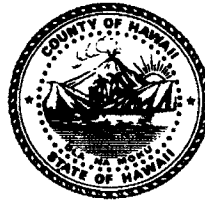


William P. Kenoi  
Mayor



Duane Kanuha  
Director

Joaquin Gamiao-Kunkel  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

**County of Hawai'i**  
**PLANNING DEPARTMENT**

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

August 30, 2016

Mr. Edward A. Horwatt Jr. & Margaret A. Horwatt  
P.O. Box 2393  
Kamuela, HI 96743

Dear Edward A. & Margaret A. Horwatt

**SUBJECT Ohana Dwelling Unit Permit Application (OHD-16-000171)**  
**Applicant(s): Edward A. Horwatt Jr.**  
**Land Owner(s): Edward A. & Margaret A. Horwatt**  
**Proposal: Build an Ohana for their son.**  
**Tax Map Key: (3) 6-5-002: 152 (COR-16-105915)**

Based on our review of your application and comments from the public and 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.

**PROPERTY DESCRIPTION:** The subject property comprises 21,780 square feet and is in the County Agricultural zoning district (A-1a) and the State Urban Land Use District.

**AGENCY COMMENTS:** The subject Application for an Ohana Dwelling Unit Permit was provided to the required agencies for their review. Their respective comments are as follows:

1. The Department of Water Supply (DWS) (memorandum dated AUGUST 17, 2016):

“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, (Account No. 800-26600) 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 Opelo Road, 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 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily-flow of 400 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:	
<u>Install one meter on Opelo Road, a County road</u>	<u>\$3,000.00</u>
<b>Total (Subject to Change)</b>	<b>\$8,500.00</b>

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

3. No comments were received from the State of Hawaii Department of Health, the Hawai'i County Fire Department or the Hawai'i County Department of Public Works.
4. No comments were received from the public.

**ADDITIONAL FINDINGS:** We note the following documents that accompanied your application:

The original and notarized affidavit of **Mr. Edward A. Horwatt Jr. & Margaret A. Horwatt**, included with the Ohana Dwelling application, stating:

“I, Edward A. Horwatt, Jr., hereby certify I am a titleholder of the above noted property.”

“I, Edward A. Horwatt, Jr., hereby certify that provisions of any restriction, covenant, or other land use restrictions applicable to the above stated lot by way of deed or lease or other provision do not prohibit the construction or placement of an ohana dwelling unit or second dwelling unit on the above noted property.”

**ANALYSIS:**

1. **Minimum building site area.** The proposed 21,780 square foot building site for the subject Ohana Dwelling Permit application meets the requirement of the Hawai'i County Code, Chapter 25 (Zoning Code), Section 25-6-35, that the minimum building site area for a building site containing both the first dwelling and the ohana dwelling unit shall be 10,000 square feet.
2. **No guest house.** There is no guest house located on the property.
3. **Off-street parking spaces.** The proposed site plan designates two parking spaces for the proposed ohana dwelling as well as two parking spaces for the existing first dwelling. Access from the street needs to comply with all Department of Public Works regulations.
4. **Adequate public facilities.** The County Department of Water Supply has stated that county water service, by way of installation of an additional water meter at the property owner's expense, is available for the proposed ohana dwelling unit. No other government agency has identified any deficiency in adequacy of other public facilities required by the Zoning Code, Section 25-6-30, for Ohana Dwellings
5. **Other applications or approvals.** Ohana Dwellings 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), or where a second dwelling unit is specifically prohibited by a change of zone ordinance. No

application for a variance from the Zoning Code has been applied for to permit the placement or construction of an ohana dwelling on the subject property. There are no pending subdivision actions affecting the subject property, nor has any variance, Planned Unit Development, Cluster Plan Development, or other preemption from requirements of the Hawai'i County Code been granted. The applicant has not submitted any OHD applications in the previous two years.

Therefore, the application meets the requirements of the Zoning Code for an Ohana Dwelling Permit.

**DECISION AND CONDITIONS:** Based on the information set forth above, 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 all requirements of the Zoning Code relating to Ohana Dwellings and Rule 12 of the County of Hawai'i 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 August 29, 2017.**

Please attach a copy of this Ohana Dwelling Permit to your building permit application to assist the reviewing agencies in expeditious processing of the building permit application for 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.

**Prior to submitting your Building Permit Application**, the property owner shall apply to the DWS and (1) obtain their written commitment for a second water meter, (2) pay any required facilities charge and service lateral installation charges to the DWS, and (3) submit proof of payment of such charges with the submittal of a building permit application.

1. Requirements for Height, Site Area (Lot size), Yard (Setback) and Off-Street Parking (Parking spaces). The permitted ohana dwelling shall comply with the following specific requirements in addition to any others set forth in the Zoning Code or Planning Department Rules:

- a) Height limit: The height limit for the proposed attached Ohana Dwelling Unit shall be twenty-five (25'-0") feet.
- b) Minimum Yards (Setbacks) and Open Space: The respective minimum open space and setback requirements for the proposed **detached** Ohana Dwelling Unit to be located on the subject TMK property shall be as follows:
  - Front yard(s) – minimum **thirty** (30) feet required;
  - Side yard(s) – minimum **twenty** (20) feet required;
  - Rear yard(s) – minimum **thirty** (30) feet required;
  - Open space from other main structure(s) – minimum **fifteen** (15) feet required.
- c) 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.

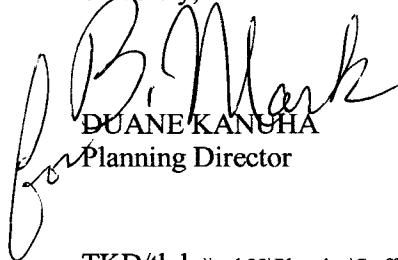
2 This Ohana Dwelling permit is subject to all other applicable rules, regulations and requirements of the Planning Department, Department of Public Works, Fire Department, and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.

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, Hawai'i 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, Hawai'i County Code, as amended.

Should you have any questions on this matter, please contact Terry Dunlap of the West Hawai'i office at (808) 323-4770.

Sincerely,

  
DUANE KANAHA  
Planning Director

Mr. Edward A. Horwatt Jr. & Margaret A. Horwatt  
August 30, 2016  
Page 5

Dept. of Public Works  
Real Property Tax  
Dept. of Water Supply  
GIS Section (via email)