

CERTIFIED MAIL

October 15, 1991

Ms. Ann Beveridge-Hawelu
SR 4 Route 11
Kurtistown, Hawaii 96760

Dear Ms. Beveridge-Hawelu:

Ohana Dwelling Application (OD 91-372)
Tax Map Key: 7-7-17:92, Lot 32

2375

This acknowledges ohana dwelling application and related submittals received September 11, 1991.

Section 25-271 (3) of the Zoning Code, Governing Regulations for Ohana Dwellings, specifies "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 copy of recorded Limited Warranty Deed and Assignment of Warranties and Consent dated April 6, 1990 and Deed dated April 30, 1979 and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13735 at Page 593 includes restrictions, covenants and conditions which states:

"1. The above-described premises and every portion thereof shall be used for private residence purposes only including private garage and/or servants' quarters and other similar purposes reasonably necessary in connection with such private residence, and for no other purposes, and no building other than a private dwelling house designed and built for the use and occupance [sic] of a single family...shall be constructed, placed or maintained upon said premises during said term."
[Emphasis supplied.]

The Planning Department upon consultation with the Office of the Corporation Counsel has determined that the above stated covenants have a restriction that no more than a single family dwelling can be constructed on the property. Pursuant to Article 25 of the Hawaii County Zoning Code, we therefore regret to inform you that the request to construct ohana dwelling on the subject tax map key parcel is being denied. Your option is to take appropriate steps with the covenantee to have the restrictions removed or waived or appeal our determination through procedure set forth below.

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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.

Should you have any questions, please feel free to contact Masa Onuma or William Yamanoha of this office.

Sincerely,



NORMAN K. HAYASHI
Planning Director

WRY/MO:eti
cc: Corporation Counsel
West Hawaii Office