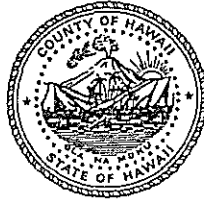


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

December 13, 2004

Ms. Deena DeMello  
P.O. Box 170  
Mt. View, Hawaii 96771

Dear Ms. DeMello:

**SUBJECT: Additional Farm Dwelling Agreement (2004-0022)**  
**Applicant: Deena DeMello**  
**Land Owners: Deena DeMello and Celestine DeMello**  
**State Land Use: Agricultural**  
**County Zoning: A-5a**  
**Land Area: 7.388 Acres**  
**Tax Map Key: (3) 1-8-088:010**

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. Name, address and signature of the landowner.
2. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this AFD is needed in connection with the agricultural productivity or farming operation.

Your farm plan included the following ongoing income producing agricultural activities:

(a) Ongoing agricultural activities include the following:

*Hawai'i County is an equal opportunity provider and employer.*

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- i. The property has approximately 5-acres of fenced area (approximately 3,360 linear feet of fencing material of which about 1,180 is also electrified). There are presently five goats and four cows. There are also a dozen chickens, more or less.
- ii. Applicant states that the twice a day grain feedings, animal hygiene (hoof cleaning and trimming) and ongoing fence upkeep/repair requires approximately 20 man-hours per week (some tasks have been averaged over time as they are intermittent).

(b) Proposed agricultural activities include the following:

- i. The future plans are for continued operation with no major expansion cited.
3. In support, numerous receipts for farm expenditures have been presented. Also, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has been presented
  5. Applicant's commitment to the farm plan will be shown in the form of the enclosed Additional Farm Dwelling Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.

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 5013) approved on October 7, 1983, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, GE Tax License (ID number 10301642), 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 that the income has been taxed.

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

(a) Department of Water Supply (DWS) (Letter dated December 1, 2004):

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

The water availability conditions in this area limits each existing lot of record to one 5/8-inch meter at a maximum allotment of 600 gallons per day. In other words, only one 5/8-inch meter is available for Parcel 10 and the Department’s record shows that a water service already exists for this parcel. Therefore, the Department has no objections to the application subject to the applicant understanding that the additional farm dwelling cannot be hooked up to the existing water service to the property or any other neighboring properties.

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

(b) Real Property Tax Office (RPT) (Response form dated November 23,2004):

“Property is dedicated to agricultural use. 20 year ag dedication effective July 1, 1982. Petition number H-455AAD. Real Property taxes are paid through December 31, 2004.”

(c) Department of Health (DOH) (Memorandum dated December 3, 2004):

“The Health Department found no environmental health concerns with regulatory implications in the submittals.”

Decision:

In view of the above, your request to construct a **second (first AFD) farm dwelling** on the property is approved subject to the following conditions:

1. The AFD 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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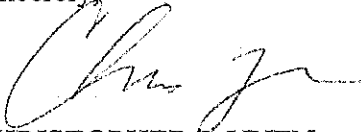
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2. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional farm dwelling. The enclosed AFD Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed AFDA 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. In reference to the DWS comment, may we suggest the following:
  - a. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain catchment system which includes a minimum 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.
  - b. Any dwelling on a water catchment system should be provided with and maintain an additional 3,000 gallon water storage capacity for fire fighting and emergency purposes. The emergency water supply system, including the necessary compatible connector system and location of the water storage facility on the property, should meet with the approval of the Hawaii County Fire Department.
4. 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 shall be adhered to.
5. Your AFDA has been approved based on longstanding, ongoing agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before APPROVAL DATE PLUS TWO YEARS AND ONE DAY, may cause the Director to initiate proceedings to invalidate the AFDA.

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Should you have any questions, please feel free to contact Jonathan Holmes of this office at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

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Enclosures: AFDA document  
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS  
Mr. Mike McCall, RPT

Scanned Map  
Unavailable  
Due to Size

See File

