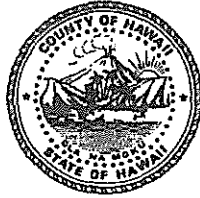


Harry Kim  
Mayor



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 25, 2006

Ms. Lora L. Ayers  
P.O. Box 683  
Mt. View, HI 96771

Dear Ms. Ayers:

**SUBJECT: Additional Farm Dwelling Agreement (fda-06-000104)**  
**Applicant:** Lora L. Ayers  
**Land Owners:** Lora L. Ayers, Joseph Eugene Ayers, Jeanette O. Ayers-Kawakami and Dion Benson Kawakami  
**State Land Use:** Agricultural  
**County Zoning:** A-20a  
**Land Area:** 46.733 Acres  
**Tax Map Key:** (3) 1-8-005:136

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 applicant and names and signatures of all 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 AFD is needed in connection with the agricultural productivity or farming operation.

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

(a) Ongoing agricultural activities include the following:

- i. The property has 9 pasture paddocks, a barn with 8-horse stalls, a working corral with cattle chutes and catch pens and an additional paddock for goats. There are presently 2 registered brood mares (both of which are pregnant), 1 cattle-herding gelding and one for sale, 12 Angus heifers and 4 beef masters (one of which is for breeding). 9 Rhode Island Reds were recently purchased for fresh egg production for sale. There are two registered working cow dogs for herding.
- ii. Applicant states that the feedings, animal hygiene (hoof cleaning and trimming) and ongoing fence upkeep/repair requires approximately 45.5 man-hours per week (some tasks have been averaged over time as they are intermittent).

(b) Proposed agricultural activities include the following:

- i. The near future plans are for continued operation with expansion to include 2 more pasture paddocks, another 15 heifers, 8 nanny and 1 billy goats and 10 more laying hens.
  - ii. Further future plans are to double (at least) the brood mare stock and to expand the cattle and goat herds.
3. In support, portions of federal income tax form 1040 for farm profit/loss and amortization have been presented. Also, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has 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 prior to June 4, 1976 (Portions of Grants 4128 and 4129), 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 (old ID number 30123330, new ID number W01519794), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and that the income has been taxed.
4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (DWS) (Letter dated March 30, 2006):

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

We reiterate our comments to Additional Farm Dwelling Application No. 2004-0025 in our letter dated December 15, 2004:

‘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. 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, a second service is not available for the proposed additional farm dwelling.

Therefore, the Department has no objections to the application subject to the applicant understanding and accepting that the Department cannot provide water service to the additional farm dwelling. Further, should the application be approved, both dwellings shall not share the existing meter.’

Should there be any questions, please call Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 255.”

(b) Real Property Tax Office (RPT) (Response form dated March 13, 2006):

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

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(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 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 construct a **third (second AFD) dwelling** on the property is approved subject to the following conditions:

1. The AFD 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 AFD 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 AFDA 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. 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 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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4. 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 shall be adhered to.
5. Your AFDA has been approved based on ongoing and expanded agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before April 26, 2006, may cause the Director to initiate proceedings to invalidate the AFDA.

Should you have any questions, please feel free to contact Jonathan Holmes of this Department.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

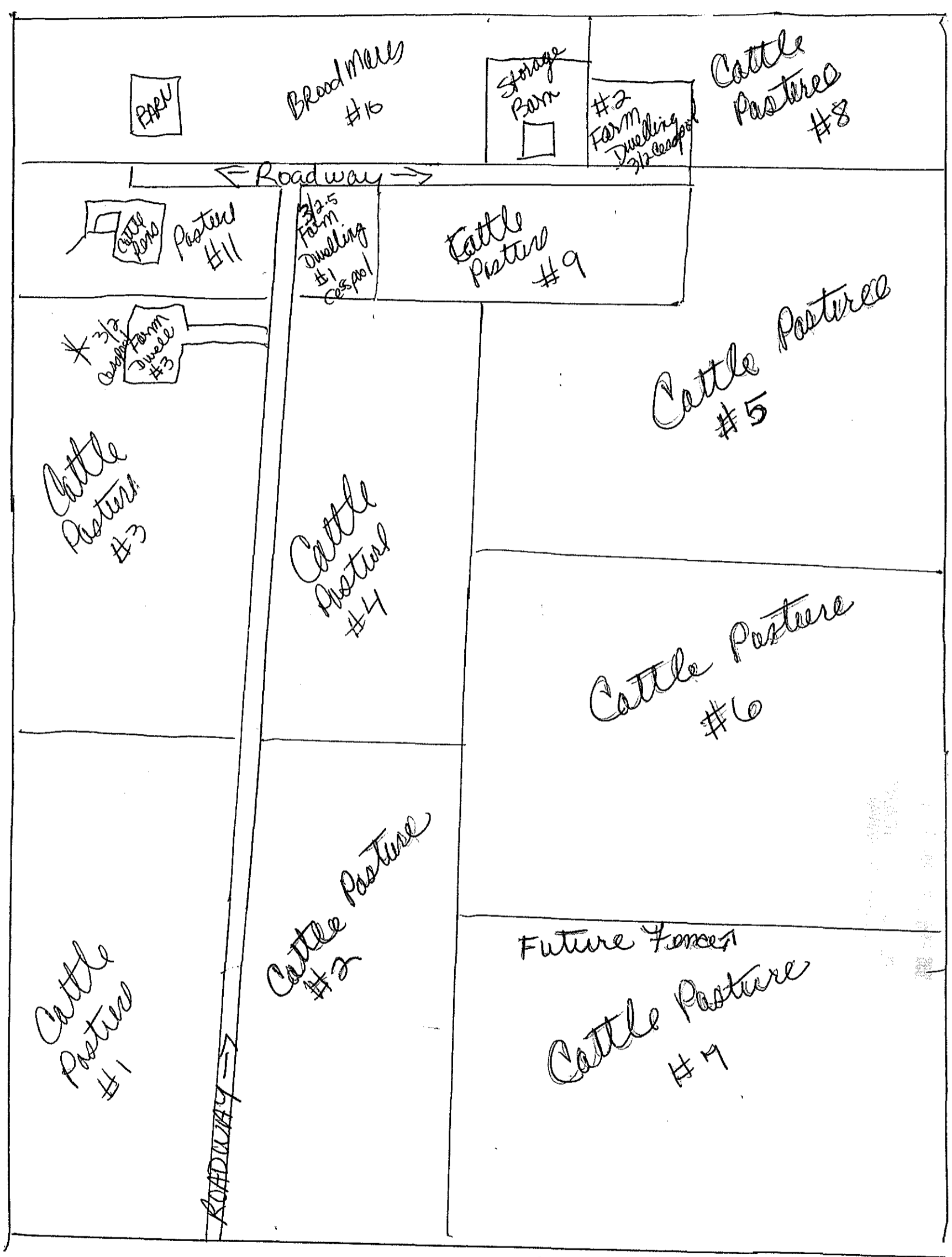
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Enclosures: AFDA document  
AFDA document instruction sheet

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

Existing  
Future



Ayers  
#2 AFDA 04-0025  
1-8-05:136 (TMR)  
#3 AFDA 06-0104