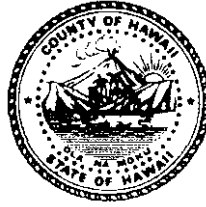


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
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County of Hawai'i PLANNING DEPARTMENT

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December 19, 2011

Mr. Peter Boucher
1537 Kalote Place
Hilo, Hawai'i 96720

Dear Mr. Boucher:

SUBJECT: Additional Farm Dwelling Agreement (FDA-11-000312)
Applicant: PETER BOUCHER
Land Owner: PETER J. BOUCHER and
CLAUDIA Y. WILCOX-BOUCHER
State Land Use: Agricultural
County Zoning: A-3a (Agricultural, minimum building site of
three acres)
Land Area: 4.139 acres
Tax Map Key: (3) 2-4-006:103, Lot N, Nani O Waiākea Estates

Pursuant to authority conferred upon 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 applicant/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 AQUAPONICS DEMONSTRATION FARM include the following:
 - i) Keeping broodstock for future aquaculture activity.

- ii) Pasturing one steer within two fenced acres.
 - b) Proposed agricultural activities include:
 - i) Raising aquaculture livestock, including tilapia and freshwater prawns, within aquaponics system.
 - ii) Cultivating hydroponics crops, including taro, lettuce, tomatoes, peppers and ornamental plants such as anthurium, within aquaponics system.
 - c) Existing and proposed agricultural activities, are estimated to require at least 16 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 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. In addition, the following agencies have submitted their comments as stated below:
 - a. Department of Water Supply (DWS) memorandum dated December 8, 2011:

“We have reviewed the subject application for the proposed additional farm dwelling and have the following comments and conditions.

The subject parcel has two (2) existing services (Account Nos. 183-43710 and 183-

43720). Therefore, we have no objection to the proposed application, as there are existing services available for each dwelling.

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 meters on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department. A copy of the Department's backflow prevention handout is attached to help the applicant understand this requirement.

Should there be any questions, you may contact Mr. Ryan Quitoriano of our Water Resources and Planning Branch at 961-8070, extension 256."

b. Department of Health (DOH) memorandum dated November 18, 2011:

"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 the building permit application.

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.

Mr. Peter Boucher
Page 4 of 5
December 19, 2011

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 \$30.00 in accordance with the enclosed AFDA Instructions.
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. 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 December 19, 2013, may cause the Director to initiate proceedings to invalidate the AFDA.

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/KWR:kwr

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Mr. Peter Boucher
Page 5 of 5
December 19, 2011

Enclosures: AFDA document
AFDA document instruction sheet

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