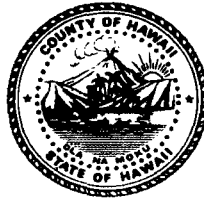


Harry Kim
Mayor

Wil Okabe
Managing Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
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County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

Duane Kanuha
Deputy Director

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

October 10, 2019

Mrs. Sha Zhu
Mrs. Mingdong Dang
2039 Waiānuenu Avenue
Hilo, HI 96720

Dear Mrs. Zhu & Mrs. Dang:

SUBJECT: Application: 'Ohana Dwelling Unit Permit (OHD-19-000196)
Applicants: Sha Zhu & Mingdong Dang
Land Owners: Sha Zhu & Mingdong Dang
Request: To Construct One Two-story 'Ohana Dwelling Duplex Unit
Tax Map Key: (3) 2-5-009: parcel 019, Lot 7, Pi'ihonua, S. Hilo

The above-referenced application for an 'Ohana Dwelling Unit (OHD) Permit has been reviewed and completed. Additionally, the review included comments received from the public and government agencies. Two decisions were reached:

- The Planning Director's determination APPROVED the application for an OHD Permit;
- Secondly, the approval is for the construction of one residential building for an 'ohana duplex dwelling, subject to the conditions stated in this letter.

REQUEST

The landowner-applicants, Zhu and Dang, requested an OHD Permit to construct on the above-referenced TMK property, parcel 19, Lot 7, one two-story 'ohana duplex dwelling. According to the applicants, the 'ohana duplex is to replace a 1951 or 1953 existing dwelling, a structure subject to a County demolition permit.

FINDINGS: STANDARDS & REQUIREMENTS for an OHD PERMIT APPLICATION

Generally, before an OHD permit can be approved and issued to parcel 19, Lot 7, a Planning Director's review, determinations, and findings is required of the following sixteen or so eligibility standards and requirements. These standards or requirements are from the County Zoning Code and the Planning Department Rule that regulate or is germane to the review and approval of an OHD permit application.

Where stated, references are made to citations from two sources of County authority: the Hawai‘i County Zoning Code Chapter **25**, specifically section (sec.) **25-6-30**, and related code sections (secs.). The County Zoning Code states the regulatory standard governing ‘Ohana Dwellings; and the second authority cited is Planning Department Rule 12, ‘Ohana Dwelling Units. Rule 12 is the Department’s administrative rules that also regulate ‘Ohana Dwelling units; in addition, the rule establishes the procedures to process an OHD Permit application, according to Rules 12-1 and 12-2.

For the Zhu and Dang ‘Ohana Dwelling permit application, the Planning Director has made the following determinations and findings:

- **Legal Lot of Record Standards.** The Hawai‘i County Zoning Code and Planning Department Rule require the ‘ohana duplex dwelling proposed for parcel 19, Lot 7, to be on a legal lot of record, as determined by the County Planning Director. Zoning (Z.) Code sec. 25-6-30 (a) and Planning Dept. Rule 12-4 (a).

Rule 12-3 (b) states the three separate categories that define a “legal lot of record:”

The first category states, that a ‘legal lot of record’ means a lot created through the county land subdivision process of the current Hawai‘i County Subdivision Code Chapter 23 (1975 amended);

The second category, provides for a legal lot of record created from an earlier county regulatory land subdivision code and ordinance. (Generally, the older law is no longer in effect);

The third and final category provides for pre-existing lots to qualify as a ‘legal lot of record.’ Pre-existing lots are shown to have been created before the adoption of any codes and ordinances regulating land subdivisions.

This third category would also include nonconforming parcels lawfully in existence on dates specified in the Zoning Code, but the lot does not conform to the regulatory standards of its zoning classification. Sec. 25-1-5 (b), definition of nonconforming parcel.

The Planning Director has determined and found that parcel 19, Lot 7 qualifies as a legal lot of record under either the above category two or category three legal lot of record classification:

Parcel 19, Lot 7 was officially created by County land Subdivision No. 334 (approved: September 11, 1950) – and, at that time, the parcel was either approved from an earlier scheme of a County regulatory land subdivision code and ordinance; or instead, this parcel

by its 1950 approval date, is a pre-existing lot approved and created before the adoption of any local codes and ordinances regulating land subdivisions in Hawai'i County.

