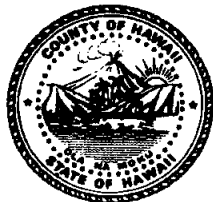


William P. Kenoi
Mayor



BJ Leithead Todd
Director
Margaret K. Masunaga
Deputy

County of Hawaii

PLANNING DEPARTMENT

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

May 10, 2011

Francis and Tamalyn K. Nakamoto
1110 Makapono Street
Honolulu, HI 96819

Dear Mr. and Mrs. Nakamoto:

SUBJECT: Additional Farm Dwelling Agreement Application (FDA-11-000301)
Applicant: Francis and Tamalyn K. Nakamoto
Owner: Francis and Tamalyn K. Nakamoto
State Land Use District: Agricultural and Urban
County Zoning District: Agricultural (A-5a)
Land Area: 1.458 acres
TMK: (3) 6-4-024:018

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 and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. A farm plan or evidence of the applicant's continual 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 proposed income-producing agricultural activities:
 - (a) Construction and operation of a 20' by 40' (800 square foot) greenhouse for tomato propagation with a capacity for 240 tomato plants;
 - (b) Planting and establishment of 14 mixed citrus trees. All citrus trees are to be planted in 2011.
 - (c) Planting and establishment of 25 avocado trees. All avocado trees are to be planted in 2011.

- (d) The labor man-hours for the above proposed activities are projected to average, on an annual basis, more than twenty (20) hours per week.

The 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.** (emphases added)
2. The subject lot was created by Court Decree on January 4, 1966, 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, including the owner's commitments to obtain a General Excise Tax License for the farm operation and sales, to plant the specified trees and constructed specified facilities, and to enter into the agreement to use the dwelling for agricultural or farm-related activity on the building site, together demonstrate that there will be income-producing agricultural activity and that the income will be taxed.

Decision:

In view of the above, your request to construct a **second** farm 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.

Francis and Tamalyn K. Nakamoto


May 10, 2011

Page 3

3. The enclosed Additional Farm Dwelling Agreement ("AFDA") must be returned to the Planning Department with the appropriate notarized signatures of all persons comprising the "First Party" to the agreement along with a check made out to the Bureau of Conveyances in the amount of \$30.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. The Planning Department will not approve completion of the already permitted additional dwelling, pursuant to building permit no. B2010-0674H, until the AFDA document with all required attachments has been recorded at the Bureau of Conveyances.
4. 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.
5. Your Additional Farm Dwelling Agreement has been approved based on your proposed agricultural activities as presented in your farm plan and summarized previously in this letter. **It is required that the First Party (owners and their lessees and their successors in interest) to the Agreement shall continue to carry out and maintain this farm plan for the life of the additional farm dwelling.** The Second Party (County of Hawaii Planning Department) of the Agreement may allow modifications for good cause shown by First Party.
6. The First Party shall allow the Second Party or its representative to inspect the farm from time to time upon reasonable prior notice.
7. **The First Party is required to complete the construction of the additional farm dwelling on or before May 10, 2013.** Failure to do so may cause the Director to initiate proceedings to invalidate the AFDA.

Should you have any questions, please contact Keola Childs of our West Hawaii office at 323-4770.

Sincerely,


BJ LEITHEAD TODD
Planning Director

CKC:ckc

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Enclosure: AFDA document
AFDA document instruction sheet