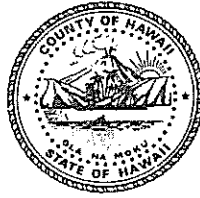


Harry Kim
Mayor



County of Hawai'i
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720-3043
(808) 961-8288 • Fax (808) 961-8742

January 6, 2005

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
P.O. Box 1720
Kailua-Kona, HI 96740

Dear Mr. Lim:

Special Permit Application (SPP 04-010)
Applicant: David & Sharon Pettus
Request: Wellness Center Retreat & Related Improvements on 12.157 Acres
Within the State Land Use Agricultural District
Tax Map Key: 4-7-2:15

The Planning Commission at its duly held public hearing on December 17, 2004, considered the requests for Gary Washburn and Cheryl Green and voted to grant them standing to participate in a contested case procedure for the above-referenced application. The Commission then voted to hire a hearings officer for the contested case proceedings in accordance with the County of Hawaii procurement procedures.

All parties will be apprised of any developments in this matter. Please contact Norman Hayashi of the Planning Department should you have questions concerning the above.

Sincerely,

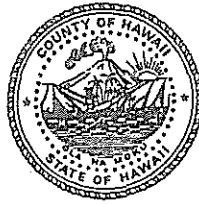

Fred Galdones, Chairman
Planning Commission

Lpettus01pc

cc: David and Sharon Pettus
Ivan Torigoe, Esq., Corporation Counsel
Mr. Gary Washburn
Ms. Cheryl Green

1062352

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

December 21, 2005

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

Special Permit Application (SPP No. 04-010)
Applicants: David and Sharon Pettus
Subject: Response to Letter Dated December 6, 2005
Tax Map Key: 4-7-2:15

This is to acknowledge receipt of your letter dated December 6, 2005 regarding the submittal of the Additional Farm Dwelling Agreement and the photo showing the demolition of Building H.

You have only submitted one Additional Farm Dwelling Agreement, which has been sent out to agencies for comments. The Planning Director will make a decision on the Additional Farm Dwelling Agreement on or before January 20, 2006. It is our understanding that you will not be submitting a second Additional Farm Dwelling Agreement at this time.

We would like additional information regarding the status of Buildings D and E, and Building F. Based on your letter dated June 21, 2005, Buildings D and E were intended to be combined and used as the first Additional Farm Dwelling. Building F was intended to be the Second Additional Farm Dwelling. Please clarify which Building will be used for the Additional Farm Dwelling and what the result will be with the remaining building(s). Please summarize the status of each of the buildings and where you are in the process of obtaining building permits for these structures. Additionally, a map of the property with the identified buildings for reference is to be included.

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
December 21, 2005
Page 2

We acknowledge that Building H has been demolished based on the picture that has been submitted.

As a reminder, we are requiring a status report to be submitted every three months until the actions are completed and the violation is resolved. The next status report is to be submitted on or before April 4, 2006.

We anticipate that you will be submitting the request to withdraw the above listed special permit with the approval of the Additional Farm Dwelling Agreement.

Thank you for your compliance in this matter. If you have any questions, please feel free to contact Jeff Darrow at 961-8288, ext 259.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

JWD:smn

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cc with copy of letter: Planning Commission
Robert Usagawa, Zoning Inspector
Mark Van Pernis, Esq.

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

JZELKO@CARLSMITH.COM

December 6, 2005

2005 DEC 7 PM 12:48
PLANNING DEPARTMENT
COUNTY OF HAWAII

Christopher Yuen
Planning Director
Planning Department
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

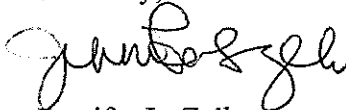
Re: Pettus Additional Farm Dwelling Agreement
David and Sharon Pettus, TMK (3) 4-7-02-15

Dear Mr Yuen:

This letter will confirm the compliance by David and Sharon Pettus of the provisions stated in the Planning Department's letter dated October 4, 2005 (copy attached). We submitted the Pettus Additional Farm Dwelling Application including the Farm Plan to the Planning Department on November 18, 2005 as required under HCC Section 25-5-77(b) & (c). Furthermore, as required by the aforementioned Planning Department's letter, Building H on the Property has been demolished (photo copy attached) within the 45 days noted in the correspondence.

If you have any questions or need anything further please feel free to contact me.