In any case, the Subdivision 334 lots were reviewed and approved by the former County Planning and Traffic Commission (September 13, 1950); the County Board of Water Supply (September 7, 1950) (the BWS identified water service to the subdivision from either a reservoir water source or from a completed 6" Cast Iron line;'); the County Department of Public Works (September 7, 1950); and the Territory of Hawai'i Department of Health (September 5, 1950) (approving individual cesspool systems).

- **OHD Permit Application and Completion of Subdivision Improvements for Building Site, parcel 19, Lot 7:** sec. 25-6-31 (a) and Rule 12-5 (a) requires that the OHD permit application for parcel 19, Lot 7 – shall only be accepted and processed *after the completion of all subdivision improvements* required by Haw. County Code Chapter 23 – the amended 1975 Subdivision Code.

The Planning Director's determination finds that the completion of subdivision improvements to the current 1975 Subdivision Code is not germane and does not apply to this application. Parcel 19, Lot 7 was legally created by a 1950 final subdivision approval, Subdivision No. 334, an action that predates the effective application of the current 1975 amended Subdivision Code. Therefore, the standards and requirements of the current Subdivision Code, effective since 1975, was not in effect to apply to lots approved and created in 1950. See below discussion on 'variance-like stipulation.'

- **A variance-like stipulation 'absolving' the County from the 'cost' of 'roadway' maintenance** was issued for Subdivision 334 by the former Planning and Traffic Commission in its September 11, 1950 written decision.

The **Planning Director finds**, however, that the former Planning and Traffic Commission's variance-like stipulation does not violate sec. 25-6-38 and Rule 12-10 (b). These standards prohibit approval of an 'Ohana Dwelling for a building site *that received a variance from either the Hawai'i County Code Chapter 25 – the amended Zoning Code (1996, ratified 1999) or from Chapter 23 - the amended Subdivision Code (1975).* Emphasis added.

The Planning Director finds that the former Planning and Traffic Commission granted the variance-like stipulation in 1950, decades before the amended 1996 Zoning Code and the amended 1975 Subdivision Code became effective in Hawai'i County. Since the current Zoning and Subdivision Codes did not exist in 1950, parcel 19, Lot 7 and the twelve lots created by Subdivision No. 334, have not and could not have received the benefit of a variance from current regulatory code standards that only became effective in 1996, 1975, and 1967 (when County-wide zoning code standards and regulations became effective, according to sec. 25-3-5).

And in general, **the Department's planning practice** applies the two current codes prospectively: applying the respective code's regulatory standards from its effective date going forward in calendar time.

Secondly, both of the current codes do not state any authority to apply its respective regulatory standards retrospectively: to reach back from the code's effective date and to apply current code standards to regulate an existing building site that received its regulatory approvals before these code standards were in effect. In such a situation, it is the Zoning Code's nonconforming standards that would be considered and applied for pre-existing lots and lots that predate the current regulatory code standards.

Furthermore, **the former Commission's variance type stipulation** did not pertain to the subject parcel 19, Lot 7: rather, the stipulation only benefitted two lots: the flag lots of parcel 16, Lot 3, and parcel 20, Lot 8.

Roadway Misnomer v. Flag-pole Corridor Access. Finally, an evaluation of Subdivision 334's County-approved final plat map confirmed that the 'roadway' referred to by the former Commission is a misnomer; the alleged 'roadway' is instead, the sole private flag-pole access corridors for two respective flag-pole lots, the above identified parcel 16, Lot 3 and parcel 20, Lot 8. The flag-pole access corridors of these lots are not private or public roadways that serve any portion of the twelve lot subdivision.

The former Commission's 1950 variance-like stipulation incorrectly applied the term 'roadways' to describe the separate private flag-pole access corridors to two individual fee simple parcels.

- **County Zoning and State Land Use Classifications.** Parcel 19, Lot 7's County zoning classification is: Single-Family Residential - 15,000 (RS-15) square feet:

According to sec. 25-6-30, **an 'Ohana Dwelling shall be permitted on a building site within a county RS zoning district.** Emphasis added. See also sec. and 25-5-8 (c).

The parcel is classified in the State Land Use Urban district; therefore, the lot is subject to and within Hawai'i County's regulatory jurisdiction, according to the state law of Haw. Revised Statutes sec. 205-2 (b).

