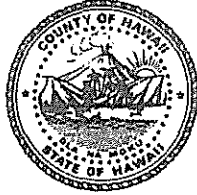


Harry Kim
Mayor



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

March 5, 2007

Mr. John L. and Mrs. Frances J. Tarson
P.O. Box 1851
Honokaa, Hawaii 96727

Dear Mr. and Mrs. Tarson:

SUBJECT: Additional Farm Dwelling Agreement (fda-07-000152)
Applicants: John L. and Frances J. Tarson
Land Owners: John L. and Frances J. Tarson
State Land Use: Agricultural
County Zoning: A-5a
Land Area: 5.0 Acres
Tax Map Key: (3) 4-4-008:136

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. Names, address and signatures of the applicants/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:

Mr. John L. and Mrs. Frances J. Tarson

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- i. The activity involves 1.2 acres of macadamia trees (approximately 5 to 7 feet tall), 1.6 acres of 7 year old (10 to 20 feet tall) Koa trees, 2.2 acres of citrus trees, assorted bananas ("numerous and productive") and 80 papaya trees. There are more than 300 white pineapples with 175 starts to be added from this years harvest. 1 ¼ acres of fenced/cross fenced livestock pasturage (cows and goats). ¼ acre for lettuce and salad greens with an additional 20 x 24 poly/arched greenhouse. The lettuce and salad greens have been processed in a certified kitchen in Honokaa and the bagged product is marketed under the "Kalopa Farms" label.
- ii. The expanding lettuce and salad greens endeavor is the main basis for the application for an Additional Farm Dwelling with a certified kitchen for on-site farm help to grow, harvest and process the greens for market.
- iii. No estimated man hours were presented with this application. However, the level of activity presented should produce man-hours in excess of 16 per week.

(b) Proposed agricultural activities include the following:

- i. The addition of another acre to the lettuce and salad greens endeavor.
3. In support of the application, 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)

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2. The subject lot was created by subdivision (SUB 6690) approved on February 12, 1996, 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 W88481285-01), 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 February 15, 2007):

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

An existing 1-inch service lateral services this property, which is capable of accommodating one 5/8-inch meter and is adequate for only one single-family dwelling unit at an average of 400 gallons per day. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with Department’s Rules and Regulations. However, the Department’s existing water system facilities cannot support additional water meters at this time. Extensive improvements and additions including source, storage, booster pumps, transmission, and distribution facilities, must be constructed. Currently, sufficient funding is not available from the Department for such improvements 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 service to the proposed additional farm dwelling. Further, should the application be approved, both dwellings shall not share the existing meter.

As of this date, the applicant has been informed that the existing meter has been locked pending the installation of a Department approved reduced pressure type backflow prevention assembly for the existing service.

Should there be any questions, please contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.”

(b) Real Property Tax Office (RPT):

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The RPT office did not comment on this application as of this date.

(c) Department of Health (DOH) (Memorandum dated February 12, 2007):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used will be determined at the time of building permit application.

The proposed certified kitchen needs to meet the requirements of Chapter 12, Food Establishment Sanitation. Please call our office (Ph. 933-0917) for consultation and additional information.

We recommend that you review all of the Standard Comments on our website: www.state.hi.us/health/environmental/env-planning/landuse/landuse.html. Any comments specifically applicable to this project should be adhered to.”

Decision:

In view of the above, your request to construct a **second (first AFD) farm 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:

Mr. John L. and Mrs. Frances J. Tarson

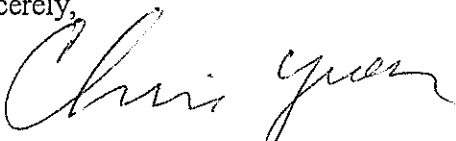
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- a. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain catchment system which includes a minimum 6,000 gallons for domestic consumption or potable uses. This catchment system should adhere 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.
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 March 6, 2009, 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

JRH:cd

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Enclosures: AFDA document
AFDA document instruction sheet

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

TMK (3) 4 4 008 136 375 foot frontage on Keahua Road with fence

olive hedge*****drive	Mexican Cypress****	gate MC*****	MC
MC	fruit orchard	way *	proposed 2 nd farm dwelling *
* banana	----- olive hedge-----	*	Mac Nut Orchard *
* papaya	XXXXXXXXXX	*	7 Rows with 25 ft between *
* pineapples	House and garage green	*	11 per row with 20 ft space *
* XXXXXXXXXXXX	house	*	
** XXXXXXXXXXXX	hedge*****	*	alternating #244˥ *
* papaya		*	row closest to house mixed *
*	cement	*	with some #688 and 3 avocado *
*	water	*	
*	tank	*	
*	35K gal	*	this area 1.6 acres *
*		*	210 by 250 ft *
			MC

MC*****	gate*	Mex Cypress without fence	-----	+
*	G	+		+
* Lettuce and Greens production	+	+		+
* 1/4 acre	+	+	210 ft by 330ft	+
* *****	gate	+	2,2 acres of Koa Trees	+
+ + + + +		+ + + + +	fully fence	+ + + + +
+ current pasture		+ + + + +	along sides (top to bottom)	+ + + + +
+ available for expansion of		+ + + + +	and along bottom	+ + + + +
+ lettuce production or other AG		+ + + + +	Bordered on top by	+ + + + +
+ + + + +		+ + + + +	Mexican Cypress windbreak	+ + + + +
+ + + + +		+ + + + +		+ + + + +
+ Left side of middle fence 165ft	+	Right side of middle fence 210 feet		+

+++++
 += fence * = Mexican Cypress and fence or fruitless Olive and fence