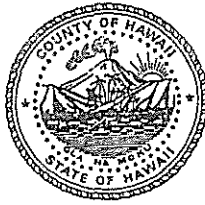


Harry Kim
Mayor



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

March 7, 2005

Mr. Thomas G. and Mrs. Vicki L. Nelson
16-364 Ainaloa Boulevard
Pahoa, Hawaii 96778

Dear Mr. and Mrs. Nelson:

SUBJECT: **Additional Farm Dwelling Agreement (2005-0035)**
Applicants: **Thomas G. and Vicki L. Nelson**
Land Owners: **Thomas G. and Vicki L. Nelson**
State Land Use: **Agricultural**
County Zoning: **A-1a**
Land Area: **20.001 Acres**
Tax Map Key: **(3) 1-6-004:037**

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 signatures of the applicants and landowners.
2. A farm plan or evidence of the applicant's proposed 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:

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

MD 068147

MAR 09 2005

(a) Ongoing agricultural activities include:

- i. The agricultural activity is proposed, but is however intended to supplement present activity on land leased from W.H. Shipman;

(b) Proposed agricultural activities include:

- i. Plant propagation (mostly miscellaneous Ti leaf products) for the wholesale market to supplement the ongoing activity from the afore-mentioned leased land.
- ii. Income estimated from agricultural activity is \$350.00 per acre per month.

(c) The farm plan presented states that the combined labor man-hours are expected to be approximately 40 or more per week at full implementation.

3. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.
4. 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 Land Court Application 1056, map 96, approved on December 26, 1963, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.

Mr. Thomas G. and Mrs. Vicki L. Nelson
Page 3
March 7, 2005

3. The Farm Plan, GE Tax License (ID number 30115108), and the agreement to use the dwellings for agricultural or farm-related activity on the building site demonstrate that there has been and will continue to be income producing agricultural activity and the income is and will continue to be taxed.

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

(a) Department of Water Supply (DWS) (Letter dated February 4, 2005):

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

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.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to this parcel.

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 (Response form dated February 3, 2005):

“There are no comments at this time. Real Property taxes are paid through December 31, 2004.”

(c) Department of Health (DOH):

The DOH did not comment on this application as of this date.

Decision:

In view of the above, your request to allow a **second (first AFD) dwelling** on the subject property 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.

Mr. Thomas G. and Mrs. Vicki L. Nelson

Page 4

March 7, 2005

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 comply with 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. Please consult with the State DOH to determine the number and type of individual wastewater systems allowed on the property.
5. Your Additional Farm Dwelling Agreement has been approved based 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.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter. The applicant must secure a building permit for the additional farm dwelling within that time. Failure to secure a building permit for this additional farm dwelling on or before March 8, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
8. In reference to the DWS comment, may we suggest the following:

Mr. Thomas G. and Mrs. Vicki L. Nelson

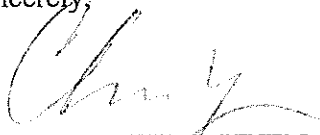
Page 5

March 7, 2005

- 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 also 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.

Should you have any questions, please contact Jonathan Holmes of this office.

Sincerely,



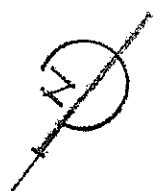
CHRISTOPHER J. YUEN
Planning Director

JRH:cd

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Enclosures: AFDA document
AFDA document instruction sheet

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



411.60'
PROPERTY

PROPOSED
300X300'
BUILDING
SITE W/
(4) BDRM
HOUSE

PROPOSED PLANT
PROPAGATION
AREA

PROPOSED 4 BDRM
CESSPOOL AND
WARRANT

2086.22'

PROPERTY

1500.00'

DRIVEWAY

PROPOSED PLANT
PROPAGATION

PROPOSED CATTLE
GRAZING

EXISTING (1) BDRM
STRUCTURE W/
CESSPOOL

ANALOG

BWD

TRK # 1-6-4-21

SITE PLAN

1" = 200'