

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

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

July 15, 2010

Mr. Eddie T. Sakamoto  
P.O. Box 390699  
Keauhou, HI 96739

Dear Mr. Sakamoto:

**SUBJECT: "VOID" of Ohana Dwelling Permit (OHD 09-000125) effective July 31, 2010**

**References:** (1) Warning Letter (File No. 2009-014E) dated February 9, 2009  
(2) Issuance of Ohana Dwelling Permit (OHD-09-000125 dated June 25, 2009)  
(3) Letter: Request Status of Ohana Dwelling Unit Building Permit dated March 31, 2010  
(4) One-Time 30-Day Time Extension letter dated April 27, 2010

**Violation: Non-permitted Ohana Dwelling  
TMK: 2-4-045: 025, Waiakea Homesteads, Waiakea, South Hilo, HI**

Thank you for your letter dated July 11, 2010 informing us that you will be withdrawing your Ohana Dwelling Permit (OHD 09-000125) due to the high cost of meeting the requirements for an Ohana approval.

In our last letter to you dated April 27, 2010 (referenced above), we informed you that according to Section 25-6-39.2 (Building permit for an Ohana dwelling), it states:

- (a) A building permit for the construction of an ohana dwelling unit shall be secured within one year from the date that the ohana dwelling unit permit was issued. A thirty-day time extension may be granted by the director if it can be demonstrated by the applicant that nonperformance was not the result of the applicant's fault or negligence. In the event that the applicant fails to secure a building permit for the construction of the ohana dwelling unit within the one-year time period, or any extension granted by the director, the ohana dwelling unit permit shall be void.

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Mr. Eddie T. Sakamoto  
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- (b) The time extension provided for an ohana dwelling permit under subsection (a) above shall be the only time extension available to an applicant, and no further time extension shall be allowed. Further, the failure to obtain any further time extension of an ohana dwelling permit shall not be cause to petition the director, the commission or the board of appeals for relief from the time limitation for an ohana dwelling permit as provided under this section.

Based on Section 25-6-39.2(a) and your withdrawal request, **effective July 31, 2010, the Ohana Dwelling Permit (OHD 09-000125) is "VOID."**

**Please be advised that the portion of the existing single-family dwelling used as a "non-permitted Ohana Dwelling" must be returned to its originally permitted conditions and you are required to submit to this office a letter stating that the portion is no longer being used as a "separate" dwelling unit.**

**Coordination must be made with our inspector to visually confirm (by a follow-up inspection) that the use is no longer a separate dwelling unit.**

Should you have any questions on this matter, please contact Zoning Inspector Robert Usagawa at (808) 961-8150.

Sincerely,

  
BJ LEITHEAD TODD  
Planning Director

RSU:kwr

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cc: Amy Self, Esq.  
Department of Public Works-Building Division-Hilo  
State Department of Health-Hilo  
Real Property Tax Office-Hilo  
Ms. Mary McKinley, Zoning Clerk  
Mr. Robert Usagawa, Zoning Inspector



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August 25, 2010

Mr. Eddie T. Sakamoto  
P.O. Box 390699  
Keauhou, HI 96739

Dear Mr. Sakamoto:

**SUBJECT: "Closure Letter" – No Separate Dwelling Unit  
Violation: Non-permitted Ohana Dwelling  
TMK: 2-4-045: 025, Waiākea Homesteads, Waiākea, South Hilo, HI**

Thank you for your letter dated August 12, 2010, informing us that "the portion of the single dwelling on 65 Hilu Hilu St., TMK: 2-4-045:025, has been returned to its original condition as is no longer used as a "separate" dwelling unit."

Based on your letter we are "**closing**" this Zoning Code violation/complaint file.

Please be advised that in the future, if you violate Chapter 25 of the Hawai'i County Code in the same manner as stated above, upon verification by a Planning Department official, the violation will be considered as "recurring" and will be subject to an immediate fine, up to a maximum of \$500 per violation. In addition, a daily fine may be imposed."

Should you have any questions on this matter, please contact Zoning Inspector Robert Usagawa at (808) 961-8150.

