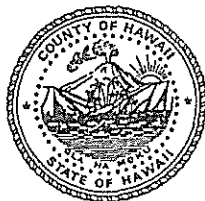


Harry Kim
Mayor



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

January 21, 2005

Mr. Burwood Turpin and Ms. Florence M. Kaler
P.O. Box 516
Mountain View, Hawaii 96771

Dear Mr. Turpin and Ms. Kaler:

SUBJECT: Additional Farm Dwelling Agreement (2004-0026)
Applicants: Burwood Turpin and Florence M. Kaler
Land Owners: Burwood Turpin and Florence M. Kaler
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 24.9185 Acres
Tax Map Key: (3) 1-8-005:118

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, address and signature of the landowners.
2. 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:

Hawai'i County is an equal opportunity provider and employer.

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(a) Ongoing agricultural activities include:

- i. Field and pasture preparation, germination of field stock, planting of fruit trees, coffee, ohelo berry and bananas. Approximately 150 hours have been expended thus far.

(b) Proposed agricultural activities include:

- i. At full operation, there will be 20 citrus, 50 cacao, 40 each white and black Sapote, 50 coffee, 100 ohelo berry, 50 banana, 100 Naupaka, 100 ola'a, 100 mamake and 100 Ilima plants/trees. There will also be 10 head of cattle and 5 horses (not necessarily for direct income).

(c) Combined labor man-hours are anticipated to be approximately 60 per week averaged over peak and non-peak seasons.

3. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.
4. 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 by subdivision (SUB 7246) approved on March 24, 2000, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

Mr. Burwood Turpin and Ms. Florence M. Kaler

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3. The Farm Plan, GE Tax License (ID number 30139350), 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 28, 2004):

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

Our records show that this property does not have an account with the Department and, therefore, does not have water service with us. As this lot was created with a water variance from the subdivision water requirements, the Department has no objections to the application subject to the applicant being responsible for following the conditions of the approved variance. This means that the additional farm dwelling must be on a catchment system as indicated on the application.

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

(b) Real Property Tax Office (RPT) (Response form dated December 7, 2004):

“Property is receiving agricultural use value. Real Property taxes are paid through December 31, 2004.”

(c) Department of Health (DOH) (Memorandum dated December 29, 2004):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used will be determined by the wastewater rules in effect at the time of building permit application.”

Decision:

In view of the above, your request to construct a **second (first AFD) 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.

Mr. Burwood Turpin and Ms. Florence M. Kaler

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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 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.
4. Your Additional Farm Dwelling Agreement has been approved based primarily 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. The applicant must secure a building permit for the additional farm dwelling within that time. Failure to secure a building permit for this additional farm dwelling on or before January 22, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
7. In reference to the DWS comment and pursuant to Variance Permit number 1091, may we suggest the following:

Mr. Burwood Turpin and Ms. Florence M. Kaler

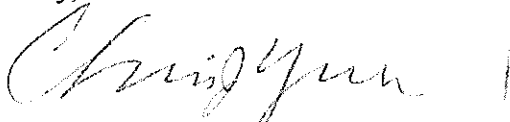
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- a. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain catchment system which includes a minimum 6,000 gallons for domestic consumption or potable uses. This catchment system should adhere 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.
- b. Any dwelling on a water catchment system should also be provided with and maintain an additional 3,000 gallon water storage capacity for fire fighting and emergency purposes. The emergency water supply system, including the necessary compatible connector system and location of the water storage facility on the property, should meet with the approval of the Hawaii County Fire Department.

Should you have any questions, please contact Jonathan Holmes of this office.

