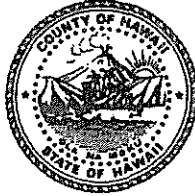


Harry Kim
Mayor



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

June 16, 2008

Mr. and Mrs. Mark Allen
P.O. Box 6772
Hilo, Hawaii 96720

Dear Mark and Jonaliza Allen:

SUBJECT: Additional Farm Dwelling Agreement (FDA-08-000213)
Applicants: Mark and Jonaliza Allen
Land Owners: Mark and Jonaliza Allen
State Land Use: Agricultural
County Zoning: A-1a
Land Area: 7.001 Acres
Tax Map Key: (3) 1-7-018:010

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:
 - i. Presently a fully operational tropical flower and foliage farm over 7 acres of the property; growing anthuriums, bird of paradise, ti, monstera, dracaena and orchids.

Mr. and Mrs. Mark Allen
Page 2
June 16, 2008

(b) Proposed agricultural activities include the following:

- i. Continuation of the above.
 - ii. Present average man-hours of 80 - 100 per week are spent on cultivation and maintenance.
3. In support of the application, evidence of a State of Hawaii Department of Taxation's General Excise Tax License has been presented.
 4. 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 as a portion of the subdivision of Grant 4405 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, GE Tax License (ID number W40942690-01), 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 being taxed.

4. In addition, the following agencies have submitted their comments as stated below:

- (a) Department of Water Supply (DWS) (Letter dated July 24, 2007):

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

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 Department's regulations. However, the Department's existing water system facilities cannot support an additional water meter at this time. Extensive improvements and additions, which may include, but not limited to, source, storage, booster pumps, transmission, and distribution facilities, would be required. 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. 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 (if one does not already exist) 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 is attached to help the applicant understand this requirement.

Mr. and Mrs. Mark Allen
Page 4
June 16, 2008

Should there be any questions, please contact Mr. Ryan Quitariano of our Water Resources and Planning Branch at 961-8070, extension 256.”

(b) Real Property Tax Office (RPT):

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

(c) Department of Health (DOH) (Memorandum dated July 16, 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.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) 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. and Mrs. Mark Allen

Page 5

June 16, 2008

- 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 existing 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 June 5, 2010, may cause the Director to initiate proceedings to invalidate the AFDA.

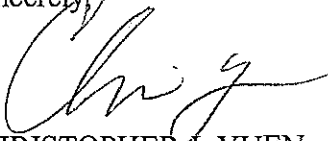
Mr. and Mrs. Mark Allen

Page 6

June 16, 2008

Should you have any questions, please feel free to contact Jonathan Holmes of this Department.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JG:cs

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Enclosures: AFDA document
AFDA document instruction sheet

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

