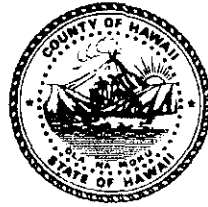


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

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

December 28, 2012

Mr. Edward and Ms. Wendy Sugai
P.O. Box 184
Kurtistown, Hawai'i 96760

Dear Mr. & Ms. Sugai:

Subject: Ohana Dwelling Unit Permit Application (OHD-12-000147)
Applicant(s): EDWARD SUGAI and WENDY SUGAI
Land Owner(s): EDWARD N. SUGAI and WENDY K. SUGAI
Proposal: Construct an Attached Ohana Dwelling Unit
Tax Map Key: (3) 1-7-015:001, Kea'au, Puna, Hawai'i

REQUEST: The applicant is requesting an Ohana Dwelling Permit (OHD) to construct an additional dwelling unit attached to the existing dwelling.

PROPERTY DESCRIPTION: The subject TMK parcel, comprising 6.21 acres, is located at Kea'au, Puna, on the Island of Hawai'i. The property is zoned Residential and Agricultural (RA-.5a) and Agricultural (A-20a) by the County and is situated within the State Land Use Rural and Agricultural districts.

AGENCY COMMENTS: The subject Application for an Ohana Dwelling Unit Permit was reviewed by the required agencies and their respective comments are as follows:

1. The Department of Public Works (DPW) (memorandum dated November 26, 2012):

"We have reviewed the subject application forwarded by your letter dated November 16, 2012 and have no comments."

2. The Department of Water Supply (DWS) (memorandum dated December 3, 2012):

"We have reviewed the subject application and have the following comments and conditions.

Please be informed that water availability in the area is limited to one (1) unit of water per pre-existing lot of record, which is adequate for only one (1) dwelling unit and limited to an average of 400 gallons per day. A recent inquiry regarding water service to this parcel has established that the lot is within the Department of Water Supply's pressure service zone and could get a 5/8-inch meter to serve the property. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's regulations. However, the Department's existing water system facilities cannot support additional water meters at this time. Extensive improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission, and distribution facilities, would be required.

Currently, the Department is developing a new well source in the 'Ōla'a area as part of our Capital Improvement Projects. This well has a potential to increase the capacity of the water system in this area, but there may be other limiting factors such as the pumping capacity of booster pumps and reservoir storage serving this area. We cannot determine if we can make a commitment to provide additional water service to the subject parcel until after the well is in operation and we can analyze the performance of the system with the new source in operation. Although we cannot provide a completion date for the well project and subsequent water system analysis, the Department anticipates completion within the next few years.

The Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed ohana dwelling at this time. Should the application be approved, both dwellings shall not share the existing meter; and the water system plumbing between the two (2) dwellings shall not be interconnected in any way.

Should there be any questions, you may contact Mr. Lawrence Beck of our Water Resources and Planning Branch at 961-8070, extension 260."

3. The State of Hawaii Department of Health (DOH-HILO) (memorandum dated November 23, 2012):

"The existing wastewater system is adequate to serve the proposed project.

Construction activities must comply with the provisions of Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control."

1. The contractor must obtain a noise permit if the noise levels from the construction activities are expected to exceed the allowable levels of the rules.
2. Construction equipment and on-site vehicles requiring an exhaust of gas or air must be equipped with mufflers.
3. The contractor must comply with the requirements pertaining to construction activities as specified in the rules and the conditions issued with the permit.

Should there be any further questions on this matter, please contact the Department of Health at 933-0917.

We recommend that you review all of the Standard Comments on our website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.”

4. The Hawai'i County Fire Department (HFD) (memorandum dated November 21, 2012):

“We have no comments to offer at this time in reference to the above-mentioned Ohana dwelling permit application.”

5. No comments were received from the public.

ADDITIONAL FINDINGS: We note the following document that accompanied your application. The original and notarized affidavit of **Edward N. Sugai and Wendy K. Sugai** received in this department on November 9, 2012, included with the Ohana Dwelling application states:

“1) This letter confirms that Edward N. and Wendy K. Sugai are the title holders of the property with tax map key #1-7-015-001.

2) This letter also confirms that there are no land use restrictions or covenant by way of deed, lease or other provision which would prohibit the construction or placement of an ohana dwelling unit or second dwelling unit.”

