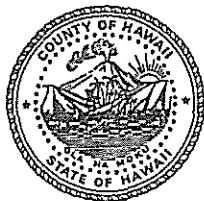


Harry Kim
Mayor



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

May 13, 2005

Mr. David H. Pearson and Mrs. Francine H. Pearson
P.O. Box 1396
Hilo, Hawaii 96720

Dear Mr. and Mrs. Pearson:

SUBJECT: Additional Farm Dwelling Agreement (2005-0046)
Applicants: David H. Pearson and Francine H. Pearson
Land Owners: David H. Pearson and Francine H. Pearson
State Land Use: Agricultural
County Zoning: A-3a
Land Area: 3.0 Acres
Tax Map Key: (3) 1-6-011:033

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 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:

- (a) Ongoing agricultural activities include:

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- i. Since 1990 the lot has been planted with a diversified fruit tree orchard (avocado, mango, grapefruit, orange, lemon, lime, tangerine, rambutan, bananas, longan, lychee, loquat and more), a palm tree nursery (1,655 palms of various types), herb beds and a large vegetable garden (2,000 sq.ft. shown).
- (b) Proposed agricultural activities include:
 - i. With the labor of the applicants' nephew and family, the farm will be expanded and the agricultural products will be sold commercially.
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 subdivision (SUB 1302) approved prior to June 4, 1976, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.
3. The Farm Plan, GE Tax License (ID number W50422588-01), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there has been extensive agricultural activity. The applicant states that the agricultural products will become income producing and that the income will be taxed.
4. In addition, the following agencies have submitted their comments as stated below:

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- (a) Department of Water Supply (DWS) (Letter dated April 7, 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. 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.

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 April 11, 2005):

“There are no comments at this time. Real Property taxes are paid through June 30, 2005.”

- (c) Department of Health (DOH) (Memorandum dated May 5, 2005):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used on a lot will be determined by the wastewater rules in effect at the time of building permit application.”

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.
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.

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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. Your Additional Farm Dwelling Agreement has been approved based on ongoing and continued agricultural activity as summarized previously in this letter.
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. 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 May 14, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
7. The First Party should consult with the DOH to determine the number and type of individual wastewater system(s) to be allowed on the property.
8. 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 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.

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

Sincerely,



CHRISTOPHER J. VUEN
Planning Director

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Enclosures: AFDA document
AFDA document instruction sheet

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