- **Parcel 19's lot area:** 15,068 square feet, exceeds and is consistent with the mandatory minimum 15,000 square-foot building site standard required of RS-15 zoning and sec. 25-6-35 (a).

- **Yard Setback Standards.** According to the submitted conceptual site plan, the proposed “attached ‘ohana unit” or ‘ohana duplex dwelling, complies with the minimum 20-foot front and rear yard and 10-foot side yard setback standards of county RS-15 zoning. Sec. 25-5-7 (2).
- **Option for Duplex Dwelling.** An ‘ohana dwelling unit may be constructed as a duplex. Sec. 25-6-35 (c) and Rule 12-9 (a).
- **Affidavit of Ownership or Title Interest to Parcel 17, Lot 9.** The Planning Director’s determination finds that the landowner-applicants have satisfied the performance requirements for sec. 25-6-39 (a)(2), identifying the landowners of the subject property in the application; and, the Rule 12-11 (c) requirement for a notarized affidavit attesting to the applicants’ titleholder status.

In lieu of a Rule 12-11 (c), notarized affidavit, the following two documents are accepted to confirm and substantiate that applicants, Zhu and Dang, are the landowners or titleholders of parcel 19, Lot 7:

The first documentation is a copy of the Email from the COH Real Property Tax Administrator, Lisa Miura, to Sha Zhu & Mingdong Dang (June 26, 2019); and, the second document, is a copy of the COH Parcel History of TMK: 2-5-009:019, Lot 7 (June 26, 2019).

- **Eligibility Criteria for an OHD Permit Application.** The following two matters are resolved according to sec. 25-6-31 (b), eligibility criteria of the subject OHD application:

The landowner-applicants, Zhu and Dang, have not submitted any OHD applications in the previous two years. For these landowners, the recent OHD application is the only active application that has received processing.

Secondly, the OHD application names Zhu and Dang to be the landowners and titleholders of the subject property; and therefore, **according to sec. 25-6-31 (b), Zhu and Dang shall be considered the applicants.**

- **The Requested OHD Permit Application is not Located in a ‘Prohibited Area’ of sec. 25-6-32 (a) through (f).** As indicated in the discussion sub-title, the ‘ohana duplex dwelling approved for parcel 19 will not be located in any of the six prohibited areas specified in the above-cited County Zoning Code section:

- (a) The parcel location is in the State Land Use Urban district, and not in the SLU Conservation district;

- (b) Parcel 19, Lot 7 is a legal lot of record created from a land subdivision of private land (a portion of the former sugar plantation Camp 3) by a private fee simple landowner (the former Hilo Sugar Company) for twelve individual fee simple lots; therefore, it is not a building site developed under a State or County approved affordable housing project;
 - (c) According to County Planning Department records, the subject building site was not developed from a Planned Unit Development (PUD) or a Cluster Plan Development (CPD);
 - (d) The parcel building site does not benefit from a zoning density classification that permits more than one dwelling unit, as specified in sec. 25-6-32 (d); in addition, the existing dwelling on the building site is a structure subject for complete demolition under County demolition permit, BH2018-01360 (9/7/18). Therefore, the Planning Director finds that the existing dwelling, under a demolition permit for complete demolition, is not a dwelling transient vacation unit prohibited by sec. 25-6-32 (d).
 - (e) As discussed above, parcel 19, Lot 7 is not a subject of and does not benefit from any variances from Haw. County Code Chapter 23 – the Subdivision Code, and Chapter 25 – the Zoning Code. Additionally, there is no pending subdivision application for the subject TMK property.
 - (f) Finally, the parcel 19, Lot 7 building site is not subject to a performance condition of a County rezoning ordinance that specifically prohibits the construction of an ‘ohana dwelling or a second dwelling unit.
- **Affidavit Requirement: Status of Restrictions or Covenants to Building Site.** The landowner-applicants have satisfied the performance requirements of sec. 25-6-39 (a)(3) and Rule 12-11 (d). Their notarized affidavit was submitted with the OHD application.

Generally, the affidavit affirms, that to the landowner-applicants’ knowledge, there is no deed, lease, or other recorded document of restrictions or covenants to prohibit an ‘ohana dwelling or second dwelling unit on the parcel 19, Lot 7 building site.