Sincerely,



Jennifer L. Zelko

JLZ/1lh

4813-9952-2048.1

008416

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

October 4, 2005

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
121 Waiianuenue Avenue
Hilo, HI 96720

Post-It® Fax Note	7671	Date	10/20/05	# of pages	2
To	JENNIFER	From	JEFF		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	935-7475	Fax #			

Dear Mr. Lim:

Special Permit Application (SPP No. 04-010)
Applicants: David and Sharon Pettus
Subject: Response to Letter Dated September 29, 2005
Tax Map Key: 4-7-2:15

This is to acknowledge receipt of your acceptance letter dated September 29, 2005 regarding the resolution of the alleged violation and the decision to submit additional farm dwelling agreements rather than pursue the above listed special permit.

In our last letter dated July 13, 2005, we required that a timeline for the proposed resolution to be submitted. This would include the amount of time for the submittal of the building permits and additional farm dwelling agreements for the unpermitted structures, and the completion of the demolition of Building H. You state in your letter that you will be submitting the farm dwelling applications within the next 45 days. We are also requiring that Building H be completely demolished or removed within this 45 day time period. Once removed, please submit photographs verifying that this action has been completed.

If you are intending to submit an additional farm dwelling application for a third dwelling (second additional farm dwelling), we granted a period of one year from the date of our last letter (July 13, 2005) to bring the agricultural activity for this dwelling into compliance sufficient to keep one worker employed full-time. This is a reminder that the one year expires on July 13, 2006 for compliance in this matter.

Hawai'i County is an Equal Opportunity Provider and Employer

OCT 5, 2005

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
Page 2
October 4, 2005

Additionally, we are also requiring a status report to be submitted every three months until the actions are completed and the violation is resolved. We anticipate the first report to be submitted on or prior to January 4, 2006.

We also anticipate that you will be submitting a request to withdraw the above listed special permit based on the finalized agreement.

If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,



CHRISTOPHER Y. YUEN
Planning Director

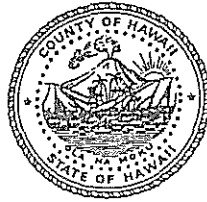
JWD:smn

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cc with copy of letter: Planning Commission
Robert Usagawa, Zoning Inspector
Mark Van Pernis, Esq.



Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

November 17, 2004

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
P.O. Box 1720
Kailua-Kona, HI 96740

Dear Mr. Lim:

Special Permit Application (SPP 04-010)

Applicant: David & Sharon Pettus

Request: Wellness Center Retreat & Related Improvements on 12.157 Acres

Within the State Land Use Agricultural District

Tax Map Key: 4-7-2:15

This is to inform you that the above Special Permit application has been scheduled for a public hearing by the Planning Commission. Said hearing, among others, will be held beginning at 10:00 a.m. on Friday, December 17, 2004, in the County of Hawaii Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawaii. Your presence or the presence of an authorized representative will be appreciated in order that all questions relative to the request may be clarified. A copy of the public notice is attached for your information.

In accordance with the Planning Commission Rule 6 (Special Permits) and pursuant to Rule 4 (Contested Case Procedure), you are required to notify the surrounding property owners and lessees of record of the hearing. The notice shall be served on the owners and lessees of all lots within 500 feet of the perimeter boundary of the building site.

The notice shall include the following information:

1. Name of the applicant;
2. Precise location of the property involved, including tax map key identification, location map and site plan;
3. Nature of the application and the proposed use of the property;
4. Date on which the application was filed with the commission;
5. The date, time and place of the public hearing will be held to consider the application.

NOV 17 2004

NOV 22 2004

Steven S. C. Lim, Esq.

November 17, 2004

Page 2

6. Inform the landowners and lessees of record that they have a right to submit a written request for a contested case procedure. Should they seek to intervene as a party, they shall file a written request no later than seven (7) calendar days, prior to the Commission's first scheduled public hearing to consider the application. Such written request shall be in conformity with the Planning Commission's Rules of Practice and Procedure, Rule 4, relating to Contested Case Procedure, in a form as provided in Rule 4, Appendix A, "Petition for Standing in a Contested Case Hearing." The written request shall be filed with the Planning Commission at 101 Pauahi Street, Suite 3, Hilo, Hawaii 96720, and accompanied by a filing fee of \$100 payable to the Director of Finance.
7. Inform the landowner or lessee that should they choose not to submit a written request for a contested case procedure, they may express their support/opposition in writing or by oral testimony at the Planning Commission public hearing to be scheduled;
8. Contact name and phone number should there be any questions.

