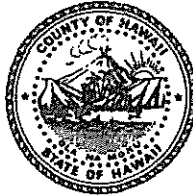


Harry Kim
Mayor



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

December 7, 2007

Mr. Robert T. Bailey
and Mrs. Yvonne C. Bailey
P.O. Box 1033
Kurtistown, Hawaii 96760

Dear Mr. and Mrs. Bailey:

SUBJECT: Additional Farm Dwelling Agreement (FDA-07-000192)
Applicants: Robert T. Bailey and Yvonne C. Bailey
Land Owners: Robert T. Bailey and Yvonne C. Bailey
State Land Use: Agricultural
County Zoning: A-3a
Land Area: 3.0 Acres
Tax Map Key: (3) 1-6-053:033

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:

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- i. The property has full perimeter fencing and interior cross fencing into smaller paddocks for stock rotation and a 40' x 40' recreation/training area;
- ii. There are 2 horses, 2 head of cattle and an ongoing meat and breeding goat herd; and
- iii. The present caretaking of the farm requires at least 32 hours per week.

(b) Proposed agricultural activities include:

- i. Expansion of the activity with more goats; and
 - ii. Due to advancing age, the applicant's sons will reside in the Additional Farm Dwelling to caretake the farm.
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 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, evidence of State of Hawaii General Excise Tax licenses (#W04906902-01 & W03136674-01) 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 is taxed.
4. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (DWS) (Letter dated November 1, 2007):

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

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. Also, as the applicant indicates that the additional farm dwelling will be on a water catchment system, the Department has no objections to the application.

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 Quitarino of our Water Resources and Planning Branch at 961-8070, extension 256."

(b) Real Property Tax Office (RPT) (Response form dated October 19, 2007):

"There are no comments at this time. Real Property taxes are paid through December 31, 2007."

(c) Department of Health (DOH) (Memorandum dated October 31, 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 Department of Health's Safe Drinking Water Branch authority on drinking water quality is based on the definition of a 'public water system'. A 'public water system' means a system which provide water for human consumption through pipe or other constructed conveyance if such system has fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20. Recommend the subdivision lots be connected to an existing public water system.

Concerns on water quality for lead, copper, algae and microbial and chemical contaminations in private water systems have identified the need for self monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking purposes since the quality may not meet potable water standards.

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We recommend that you review all of the Standard Comments on our website:
www.state.hi.us/health/environmental.env-planning/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 signature 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.

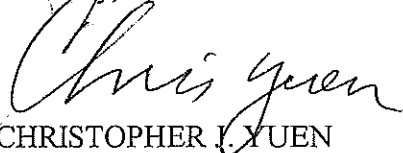
3. The First Party shall comply with all other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25), Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.
4. Your AFDA has been approved based on ongoing and expanded 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.

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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 December 8, 2009 may cause the Director to initiate proceedings to invalidate the AFDA.
7. 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.

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. Milton Pavao, DWS
Mr. Mike McCall, RPT

Scanned Map
Unavailable
Due to Size

See File