- **Performance of Second Notice: Compliance with Notice Standards, Proof of Service or of Good Faith Efforts to Serve Notice: Confirmed.** Zhu and Dang, submitted copies of certified receipts, the list of surrounding lot owners and lessees, and the form notice letter (dated August 10, 2019). These materials documented that the landowner-applicants

supplied the necessary calendar date information and fulfilled the second notice standards of sec. 25-2-4 (d) and sec. 25-6-39 (b).

- **Public Facilities Standards and Service to the ‘Ohana Duplex Dwelling.**
County Zoning Code sec. 25-6-30 (d)(1) through (4) and Planning Department Rule 12 (d)(1) through (4) require four adequate public facilities to serve the building site of parcel 19, Lot 7 and the ‘ohana duplex dwelling:

(d)(1): an adequate sewage disposal system:

The building site of parcel 19, Lot 7 shall be served by an adequate public or private sewage-wastewater disposal system. The public system option shall meet County Department of Public Works (DPW) or Department of Environmental Management (DEM) regulatory standards and approval; or in the alternative, an option is allowed for an adequate private system, e.g., an individual wastewater septic (IWS) system. A private IWS system, shall comply with State Department of Health (DOH) regulatory standards and approval.

(d)(2): an adequate potable water system:

The building site shall be served by a public or private water system that can accommodate the ‘ohana duplex dwelling; and, the system meets the regulatory requirements and approval of the County Department of Water Supply (DWS). An alternative option is also allowed for a private water catchment system (WCS).

The option of a private WCS for parcel 19, Lot 7 requires three approvals: a Planning Director’s determination that there is sufficient annual rainfall to accommodate a WCS in the Pi‘ihonua - Hilo Forest Reserve, South Hilo area; and, the WCS for this building site complies with requirements and approvals of the State DOH and the County DWS.

See below discussion: Public Agency Written Comments, Exhibit A: County DWS.

Finding: the Planning Director’s determination finds there is sufficient rainfall for a WCS to service the parcel 19, Lot 7 building site location in the Pi‘ihonua - Hilo Forest Reserve, South Hilo area.

This building site has an **annual rainfall of between 180 inches to 200 inches**, according to the data available on the Planning Department’s ArcReader Geographical Information System (GIS) (2011 Rainfall Atlas of Hawai‘i).

In contrast, as guidance, the Department’s Rule 22-4 water variance standard requires that ‘... lots ... served by a [WCS] shall have an annual rainfall of not less than 60 [inches].’

Therefore, the Planning Director's determination finds, that the available GIS rainfall data confirms, allegedly, there is sufficient rainfall for an adequate potable water system - private WCS on the building site of parcel 19, Lot 7.

(d)(3): Adequate Fire Protection measures:

The parcel 19, Lot 7 building site shall be served by adequate fire protection measures meeting the requirements of the Hawai'i County Fire Department (HFD).

Access to a Public or Private Street:

The building site for the 'ohana duplex dwelling shall have access to a public or private street meeting County DPW requirements.

The Planning Director finds that street access for parcel 19, Lot 7 was determined in 1950 with the final approval of Subdivision 334, the land subdivision that created the legal lot of record of this building site; consequently, this building site has existing direct access to a public street, Waiānue Avenue.

- **Planning Director's General Findings: Public Facilities Infrastructure.**

This letter is the County land use permit that approves the requested OHD duplex dwelling for the parcel 19, Lot 7 building site; however, construction of the 'ohana duplex is a subject matter of a separate procedure, the County building permit (BP) application process.

Legal construction of the 'ohana duplex dwelling requires an officially approved and issued BP. The application and approval process for a County BP effectively applies the regulatory standards to construct adequate systems for sewage disposal and a water source to serve parcel 19, Lot 7.

The Planning Director's determination finds that the 'ohana duplex dwelling permit shall state conditions that require the above-discussed three public facilities infrastructure: an adequate sewage disposal system; an adequate potable water system; and, adequate fire protection measures.

- **Zoning Code Human Occupancy Standards for Residential Dwellings** are mandatory standards required by sec. 25-4-2 (a)(1) and (2); it regulates 'Conditions for Construction of Buildings Designed for Human Occupancy.' These standards are a 'General Development Regulation' and a 'Use Regulation' of the County Zoning Code (Chapter 25 Article 4 and Division 1) and, as a result, it applies to the 'ohana duplex dwelling approved for parcel 19, Lot 7.