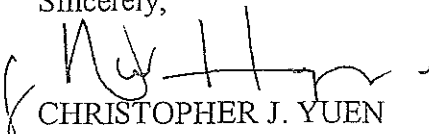
The notice shall be served within ten days after receiving notice from the director of the date, time and place of the scheduled hearing but not less than ten days prior to the date of the scheduled hearing.

Data available from the real property tax office shall be utilized in determining the names and addresses of the affected owners and lessees of record. The applicant shall also provide notice to such other owners and lessees of record when the applicant has actual knowledge of such names or as informed by the Planning Director or Planning Commission.

Proof of service to surrounding property owners shall be submitted to the Planning Commission prior to the date of public hearing. Proof may consist of certified mail receipts, affidavits, declarations or the like. The list of names, addresses and tax map keys of those individuals notified shall also be submitted.

Should you have any questions regarding the above, please do not hesitate to contact Norman Hayashi or Phyllis Fujimoto of this department at 961-8288.

Sincerely,

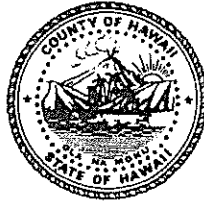

CHRISTOPHER J. YUEN
Planning Director

NH:smn

Att.

cc: Planning Department – Kona
David & Sharon Pettus
Ms. Cheryl Green

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA, LEED™ AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

February 23, 2006

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
121 Waiuanuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

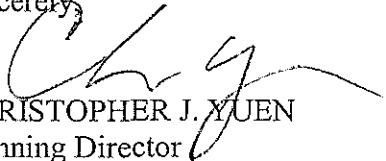
Special Permit Application (SPP No. 04-010)
Applicants: David and Sharon Pettus
Request: Proposed Wellness Retreat Center and Related Improvements
Subject: Withdraw of Special Permit Application
Tax Map Key: 4-7-2:15

This is to acknowledge receipt of your letter dated February 9, 2006 requesting that the above listed Special Permit application be withdrawn. We will notify the Planning Commission and the petitioners of your request.

We confirm that an Additional Farm Dwelling Agreement for an additional farm dwelling has been approved and that Building H has been demolished. We are awaiting the updated status report for the resolution of the remaining buildings.

If you have any questions, please feel free to contact Jeff Darrow at 961-8288, ext 259.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

JWD:smn

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cc w/ copy of letter: Planning Commission
Ivan Torigoe-Deputy Corporation Council
Gary S. Washburn, Petitioner
Cheryl A. Green, Petitioner

Hawai'i County is an Equal Opportunity Provider and Employer

FEB 28 2006

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

JZELKO@CARLSMITH.COM

FEB 10 PM 12 45
PLANNING DEPARTMENT
COUNTY OF HAWAII

February 9, 2006

Mr. Christopher J. Yuen, Planning Director
County of Hawaii, Planning Department
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Re: David and Sharon Pettus
Additional Farm Dwelling Agreement
TMK (3) 4-7-02-15 at Kaauhuhu, Hamakua, Hawaii

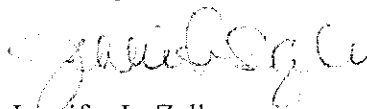
Dear Mr. Yuen:

As you know, our firm represents Dave and Sharon Pettus in regard to the structures constructed on their property located at Kaauhuhu, Hamakua, TMK (3) 4-7-02-15 (hereinafter referred to as the "Property"). Mr. and Mrs. Pettus submitted their Additional Farm Dwelling Agreement to the Planning Department on February 9, 2006 as provided for in your letter of January 20, 2006.

At this time, we are requesting that Mr. and Mrs. Pettus's Special Permit Application No. 04-010 relating to the proposed Wellness Center Retreat, and any contested case proceedings therein be formally withdrawn from further processing by the Planning Department.

If you require any additional information, please call me at 935-6644.