ANALYSIS: The proposed building site for the subject Ohana Dwelling Permit application is a legal lot of record located within the RA district and is designated Rural by the State Land Use Commission. Additional dwellings are not normally permitted on this lot, and there is no guest house located on the property. There are no pending subdivision actions affecting the subject TMK property, nor has any variance, Planned Unit Development, Cluster Plan Development, or other preemption from requirements of the Hawai‘i County Code been granted. The applicant has not submitted any OHD applications in the previous two years. Therefore, the application meets the requirements for an Ohana Dwelling Permit.

DECISION AND CONDITIONS: In review of the above, by this letter, you are hereby **granted** permission to construct an attached single-family Ohana Dwelling Unit subject to the following conditions:

1. The proposed Ohana Dwelling Unit shall comply with Ordinance No. 96-47 and Rule 12, the County of Hawai‘i Planning Department's Rules of Practice and Procedure relating to Ohana Dwelling Units.
2. Non-transferability: The permit for the Ohana Dwelling Unit shall be personal to the applicant until construction of the Ohana Dwelling Unit has been completed. The permit shall not be transferable or assignable to any other person prior to its completion to the satisfaction of the Chief Engineer, Department of Public Works.
3. Prohibition of Advertising, Sales, and Transfers: No person shall advertise or represent to the public that a permit to construct an Ohana Dwelling Unit is transferable with the sale of the property on which the permit has been granted.
4. Building Permit: **The applicant is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the Ohana Dwelling Unit on or before December 28, 2013.**

Please bring or attach a copy of this Permit to assist the reviewing agencies in understanding and expediting the review and processing of the building construction plans and building permit application for the additional building improvements necessary to establish the Ohana Dwelling on the subject parcel.

- a) A one time 30-day time extension to obtain the building permit may be granted by the Planning Director. A written request for a time extension shall be filed with the Planning Director not less than *forty-five (45)* days prior to the expiration date of the Ohana Dwelling Unit permit. The Planning Director shall render a decision on the request for a time extension prior to the expiration date of the permit.
 - b) The applicant shall not be able to obtain further extensions beyond the initial 30-day time extension. Further, such failure to conform to the time requirement shall not be cause to petition the Planning Director, Board of Appeals or any other governmental body for relief from the time requirement.
5. Requirements for Height, Site Area (Lot size), Yard (Setback) and Off-Street Parking (Parking spaces):

- a) Height limit: The height limit for the proposed attached Ohana Dwelling Unit shall be thirty-five (35'-0") feet.
- b) Zoning and Minimum Building Site Area (Lot Size): The subject TMK parcel containing 6.21 acres is zoned Residential and Agricultural (RA-.5a) and Agricultural (A-20a) by the County and is situated within the State Land Use Rural and Agricultural districts.
- c) Minimum Yards (Setbacks) and Open Space: The proposed Dwelling Unit is required to comply with the yards and open space requirements of the Hawai'i County Zoning Code.

The respective minimum open space and setback requirements for the proposed **attached** Ohana Dwelling Unit to be located on the subject TMK property shall be as follows:

- Front yard(s) – minimum **twenty-five (25)** feet required;
 - Side yard(s) – minimum **fifteen (15)** feet required;
 - Rear yard(s) – minimum **twenty-five (25)** feet required;
 - Open space from other main structure(s) – minimum **fifteen (15)** feet required.
- d) Off-Street Parking: The Ohana Dwelling Unit shall be provided with a minimum of two (2) off-street parking spaces that comply with the

Mr. Edward and Ms. Wendy Sugai
Page 6 of 6
December 28, 2012

requirements of Section 25-4-53 of the Zoning Code. All existing and additional parking spaces shall be arranged so as to be individually accessible.

6. This Ohana Dwelling permit is subject to all other applicable rules, regulations and requirements of the Planning Department, Department of Public Works, Fire Department, and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.

Ohana Dwelling Units are prohibited on a building site that is the subject of an approved variance from the Subdivision Code (Chapter 23), the Zoning Code (Chapter 25), and property where a second Dwelling Unit is specifically prohibited by a change of zone ordinance.

- a) No variance from the requirements of Chapter 23 and Chapter 25, Hawai'i County Code, as amended, shall be granted to permit the construction or placement of an Ohana Dwelling Unit.
- b) An Ohana Dwelling Unit shall not be permitted on a lot which has been the subject of a previously granted variance from any provision of Chapter 23 and Chapter 25, Hawai'i County Code, as amended.

Should you have any questions regarding the above, please contact Jonathan Holmes of this office at (808)961-8288.

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH/KWR:kwr

P:\Admin Permits Division\Ohana\Apvl\Sugai\7015001\Apvl.doc

xc: Dept. of Health, Chief Sanitarian
Dept. of Public Works
Real Property Tax
Dept. of Water Supply
GIS Section—via email