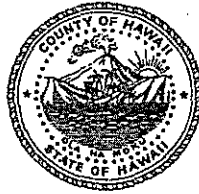


Harry Kim
Mayor



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

September 24, 2003

Joyce K. Crisafi, Judy K. Stewart,
Duane R. Van Wyngarden and Beatrice Van Wyngarden
81-6107 Bamboo Road
Captain Cook, Hawaii 96704

Dear Property Owners:

Additional Farm Dwelling Agreement
Applicants: Joyce K. Crisafi, Judy K. Stewart,
Duane R. Van Wyngarden and
Beatrice Van Wyngarden
Land Owners: Joyce K. Crisafi, Judy K. Stewart,
Duane R. Van Wyngarden and
Beatrice Van Wyngarden
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 4.785-acres
Tax Map Key: (3) 8-2-001:080

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 re-reviewed your request for an additional 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 the enclosed Additional Farm Dwelling Agreement to be submitted for recordation with the Bureau of Conveyances.
2. 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.

043714
#57863

SEP 29 2003

3. Written authorization of the landowner(s) if the lessee filed the request.

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

Your farm plan included the following ongoing and proposed income producing agricultural activities:

(a) Ongoing agricultural activities include the following:

- i. 2-acres of producing coffee trees;

(b) Proposed agricultural activities include the following:

- i. 2003 – plant an additional $\frac{1}{2}$ -acre and 2004 – plant another $\frac{3}{4}$ -acre for a total area of 3 & $\frac{3}{4}$ -acres.

4. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

Findings:

1. In Chapter 205, Hawaii 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 by subdivision (1505) approved on June 28, 1960 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, GE Tax License (ID number 30113275), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there will be income producing agricultural activity and the income will be taxed.

4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (Letter dated August 20, 2003):

“We have reviewed the subject application, and our records show that this parcel does not have water service with the Department. It is our understanding that the applicants will use a catchment system for their water; therefore the Department has no objections to this application.

However, if the applicants would like water service through the Department, they should contact our Water Resources and Planning Branch at 961-8070 for more information. Water can be made available from a point of adequacy on an existing 6-inch waterline in Kinue Road, approximately 2,700 feet from a southern corner of the property. Requirements for water service include an executed elevation agreement, along with a schematic diagram, payment of applicable fees, and compliance with our Rules and Regulations and Water System Standards. Please be informed that this water availability may change at any time.

Should there be any questions, please contact Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 1.”

(b) Real Property Tax Office (Submitted Tax Clearance form dated July 11, 2003):

“This is to certify that Stewart, Judy etal. ... has paid all Real Property Taxes due to the County of Hawaii up to and including 6/30/03”

(c) Department of Health (Memorandum dated August 22, 2003):

“The Health Department found no environmental health concerns with regulatory implications in the submittals.”

Decision:

In view of the above, your request to construct a **third** (second AFD) dwelling on the subject property 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

Joyce K. Crisafi, Judy K. Stewart,
Duane R. Van Wyngarden and Beatrice Van Wyngarden
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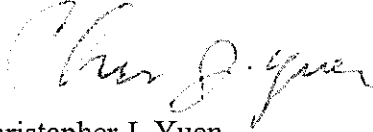
engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.

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 Additional Farm Dwelling 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 \$25.00 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 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 other reviewing agencies/divisions listed on the Building Permit Application.
4. Your Additional Farm Dwelling Agreement has been approved based partly 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. The Second Party (County of Hawaii Planning Department) of the Agreement may allow time extensions and modifications 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.
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 September 13, 2005 may cause the Director to initiate proceedings to invalidate the AFDA.

Joyce K. Crisafi, Judy K. Stewart,
Duane R. Van Wyngarden and Beatrice Van Wyngarden
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Should you have any questions, please feel free to contact Jonathan Holmes of this office
at 961-8288.

Sincerely,



Christopher J. Yuen
Planning Director

JRH:pak

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Enclosure: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department – Kona

AFTER RECORDATION, RETURN BY MAIL TO:

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

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

**FIRST PARTY: JOYCE K. CRISAFI, JUDY K. STEWART, DUANE R.
VAN WYNGARDEN and BEATRICE VAN
WYNGARDEN**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 8-2-001:080

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 12th day of September, 2003, by and between **JOYCE K. CRISAFI, JUDY K. STEWART, DUANE R. VAN WYNGARDEN and BEATRICE VAN WYNGARDEN**, herein called the "First Party," whose mailing address is 81-6107 Bamboo Road, Captain Cook, Hawaii 96704, and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a second farm dwelling located on the property described by Tax Map Key (3) 8-2-001:080 situated within the State Land Use Agricultural district and zoned Agricultural (A-5a) by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner of the property above described.

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

1. The additional farm dwelling shall be used to provide shelter to person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity 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. This agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit "A".

