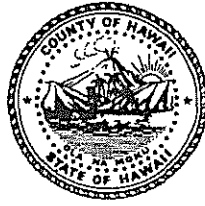


Harry Kim
Mayor



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

May 26, 2005

Klaus D. Conventz
dba Baumeister Consulting
P.O. Box 2308
Kailua-Kona, Hawaii 96745

Dear Mr. Conventz:

Additional Farm Dwelling Agreement Application (2005-0049)

Applicant: Agent: Klaus D. Conventz
dba Baumeister Consulting

Owner: Douglas E. McKanna
Liane M. McKanna
B. P. Bishop Estates

State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 9.50 acres
TMK: (3) 7-8-004: 067

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 two additional farm dwellings on the subject property. Your submittals included the following information:

1. 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.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. 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:

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- a. Ongoing agricultural activities include the following:
 - i. Approximately 8.5 acres of land with approximately 7,500 coffee trees.
 - b. The total labor man-hours are approximately 120 hours per week to maintain and harvest.
4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also 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 5127) approved on July 16, 1984, 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 30123759), 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) (Letter dated March 18, 2005):

"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 unit at an average of 400 gallons per day.

As this application indicates that there is farming activity on the parcel, the application shall have a licensed contractor install a backflow preventer (reduced pressure type) on the applicant's property just after the existing meter. 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.

Inasmuch as this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with Department's regulations. However, as the parcel is out of the Department's service limits, second service is not available for the proposed additional farm dwelling.

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 the proposed additional farm dwelling. Further, should the application be approved, both dwellings shall not share the existing meter.

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.

We note the following document received by our office April 11, 2005. States in part:

"While on (1) of the Additional Farm Dwellings as proposed would be detached single-family dwellings as per Rule 13. Section 13-3 Definitions (b), the second proposed workmen's quarters would create a duplex, which is ordinarily not allowed under Rule 13.

The predecessor in the lease built a large two-story single-family residence, of which the second floor's area would satisfy the current lessee's needs for the housing of his family. The downstairs living quarters are still large enough, as they exist, to convert the current family room, 1 bath and 1 bedroom into a full living unit satisfying the housing needs for a farm worker or couple.

I admit that there are indeed other options to build a completely detached farm

dwelling for the same purpose. However, this would not only lead to higher building density on the property, it also would consequentially result in the permanent removal of ½ acre of existing mature coffee trees from production.

While the current residence, proposed as duplex, has all the required utilities, cesspool, driveway, lanais in place, all this would have to be newly built for a detached structure.

Ie. the current cesspool can be used under federal and state regulations as a seepage pit, adding only a septic tank. In the case of a detached dwelling, an individual wastewater system (tank and distribution field) would be required, which also takes a large land area.

The amount of additional investment would exceed by far the lessee's investment plan, considering the cost for the proposed conversion including septic tank to existing cesspool is approximately \$15,000.00. The costs for a complete new detached dwelling would be approximately \$120,000.00 with driveway, utilities, etc.

Certainly this does not include the loss in permanent income from the reduced coffee production.

Based on the aforementioned reasons and special circumstances, applicant and undersigned respectfully request that the conversion of the downstairs living quarters of the existing residence to additional farm dwelling/workmen's quarters be granted."

Decision:

In view of the above, your request to construct **two additional farm dwelling** is subject to the following conditions:

1. The additional farm dwellings 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 dwellings.
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 dwellings. 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 building permit applications for the additional

Baumeister Consulting for Douglas & Liane McKanna

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dwellings 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 entirely on existing 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 to secure a building permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before May 27, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

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

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

BM:deb

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Enclosure: AFDA document
AFDA document instruction sheet

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

Scanned Map
Unavailable
Due to Size

See File

