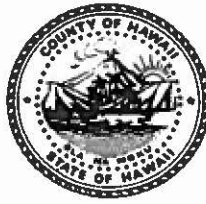


Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
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County of Hawai'i PLANNING DEPARTMENT

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November 16, 2018

Anders & Victoria Carlson
P.O. Box 841
Kailua-Kona, HI 96745-0841

Dear Mr. & Mrs Carlson:

Additional Farm Dwelling Agreement Application (FDA-18-000448)
Applicant: Anders & Victoria Carlson
Owner: Anders Carlson & Victoria Carlson
State Land Use: Agriculture
County Zoning: Agricultural (A-5a)
Land Area: 5.005 acres
TMK: (3) 7-2-004:024

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 existing income-producing agricultural activities on the subject property:
 - (a) Existing agricultural activities on approximately 1 acre of land:
 1. Plant, maintain, and harvest a variety of Fruit trees and vegetable plants, native trees and a flock of chicken
 - (b) Proposed agricultural activities:
 1. Expand the existing agricultural activity into 1 acre of land.
 2. Cultivate, maintain and harvest 2 hives of bees.
 - (c) The labor man-hours for the above existing activities are 18 hours per week with the additional dwelling the labor man-hours will expand to 58 hours per week.

4. Evidence of engagement in agricultural productivity in the form of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has been presented.
5. 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, 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.** (emphases added)
2. The subject lot was created by subdivision (SUB-00-000195) approved on October 6, 2006, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, GE Tax License (ID number GE-045-451-6736-02), 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(Memorandum dated September 10, 2018):

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

The subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system.

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 there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961- 8070, extension 255.”
 - (b) Real Property Tax Office:

No Comments were received.
 - (c) Department of Health (Memorandum dated September 25, 2018):

“Egg farm operations fall under regulatory jurisdiction of the United States Department of Agriculture (USDA), 50,000 or more hens; the US Food and Drug Administration (FDA), 3,000-50-000 hens; or the Hawai‘i State Department of Health (DOH), less than 3,000 hens, If the operation falls under the purview of DOH, egg handling area and procedures would need to meet the requirements of Chapter 50, Food Safety Code. The applicant may call the DOH Sanitation Office at Ph. 933-0917 for more information.”

Decision:

In view of the above, your request to construct an additional dwelling as a 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.
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 \$41.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. **The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document with all required attachments has been recorded at the Bureau of Conveyances.**
4. The First Party (owners and their lessees and their successors in interest) 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 existing and proposed 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. It is recognized that the First Party (property owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) year of approval of the building permit for the additional farm dwelling. “Implementing” includes the planting and ground-rooted establishment of the proposed trees in a healthy, growing state.** The Second Party (County of Hawai‘i Planning Department) to the Agreement may, in its sole discretion, allow time extensions and modifications for good cause shown by the First

Party.

6. The First Party (owners and their lessees and their successors in interest) 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 secure a building permit from the Department of Public Works, Building Division, for the construction of the additional farm dwelling on or before November 16, 2020.** Failure to secure a building permit for this additional farm dwelling on or before November 16, 2020 may cause the Director to initiate proceedings to invalidate the AFDA.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - a. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
 - b. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - c. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - d. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

In reference to the Department of Water Supply's comment, we suggest the following:

1. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 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.
2. Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawai'i County Fire Department.
3. In that water catchment systems are being used as a means of water supply for firefighting, such systems and

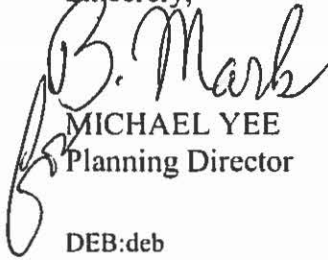
Anders & Victoria Carlson

11/16/18

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Should you have any questions, please contact Deanne Bugado of our West Hawai'i office at 323-4770.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Mark" or "B. Michael", written over the printed name "MICHAEL YEE".

MICHAEL YEE
Planning Director

DEB:deb

P:\afda\Kona AFDA\AFDAap-7-2-4-24_Carlson

xc: Chief Sanitarian, DOH
Manager, DWS
Administrator, RPT