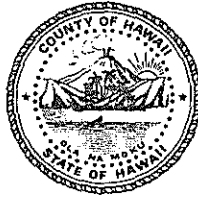


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

June 8, 2001

Andreas Gnauck
Melanie Gnauck
P.O. Box 5087
Kailua-Kona, Hawaii 96745

Dear Mr. and Mrs. Gnauck:

Additional Farm Dwelling Agreement

Applicants: Andreas Gnauck and Melanie Gnauck

Land Owners: Andreas Gnauck and Melanie Gnauck

Tax Map Key: (3) 7-5-015:016

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 a second farm dwelling on the subject property. Your submittals included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of a proposed Additional Farm Dwelling Agreement.
2. Name and address of the landowner or lessee, if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
3. Written authorization of the landowner if the lessee filed the request.
4. 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 ongoing and proposed agricultural activities:

005218

Exhibit A

JUN 12 2001

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Melanie Gnauck
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- (a) An existing coffee orchard consisting of 400 trees that were planted in the summer of 1999.
 - (b) The proposed planting of approximately 490 additional coffee trees.
5. In support, evidence of a Federal Income Tax Form 1040, Schedule F for the year 1999 showing \$1,784.00 in expenses for seeds and plants purchased.

Findings:

1. In Chapter 205, Hawaii Revised Statutes, 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 farm plan, photos of the existing coffee orchard, and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is agricultural activity on the land.
3. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Memorandum dated May 4, 2001):

“We have reviewed the subject application and have the following comments and conditions:

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling at 600 gallons per day. This application is proposing an additional detached dwelling, so the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 8-inch waterline in Mamalahoa Highway. This location is such that the applicant's existing meter and the required second meter both do not front the subject

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property. Lastly, the parcel is currently covered by a Departmental Elevation Agreement.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting the following conditions:

1. Submit a schematic diagram prepared by a licensed engineer in the State of Hawaii to the Department of Water Supply for approval.
2. Installation, by the Department of Water Supply, of a second 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons per day.
3. Installation of a backflow preventer (reduced pressure type) by a licensed contractor on the applicant's property just after the meter. The installation and assembly of the backflow preventer must be inspected and approved by the Department before the water meter can be installed. The backflow preventer shall be operated and maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicant to help them understand this requirement.
4. Remittance of the following charges effective April 1, 2001, which are subject to change, to our Customer Service Section:

a. Facilities Charge (One 2 nd service at \$4,350.00 each)	\$4,350.00
b. Capital Assessment Fee	500.00
c. Service Lateral Installation Charge (Install one meter on Napoopoo Road, a County road)	<u>+2,250.00</u>
Total (Subject to Change)	\$7,100.00

Should there be any questions, please contact our Water Resources and Planning Branch at 961-8070."

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Melanie Gnauck
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(b) Real Property Tax Office:

No comments were submitted.

(c) Department of Health (Memorandum dated May 2, 2001):

“By current rules, the subject lot is located in a Critical Wastewater Disposal Area. A lot size of five (5) acres or more are required for the use of a cesspool. Only one (1) cesspool would be allowed on the lot. A septic tank system would be needed if a second wastewater disposal system is needed on this lot.”

Decision:

In view of the above, your request to construct a second farm dwelling is approved subject to the following conditions:

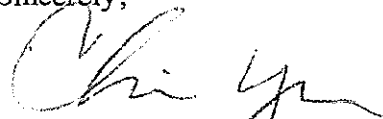
1. The second farm dwelling shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site.
2. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional farm dwelling.
3. All 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.
4. Your Additional Farm Dwelling Agreement has been approved based partially on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the building permit for the additional farm dwelling. Time extensions and modifications may be allowed by the Second Party (County of Hawaii Planning Department) of the Agreement for good cause shown by First Party.
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.

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Melanie Gnauck
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6. This Additional Farm Dwelling Agreement 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 building permit for this additional farm dwelling on or before June 1, 2003 may cause the Director to initiate proceedings to invalidate the AFDA.

Should you have questions or require further information, please feel free to contact Larry Brown of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:pak

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Enclosure

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department - West Hawaii Office

AFTER RECORDATION, RETURN BY MAIL (X) PICK-UP ()

Andreas and Melanie Gnauck
P.O. Box 5087
Kailua-Kona, HI 96745

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Andreas And Melanie Gnauck

PROPERTY DESCRIPTION:

TMK (3)7-5-015-016

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this _____ day of _____, 20____, by and between Andreas and Melanie Gnauck herein called the "First Party," whose mailing address is P.O. Box 5087, Kailua-Kona, Hawaii 96745, and the _____, and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling located on the property described by Tax Map Key (3) 7-5-015-016 situated within the State Land Use Agricultural district and zoned Agricultural-1acre by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owners (legal owner/lessee) of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct an additional farm dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s) involved in the agricultural or farm-related activity on the building site.
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 landowner or lessee shall record the approved Additional Farm Dwelling Agreement with the State of Hawaii, Bureau of Conveyances and/or with the

Land Court System within thirty days from the date of receipt of approval. A copy of the recorded Additional Farm Dwelling Agreement shall be submitted to the Planning Director of the County of Hawaii prior to approval of the building permit.