Sincerely,

  
BJ LEITHEAD TODD  
Planning Director

RSU:kwr

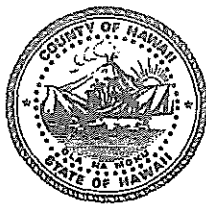
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AUG 25 2010

Mr. Eddie T. Sakamoto  
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August 25, 2010

cc: Amy Self, Esq.  
Department of Public Works-Building Division-Hilo  
State Department of Health-Hilo  
Real Property Tax Office-Hilo  
Mr. Robert Usagawa, Zoning Inspector

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June 25, 2009

Mr. Eddie T. Sakamoto  
P.O. Box 390699  
Keauhou, Hawaii 96739

Dear Mr. Sakamoto:

**Subject: Ohana Dwelling Unit Permit Application (OHD-09-000125)**  
**Applicant(s): Eddie T. Sakamoto**  
**Land Owner(s): Eddie T. and Nancy Sakamoto**  
**Proposal: Construct An Attached Ohana Dwelling Unit**  
**Tax Map Key: (3) 2-4-045:025**

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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):

As of this date, no comments have been received from DPW.

2. The Department of Water Supply (DWS) (memorandum dated June 24, 2009):

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is adequate for only one dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department's existing 6-inch waterline within Hilu Hilu Street, fronting the subject parcel.

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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 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:

FACILITIES CHARGE (FC):  
2<sup>nd</sup> service to the parcel

\$5,500.00

SERVICE LATERAL INSTALLATION CHARGE:

Install one meter on Keaau Loop, a County road \$2,600.00

**Total (Subject to Change)**

\$8,100.00

Shall there be any questions, please contact Mr. Ryan Quitoriano of our Water Resources and Planning Branch at 961-8070, extension 256.”

3. The State of Hawaii Department of Health (DOH-HILO) (memorandum received April 30, 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.

State wastewater rules no longer allows the existing cesspool to serve two dwellings.

EPA has a Large Capacity Cesspool (LCC) rule which requires all large capacity cesspools to be removed from service by April 5, 2005. If two (2) dwellings are connected to an existing cesspool, EPA will consider the cesspool as a large capacity cesspool regardless of the total number of bedrooms. Even if the total number of bedrooms were reduced to five (5) or less, the existing cesspool will still be considered as a large capacity cesspool

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by EPA. (A septic system designed for five (5) bedrooms would be allowed under both State and Federal rules.)”

4. The Hawaii County Fire Department (HFD):

As of this date, no comments have been received from HFD.

We note the following documents that accompanied your application. The original and notarized affidavits of March 30, 2009, included with the Ohana Dwelling application states:

“I Eddie Sakamoto legal owner of the property TMK 2-4-045-025 located on 65 Hilu Hilu street Hilo Hawaii guarantee that there are no provisions of any restrictions covenant or other land use restrictions applicable to the lot by way of a deed or lease or other provision prohibit the construction or placement of an ohana dwelling unit or a second dwelling unit.”

In view of the above, by this letter, you are hereby **granted** permission to construct an attached 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, and 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 June 30, 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 attached Ohana Dwelling Unit shall be thirty-five (35'-0") feet.
- b) Zoning and Minimum Building Site Area (Lot Size): The subject TMK parcel containing 15,900 sq. ft. is zoned Residential (RS-15) by the County and is situated within the State Land Use Urban 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 respective minimum open space, front, rear, and side yard requirements for the proposed attached Ohana Dwelling Unit to be located on the subject TMK property shall be as follows:

- Front yard - minimum **twenty** (20) feet required;
- Rear yard – minimum **twenty** (20) feet required;
- Side yard(s) – minimum **ten** (10) feet required;



Mr. Eddie T. Sakamoto

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- Open space from other main structure(s) – minimum **fifteen** (15) feet required.
- b) 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. The DWS requires that an additional meter be installed for the Ohana Dwelling Unit. Prior to, or at the time of, submitting an application for a building permit for this dwelling, present proof of conformance with that condition. The building permit application will not be approved by the Planning Department without said proof.
7. 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.

Mr. Eddie T. Sakamoto

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Should you have any questions regarding the above, please contact Larry Nakayama of this office.

