

CERTIFIED MAIL

November 15, 1982

Ms. Dorothy Washington  
77-6311 Alii Drive  
Kailua-Kona, HI 96740

Dear Ms. Washington:

Ohana Dwelling Application (OD 82-30)  
Dorothy Washington  
Tax Map Key 7-7-20:23

We regret to inform you that after reviewing your application and comments received from the affected agencies, the Planning Director is hereby denying your ohana dwelling application. The reason(s) for the denial are as follows:

Section 2-3 of Ordinance No. 804, relating to Regulations for Ohana Dwellings, permits the approval of an Ohana dwelling application provided:

"That at the time of application for a county building permit for a second dwelling unit, the subject lot or land parcel is not restricted by a recorded covenant or a recorded lease provision (in a lease having a term of not less than fifteen years) which prohibits a second dwelling unit."

We have on file correspondence from Mr. Bruce Szathmary, president of Kalani Sunset Corporation, stating that Restrictive Covenant II(A) relating to the subdivision operates against the number of dwellings permitted on a property, but not whether such structures may be duplex in nature. Said covenant, however, states in part:

"...and no building other than one private dwelling house designated and built for the use and occupancy of a single family and other accessory buildings shall be placed or maintained on each lot in the subdivision."

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The Planning Department has had the above provision reviewed by legal counsel, and interprets Restrictive Covenant II(A) as definitely limiting dwelling structures only to single family type as opposed to duplexes. As the covenants remain in effect until December 21, 2027, your options are to take steps with the covenantees to have the restriction legally removed, or to appeal our determination through the procedures set forth below.

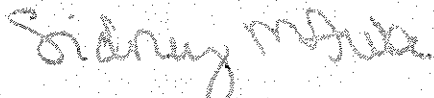
The Director's decision is final, except that within thirty (30) days after receipt of this letter, you may appeal the decision in writing to the Board of Appeals in accordance with the following procedures:

1. A non-refundable filing fee of one hundred dollars (\$100).
2. Ten (10) copies of the petition for the appeal incorporating the following:
  - a. The name, address, and telephone number of the appellant and the name, title, and address of the appellant's representative.
  - b. A description of the property involved in the appeal, including the tax map key number of the property, and the appellants's interest in the property.
  - c. A plain statement of the nature of the appeal and the relief requested.
  - d. A statement explaining:
    - 1) How the decision appealed from violates the law; or
    - 2) How the decision appealed from is clearly erroneous; or
    - 3) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
  - e. A clear and concise statement of any other relevant facts.

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Should you have any further questions, please feel free to contact this office at 961-8288. We are returning any duplicate sets of construction drawings submitted with your application.

Sincerely,



SIDNEY FUKÉ  
Planning Director

CR:vhn

Enc.