

CERTIFIED MAIL

November 30, 1990

Ms. Debi Shute  
77-281 Wikolia Street  
Kailua-Kona, HI 96740

Dear Ms. Shute:

Ohana Dwelling Application(OD 90-407)  
Debi Shute  
TMK: 7-7-20:41, Lot 41

The ohana dwelling application and related submittals were reviewed under Article 25, Regulations for Ohana Dwelling.

Section 25-271 (3), Article 25, Regulations for Ohana Dwelling, of the Zoning Code, states "That at the time of application for a County Building Permit for a second dwelling unit, the subject lot or land 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 Covenants, Conditions and Restrictions, Leilani Sunset Subdivision, Kalani Sunset Subdivision submitted with the application states in part:

"(a) Residential Purposes. All lots in the subdivision and every portions thereof shall be used only for private residential and agricultural purposes and the uses accessory thereto, including other similar purposes reasonably necessary in connection with such uses, and for no other purposes; and no building other than one private dwelling house designed and built for the use and occupancy of a single family and other accessory building shall be placed or maintained on each lot in the subdivision. Allowable accessory buildings provided that they meet with all Governmental regulations and provided that they conform to all covenants and design criteria applicable to

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Holualoa Subdivision I are as follows: Guest cottages, servants' quarters, hothouses, shelters for animals allowed pursuant to these covenants and other structures reasonably necessary in connection with a private residence."

Based on this, the above provision precludes an ohana dwelling on the subject tax map key parcel. Consequently, we have no choice but to deny your ohana dwelling application.

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 two hundred dollars (\$200).
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 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.

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Should you have any questions, please feel free to contact this office.

Sincerely,



DUANE KANUHA  
Planning Director

MO/WRY:etn

cc: Corporation Counsel