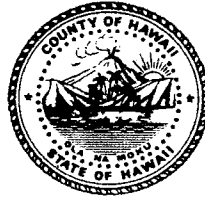


Mitchell D. Roth
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Lee E. Lord
Managing Director



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County of Hawai'i PLANNING DEPARTMENT

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September 23, 2021

Dustin Morita
1089 Oihana Street
Hilo, HI 96720

Dear Mr. Morita:

Ohana Dwelling Unit Permit Application (OHD-21-000207)
Applicant: Dustin Morita
Owner: Dustin Haru Morita
State Land Use: Urban
County Zoning: Single-Family Residential (RS-15)
Land Area: 0.669 acres
TMK: (3) 2-4-010:003

Upon review of your application and as applicable, comments from the public and government agencies for a detached Ohana Dwelling Unit Permit (OHD), you are hereby **granted** approval to construct a detached OHD subject to conditions set forth below in this letter.

REQUEST

The applicant is requesting an OHD Permit to allow for an additional dwelling unit on the subject property.

PROPERTY DESCRIPTION

The subject TMK parcel, comprising of 0.669 acres (29,141 square feet), is situated within a Por. of Waiakea Homesteads, South Hilo, Hawai'i. The property is zoned Single-Family Residential – minimum building site of 15,000 square feet (RS-15) by the County and is situated within the State Land Use Urban district.

AGENCY COMMENTS

The subject Application for an OHD Permit was reviewed by the required agencies and their respective comments are as follows:

1. The Hawaii County Department of Public Works (DPW): See attached memorandum dated August 6, 2021 (**Exhibit A**);
2. The Department of Water Supply (DWS): See attached memorandum dated August 30, 2021 (**Exhibit B**);

3. The Hawai'i County Fire Department (HFD): See attached memorandum dated September 7, 2021 (**Exhibit C**);
4. The State of Hawai'i Department of Health (DOH): See attached memorandum dated September 14, 2021 (**Exhibit D**).

COMMUNITY COMMENTS

There were no comments from the surrounding property owners or the public.

ADDITIONAL FINDINGS

We note the following documents that accompanied your application:

The original and notarized affidavits of Dustin Morita, dated January 7, 2021, included with the OHD application states:

- 1) *"Dustin Morita is the tile holder of the parcel, TMK (3)2-4-010-003-0000."*
- 2) *"The parcel number is TMK (3)2-4-010-003-0000. There are no covenants or any other land use restrictions that are applicable to the lot by way of deed or lease or other provision do not prohibit construction or placement of an "Ohana" dwelling."*

With regards to the existing dwelling unit, the application site plan shows that a portion of the existing dwelling building, consisting of carport and storage areas, are encroaching into the ten-foot, eastern side yard setback area. Review of the County's Real Property Tax (RPT) Field Book records indicate that that portion of the dwelling was in existence from the 1950's, which preceded the adoption of the first zoning ordinance. We further note that the RPT Field Book records also indicate that the building was assessed for tax purposes as early as 1952. See attached RPT Field Book records for TMK 2-4-010:003 (**Exhibit E**).

Chapter 25 (Zoning), Article 1 (General Provisions), Section 25-1-5(b) of the Hawai'i County Code defines nonconforming buildings and parcels as "...a building or parcel lawfully in existence on September 21, 1966 or on the date of any amendment to this chapter, but which does not comply with the regulations for the zoning district in which it is located." Therefore, based on the RPT records, we find that the existing dwelling on the subject parcel is considered nonconforming and may remain as-built in its current location, as the dwelling appears to have been built before the adoption of the first zoning ordinance.

ANALYSIS

The proposed building site for the subject OHD application is a legal lot of record greater than 10,000 square feet located within the Single-Family Residential district and is designated Urban by the State Land Use Commission. Additional dwellings are not normally permitted on this lot, and there is no guest house located on the property. There are no pending subdivision actions affecting the subject TMK property, nor has any variance, Planned Unit Development, Cluster Plan Development, or other preemption from requirements of the Hawai'i County Code been granted. There has not been a previously approved variance from the Subdivision Code (Chapter 23) and the Zoning Code (Chapter 25) on the property, nor are there any conditions within a change of zone ordinance that would prohibit an OHD. The applicant has not submitted any

OHD applications in the previous two years. Therefore, the application meets the requirements for an OHD Permit.

With regards to agency comments:

The Department of Water Supply has stated in part in its memorandum dated August 30, 2021, "...that the subject parcel is currently served by a 5/8-inch meter (Account No. 160-02900), which is adequate for only one (1) 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 Mikhala Street, fronting the subject parcel..." (See Exhibit B).