The first standard requires an approved water system for the subject building site; and, the water service can be delivered from the County water system or from a private or individual delivery system.

The above **Planning Director's determination found** sufficient rainfall for an adequate potable water system - private WCS for this building site. This finding also supports the human occupancy standard that the water delivery system for this building site is required to be approved by the County building permit (BP) application process.

The second standard requires a residential wastewater system approved by the State of Hawai'i Department of Health.

Please note: These two system improvements for the 'ohana duplex dwelling require compliance with the regulatory standards of the County building permit (BP) application process.

PUBLIC AGENCY REVIEW & WRITTEN COMMENTS

Rule 12-13 (a) through (d) required that the Zhu-Dang OHD permit application be forwarded to four public agencies for review and comment on the adequacy of public or private infrastructure to accommodate the proposed 'ohana duplex dwelling on its building site:

The Hawai'i State Department of Health (DOH); the Hawai'i County Department of Environmental Management (DEM), County Department of Water Supply (DWS), and the Hawai'i County Fire Department (HFD).

Two departments supplied written comments, and these comments are included with this decision, as Exhibits A and B:

Exhibit A: the County Department of Water Supply (DWS) Memorandum (August 12, 2019) is enclosed and with this approval letter, it is incorporated as a condition of the OHD permit.

Finding: According to the County DWS, the public water service to parcel 19, Lot 7 is adequate for only one (1) dwelling unit, at an average of 400 gallons per day; secondly, the existing DWS water system cannot support an additional water meter for the second dwelling of the 'ohana duplex dwelling. Consequently, DWS cannot deliver water service to the second dwelling of the 'ohana duplex dwelling; and, there is insufficient funding and no time table to extend, upgrade, and improve the existing County water delivery system to benefit parcel 19, Lot 7.

DWS did not object to an approval of the 'ohana duplex; however, DWS stated that the two dwellings within the duplex shall not share the existing water meter; and, between the two dwellings, the water plumbing system shall not be interconnected in any way.

Exhibit B: the State Department of Health (DOH) Memorandum (September 3, 2019) is also enclosed and incorporated with this approval letter.

WRITTEN COMMENTS from the PUBLIC

Written comments were received from three adjoining lot owners or nearby neighbors. In general, comments opposed approving an 'Ohana Dwelling Unit Permit for parcel 19 to construct a second separate single-family dwelling. Additionally, a concern was stated on the potential obstruction of an adjoining driveway access. These comments were received as a result of the landowner-applicants fulfilling the mandatory notification to surrounding landowners and lessees. Landowner-applicants, Zhu and Dang, replied in writing to one commentator who supplied a courtesy copy of the comment and an address to reply to.

DECISION AND CONDITIONS

The discussion of the above findings substantiates that the Zhu and Dang application meets the requirements for an OHD Permit; as a result, the above findings is the basis of the Planning Director's determination to **APPROVE** the OHD Permit Application for parcel 19, Lot 7.

The approval permits the construction of one single-family OHD duplex dwelling to replace the existing dwelling. Furthermore, **the approval of the OHD duplex dwelling is SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The approved OHD duplex dwelling is **subject to and shall comply with the standards and requirements for 'Ohana Dwellings** of Hawai'i County Zoning Code sections 25-6-30 through 25-6-39.7; and, the County of Hawai'i Planning Department Rule 12 - 'Ohana Dwelling Units.
2. **Non-transferability:** The approved OHD permit shall be personal to the applicant until construction of the OHD has been completed. The permit shall not be transferable or assignable to any other person until construction of the 'ohana dwelling is completed and the Director of the County Department of Public Works has issued final approval on the completed construction. Sec. 25-6-39.3 (a) and Rule 12-17.
3. **No Advertising of Transferability:** No person shall advertise or represent to the public that the permit to construct an OHD is transferable with the sale of the property on which the permit has been granted. Sec. 25-6-39.3 (b) and Rule 12-18.
4. **Standards & Requirements for Height, Minimum Building Site Area (Lot Size), Yard Setback and Off-Street Parking Spaces (on-site parking requirements):**
 - a) **The 'Ohana Dwelling & Main Building Height Limit:** The height limit for the approved OHD duplex dwelling is **thirty-five (35'-0") feet**, according to the single-family residential (RS) standards of sec. 25-5-4.

