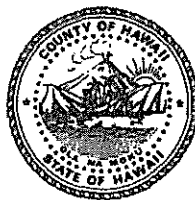


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

September 18, 2007

Mr. Michael P. Milner
P.O. Box 7258
Hilo, Hawaii 96720

Dear Mr. Milner:

SUBJECT: Additional Farm Dwelling Agreement (FDA-07-000180)

Applicant: Michael P. Milner
Land Owner: Michael P. Milner
State Land Use: Agricultural
County Zoning: A-3a
Land Area: 3.0 Acres
Tax Map Key: (3) 1-6-005:006

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 the signature of the landowner.
2. A farm plan or evidence of the applicants' 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 activity is presently for personal use with approximately 500 palms which are used as gifts; and
 - ii. Presently, approximately 20 man-hours are required per week.

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- b. Proposed agricultural activities include the following:
 - i. The property will have approximately 5,000 sq.ft. of 6-mil plastic hot houses and 6,000 sq.ft. of shade cloth growing areas;
 - ii. Palms will be expanded to around 15,000 plants;
 - iii. Anticipated annual income is approximately \$30,000; and
 - iv. The man-hours for the expansion (underway) is 50 per week.
- 3. 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, Hawai'i 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 1302) approved prior to June 4, 1976, 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 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 September 7, 2007):

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

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The subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system. The closest point of adequacy is an existing 12-inch waterline within the Keaau Pahoa Road approximately 2.8 miles from the subject property. Further, the property is situated at an elevation where water cannot be delivered at an adequate volume and pressure under peak-flow and fire-flow conditions.

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.

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): (Response form dated August 20, 2007):

"There are no comments at this time. Real Property taxes are paid through June 30, 2007."

c. Department of Health (DOH) (Memorandum dated August 29, 2007):

"The use of individual wastewater systems is allowed. The type and number of individual wastewater systems 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.htm. 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) 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.

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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 Hawai'i 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 any other reviewing agencies/divisions listed on the Building Permit (BP) Application shall be adhered to.
5. Your AFDA has been approved based on ongoing and expanded agricultural activity as summarized previously in this letter. It is required that the First Party (property owners) 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 Hawai'i Planning Department) of the Agreement may allow time extensions and modifications for good cause shown by the First Party.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.

Mr. Michael P. Milner

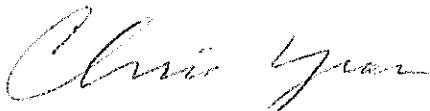
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7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before September 19, 2009 may cause the Director to initiate proceedings to invalidate the AFDA.
8. The First Party is required to comply with all requirements of the State and Federal taxation authorities as regards income derived from the agricultural activity.

Should you have any questions, please feel free to contact Jonathan Holmes of this office at 961-8288.

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

Scanned Map
Unavailable
Due to Size

See File