Sincerely,



Jennifer L. Zelko

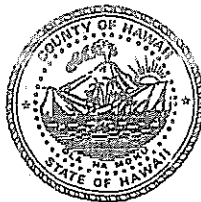
JLZ/1lh

cc. Dave and Sharon Pettus

4848-3407-2064.1

010793

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

July 13, 2005

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

Special Permit Application (SPP No. 04-010)
Applicants: David and Sharon Pettus
Subject: Response to Letters Dated May 25 and June 21, 2005
Tax Map Key: 4-7-2:15

This is to acknowledge receipt of your letters dated May 25 and June 21, 2005. We would like a clarification as to the reason for the change in amount of hours of agricultural work for the third dwelling (second additional farm dwelling) from the May 25, 2005 letter to the June 21, 2005 letter. The May 25, 2005 appears to be correct, which stated that the first dwelling is a single-family dwelling that does not require agricultural related activity; the second dwelling (first additional farm dwelling) requires one day a week of agricultural activity; and the third dwelling (second additional farm dwelling) requires **existing** agricultural activity sufficient to keep one worker employed full-time. This is clarified in a staff memo regarding additional farm dwellings, which we are enclosing along with this letter.

If this is agreed upon, your proposal in the May 25, 2005 letter is acceptable. We understand that there may not be the existing agricultural activity needed for the approval of the third dwelling presently. We will allow a period of one year from the date of this letter to bring the agricultural activity for the third dwelling into compliance sufficient to keep one worker employed full-time.

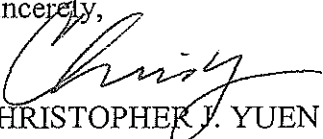
We are requiring a timeline for the proposed resolution to be submitted. This would include the amount of time for the submittal of the building permits and additional farm dwelling agreements for the unpermitted structures, and the completion of the demolition of Building H. We are also requiring a status report to be submitted every three months until the actions are completed and the violation is resolved.

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
A Limited Liability Law Partnership
Page 2
July 13, 2005

We anticipate that you will be submitting a request to withdraw the above listed special permit once the agreement is accepted and finalized with a response letter.

If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

Enclosure

JWD:smn

P:\WPWIN60\JEFF\Letters\PC\LCarlsmith-Pettus-SPP04-010(4).doc

cc with copy of letters: Planning Commission
Robert Usagawa, Zoning Inspector
Jonathon Holmes, Zoning Clerk

OTC

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

2005 MAY 27 PM 3 32
PLANNING DEPARTMENT
COUNTY OF HAWAII

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

May 25, 2005

Mr. Christopher J. Yuen
Planning Director
Planning Department
County of Hawaii
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Re: Request to Resolve Alleged Zoning Violations
Applicant: David and Sharon Pettus
Owners Agent: Steven S.C. Lim, Carlsmith Ball LLP
Tax Map Key: 4-7-002: 015 (12.16 Acres)

Dear Mr. Yuen:

The Applicants proposed to address their alleged zoning violations with the Planning Department. We have enclosed a copy of the site plan of the property to assist in the following proposal:

1. Building G is a permitted "single family dwelling" on the property. Building G was issued a Building Permit No. 950515 and a second building permit No. 950516 for an addition to the dwelling. The subject property was created by Grant 3776 on June 21, 1895 (copy enclosed). HRS Section 205-4.5(b) states that "Uses not expressly permitted in subsection (a) shall be prohibited, except the uses permitted as provided in sections 205-6 and 205-8, and construction of single family dwellings on lots existing before June 4, 1976. . . ". Therefore, Building G can be designated as a "single family dwelling".
2. Building D and Building E will be structurally connected to form the First Farm Dwelling on the Property. The agricultural use for the First Farm Dwelling shall be permitted as Applicant can show an existing or proposed farm activity that requires one (1) day (8 hours) per week of agricultural work on the property.
3. Building F will be the Second Farm Dwelling, and as such will support agricultural use by the showing of forty-eight (48) hours total of agricultural work per week, including

000437

Mr. Christopher J. Yuen, Planning Director
May 25, 2005
Page 2

existing agricultural activity sufficient to keep one worker employed full-time forty (40) hours per week, plus the additional one (1) day per week of agricultural work.

4. Building B will be converted to a Guest House (no larger than 500 square feet with no kitchen).
5. Building C which was permitted under Building Permit No. 922628 will remain as a husking barn/Agricultural Storage building.
6. Building H which has been partially demolished will be completely removed.
7. We anticipate full compliance within 12 months of your approval of this concept. A semi-annual report shall be submitted by the Applicants to inform the Planning Department of the progress of compliance.


