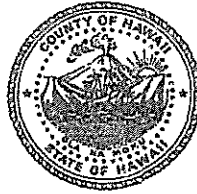


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

December 6, 2002

Mr. and Mrs. James J. Oxley III  
73-1215 Ahulani Street  
Kailua-Kona, Hawaii 96740

Dear Mr. and Mrs. Oxley:

**SUBJECT: Ohana Dwelling Permit Application 3885 (2002-017)**  
**Applicant: Mr. and Mrs. James J. Oxley III**  
**Land Owner: James J. Oxley III**  
**Proposal: Construct A New Detached  
Ohana Dwelling Unit**  
**Tax Map Key: (3) 7-3-022:101**

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 October 30, 2002):

"We have reviewed the subject application forwarded by your letter dated October 14, 2002 and have the following comments.

The plot plan enclosed with the subject application shows a proposed driveway adjacent to an existing driveway. The widths of the driveways were not indicated on the plan.

The construction of the proposed driveway may require a permit from the Department of Public Works and shall meet the requirements of Chapter 22 – County Streets of the Hawaii County Code"

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2. The Department of Water Supply (DWS) (memorandum dated November 1, 2002):

“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. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with department regulations. However, the Kona Coastview and Wonderview Subdivisions are in the process of an Improvement District that will provide a water system to all the parcels within the two subdivisions. Once the Improvement District is completed, the applicants may inquire about the water availability for the ohana dwelling with the Department.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that water is not available from the Department at this time.

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

3. The State of Hawaii Department of Health (DOH-HILO) (memorandum dated February 7, 2002):

“The subject proposal is located in a Critical Wastewater Disposal Area. The existing cesspool may service a total of 1,000 gallons per day of wastewater. A total of five bedrooms are allowed in the two dwelling units. Due to your lot size, a second individual wastewater system is not allowed.”

4. The Hawaii County Fire Department (HFD) (memorandum dated November 28, 2001):

“We have no comments or objections to offer at this time regarding the above-referenced ohana dwelling permit application.”

There were no comments received from the surrounding property owner(s) regarding this application for an Ohana Dwelling Unit Permit.

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The original and notarized affidavit of **James Oxley** dated September 27, 2002 included with the Ohana Dwelling application states:

- “1. He and his wife, Takako Yanada Oxley, are the titleholders or owners of the real property located at 73-1215 Ahulani St. Kailua-Kona, HI. The property is comprised of 19.700 (sic) feet, more or less, and further identified as Tax Map Key No. 7-3-22-101 (hereafter “Subject Property”).
2. The Covenants, or any other land use restrictions applicable to the Subject Property do not prohibit the construction or placement of an ohana / second dwelling unit upon the Subject Property.”

The County Zoning Code in Article 6, Division 3 states in part:

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

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

Potable Water Supply. The building site shall be served by an approved public or private water system meeting with the requirements of the department of water supply which system can accommodate the ohana dwelling and the main dwelling unit. An ohana dwelling that is not served by an approved public or private water system may use a water catchment system **provided that the director determines that there is sufficient annual rainfall in the area to accommodate a water catchment system** and water catchment system meets the requirements of the department of health and the department of water supply. (emphasis added).

The Planning Department’s Rules of Practice and Procedure, Rule 12-4(d)(2) states in part:

“An ohana dwelling unit that is not served by an approved water system may be permitted to use a water catchment system **in an area which receives an annual rainfall of at least eighty inches** (The University of Hawaii Water Resources Research Center construction guideline of eighty inches of annual rainfall for catchment systems is being used for this purpose). In the event that an annual rainfall requirement is adopted in a future amendment to the Hawaii County Code, then the annual rainfall as reflected in the code amendment shall be used for this purpose. The requirements of the State Department of Health and the Department of Water Supply must also be met.” (emphasis added).

Our research indicates that the area of the subject parcel, the Coast View Subdivision, Kailua-Kona, receives between 40 and 60 inches of rainfall annually. This information was obtained from the Water-Resources Investigations Report 95-4212 disseminated by The U.S. Department of the Interior U.S. Geological Survey and prepared in cooperation with the State of Hawaii Commission on Water Resource Management, Department of Land and Natural Resources.

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Furthermore, your proposal indicates that there will be a total of seven bedrooms in the two dwellings. As noted above, the comments from the State Department of Health Limit the existing Individual Wastewater System (IWS) to five bedrooms and that a second IWS is not permissible.

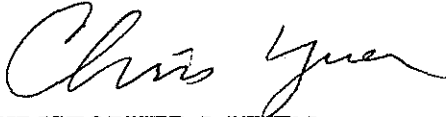
In view of the above, by this letter, you are hereby **denied** permission to construct a detached Ohana Dwelling Unit.

Please be aware that decisions by the Planning Director may be appealed to the Board of Appeals 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 at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

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Enclosure

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