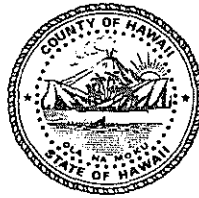


Harry Kim
Mayor Enclosure



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

August 26, 2002

Mr. Bruce Pied
P.O. Box 872
Kealahou, Hawaii 96750

Dear Mr. Pied:

Additional Farm Dwelling Agreement

Applicant: Bruce Pied
Land Owner: Bruce Pied
Tax Map Key: (3) 8-1-017:013

Pursuant to authority conferred to the Planning Director by Chapter 25, Article 5, Division 7, Section 25-5-77 of the Zoning Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for an additional farm dwelling on the subject property. Your submittals included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the enclosed Additional Farm Dwelling Agreement to be submitted for recordation with the Bureau of Conveyances.
2. Name and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
3. Written authorization of the landowner(s) if the lessee filed the request.

Handwritten signature

Exhibit A

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4. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation. Your farm plan included ongoing agricultural activities consisting of 3,672 mature coffee trees and 120 mature macadamia nut trees.
5. In support, evidence of a Form 1040, Schedule F-Profit or Loss From Farming return has been submitted.

Findings:

1. In Chapter 205, Hawaii Revised Statutes (HRS), the State Land Use Law does not authorize residential dwellings as a permitted use in the State Land Use Agricultural district unless the dwelling is related to an agricultural activity or is a farm dwelling. A **farm dwelling** as defined in Section 205-4.5, Chapter 205, HRS, **means a single family dwelling located on and used in connection with a farm, including clusters of single family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling.** (emphasis added)
2. The subject lot was created by subdivision (SUB 810) approved on September 7, 1954, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be used as a single-family dwelling.
3. The Farm Plan, Form 1040, Schedule F, and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and the income is being taxed.

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4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (Letter dated July 25, 2002):

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

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling at 600 gallons per day. This application is proposing an additional detached dwelling, so the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 6-inch waterline in Keopuka Road, approximately 3,500 feet from the subject parcel with a signed “Policy & Conditions for Water Service (Premises not within service limits of the Department).” Lastly, the parcel is currently covered by a Department Elevation Agreement.

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 a maximum daily flow of 600 gallons as the existing service is.
2. Installation of a backflow preventer (reduced pressure type) by a licensed contractor on the applicant’s/private property just after the meter. The installation and assembly of the backflow preventer must be inspected and approved by the Department before the water meter can be installed. The backflow preventer shall be operated and maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicant to help them understand this requirement.

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3. Remittance of the following charges, which are subject to change, to our Customer Service Section:	
a. Facilities Charge (One 2 nd service at \$4,350.00 each)	\$4,350.00
b. Service Lateral Installation Charge (Install one meter on Haleloke Street, a County road)	<u>2,250.00</u>
Total (Subject to Change)	\$6,600.00

Should there be any questions, please call our Water Resources and Planning Branch at 961-8070.”

(b) The Real Property Tax Office did not submit comments.

(c) Department of Health (Memorandum dated July 26, 2002):

“The proposed Septic Tank System would need to be designed by a Registered Professional Engineer licensed by the State of Hawaii. Please submit the plans to the Wastewater Branch in Kona for approval.”

Decision:

In view of the above, your request to construct a second farm dwelling is approved subject to the following conditions:

1. The additional farm dwelling shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.

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2. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional farm dwelling. The enclosed Additional Farm Dwelling Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.
3. All other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25, Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.
4. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
5. This Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter to secure a building permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before August 14, 2004 may cause the Director to initiate proceedings to invalidate the AFDA.

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Should you have questions or require further information, please feel free to contact Larry Brown of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:cps
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Enclosure: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Dept. – Kona

MAP TOO BIG