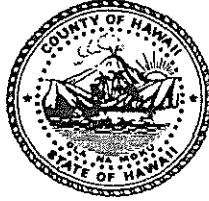


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

September 13, 2004

Richard and Kathleen McDonald
P.O. Box 173
Captain Cook, Hawaii 96704

Dear Mr. & Mrs. McDonald:

Additional Farm Dwelling Agreement (2004-0001)
Applicants: Richard and Kathleen McDonald
Owners: Richard and Kathleen McDonald
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 15.981 acres
TMK: (3) 8-7-006:008

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.
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 the following ongoing and proposed income producing agricultural activities:
 - a. Ongoing agricultural activities include planting, maintaining, and harvesting organically grown vegetables in three (3) greenhouses totaling 5,136 ft.² under roof.
 - b. Catchment water tanks of approximately 70,000 gallon total capacity have been constructed for irrigation and other water needs.

Hawai'i County is an equal opportunity provider and employer

WJ 065579
SEP 17 2004

Richard and Kathleen McDonald

September 13, 2004

Page 2 of 4

- c. A utility farm building for fruit and vegetable market preparation and storage and a garage for farm equipment and supplies are planned.
 - d. Approximately 3.0 acres will be dedicated to the greenhouses, outdoor raised vegetable beds, two water tanks, the utility farm building and circulation space.
 - e. Approximately 3 – 5 acres will be planted in a variety of exotic tropical fruits, such as lychee and rambutan.
 - f. The present labor man-hours are more than 120 per week to propagate, transplant, cultivate, and harvest the greenhouse crops and prepare them for market. Work is presently being done to prepare the ground for raised vegetable beds and the future tropical fruit orchard. At full production the anticipated labor requirement for the organic vegetable operation is 80 hours per week. The average, estimated man-hours for the organic orchard operation at full production is 20 - 40 hours a week, taking into account higher labor requirements during pruning, harvesting, and packing at certain times of the year.
5. In additional support, you provided your General Excise Tax license number, a copy of your application for organic farm certification with HOFA, and records of expenses incurred in the development of the farm in 2004.

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 (7609) approved on November 7, 2002, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The General Excise Tax license, farm plan, records of farm expenses, and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there will be income producing agricultural activity, and the income will be taxed.
4. In addition, the following agencies have submitted their comments as stated below:
 - a. Department of Water Supply (DWS) (Memo dated September 9, 2004):

“The property does not have an existing water service with the Department as the parcel is beyond the service limits of the Department’s existing water system. Also, as the applicant indicates that the additional farm dwelling will be on a water catchment system, the Department has no objections to the application.

Richard and Kathleen McDonald

September 13, 2004

Page 3 of 4

Should there be any questions, please contact Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 252.”

b. Real Property Tax Office (RPT):

There were no comments received.

c. Department of Health (DOH):

There were no comments received.

Decision:

In view of the above, your request to construct a **second farm dwelling** is 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.
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. The First Party shall adhere to 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. Your Additional Farm Dwelling Agreement has been approved based partially on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the building permit for the additional farm dwelling. The Second Party (County of Hawaii Planning Department) of the Agreement may allow time extensions and modifications for good cause shown by First Party.
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
6. 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.

Richard and Kathleen McDonald
September 13, 2004
Page 4 of 4

Failure to secure a building permit for this additional farm dwelling on or before September 13, 2006 may cause the Director to initiate proceedings to invalidate the AFDA.

In reference to the Department of Water Supply's comment and, we suggest the following:

1. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 6,000 gallons for domestic consumption or potable uses. This catchment system should adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.
2. Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department. If dwellings are spaced closer than 50 feet apart, 4,000 gallons of water per dwelling will be required.

If you have any questions please call Deborah Chang of our West Hawaii Office at 327-3510.

Sincerely,

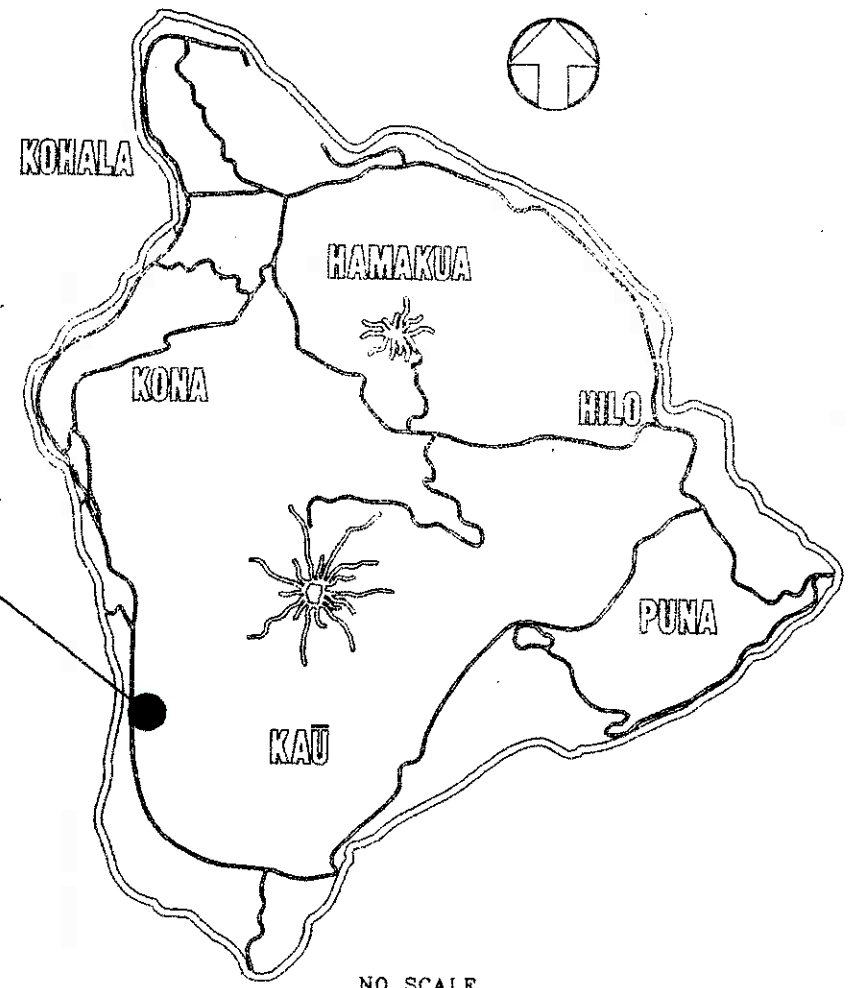


CHRISTOPHER J. YUEN
Planning Director

BWM:dlc
P:\AFDA\Kona AFDA\Approval\AFDAAp-8-7-6-8 RK McDonald.doc

Enclosures: AFDA document
AFDA document instruction sheet

c: Mr. Milton Pavao, DWS
Mr. Wesley Takai, RPT
Mr. Aaron Ueno, DOH
Planning Department – Kona



PROJECT
LOCATION

NO SCALE

