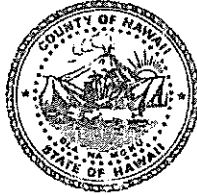


Harry Kim
Mayor



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

July 20, 2007

Mr. Joey M. Rogers and Ms. Emily R. Rogers
P.O. Box 335
Laupahoehoe, Hawai'i 96764

Dear Mr. and Ms. Rogers:

SUBJECT: Additional Farm Dwelling Agreement (FDA-07-000169)
Applicants: Joey M. Rogers and Emily R. Rogers
Land Owners: Joey M. Rogers and Emily R. Rogers
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 5.097 Acres
Tax Map Key: (3) 3-6-005:026

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 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:
 - i. The activity is in the implementation stage.

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(b) Proposed agricultural activities include:

- i. The main crops will be approximately 88 avocado trees on 1 acre and string beans on approximately 1.5 acres.
 - ii. There will be a 600 sq.ft. shade house for ornamentals, flowers and landscape plants.
 - iii. Breadfruit, dracaena, butternut squash and goats will also be raised in varying numbers as "in-fill" products.
 - iv. Estimation of man hours is 51 per week.
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 5703) approved on November 4, 1988, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, evidence of a State of Hawaii General Excise Tax license (#W00073878-03) 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 June 7, 2007):

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is adequate for only one dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch will be required. Water can be made available from the Department's 6-inch waterline within Hawai'i Belt Road, fronting 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 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2 nd service to the parcel	\$5,500.00
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SERVICE LATERAL INSTALLATION CHARGE:

<u>Install one meter on Hawai'i Belt Road, a State Road</u>	<u>4,600.00</u>
Total (Subject to change)	\$10,100.00

3. Installation of a backflow prevention assembly (reduced pressure type) by a licensed contractor on the applicant's property within five (5) feet of the meter. If the existing meter does not have an approved backflow prevention assembly, the installation of one will also be required as there is existing agricultural activity on the property. The installation of the backflow prevention assembly(s) must be inspected and approved by the Department before water service can be granted. A copy of our backflow prevention handout is being forwarded to the applicant to help them understand this requirement.

Should there be any questions, please call Mr. Ryan Quitoriano of our Water Resources and Planning Branch at 961-8070, extension 256."

(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 June 8, 2007):

"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.

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."

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

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4. Your AFDA has been approved based on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the building permit for the additional farm dwelling. The Second Party (County of Hawaii Planning Department) of the Agreement may allow time extensions and modifications for good cause shown by First Party.
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 July 21, 2009 may cause the Director to initiate proceedings to invalidate the AFDA.

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. Norman Hayashi
Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT

A. PERIMETER AVODADOS, STRING BEANS

B. STRING BEANS

C. BREAD FRUIT

D. BUTTERNUT SQUASH, DRACENA

E. SHADE HOUSE & VEGETABLE GARDEN

F. AVOCADOS, BUTTERNUT SQUASH, VEGETABLE GARDEN

G. STRING BEANS

H. GOATS

I. PERIMETER AVOCADOS, STRING BEANS

J. BREAD FRUIT, GOATS

K. BUTTERNUT SQUASH

L. SHADE HOUSE W/ FLOWERS

SCALE 1" = 100'

