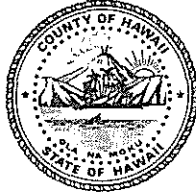


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

January 10, 2002

Roy A. & Sandra E. Sveiven
76-6196 Lehua Road
Kailua-Kona, Hawaii 96740-2444

Dear Mr. & Ms. Sveiven

Ohana Dwelling Permit Application (OHD 2001-11)

Applicant: Roy A. & Sandra E. Sveiven

Land Owner: Roy A. & Sandra E. Sveiven

Proposal: Construct A New Attached Ohana Dwelling Unit

Tax Map Key: (3) 7-6-019:099

The subject TMK parcel containing 10,224 square feet is zoned Residential Single Family, 7,500 square feet (RS-7.5) by the County and is situated within the State Land Use Urban district. It is situated in the Special Management Area and has been reviewed by this Department and SMA Minor Permit Number 104 was issued on December 3, 2001. Permitted uses in this zoning district include single-family dwellings as noted by Zoning Inspector J. Darrow in his November 9, 2001 letter to you. Ohana dwellings are also permitted under certain conditions.

The County Zoning Code in Article 6, Division 3 and The Planning Department's Rules of Practice and Procedure, Rule 12-4(d)(2) state in part:

"Ohana dwellings shall be permitted ... provided that: ...

The following public facilities are adequate to serve the ohana dwelling unit: ...

Sewage Disposal System. The building site shall be served by a public or private sewage disposal system. An adequate public sewage disposal system shall meet with the requirements of the department of public works and an adequate private sewage disposal system, cesspool or septic tank shall meet with the requirements of the State Department of Health."

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The subject Application for an Ohana Dwelling Unit Permit was reviewed by the required agencies and their respective comments are as follows:

1. The Department of Public Works (DPW) (memorandum dated December 20, 2001):

“No Comments”

2. The Department of Water Supply (DWS) (memorandum dated December 24, 2001):

“We have reviewed the subject application and have the following comments and conditions.

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling unit at 600 gallons per day. Therefore, a second 5/8-inch meter should be installed. Water is available from the 6-inch waterline in Lehua Road, which fronts the subject parcel.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting the following conditions:

1. Installation, by the Department of Water Supply, of a second 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:
 - a. Facilities Charge (One 2nd service at \$4,350.00 each) \$4,350.00
 - b. Capital Assessment Fee 500.00
 - c. Pro rata Reservoir Cost
(\$1,184.00 per each additional unit of water) 1,184.00
 - d. Service Lateral Installation Charge 2,250.00Total (Subject to change) \$8,284.00

Should there be any questions, please contact our Water Resources and Planning Branch at 961-8070.

3. The State of Hawaii Department of Health (DOH-HILO) (memorandum dated January 2, 2002):

“The existing Septic Tank System needs to be evaluated by a licensed engineer to show that it can handle the expected additional wastewater flow. Please submit a report to our office for approval.” (Emphasis added)

4. The Hawaii County Fire Department (HFD) (memorandum dated December 19, 2001):

“We have no comments regarding the above-referenced Ohana Dwelling Permit Application.”

Your private sewage disposal system as noted in number 3 above does not meet the requirements of the State Department of Health, therefore this permit application must be **denied** at this time. Should you provide proof to the State Department of Health, with a copy to this Department, of the adequacy of the Septic Tank Wastewater Disposal System certified by a licensed engineer within 60 days of this action, we will re-evaluate our position.

For your information the following additional input was submitted to this office regarding this application:

Surrounding property owners submitted the following comments, in part, regarding this application for an Ohana Dwelling Unit Permit:

“Concerning the letter received from Mr. Roy & Sandra Sveiven at 76-6169 Lehua Road Kailua-Kona about converting in their 3 story house into an ohana. Their house is already overfilled with zu (sic) many ... renters. ... Their septic tank already smells. ...”

“I am writing this in response to an application for the approval of an ohana submitted by S. V. Eiven (sic) of 76-6196 Lehua Rd., Tax Key Number 3-7-6-19-99.

... As a homeowner that has property that is adjacent to theirs, I have found that the increase noise and traffic from the existing tenants intolerable. It seriously detracts from my need for a quiet residential area as is the intent of this subdivision.

Even though the main house meets the county requirements of being a two story structure because it is less than 35 feet from the ground to the center of the roof area, the house is in violation of the CCRs for the subdivision that states in section #1: ...”

NOTE: It has been the opinion of the County Office of the Corporation Counsel that the language of these particular CC & R's do not forbid an Ohana Dwelling.

“... I have noticed on several occasions a strong sewer smell coming from the direction of their house. I can't say for certain that it is from their septic system, but there is a strong likelihood that it is the source due to the sheer number of families on one septic system. ...”

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"To whom it may concern,

We were notified by the neighbors that they want to put in another Ohana so I am writing this letter to express that I wish to contest the building of an Ohana ...

Please do not allow them to have another Ohana as they are already a disturbance to this neighborhood with all the people living there as it is. I would also appreciate you checking into the legality of them having a 2 story house and 3 apartments that they rent out, when that is not allowed in our covenants here. ..."

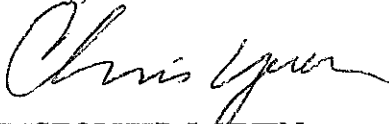
As stated above, if the applicant follows through with the requirements of the State Department of Health as noted above and provides proof of said compliance to this office it would be grounds for re-examining this application. This department will waive the filing fee and other submittal requirements if proof is declared within 60 days of this denial.

Please be aware that decisions by the Planning Director may be appealed per Section 25-6-39.7:

"Any person aggrieved by the decision of the director in the issuance of an ohana dwelling permit decision, except for a decision regarding the duration of a permit under section 25-6-39.2, may appeal the director's action to the board of appeals, in accordance with this chapter, within thirty days after the date of the director's written decision."

Should you have any questions regarding the above, please contact Jonathan Holmes of this office.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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xc: Department of Health, Chief Sanitarian
Department of Public Works
Real Property Tax Division
Department of Water Supply
Planning Department - Kona