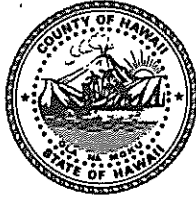


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
Z 416 229 165

August 1, 1995

Ms. Vera Benedek
Mr. Russ Josephson
P. O. Box 2005
Keaau, HI 96749

Dear Ms. Benedek & Mr. Josephson:

Ohana Dwelling Application (95-56)
Vera Benedek & Russ Josephson
Tax Map Key: 1-5-051:232, Lot 1738

This acknowledges ohana dwelling application and related submittals received on July 26, 1995. You propose to convert an existing dwelling into a duplex. Please note that whether you are granted an Ohana Permit or not, you must comply with all requirements of the State Land Use Law, Chapter 205, Hawaii Revised Statutes.

The proposed building site is situated on land designated by the State Land Use Commission as Agricultural. (The Land Use Commission's authority comes from Chapter 205, Hawaii Revised Statutes.) Chapter 205 does not authorize residential dwellings as a permissible use in the Agricultural District as classified by the State Land Use Commission, unless the dwelling is related to an agricultural activity or is a "farm dwelling."

Farm dwelling is defined in Section 205-4.5(a)(4) as "a single family dwelling located on and used in conjunction with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling." (emphasis added)

A duplex is a building containing two (2) dwelling units. A dwelling unit is defined as facilities intended for the use of a single family. A duplex, therefore, does not meet the definition of farm dwelling.

AUG 07 1995
Recd to 8644

Ms. Vera Benedek
Mr. Russ Josephson
Page 2
August 1, 1995

We therefore regret to inform you that your request to convert the existing dwelling to a duplex (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.
 - e. A clear and concise statement of any other relevant facts.

Ms. Vera Benedek
Mr. Russ Josephson
Page 3
August 1, 1995

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

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

RKN:mjs
LBened01.rkn

xc: Corporation Counsel