The Department of Health has stated in part in its memorandum dated September 14, 2021, "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 a need to discuss these requirements, please contact our Clean Air Branch staff at Ph. 933-0401..." (See Exhibit D).

DECISION AND CONDITIONS

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

- 1) The proposed OHD shall comply with Ordinance No. 96-47 and Rule 12, the County of Hawai'i Planning Department's Rules of Practice and Procedure relating to OHD's.
- 2) **Non-transferability:** The permit for the OHD 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 prior to completion of its construction to the satisfaction of the Chief Engineer, DPW.
- 3) **Prohibition of Advertising, Sales, Transfers:** No person shall advertise or represent to the public that a permit to construct an OHD is transferable with the sale of the property on which the permit has been granted.
- 4) The proposed OHD shall be constructed and occupied as a single-family dwelling unit, designed for or containing or used as the complete facilities for the cooking, sleeping and living area of a single-family only and occupied by no more than one family and containing a single kitchen.
- 5) **Building Permit:** The applicant is required to secure a building permit from the Department of Public Works, Building Division, within one (1) year from the date of this approval for the construction of the OHD on or before September 23, 2022. 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 OHD on the subject parcel.

Prior to submitting your Building Permit Application:

- a. The applicant shall consult with the DPW to conform with driveway requirements and to address potential runoff issues with the placement of the OHD.
 - b. The applicant shall contact the DWS and pay any required facilities charge and service lateral installation charges to the DWS.
 - c. The applicant shall correspond with the DOH to determine the number and type of individual wastewater systems allowed.
 - d. The applicant shall consult with the HFD to verify the accessibility of the premises for emergency/fire-fighting purposes.
 - e. 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 OHD permit. The Planning Director shall render a decision on the request for a time extension prior to the expiration date of the permit.
 - f. 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.
- 6) 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 OHD shall be **twenty-five** (25'-0") feet.
 - b. Zoning and Minimum Building Site Area (Lot Size): The subject TMK parcel, containing 0.669 acres (29,141 square feet), is zoned Single-Family 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 Hawai'i County Zoning Code, Section 25-6-35 and 25-4-44.

The respective minimum open space, front, side yard and dwelling unit requirements for the proposed detached OHD to be located on the subject TMK property shall be the minimum yard requirements as follows:
 - i) Front yards (along both roadways) - minimum **twenty-five** (25) feet (includes an additional five (5) feet for a detached Ohana dwelling unit);
 - ii) Side yards – minimum **fifteen** (15) feet (includes an additional five (5) feet for a detached Ohana dwelling unit); and
 - iii) Between dwelling units – minimum **fifteen** (15) feet required.
 - d. Off-Street Parking: The OHD 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.

- 7) A guest house shall not be permitted or constructed where an ohana dwelling has been permitted or constructed.
- 8) This OHD permit is subject to all other applicable rules, regulations and requirements of the Planning Department, DPW, HFD, DOH and DWS and other reviewing agencies/divisions listed on the Building Permit Application.
- 9) OHD's 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 OHD.
 - b. An OHD 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.

10) The applicant shall comply and accept the following Department of Water Supply conditions:

- a. 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.
- b. Remittance of the following charge, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

<u>2nd service to the parcel</u>	<u>\$6,095.00</u>
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SERVICE LATERAL INSTALLATION CHARGE:

<u>Install one (1) meter on Mikihala Street, a County road</u>	<u>\$3,000.00</u>
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Total (Subject to Change)	\$9,095.00
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- 11) The applicant shall comply to the following Department of Public Works condition:
 - a. Ohana Dwelling Unit will require Building Permit Application for construction.
- 12) The applicant shall comply with the Department of Health comments dated September 14, 2021. Construction activities must comply with the provisions of Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control."
 - a. 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.
 - b. Construction equipment and on-site vehicles requiring an exhaust of gas or air must be equipped with mufflers.
 - c. The contractor must comply with the requirements pertaining to construction activities as specified in the rules and the conditions issued with the permit.

Dustin Morita
September 23, 2021
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13) **Nonconforming Determination:** The nonconforming determination on the existing dwelling is subject to compliance with Chapter 25 (Zoning), Division 6, Nonconforming Uses and Buildings, of the Hawai'i County Code. If the portion of the building that is nonconforming should be destroyed, it may only be rebuilt in compliance with all current code requirements.

Should you have any questions, please contact Marie Hong of our West Hawai'i Office at (808) 323-4770.

Sincerely,



ZENDO KERN
Planning Director

MH:mh

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Enclosures: Agency Comments - Exhibits A-D
RPT Field Book Records, TMK 2-4-010:003 – Exhibit E

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