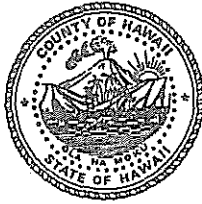


Harry Kim
Mayor



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

November 28, 2005

Mr. Barry Jason Worchel
RR2 Box 3907
Pahoa, Hawaii 96778

Dear Mr. Worchel:

SUBJECT: Additional Farm Dwelling Agreement (fda-05-000089)
Applicants: Barry Jason Worchel
Land Owners: Barry Jason Worchel
State Land Use: Agricultural
County Zoning: A-40a
Land Area: 47.814 Acres
Tax Map Key: (3) 4-7-002:041

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 authorizing the application.
2. A farm plan or evidence of the applicants' 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. Maintenance of fencing for feral pig control and horse (six) and cow pasture (14 head on occasion leased from neighbor), clearing of overgrowth under and around the existing macadamia nut, citrus and coffee trees. Bananas and bamboo are also planted.
- ii. Considerable expenses have been presented in the way of a 2004 depreciation schedule.
- iii. Land areas for the activities include 35 acres of macadamia nut, 3 acres of coffee and citrus and a half an acre of bananas.
- iv. Present man-hours exceed 20 per week with one week a month requiring 40 plus hours.

(b) Proposed agricultural activities include:

- i. Eventual land areas for the activities are anticipated at 25 acres of macadamia nut, 3 acres of coffee and citrus and 3 acres of bananas. A greenhouse operation will be established and could require up to an acre of the land.
 - ii. The Arabian horses (six to eight for breeding and sperm donors for artificial insemination) and cows are relatively free to roam the majority of the property and will be joined by approximately 12 long-haired sheep.
3. Applicants' 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 5136 a) approved on May 9, 1986, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

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3. The Farm Plan, evidence of an agricultural use dedication of the property 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 October 19, 2005):

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

The property does not have an existing water service with the Department. Water is currently available for the first dwelling from a 6-inch waterline along Honokaa-Waipio Road with a signed “Policy & Conditions for Water Service (Premises Not Within Service Limits of the Department)” and execute an elevation agreement with a schematic drawing. Should the applicant wish to install a service for this parcel, please contact the Department for more information.

Inasmuch as this application is proposing an additional detached dwelling, the installation of a second 5/8-inch meter by the applicant would normally be required in accordance with Department regulations. However, the Department’s existing water system facilities cannot support an additional meter for the proposed additional farm dwelling at this time. Extensive improvements and additions, including source, storage, transmission and distribution facilities, must be constructed. Currently, sufficient funding is not available and no time schedule is set.

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, the additional farm dwelling shall not share the meter for the first farm dwelling or any other service from the Department without our written consent.

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 site inquiry, last updated November 25, 2005):

“No Taxes Due.”

- (c) Department of Health (DOH) (Memorandum dated October 17, 2005):

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“Additional farm dwelling will require its own sewage disposal system.”

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 AFDA has been approved based on ongoing and expanded 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 November 29, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
7. In reference to the DWS comment, may we suggest the following:

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- 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.

8. Additionally, in regards to water catchment systems:

The Department of Health's authority on drinking water quality is based on the definition of a "public water system." A "public water system" means a system which provides water for human consumption through pipe or other conveyance if such system has fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20.

Past episodes of water quality concerns for lead, copper, algae and microbiological and chemical contamination in private rain catchment systems have identified the need for self-monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking purposes since the quality may not meet potable water standards."

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