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may imposed a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year
first above written.

FIRST PARTY



Andreas Gnauck



Melanie Gnauck

SECOND PARTY

Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 20____, before me personally appeared _____, to me personally known, who, being by me duly sworn, did say that he/she is the authorized representative of the Planning Department of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said _____, acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Notary Public, State of Hawaii

My commission expires: _____

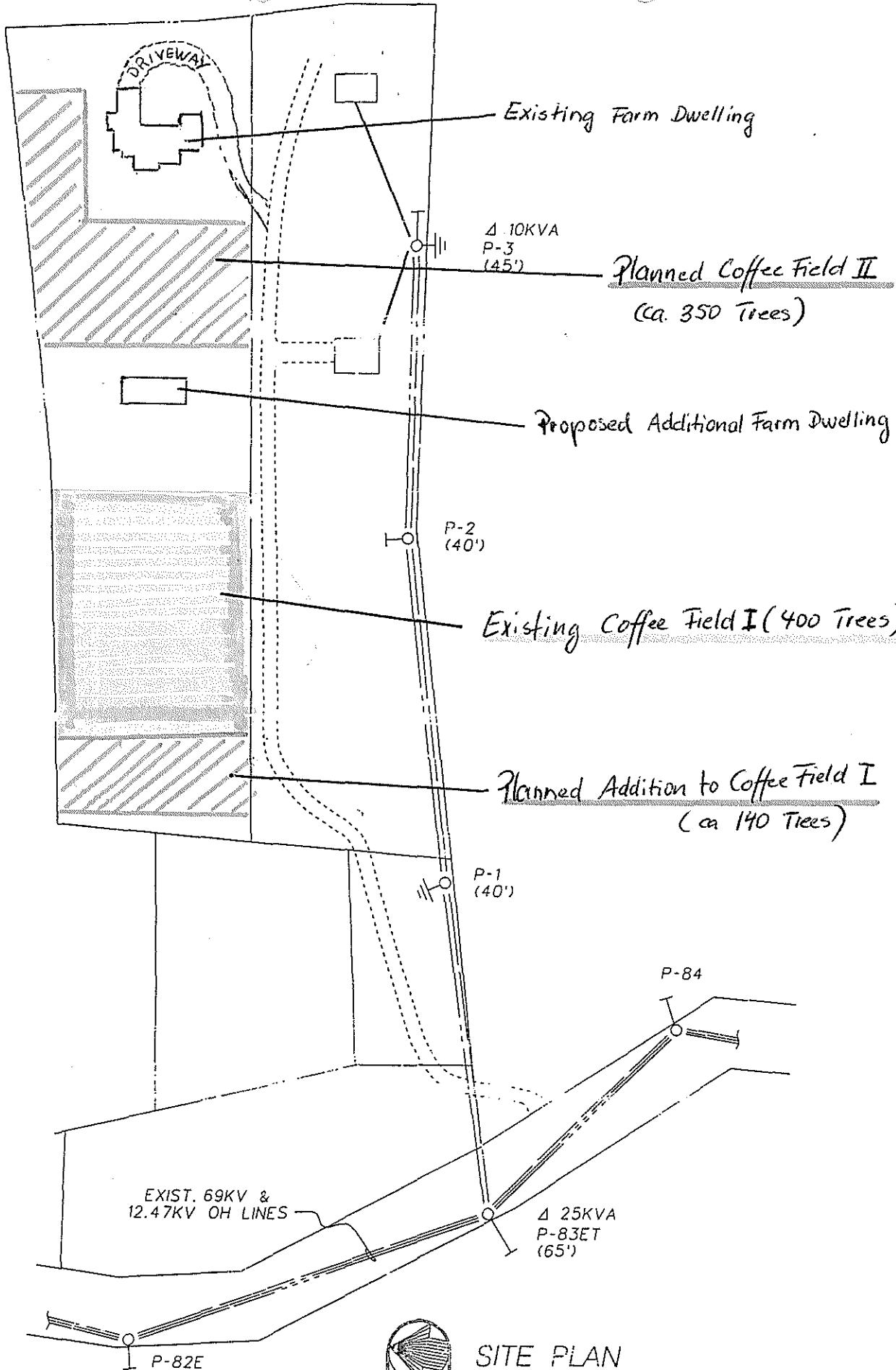
STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 2nd day of MARCH, 2001, before me personally appeared Andreas Gnauck & Melanie Gnauck to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

LS

 NP
Allana E. Finn
Notary Public, State of Hawaii

My commission expires: 7-27-2002



SITE PLAN
 SCALE : 1" = 100'