned feature reflecting the architectural scale, design, material and color of the building.

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 or 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 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 individual businesses; stimulate business performance; create a pleasing environment that will attract people and enhance the image of the community. 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 request is 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 property within Kailua Village's defined central core, and the applicant's intent to create a positive impact for their business and the community.

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. 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 Alii Drive.

The signage 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 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. 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 the 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 public welfare, improvements, or property rights in the near vicinity. The proposed sign design is in relationship to the location of the subject development and intent to foster a positive impact for their businesses and the community. The sign size and letter dimensions should be integrated and compatible with the building theme and should not pose a negative visual impact from Alii Drive.

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 majority 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 complied with in a timely fashion, the Planning Director may initiate procedures to revoke the 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 the sign variance shall be for up to 22 square feet with up to 12-inch lettering or not more than 12-inch; and on the second sign, a 12 square

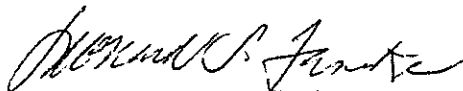
feet sign with 9-inch lettering; and shall not preclude the compliance with all other requirements of the Kailua Village Sign Code.

3. The applicant shall apply for and secure sign permits for all of the proposed signs associated with the development, unless otherwise exempted by the Kailua Village Sign Code.
4. Comply with all other applicable State and County rules, regulations, and requirements.

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 of the Planning Department at 961-8288.

Sincerely,



Leonard S. Tanaka, Chairman
Planning Commission

LBubba01.PC

cc: Department of Public Works
County Real Property Tax Division
West Hawaii Office
Kazu Hayashida, Director/DOT-Highways, Honolulu
Kailua Village Design Commission