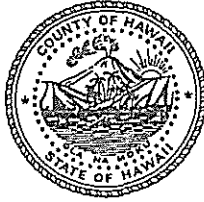


Harry Kim
Mayor



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

June 14, 2005

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

Dear Mr. Conventz
Baumeister Consulting:

SUBJECT: Additional Farm Dwelling Agreement (2005-0057)

Applicant:	Agent: Klaus D. Conventz Baumeister Consulting
Land Owners:	Alan K. Tomota and Ellen A. Tomota
State Land Use:	Agricultural
County Zoning:	A-3a
Land Area:	3.295 Acres
Tax Map Key:	(3) 2-4-007:244

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. Names, 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.

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

(a) Ongoing agricultural activities include:

- i. The land has been graded for two building sites with gravel access roadways.
- ii. The parcel has been completely fenced and the land is presently in pasture.
- iii. Approximately 2 acres of the land are suitable for the planned mango orchard.

(b) Proposed agricultural activities include:

- i. Planting of approximately 70 mango trees of three main varieties; "Carrie" that matures in the early season, "Southern Blush" for mid season and "Kent" for the later season.

(c) Combined labor man-hours are anticipated to be at least 20 per week with an additional 10 hours during hand harvesting time along with twice a week farmers' marketing.

3. 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 7567) approved on July 3, 2002, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling

3. The Farm Plan, statement that a Hawaii G.E. Tax license has been applied for 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 that 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 May 16, 2005):

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

Our records show that this property does not have an account with the Department and, therefore, does not have water service with us. As this lot was created with a variance from the subdivision water requirements and the applicant indicates in the Additional Farm Dwelling Agreement Application that water will be provided via catchment, the Department has no objections to the proposed 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 (RPT) (Web sit inquiry):

“No taxes due.”

- (c) Department of Health (DOH) (Memorandum dated May 13, 2005):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used 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 construct a **second (first AFD) farm dwelling 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.

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 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. 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 June 18, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

Baumeister Consulting
June 14, 2005
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Should you have any questions, please contact Jonathan Holmes of this office.

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

