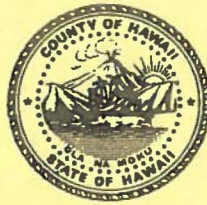


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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

January 26, 2011

Mr. & Ms. Randall Y. Nakasato
27-1049 Mamalahoa Highway
Pepeekeo, HI 96783

Dear Mr. and Ms. Nakasato:

SUBJECT: Additional Farm Dwelling Agreement (FDA-10-000287)
Applicant: RANDALL Y. NAKASATO and CAROL U. NAKASATO
Land Owner: RANDALL Y. NAKASATO, CAROL U. NAKASATO, TISHA Y. N. TAKAZAWA, RYAN A. K. NAKASATO, MARK T. K. NAKASATO AND KILINAHE HALL (TISHA Y. N. TAKAZAWA, CUSTODIAN)
State Land Use: Agricultural
County Zoning: A-20a (Agricultural, minimum building site of twenty acres)
Land Area: 8.74 acres
Tax Map Key: (3) 2-7-011:032

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. Names, address and the signatures of the applicants/landowners.
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 existing and proposed income producing agricultural activities:

- a. Ongoing agricultural activities for the farm include the following:
 - i. Maintaining, planting, harvesting and processing of approximately two acres of mature and seedling tropical flower plants;
 - ii. The annual income generated from the existing agricultural activities is between \$30,000 - \$35,000;
 - iii. The tropical flower farm business has been established for about 20 years;
 - iv. Approximately 92 or more hours per week are required for operating the farm.
- b. Proposed agricultural activities includes the following:
 - i. Hiring additional help for maintaining, planting, harvesting and processing of approximately two acres of mature and seedling tropical flower plants;
 - ii. The hours for the farming will remain relatively the same at 92 or more hours 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 4936-r) approved on October 18, 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 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.

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

- a. Department of Water Supply (DWS) memorandum dated January 14, 2011:

“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 regulations. However, the Department’s existing water system facilities cannot support additional water meters 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. Further, should the application be approved, both dwellings shall not share the existing meter.

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.

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

- b. Department of Health (DOH) memorandum dated December 14, 2010:

“The use of individual wastewater systems is allowed. The type and number

Mr. & Ms. Randall Nakasato
Page 4
January 26, 2011

of individual wastewater systems to be used will be determined by the wastewater rules in effect at the time of building permit application.

Lands formerly used for sugarcane production are now being developed into communities where residential homes, schools and commercial businesses are being constructed. Chemicals associated with the sugarcane industry persist in soil today and may be a threat to public health and the environment. Elevated arsenic levels were discovered in soil at former sugarcane production areas on the islands. The HEER Office has identified former sugarcane production areas for assessment throughout the state and plans to work with property owners to conduct environmental assessments to identify and address elevated soil arsenic levels prior to finalizing development plans for the properties.

We recommend that you review all of the Standard Comments on our website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.”

Decision:

In view of the above, your request to construct an **Additional Farm 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

Mr. & Ms. Randall Nakasato
Page 5
January 26, 2011

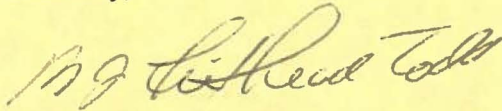
notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$30.00 in accordance with the enclosed AFDA Instructions. The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.

3. 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.
4. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
5. Your AFDA has been approved based on ongoing and proposed 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. The Department of Water Supply has determined that a County approved water system is not available to support the AFD. An Additional Farm Dwelling that is not served by an approved water system may be permitted to use a water catchment system in an area that receives an annual rainfall of at least eighty (80) inches of rain per year. A minimum 9,000 gallon water catchment system for domestic consumption and fire fighting purposes will be required for the AFD.
8. This AFDA 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 BP for this additional farm dwelling on or before January 28, 2013 may cause the Director to initiate proceedings to invalidate the AFDA.

Mr. & Ms. Randall Nakasato
Page 6
January 26, 2011

Please feel free to contact Jonathan Holmes of this office at (808)961-8288 should you have any further questions and/or concerns.

Sincerely,



BJ LEITHEAD TODD
Planning Director

JRH/shg
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Enclosures: AFDA document
AFDA document instruction sheet

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