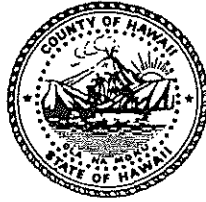


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
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

January 14, 2005

Mick Havener
P.O. Box 999
Kealahou, Hawaii 96750

Dear Mr. Havener:

Additional Farm Dwelling Agreement Application (2004-0023)

Applicant: Mick Havener
Owner: Carol A. Weaver
James J. Abrams
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 5.332 acres
TMK: (3) 8-2-001: 044

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 ongoing and proposed income producing agricultural activities:
 - a. Ongoing agricultural activities include the following:
 - i. Maintain and harvest 2600 coffee trees.
 - ii. Maintain and harvest 3 banana trees, 4 pineapple plants and 4

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avocado trees.

- b. Proposed agricultural activities include the following:
 - i. Re-plant, maintain and harvest 30 coffee trees.
 - ii. Plant, maintain and harvest an additional 780 coffee trees.
 - c. The labor man-hours are approximately 50-60 hours per week to maintain, harvest and distribute.
4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.
 5. 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, 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 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, GE Tax License (ID number 30138485), 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 (DWS) (Letter dated December 10, 2004):

“We have reviewed the subject application, and our records show that the subject parcel does not have water service with the Department. It is our understanding that the applicants will use a catchment system for their water as they are outside the service limits of the Department. Therefore, the Department has no objections to the application.

Should there be any questions, please contact Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 252.”

b. Real Property Tax Office (RPT):

There were no comments received.

c. Department of Health (DOH):

There were no comments received.

Decision:

In view of the above, your request to construct a **second farm dwelling** is 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. 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. The First Party shall adhere to 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 entirely on existing agricultural activity as summarized previously in this letter.
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 January 15, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

Mick Havener
January 12, 2005
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If you have any questions please call Deanne Bugado of our West Hawaii Office at 327-3510.

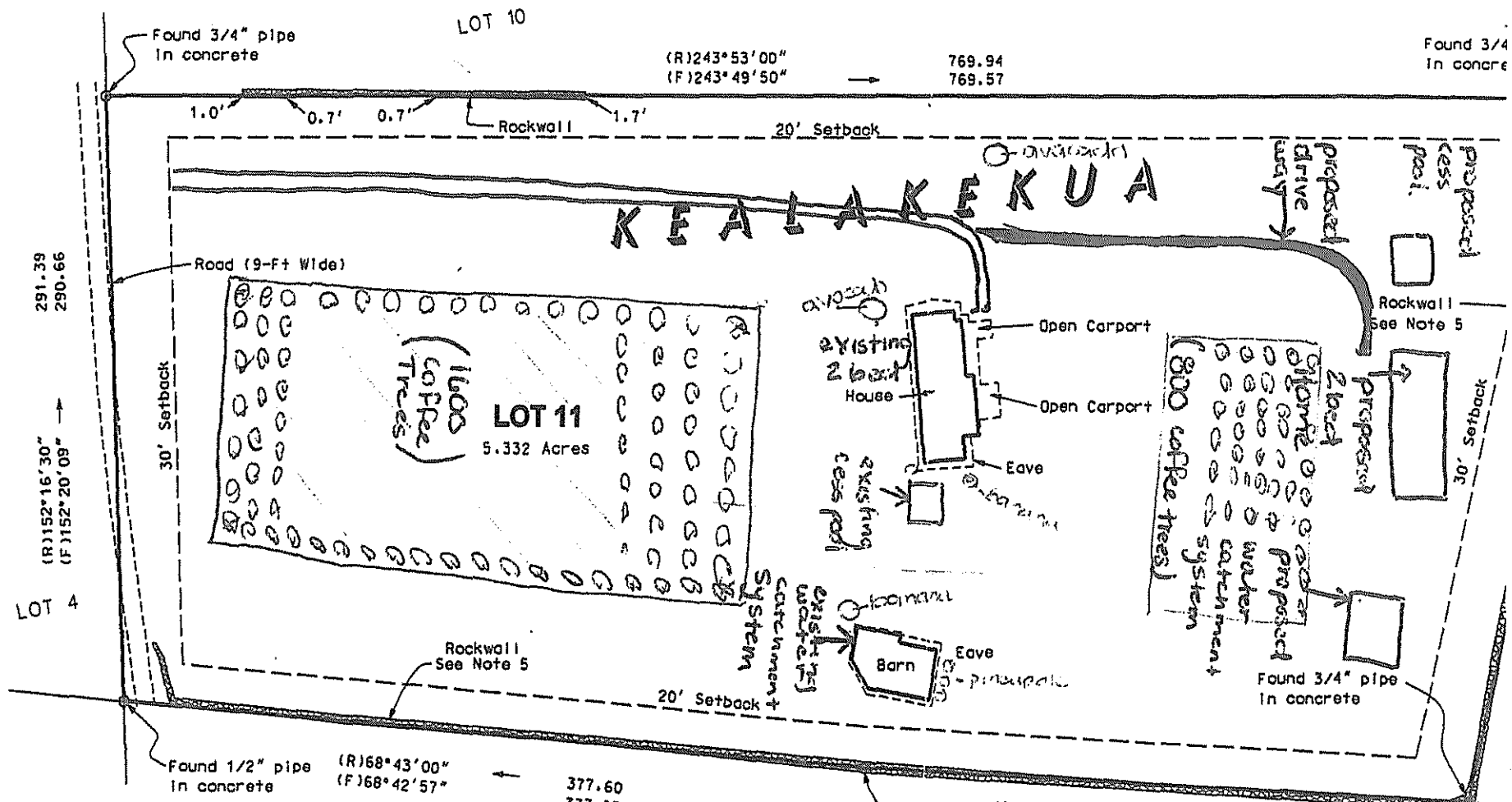
Sincerely,


CHRISTOPHER J. YUEN
Planning Director

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Enclosure: AFDA document
AFDA document instruction sheet

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



NOTES:

1. No boundary encroachments were found, except as noted.
2. No violations of County zoning setback codes were found, except as noted.
3. The distances shown between the property lines and the features, shown hereon, are based on selected found boundary monuments and acceptable tolerances for properties of this type.
4. The features shown hereon, were located by an actual survey on the ground done on July 28, 2004.
5. The old survey map (dated August 26, 1954) by John Weeks (Surveyor) shows the easterly & southerly boundary lines as along stonewall, thus an encroachment may not exist.
6. See attached letter pertaining to setbacks and encroachments.

Map showing existing conditions upon
 Lot 11 Coffee Farm Lots
 Kealakekua, South Kona
 Hawaii, Island of Hawaii
 TMK:8-2-01:44

