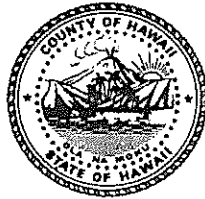


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

March 11, 2005

Mary K. Jonolino
P.O. Box 1385
Kapaau, Hawaii 96755

Dear Ms. Jonolino:

SUBJECT: Ohana Dwelling Permit Application (2005-0035)
Applicants: Mary K. Jonolino
Land Owners: Mary K. Jonolino
Jane L. Jonolino
Darryl M. Isa
Proposal: Construct a Detached Ohana Dwelling Unit
Tax Map Key: (3) 5-4-011:107

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 February 14, 2005):
"No Comments."
2. The Department of Water Supply (DWS) (Memorandum dated February 22, 2005):
"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 at an average of 400 gallons per day.

Inasmuch as this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with the Department's regulations. However, the Department's existing water system facilities cannot support an additional meter for the proposed ohana dwelling at this time. Extensive improvements and additions, including source, storage, transmission, and distribution facilities,

must be constructed. Currently, sufficient funding is not available and no time schedule is set.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to the proposed additional farm dwelling. Further, should the application be approved, both dwellings must not share the existing meter.

Should there be any questions, please call Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 252.”

3. The State of Hawaii Department of Health (DOH) (Memorandum dated February 25, 2005):

“The wastewater system is inadequate for the proposed project. Have your engineer submit to DOH plans to upgrade current cesspool to a septic system.”

4. The Hawaii County Fire Department (HFD) (memorandum dated February 18, 2005):

“We have no comments to offer at this time in reference to the above-mentioned Ohana dwelling permit application.”

There were no comments received from the surrounding property owners.

We note the following document that accompanied your application. The original and notarized affidavit of **Applicant and Owners** of the subject property included with the Ohana Dwelling application states:

“To whom it may concern,

This letter is to certify that:

1. I Mary K Jonolino am a title holder of the property located at TMK (3) 5-4-011-107-0000
2. That to the best of my knowledge, provisions of any restriction, covenant or other land use restrictions applicable to the lot by way deed or lease or other provision do not prohibit the construction or placement of an ohana dwelling unit or a second dwelling unit.”

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: ...

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

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adequate private sewage disposal system, cesspool or septic tank shall meet with the requirements of the State department of health.

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)(1) states in part:

“An ohana dwelling unit may be permitted.....provided that:

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

“Sewage disposal system. A lot on which an ohana dwelling unit is proposed shall be served by a public or private sewage disposal system meeting with the requirements of the County Department of Public Works or the State Department of Health, respectively.”

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 in which the subject parcel is located, Kynnersley Road Tract 2, North Kohala, receives only 40 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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In view of the above, by this letter, we must regretfully **deny** permission to construct the proposed detached Ohana Dwelling Unit. The premise of approval for Ohana Dwellings are that the water availability is sufficient and assured, either through a public or private water system or through the utilization of a water catchment system and that the wastewater system is sufficient.

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.”

An application for General Petition for Appeal of Decisions by Planning Director is enclosed for your convenience should you decide to petition to the Board of Appeals.

If you have any questions please call Deanne Bugado of our West Hawaii Office at 327-3510.

Sincerely,

CHRISTOPHER J. YUEN
Planning Director

BM:deb

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

Scanned Map
Unavailable
Due to Size

See File