Note: The building height is measured to an **average building height**, defined in Z. Code sec. 25-1-5 (b). Please see the enclosed informational sheet: 'Building Height' (May 24, 2001).

- b) **Minimum Yard Setbacks and Minimum Open Space-Clear-Space Standards:** For the 15,000+ sq. ft. lot area of parcel 19, the proposed 'ohana duplex dwelling unit is required to comply with the yard setback and open space requirements of Z. Code secs. 25-6-35 and 25-4-7 (2).

On parcel 19, the approved OHD duplex dwelling shall comply with the County Zoning Code standards that regulate this parcel's minimum front, rear, and side yard setback and open/clear space requirements. Construction and emplacement of the OHD duplex dwelling shall observe the following minimum yard setback standards:

- Front & Rear yard minimum setback: **twenty (20')** feet;
- Side yards – minimum setback: **ten (10')** feet.

- d) **Off-Street Parking Standard:** The OHD duplex dwelling shall provide a minimum of two (2) off-street parking spaces; all existing and additional parking spaces shall be arranged so as to be individually accessible; pavement of the on-site residential parking spaces is not required; for residential parking spaces, any material may be used that will eliminate erosion and standing water. Secs. 25-4-51 (a)(7) and 25-4-54 (a) and (d).

Note: On-site parking for this building site is approved **for residential use, only, for a residential 'ohana duplex dwelling**; on-site parking is not approved for non-residential short-term vacation rental purposes or uses.

Driveway Access & On-site Parking: On-site parking shall not obstruct, block or inhibit the egress and ingress of driveway access to the subject building site or the driveway access of adjoining or other neighboring lots.

5. **Guest House: Not Permitted.** Since an 'ohana duplex dwelling has been approved for the parcel 19, Lot 7 building site, a detached accessory guest house shall not be permitted or constructed, according to sec. 25-6-36.
6. This OHD permit is subject to **all other applicable rules, regulatory standards and requirements** of the County Planning Department, Department of Public Works (DPW), Hawai'i County Fire Department (HFD), Department of Water Supply (DWS), the State of Hawai'i Department of Health (DOH), and other reviewing agencies or departments required and listed on the County DPW Building Permit Application.
7. **Variations Prohibited.** For the parcel 19, Lot 7 building site, a variance from the Hawai'i County Code Chapter 25 - Zoning Code standards and the Chapter 23 - Subdivision Code

standards shall not be granted to permit the construction and emplacement of the 'ohana duplex dwelling.

8. **The Building Permit (BP) Application Process for the 'Ohana Duplex Dwelling: The Zoning Code Public Facilities Standards and Standards to Construct Buildings Designed for Human Occupancy.**

Construction of the approved 'ohana duplex dwelling on the subject building site shall comply with the County Zoning Code regulatory standards for public facilities and human occupancy standards, discussed above; in addition, construction of the OHD duplex shall comply with the regulatory standards and approvals required of the County BP application process.

Three system improvements of public facilities are required to service the building site and the 'ohana duplex dwelling and comply with the regulatory standards and approvals required of the County BP application process:

a) **An adequate sewage disposal system;**

b) **An adequate potable water system:**

The option of using a WCS (water catchment system) **requires approvals** of the State Department of Health (DOH) and the **County Department of Water Supply (DWS)**.

The landowner-applicants, Zhu and Dang, **shall submit written documentation to the Planning Department that the WCS** proposed for this building site has received approval from the two respective State and County regulatory departments.

Documentation from the County DWS is required *before* signature approval can be issued to the BP application. **State DOH signature approval of the BP application** will be accepted as documentation to satisfy this performance condition.

Consistent with the State DWS Memorandum of Comments (August 12, 2019): The 'ohana duplex dwelling **shall not share the existing water meter**; in addition, between the two dwellings of the 'ohana duplex building, **the water plumbing system shall not be interconnected in any way.**

c) **Adequate fire protection measures:**

For the option of a WCS, Zhu and Dang, are required to consult with the County Fire Department and Fire Inspector. The consultation is to **determine the adequate fire protection measures that shall service this building site and the 'ohana duplex dwelling** – subject to the standards and approval of the Hawai'i Country Fire Department (HFD).

Before signature approval can be issued to the BP application for the 'ohana duplex dwelling - written documentation from the HFD is required to be submitted to the Planning Department that discusses the adequate fire protection measures that may or may not be needed for this building site.

