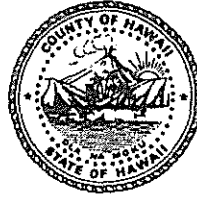


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

April 17, 2006

Landish Kapaiihi Armitage and Robin Reiko Armitage  
P.O. Box 1216  
Kurtistown, Hawaii 96760

Dear Landish Kapaiihi Armitage and Robin Reiko Armitage:

**SUBJECT: Additional Farm Dwelling Agreement (fda-06-000103)**  
**Applicants: Landish Kapaiihi Armitage and Robin Reiko Armitage**  
**Land Owners: Landish Kapaiihi Armitage and Robin Reiko Armitage**  
**State Land Use: Agricultural**  
**County Zoning: A-1a**  
**Land Area: 1.099 Acres**  
**Tax Map Key: (3) 1-7-021:023**

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 and address of the applicants and landowners.
2. 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.

APR 24 2006

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

(a) Ongoing agricultural activities include the following:

- i. The applicants raise 3 to 4 pigs at present but have just begun to have the anthurium portion of the plan implemented.

(b) Proposed agricultural activities include the following:

- i. The planting of approximately 600 anthurium plants on approximately 1,440 sq.ft. of land in raised beds and the continued raising of 3 to 4 pigs.
  - ii. Applicant states that the agricultural activities will require approximately 40 hours a week (28 for anthuriums and 14 for the swine). The AFD will be occupied by family members who will develop and maintain the pig and anthurium farm. Income from the farm is not anticipated. The project is to supply the large family with products for the many family functions that are occasioned throughout the year.
3. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

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 3990) approved on August 1, 1977, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan 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.

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

(a) Department of Water Supply (DWS) (Letter dated March 21, 2006):

“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 at an average of 400 gallons per day or a daily maximum of 600 gallons. As this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 4-inch waterline in Ahuahu Place, which fronts the subject parcel.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting the following conditions:

1. Installation, by the Department of Water Supply, of a second 1-inch lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons as the existing service is.
2. Installation of two backflow preventers (reduced pressure type) by a licensed contractor on the applicant's property just after each meter. The installation and assembly of the backflow preventers must be inspected and approved by the Department before the water meter can be installed. The backflow preventers 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.
3. Remittance of the following charges, which are subject to change, to our Customer Service Section prior to the Planning Department's approval for the building permit for this application:

FACILITIES CHARGE (One 2 <sup>nd</sup> Service at \$5,500.00 each)	\$5,500.00
SERVICE LATERAL INSTALLATION CHARGE	
(Install one meter on Ahuahu Place, a County Road)	<u>2,600.00</u>
Total (Subject to change)	\$8,100.00

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) (RPT response form dated March 8, 2006):

“There are no comments at this time. Real Property taxes are paid through June 30, 2006”

(c) Department of Health (DOH) (Memorandum dated March 24, 2006):

“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:

Upon review of your application and submittals, we regret to inform you that your request for an AFDA is **denied** based on the following:

The scope and nature of the agricultural activity on this parcel, as presented, is deemed to be insufficient to justify the need for additional farm labor.

The following is an excerpt from the Zoning Code:

**“Section 25-2-6. Waiting period after denial of application.**

Unless otherwise provided in this chapter, whenever an application for an amendment to this chapter, or for a variance from this chapter, or for any other permit authorized under this chapter has been denied, no new application for the same relief, action or use covering all or any portion of the property involved in the original application shall be accepted by the director or the commission for a period of one year from the effective date of the final denial of the original application; **provided, however, that upon a showing of a substantial change of circumstances, the director or commission may permit the filing of a new application prior to the expiration of the one-year period.** Nothing contained in this section shall prevent the council or the director from initiating any proceedings at any time under this chapter.” (emphasis added)

It is understood that your desire to obtain an AFDA for this property is so that your family members can be on-site to help with the agricultural activity to supply your family with products for the many celebrations you occasion. If you feel that there is more to this activity than the personal use of the pigs and anthuriums, then you are welcome to present a revised farm plan that outlines the full extent of the agricultural activities that would justify a **minimum** of sixteen hours of labor required to pursue the endeavor. Enclosed, please find memorandum 01-21, which provides some guidance for acceptable levels of agricultural activity in relation to AFDA’s.

Landish Kapaihi Armitage and Robin Reiko Armitage  
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April 17, 2006

Once again, we regret to inform you that, as presented, this application must be denied for lack of sufficient agricultural activity to warrant the additional farm worker housing. You are welcome to present further information or to appeal this decision.

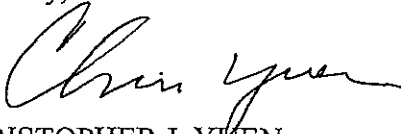
Section 25-2-20 (a) (c) of the Zoning Code states:

- (a) Any person aggrieved by the decision of the director or the commission in the administration or application of this chapter, except for decisions regarding variance applications and decisions which are directly appealable to the circuit courts under state law, may, within thirty days of the director or commission's written decision, appeal the decision to the board of appeals.
  
- (c) An appeal shall be in writing, in the form prescribed by the board of appeals, and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. Any such appeal shall be accompanied by a filing fee of \$250. The person appealing a decision of the director or commission shall provide a copy of the appeal to the director or commission, as appropriate, and to the owners of the affected property and shall provide the board of appeals with the proof of service.

A General Petition for Appeal of Decisions by Planning Director has been enclosed for your convenience.

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: PD memorandum 01-21  
BOA application

COUNTY OF HAWAII  
BOARD OF APPEALS

GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR

(Type or legibly print the requested information)

APPELLANT: \_\_\_\_\_

APPELLANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS- \_\_\_\_\_

TELEPHONE: (Bus.) \_\_\_\_\_ (Home) \_\_\_\_\_

APPELLANT'S INTEREST IN THE SUBJECT MATTER OF THE APPEAL: \_\_\_\_\_

APPELLANT'S GROUNDS FOR APPEAL: \_\_\_\_\_

LAND OWNER: \_\_\_\_\_

TMK: (land in question) \_\_\_\_\_ AREA: \_\_\_\_\_

STREET ADDRESS OF PROPERTY: \_\_\_\_\_

APPELLANT'S REPRESENTATIVE: \_\_\_\_\_

REPRESENTATIVE'S SIGNATURE: \_\_\_\_\_

REPRESENTATIVE'S ADDRESS \_\_\_\_\_

DATE: \_\_\_\_\_ TELEPHONE: (Bus.) \_\_\_\_\_

THIS PETITION MUST BE ACCOMPANIED BY A FILING FEE OF TWO HUNDRED FIFTY DOLLARS (\$250) PAYABLE TO THE COUNTY DIRECTOR OF FINANCE AND:

- l. The original and ten (10) copies of this completed petition with the following:
  - a. A description of the property in sufficient detail for the public to precisely locate the property.
  - b. A statement explaining the nature of the appeal and the relief requested.
  - c. A statement explaining:
    - (i) How the director or commission erred in its decision; or
    - (ii) How the decision violates the Zoning Code or other applicable law; or
    - (iii) How the decision was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
  - d. A clear and concise statement of any other relevant facts.

Proof of Service by the Appellant on the Planning Director for an appeal from the Planning Director's decision relating to the Zoning Code.

A list of the names, address and tax map keys of all owners of property within boundaries established by Section 25-2-4 of the Zoning Code.