

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

August 2, 2011

Mr. Herbert K. Nakano
Mr. Brandon Y. Nakano
192 Nohea St.
Hilo, HI 96720

Dear Sirs:

SUBJECT: Ohana Dwelling Unit Permit Application (OHD-11-000140)
Applicant: Herbert K. Nakano and Brandon Y. Nakano
Land Owner(s): Herbert K. Nakano and Brandon Y. Nakano
Proposal: Construct A Detached Ohana Dwelling Unit
Tax Map Key: (3) 2-4-010:073

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) (Copy of June 1, 2011 letter with DPW Ohana Application Comments Stamp):

The DPW replied with their Ohana Application Comments stamp stating that they had no comments.

2. The Department of Water Supply (DWS) (memorandum dated July 25, 2011):

"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 single family 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 an existing 6-inch waterline within Nohea Street, fronting 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 an average daily usage of 400 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2 nd service to the parcel	\$5,500.00
---------------------------------------	------------

SERVICE LATERAL INSTALLATION CHARGE:

<u>Install one (1) meter on Nohea Street, a County road (same side)</u>	<u>\$3,000.00</u>
Total (Subject to Change)	\$8,500.00

Should there be any questions, you may contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.”

3. The State of Hawaii Department of Health (DOH-HILO) (memorandum dated June 27, 2011):

“Wastewater Branch does not concur with the ohana application. Under wastewater rules, a lot needs 20,000 square feet or more to use two onsite wastewater disposal systems. At 19,964, only one disposal system is allowed. A septic system can serve two (2) dwellings as long as the total number of bedrooms is five (5) bedrooms or less.

We recommend that you review all of the Standard Comments on our website: www.state.hi.us/health/environmental/env-planning/landuse/landuse.html. Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.”

4. The Hawaii County Fire Department (HFD) (memorandum dated June 13, 2011):

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

We note the following document that accompanied your application; the Real Property Tax Clearance, the notarized affidavit indicating applicant's ownership interest in the property and showing no covenant restriction on a second dwelling or an ohana dwelling unit being placed or constructed on the lot.

In view of the comment from the DOH, we regret to inform you that we must hereby **deny** your request to construct the proposed detached single-family Ohana Dwelling Unit on the subject property.

In accordance with sec. 23-5 of the Hawai'i County code, sec. 6-10.2 of the Hawai'i County Charter, and Rule 8 of the Board of Appeals, you may appeal the director's decision as follows:

An appeal from the decision of the Director shall be filed within thirty days after the decision.

- (a) An appeal shall be in writing, in the form prescribed by the board of appeals and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. A filing fee of \$250 shall accompany any such appeal. The person appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the board of appeals with the proof of service.
- (b) The appellant and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the board of appeals.

According to sec. 23-5, Hawai'i County Code, the board of appeals may affirm the decision of the director, or it may reverse or modify the decision or remand the decision with appropriate instructions if based upon the preponderance of evidence the board finds that the decision is:

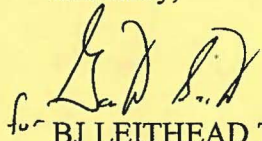
- (a) In violation of this chapter or other applicable law; or
- (b) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (c) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Mr. Herbert K. Nakano
Mr. Brandon Y. Nakano
Page 4 of 4
August 2, 2011

In view of the above, we have enclosed COUNTY OF HAWAI'I BOARD OF APPEALS
GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR.

Should you have any questions regarding the above, please contact Jonathan Holmes of
this office at (808)961-8288.

Sincerely,



for BJ LEITHEAD TODD
Planning Director

SHG:shg

o:\ohana\jr\ohana\den\nakano24010073den.doc

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

COUNTY OF HAWAII
BOARD OF APPEALS

GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR

(Type or legibly print the requested information)

APPELLANT: _____

APPELLANT'S SIGNATURE: _____ DATE: _____

ADDRESS: _____

TELEPHONE: (Bus.) _____ (Home) _____

APPELLANT'S INTEREST IN THE PROPERTY: _____

APPELLANT'S NATURE OF APPEAL AND REQUEST: _____

LAND OWNER: _____

TAX MAP KEY: (land in question) _____ AREA OF PROPERTY: _____

STATE LAND USE DESIGNATION: _____ COUNTY ZONING: _____

STREET ADDRESS OF PROPERTY: _____

APPELLANT'S REPRESENTATIVE: _____

REPRESENTATIVE'S SIGNATURE: _____ DATE: _____

REPRESENTATIVE'S ADDRESS: _____

TITLE: _____ TELEPHONE: (Bus.) _____

THIS PETITION MUST BE ACCOMPANIED BY A FILING FEE OF TWO HUNDRED FIFTY DOLLARS (\$250) PAYABLE TO THE COUNTY DIRECTOR OF FINANCE AND:

1. The Original and ten (10) copies of this completed petition with the following:
 - a. A description of the property involved in the appeal in sufficient detail for the public to precisely locate the property.
 - b. A statement explaining the nature of the appeal and the relief requested.
 - c. A statement explaining:
 - (i) How the decision appealed from violates the law; or
 - (ii) How the decision appealed from is clearly erroneous; or
 - (iii) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
 - d. A clear and concise statement of any other relevant facts.
2. Proof of Service by the Appellant on the Planning Director for an appeal from the Planning Director's decision relating to the Zoning Code.
3. A list of the names, address and tax map keys of all owners of property within boundaries established by Section 8-11(d) of the Board of Appeals Rules of Practice and Procedure.