

CERTIFIED MAIL

April 13, 1992

Mr. James H. Layton
P.O. Box 1132
Capt. Cook, HI 96704

Dear Mr. Layton:

Ohana Dwelling Application
OD 92-53
TMK: 8-2-15:44, Lot 15

2652

Upon further review of the subject application and restrictive covenants, we have the following to offer:

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 copy of recorded Warranty Deed dated April 9, 1985, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18586 at Page 371 includes restrictions which states:

"2. Declaration of Covenants, Conditions and Restrictions dated December 18, 1983, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 17669 at Page 62."

In reference to the above stated Warranty Deed, the Declaration of Covenants, Conditions and Restrictions included in Article II, Use Rights and Restrictions states:

"2.2 Use of Single Family Residential Lots. All Lots classified as Single Family Residential Lots shall be used only for single family residential purposes and accessory uses. No Single Family Residential Lot shall be improved except with one residence structure or complex designed to

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accommodate no more than one single family and its servants and occasional guests, plus each servants' quarters, guests' quarters or other improvements as are necessary or customarily incidental to a single family residence."

The Planning Department, in 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 a request to construct ohana dwelling on the subject tax map key parcel is 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.

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.

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- e. A clear and concise statement of any other relevant facts.

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

Sincerely,



NORMAN K. HAYASHI
Planning Director

GB/MO:eti
4957D-1
cc: Corporation Counsel
West Hawaii Office

Scanned Map
Unavailable
Due to Size

See File

