

CERTIFIED MAIL

May 18, 1983

Mr. Rufino Saplan
P. O. Box 329
Naalehua, Hawaii 96772

Dear Mr. Saplan:

Ohana Dwelling Application (OD 83-29)
Rufino Saplan
Tax Map Key: 9-5-26:47

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 application. The reason(s) for the denial are as follows:

Article 20, Section (2)(2) of the County of Hawaii Zoning Code, pertaining to Regulations for Ohana Dwelling, requires that "The County determines that public facilities as specified in Section 3 of this article are adequate to service the ohana dwelling unit."

Said Section (3)(2) more specifically requires of the ohana dwelling that "It meets with State Department of Health wastewater treatment and disposal system requirements." The determination of the Sanitation Division, State Department of Health, with respect to your application is as follows:

"This proposed Ohana conversion does not meet the required minimum lot size of 10,000 square feet. The use of a community cesspool is not permitted. The sewage density for the use of an individual wastewater system is 800 gal/day per cesspool as prescribed in Chapter 38, Section 3.4(B) and 7.1(B), respectively, Private Wastewater Works and Individual Wastewater Systems, Department of Health, State of Hawaii."

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Section (2)(3) of the Ohana Regulations further specifies "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."

The enclosed set of restrictive covenants and conditions for Naalehu Subdivision - Third Series, wherein the subject property is located, operate against approval of your application. The pertinent provisions are as follows:

(Covenant 1) "The above-described premises shall not be used for any trade, business or other purpose other than for a single family residence without the prior written consent of the Grantor."

(Covenant 7) "The covenants and agreements herein set forth shall be effective from the date hereof to and including April 30, 1991..."

(Covenant 8) "The covenants and conditions herein set forth shall be deemed applicable to all of the lots in NAALEHU SUBDIVISION - THIRD SERIES subdivision as shown on map dated January 4, 1965, prepared by Murray, Smith & Assoc. Ltd., on file in the office of the Grantor at Naalehu, Hawaii, excepting Lot 170..."

Your proposal to convert an existing single-family dwelling on lot 38 into a duplex residential structure is contrary to the above restrictive covenants and accordingly cannot be approved.

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.

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- b. A description of the property involved in the appeal, including the tax map key number of the property, and the appellant'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.

Should you have any further questions, please feel free to contact this office at 961-8288.

Sincerely,



SIDNEY FURE
Planning Director

CR:lgv
Enclosure: Restrictive Covenant
Dept. of Health comments

cc: Chief Engineer, DPW
Chief Sanitarian, DOB