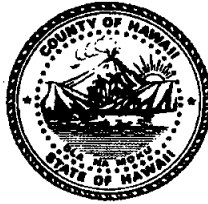


William P. Kenoi
Mayor



BJ Leithead Todd
Planning 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 20, 2009

Mr. Guy H. Mular
Ms. Lisa L. Mular
PO BOX 863
Holualoa, HI 96725

Dear Mr. and Ms. Mular:

SUBJECT: Ohana Dwelling Permit Application (OHD-09-000120)
Applicants: Guy H. Mular
Lisa L. Mular
Land Owners: Guy H. Mular
Lisa L. Mular
Proposal: Construct a Detached Ohana Dwelling Unit
Tax Map Key: (3) 7-8-015:015

Based on our review of your application and comments from other government agencies, you are hereby **granted** permission to construct a detached single family Ohana Dwelling Unit subject to the conditions set forth below in this letter.

REVIEW, PUBLIC AND AGENCY COMMENTS

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) (Comments dated February 11, 2009):
"No comments."
2. The Department of Water Supply (DWS) (Letter dated March 13, 2009):
"We have reviewed the subject application and have the following comments and conditions.

Please be informed that the subject parcel currently has two (2) existing 5/8-inch meters assigned to it. Therefore we have no objections to the proposed application as there are existing services available for each dwelling unit.

Should there be any questions please contact Mr. Ryan Quintoriano of our Water resources and Planning Branch at 961-8070, extension 256.”

3. The State of Hawaii Department of Health (DOH) (Memorandum dated February 20, 2009):

“We recommend that you review all of the Standard Comments on our website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

The project lot is .622acres. Under the current provisions, a total of two (2) individual wastewater systems can be utilized on this lot. The type of individual wastewater system to be used will be determined at the time of building permit application.”

4. The Hawaii County Fire Department (HFD) (Letter dated February 19, 2009):

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

We note the following documents that accompanied your application. The original and notarized affidavits of **TITLEHOLDER** of the subject property dated January 19, 2009 included with the Ohana Dwelling application states:

“We hereby certify that Guy H and Lisa L. Mular are the sole titleholders for TMK: 3-7-8-015:015.”

And

“We hereby certify that no Covenants, Conditions or Restrictions (CC&R’s) exist that would restrict or prohibit the construction or placement of an Ohana dwelling unit or a second dwelling unit for TMK: 3-7-15:15.”

APPROVAL

In view of the above, by this letter, you are hereby **granted** permission to construct a detached single family Ohana Dwelling Unit subject to the following conditions:

1. The proposed Ohana Dwelling Unit shall comply with Ordinance No. 96-47 and Rule 12, the County of Hawaii Planning Department's Rules of Practice and Procedure relating to Ohana Dwelling Units.
2. Non-transferability: The permit for the Ohana Dwelling Unit shall be personal to the applicant until construction of the Ohana Dwelling Unit has been completed. The permit shall not be transferable or assignable to any other person prior to its completion to the satisfaction of the Chief Engineer, Department of Public Works.
3. Prohibition of Advertising, Sales, Transfers: No person shall advertise or represent to the public that a permit to construct an Ohana Dwelling Unit is transferable with the sale of the property on which the permit has been granted.

4. **Building Permit: The applicant is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the Ohana Dwelling Unit on or before March 20, 2010.**

Please bring or attach a copy of this Permit to assist the reviewing agencies in understanding and expediting the review and processing of the building construction plans and building permit application for the additional building improvements necessary to establish the Ohana Dwelling on the subject parcel.

- a) A one time 30-day time extension to obtain the building permit may be granted by the Planning Director. A written request for a time extension shall be filed with the Planning Director not less than forty-five (45) days prior to the expiration date of the Ohana Dwelling Unit permit. The Planning Director shall render a decision on the request for a time extension prior to the expiration date of the permit.
- b) The applicant shall not be able to obtain further extensions beyond the initial 30-day time extension. Further, such failure to conform to the time requirement shall not be cause to petition the Planning Director, Board of Appeals or any other governmental body for relief from the time requirement.
5. **Requirements for Height, Site Area (Lot size), Yard (Setback) and Off-Street Parking (Parking spaces):**

- a) **Height limit:** The height limit for the proposed detached Ohana Dwelling Unit shall be twenty-five (25'-0") feet.
- b) **Zoning and Minimum Building Site Area (Lot Size):** The subject TMK parcel containing 27,118 sq. ft. is zoned Residential and Agricultural (RA-.5a) by the County and is situated within the State Land Use Rural district.
- c) **Minimum Yards (Setbacks) and Open Space:** The proposed Dwelling Unit is required to comply with the yards and open space requirements of the Hawaii County Zoning Code. The parcel is considered a Flag Lot and as such, all yards are considered to be side yards.

The respective minimum open space and side yard requirements for the proposed detached Ohana Dwelling Unit to be located on the subject TMK property shall be as follows:

- Side yard - minimum **twenty** (20) feet required;
- Open space from other main structure(s) – minimum **fifteen** (15) feet required.

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d) Off-Street Parking: The Ohana Dwelling Unit shall be provided with a minimum of two (2) off-street parking spaces that comply with the requirements of Section 25-4-53 of the Zoning Code. All existing and additional parking spaces shall be arranged so as to be individually accessible.

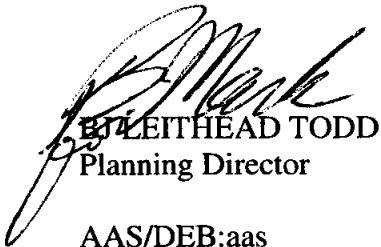
6. This Ohana Dwelling permit is subject to all other applicable rules, regulations and requirements of the Planning Department, Department of Public Works, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.

Ohana Dwelling Units are prohibited on a building site that is the subject of an approved variance from the Subdivision Code (Chapter 23), the Zoning Code Chapter 25), and property where a second Dwelling Unit is specifically prohibited by a change of zone ordinance.

- a) No variance from the requirements of Chapter 23 and Chapter 25, Hawaii County Code, as amended, shall be granted to permit the construction or placement of an Ohana Dwelling Unit.
- b) An Ohana Dwelling Unit shall not be permitted on a lot which has been the subject of a previously granted variance from any provision of Chapter 23 and Chapter 25, Hawaii County Code, as amended.

Should you have any questions regarding the above, please contact Allen Salavea of our West Hawaii office at (808) 327-3510.

Sincerely,



TODD LEITHEAD TODD
Planning Director

AAS/DEB:aas

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