9. The 'ohana duplex dwelling is **not approved for use as a non-residential short-term vacation rental (STVR).**

For questions that may arise or if clarification is needed on the discussion of the above findings and conditions, please contact staff planner, Earl Lucero at (808) 961-8160.

Sincerely,



MICHAEL YEE
Planning Director

EML:jaa

P:\Admin Permits Division\Ohana\2019\OHD-19-000196 ZhuDang\APVL-OHD-19000196 ZhuDang.docx

Encl: Exhibit A: COH Dept. of Water Supply Memo dated August 12, 2019
Exhibit B: State Dept. of Health Memo dated September 3, 2019
Zoning Code definition of 'Building Height'

cc: Dept. of Health, Chief Sanitarian
Dept. of Water Supply
Hawai'i Fire Dept.
Dept. of Public Works
GIS Section (via email) w/enclosure



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAI'I
345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAI'I 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 12, 2019

2019 AUG 13 PM 2 33
PLANNING DEPARTMENT
COUNTY OF HAWAII

TO: Mr. Michael Yee, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Ohana Dwelling Unit Permit Application**
(OHD 19-000196)
Applicant – Sha Zhu and Mingdong Dang
Tax Map Key 2-5-009:019

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

An existing 5/8-inch meter services this property and is adequate for only one (1) dwelling unit at an average of 400 gallons per day. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's regulations. However, the Department's existing water system facilities cannot support an additional water meter at this time. Extensive improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission, and distribution facilities, would be required. Currently, sufficient funding is not available from the Department for such improvements 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 service to the proposed ohana dwelling. Should the application be approved, all dwellings shall not share the existing meter, and the water system plumbing between any dwellings shall not be interconnected in any way.

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

Sincerely yours,

Keith K. Okamoto, P.E.
Manager-Chief Engineer

TS:dfg

copy - Sha Zhu and Mingdong Dang
DWS Customer Service Section (Hilo)

EXHIBIT

A

SCANNED

... *Water, Our Most Precious Resource* ... *Ka Wai A Kāne* ...

The Department of Water Supply is an Equal Opportunity provider and employer.

AUG 14 2019

127175



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: September 3, 2019

TO: Mr. Michael Yee
Planning Director, County of Hawaii

FROM: Eric Honda *EH*
District Environmental Health Program Chief

SUBJECT: Application: Ohana Dwelling Unit Permit (OHD-19-000196)
Applicants: Sha Zhu and Ming Dong Dang
LandOwners: Sha Zhu and Ming Dong Dang
Request: To Construct One Two-Story Ohana Dwelling Duplex Unit
TMK: 2-5-009:019 LOT7

2019 SEP 3 pm 12 11
 PLANNING DEPARTMENT
 COUNTY OF HAWAII

The applicant would need to meet the requirements of our Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawaii for fugitive dust control. If there is need to discuss these requirements, please contact our Clean Air Branch staff at Ph. 933-0401.

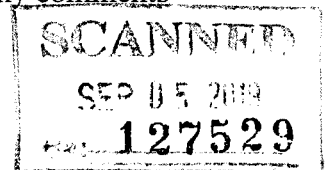
Construction activities must comply with the provisions of Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control."

1. The contractor must obtain a noise permit if the noise levels from the construction activities are expected to exceed the allowable levels of the rules.
2. Construction equipment and on-site vehicles requiring an exhaust of gas or air must be equipped with mufflers.
3. The contractor must comply with the requirements pertaining to construction activities as specified in the rules and the conditions issued with the permit.

Should there be any questions on this matter, please contact the Department of Health at 933-0917.

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.

EXHIBIT
B



May 24, 2001

RE: **Building Height**
Defined by Hawaii County Zoning Code sec. 25-1-5(b)(16)

FR: **EML**

“Building Height” means

- The vertical distance above a reference datum
- measured to the highest point of the coping of a flat roof,
- or to the deck line of a mansard roof,
- or to the average height of the highest gable of a pitched or hipped roof.

- The reference datum shall be selected by either of the following, whichever yields a greater height of building:
 - (A)
 - The elevation of the highest adjoining sidewalk or ground surface
 - within a 5-foot horizontal distance of the exterior wall of the building
 - when such sidewalk or ground surface is not more than 10-feet above lowest grade.