Sincerely,



BJ LEITHEAD TODD

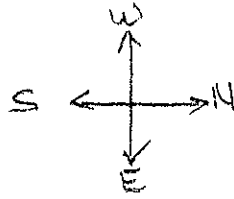
Planning Director

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

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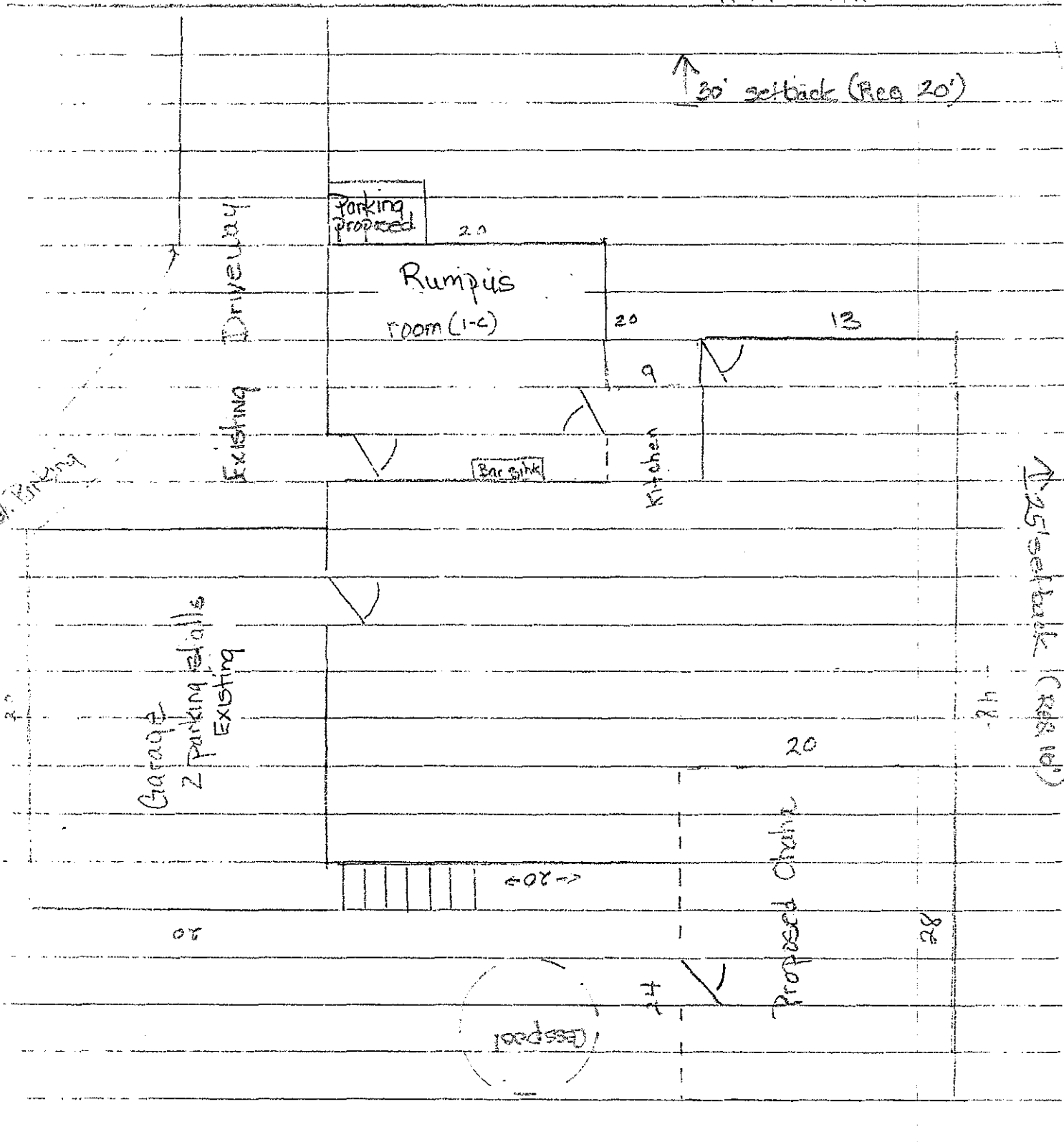


← Hahaione Street

↑ 30' setback (Reg 20')

10' setback (Reg 10')  
Imp. Parking

25' setback (Reg 10')



↓ 35' setback (Reg 20')