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 impose 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:

JOYCE K. CRISAFI Legal Owner

JUDY K. STEWART, Legal Owner

DUANE R. VAN WYNGARDEN, Legal Owner

BEATRICE VAN WYNGARDEN, Legal Owner

SECOND PARTY:

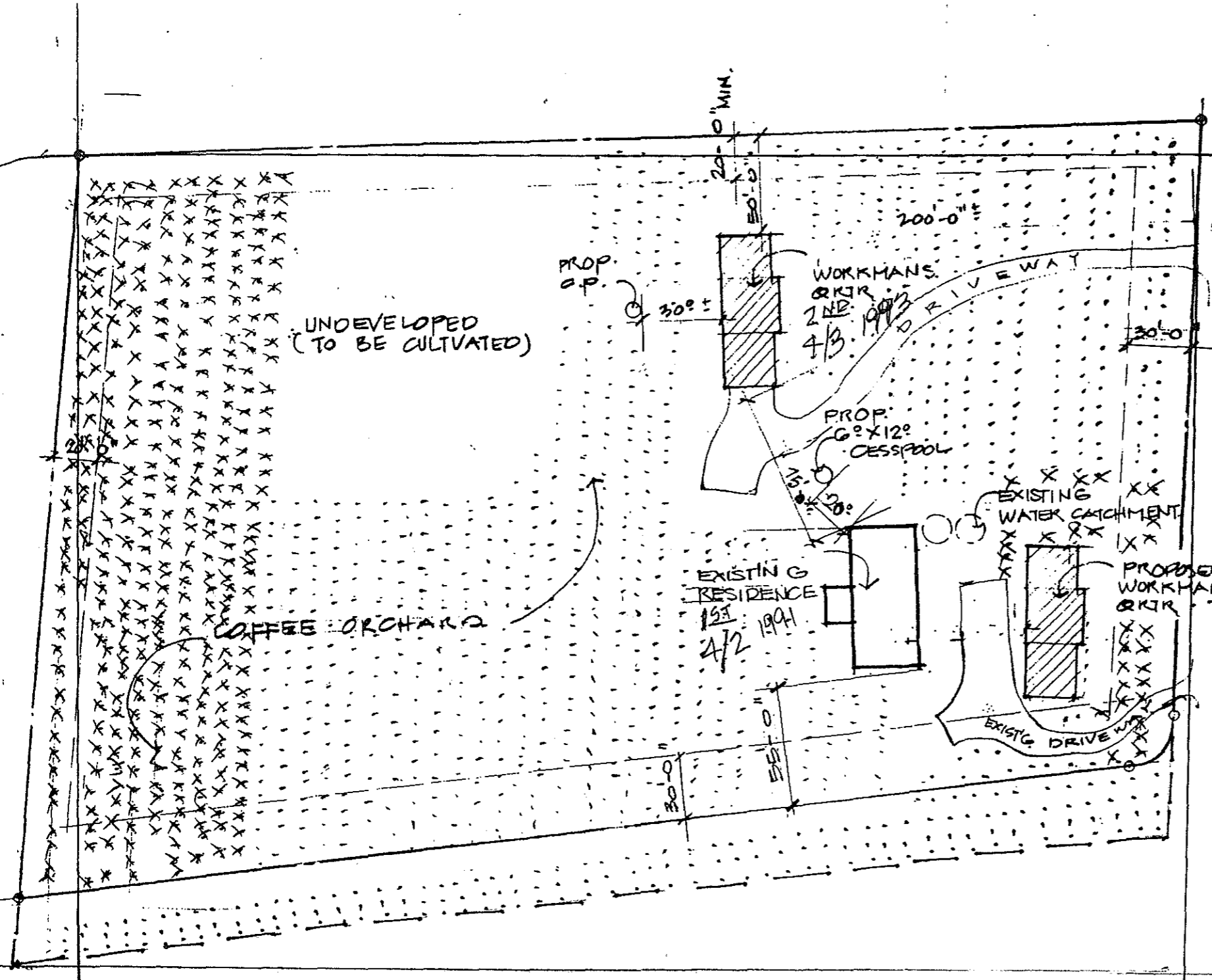
Christopher J. Yuen, Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 2003 before me
personally appeared **JOYCE K. CRISAFI, JUDY K. STEWART, DUANE R.
VAN WYNGARDEN and BEATRICE VAN WYNGARDEN** to me known to
be the persons described in and who executed the foregoing instrument, and
acknowledged that they executed the same as their free act and deed.

Notary Public, State of _____

My commission expires: _____



UNDEVELOPED
(TO BE CULTIVATED)

EXISTING ORCHARD

EXISTING
RESIDENCE
193
4/2
1991

WORKMANS
QKIR
2ND
4/3
1993

PROP.
6' x 12'
CESSPOOL

EXISTING
WATER CATCHMENT

PROPOSED
WORKMANS
QKIR

PLOT PLAN

SCALE IN FEET 1"=60'

T.M.K: 8-2-01-80-52
LOC: KILOA, SOUTH KON

AREA: 4.758AC.



XXXXXX XXXXXX XXXXXX	COFFEE NOT YET PRODUCING
[Empty Box]	COFFEE TO BE PLANTED

CV150.F1