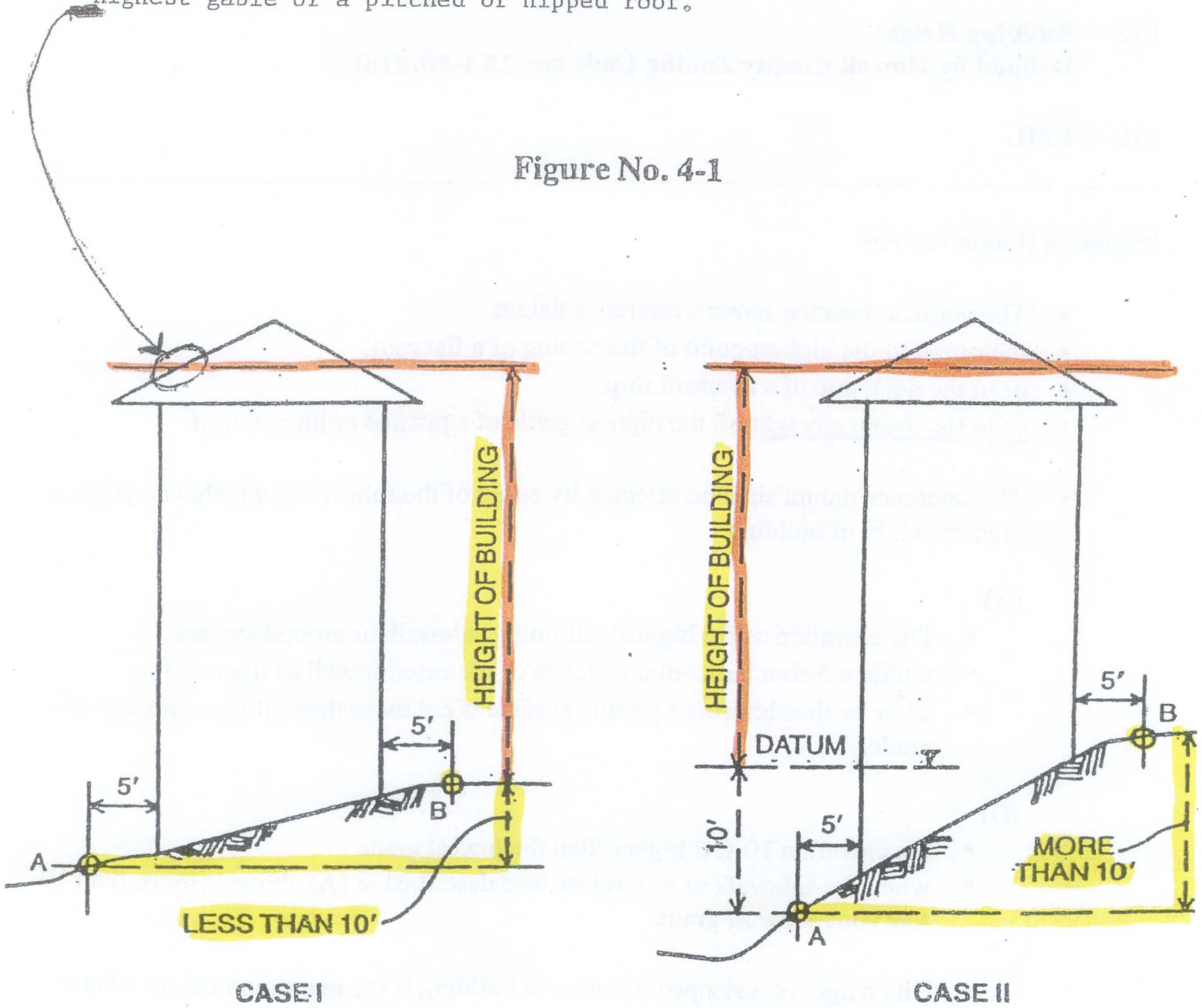
 - (B)
 - An elevation 10-feet higher than the lowest grade
 - when the sidewalk or ground surface described in (A) above is more than 10-feet above lowest grade.

- The height of a stepped or terraced building is the maximum height of any segment of the building.

1991 Uniform Building Code sec. 409-
Height of Building:

is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.

Figure No. 4-1



DETERMINATION OF BUILDING HEIGHT IN FEET

Figure No. 4-2