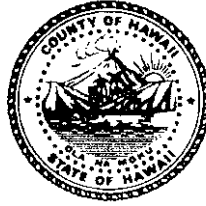


William P. Kenoi
Mayor



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

October 5, 2011

Mr. Haruo Maekawa
Ms. Yoneko Maekawa
P.O. Box 156
Hāwī, Hawai'i 96719

Dear Mr. & Ms. Maekawa:

SUBJECT: Additional Farm Dwelling Agreement (FDA-11-000310)
Applicant: HARUO and YONEKO MAEKAWA
Land Owner: HARUO and YONEKO MAEKAWA
State Land Use: Agricultural
County Zoning: A-3a (Agricultural, minimum building site of three acres)
Land Area: 3.000 acres
Tax Map Key: (3) 5-5-001:092 (SUB-08-000819)

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 income-producing agricultural activities:
 - a. Ongoing agricultural activities for the MAEKAWA FARM include the following:
 - b. Feeding, watering, and pasture maintenance for two head of cattle;

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- c. Feeding, watering, grooming, and handling 32 gamecock roosters and hens;
 - d. Maintaining and harvesting produce from 19 fruit- and nut-bearing trees;
 - e. Cultivating pumpkins, sweet potatoes, taro, ti leaf and other vegetables and flowers;
 - f. Processing and preparing produce for sale.
 - g. Ongoing agricultural activities require 24.75 hours of work per week.
3. Maps showing proposed consolidation of Lots 23-A, A-1, and 23-B-1-A, and resubdivision into Lots 23-A-1, A-1-A, and 23-B-1-A-1 (SUB-08-000819).
 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, 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 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 is income producing agricultural activity.
4. Pending consolidation and resubdivision (SUB-08-000819) would result in two dwellings on proposed Lot 23-A-1.
5. In addition, the following agencies have submitted their comments as stated

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below:

- a. Department of Water Supply (DWS) memorandum dated September 27, 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 the subject parcel, which is adequate for only one single-family dwelling and limited to an average usage 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 Rules and Regulations. However, the Department’s existing water system in the area cannot support an additional service for the subject parcel. In order to provide an additional water service, extensive offsite water system improvements would be required, which may include, but not be limited to, source, storage, booster pump, and transmission, and distribution facilities. Currently funding is not available and no time schedule is set for such improvements by the Department.

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. Although the applicant has not indicated how the proposed additional dwelling will obtain water, we have no objection to the use of a private rainwater catchment system to serve the dwelling; however the plumbing between the Department’s system and the catchment system shall not be interconnected.

As there is existing and proposed agricultural activity within the subject parcel, the applicant will be required to install a reduced pressure type backflow prevention assembly within five (5) feet of the meter on private property. The backflow prevention assembly installation must be inspected and approved by our staff.

Should there be any questions, you may contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.”

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- b. Department of Health (DOH) memorandum dated September 12, 2011:

“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 for an **Additional Farm Dwelling** to be allowed 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

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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 \$30.00 in accordance with the enclosed AFDA Instructions. The Planning Department will not approve the pending subdivision 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 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 October 5, 2013, may cause the Director to initiate proceedings to invalidate the AFDA.

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

Sincerely,

A handwritten signature in black ink that reads "BJ Leithead Todd". The signature is written in a cursive, flowing style.

BJ LEITHEAD TODD
Planning Director

JRH/KWR:kwr
O:\public\AFDA\AFDA\JRH\apv\Maekawa55001092Apvl.doc

Enclosures: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
SUB-08-000819