This will request confirmation of your statement that the categorization of the above dwellings can be amended in the future. This will give Mr. and Mrs. Pettus the option to develop their new home at the future Building A site by either obtaining a Third Farm Dwelling approval meeting with the relevant agricultural requirements, or removing one of the above-referenced Farm Dwellings. This will also reserve the right of Mr. and Mrs. Pettus to reassign the above categories for the structures in the event that obtaining permits for any structure becomes impractical. Assuming your concurrence with the above proposal, Mr. and Mrs. Pettus will prepare and process all applicable plans and building permits for all structures.

Based on the above actions by the Applicants, this will hopefully start the process to resolve the zoning violations outlined in your letter of May 30, 2003. If the proposed plan is acceptable to the Planning Department, please confirm your determination in writing, and the Applicants will immediately start to proceed with the above stated actions. Thank you for your patience and cooperation on this matter.

If you require any additional information, please call me at 935-6644.

Very truly yours,

CARLSMITH BALL LLP


Steven S.C. Lim

SSL/lny

Enclosures

cc: Mr. and Mrs. David Pettus

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

June 21, 2005

Mr. Christopher J. Yuen
Planning Director
Planning Department
County of Hawaii
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Re: Request to Resolve Alleged Zoning Violations
Applicant: David and Sharon Pettus
Owners Agent: Steven S.C. Lim, Carlsmith Ball LLP
Tax Map Key: 4-7-002: 015 (12.16 Acres)

Dear Mr. Yuen:

This will amend our letter to you of May 25, 2005 by clarifying our position on the number of hours per week required for agricultural work on the Property.

1. Building G is a permitted "single family dwelling" on the property. Building G was issued a Building Permit No. 950515 and a second building permit No. 950516 for an addition to the dwelling. The subject property was created by Grant 3776 on June 21, 1895 (copy enclosed). HRS Section 205-4.5(b) states that "Uses not expressly permitted in subsection (a) shall be prohibited, except the uses permitted as provided in sections 205-6 and 205-8, and construction of single family dwellings on lots existing before June 4, 1976. . .". Therefore, Building G can be designated as a "single family dwelling".
2. Building D and Building E will be structurally connected to form the First Farm Dwelling on the Property. The agricultural use for the First Farm Dwelling shall be permitted as Applicant can show an existing or proposed farm activity that requires one (1) day (8 hours) per week of agricultural work on the property.
3. Building F will be the Second Farm Dwelling, and as such will support agricultural use by the showing of eight (8) hours total of agricultural work per week.

001592

Mr. Christopher J. Yuen, Planning Director
June 21, 2005
Page 2

4. Building B will be converted to a Guest House (no larger than 500 square feet with no kitchen).
5. Building C which was permitted under Building Permit No. 922628 will remain as a husking barn/Agricultural Storage building.
6. Building H which has been partially demolished will be completely removed.
7. We anticipate full compliance within 12 months of your approval of this concept. A semi-annual report shall be submitted by the Applicants to inform the Planning Department of the progress of compliance.

Mr. and Mrs. Pettus wish to retain the option to develop their new home at the future Building A site by either obtaining a Third Farm Dwelling approval meeting with the relevant agricultural requirements, or removing one of the above-referenced Farm Dwellings. We understand that this Third Farm Dwelling must show existing agricultural activity sufficient to keep one worker employed full-time forty (40) hours per week. This will confirm your statement that the categorization of the above dwellings can be amended in the future, and thus Mr. and Mrs. Pettus will have the right to reassign the above categories for the structures in the event that obtaining permits for any structure becomes impractical. Assuming your concurrence with the above proposal, Mr. and Mrs. Pettus will prepare and process all applicable plans and building permits for all structures.

Based on the above actions by the Applicants, this will hopefully start the process to resolve the zoning violations outlined in your letter of May 30, 2003. If the proposed plan is acceptable to the Planning Department, please confirm your determination in writing, and the Applicants will immediately start to proceed with the above stated actions. Thank you for your patience and cooperation on this matter.

If you require any additional information, please call me at 935-6644.

Very truly yours,

CARLSMITH BALL LLP


Steven S.C. Lim

SSL/lny
Enclosures

cc: Mr. and Mrs. David Pettus

4828-1148-6976.1