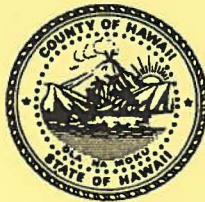


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA, LEED™ AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

June 20, 2007

Bonifacia Beach
William V. Beach
P.O. Box 605
Holualoa, Hawaii 96725

Dear Mr. & Mrs. Beach:

Additional Farm Dwelling Agreement Application (FDA-07-000153)

Applicant:	Bonifacia Beach
Owner:	Bonifacia Beach
	William V. Beach
State Land Use:	Agriculture
County Zoning:	Agricultural (A-1a)
Land Area:	2.0000 acres
TMK:	(3) 7-6-005:032

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 and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. 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. Your farm plan included the following ongoing and proposed income producing agricultural activities:
 - a. Ongoing agricultural activities include the following:
 - i. Maintain, harvest and process 32,384 s.f. of coffee trees, 37,520 s.f. of Avocado trees and 10,200 s.f. of various citrus/fruit trees.

JUN 22 2007

- ii. Maintain the 360 s.f. nursery
- b. The labor man-hours are approximately 16-36 hours per week to maintain, harvest, process and distribute.
- 4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also 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 by subdivision (SUB 5217) approved on February 22, 1985, 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 W04632762-01), 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 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 March 6, 2007):

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

Please be informed that 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 dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's Rules and Regulations. However, the Department cannot provide an additional meter for the proposed additional farm dwelling as the subject parcel does not front on the Department's existing water system facilities and it is

located at an elevation such that the Department cannot provide adequate pressure.

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. Should the application be approved, both dwellings shall not share the existing meter, and the water system plumbing between the two dwellings shall not be interconnected in any way.

Further, as the applicant indicates that there is existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed within five (5) feet of the existing meter on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department before commencement of water service. A copy of the Department's backflow prevention handout will be sent to the applicant to help them understand this requirement.

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

b. Real Property Tax Office (RPT):

No comments were received.

c. Department of Health (DOH) (Memorandum dated June 19, 2006):

"The Health Department found no environmental health concerns with regulatory implications in the submittals.

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 farm dwelling** is 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 adhere to 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 entirely on existing 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 to secure a building permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before June 20, 2009 may cause the Director to initiate proceedings to invalidate the AFDA.
7. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

In reference to the Department of Water Supply's comment, we suggest the following:

1. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 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

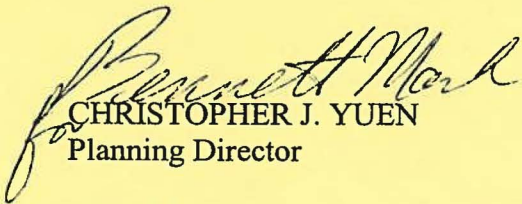
Bonifacia Beach
June 20, 2007
Page 5

of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.

2. Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department.

If you have any questions please call Deanne Bugado of our West Hawaii Office at 327-3510.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

DEB:deb

P:\afda\Kona AFDA\Approval\AFDAap-7-6-5-32 Beach.doc

Enclosure: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department – Kona