Sincerely,



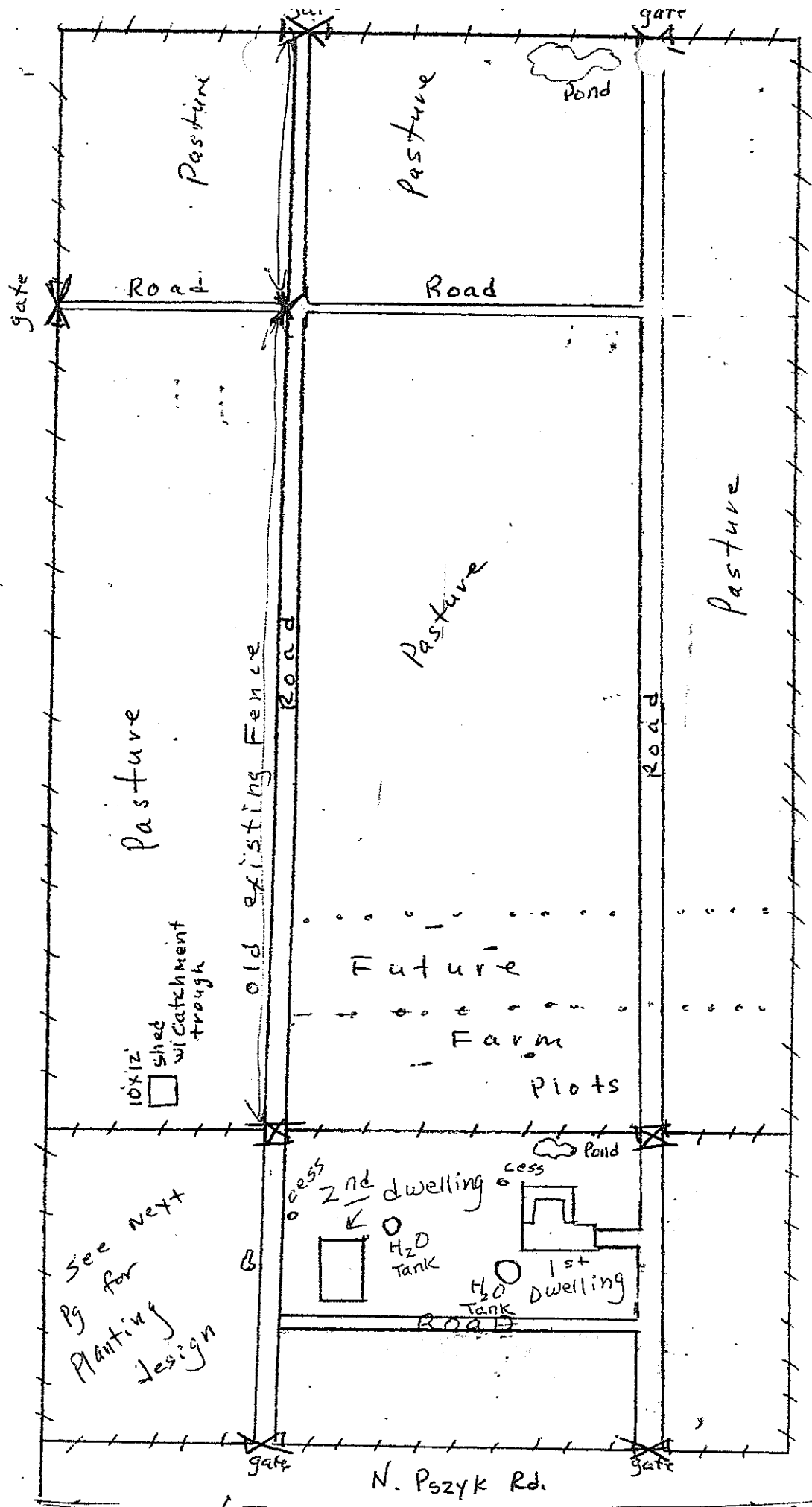
CHRISTOPHER J. YUEN
Planning Director

JRH:cd

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Enclosures: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT



see next
Pg for
planting
Design

Proposed
Fencing
.....
Fencing
completed
|||||

(see Bldg. plans for further info)

Pasture

Pasture
for livestock

Pasture

old existing Fence
Road

Road

10x12 shed
w/ catchment
trough

Future

Farm

Plots

Bananas

Native species
plots

Proposed
site for coffee

Pond

Naupaka ohelo
Berry

GLASS
Pool

catchment

GLASS

3/2

Cacao
50

Mamake

pond

ZBDRMA
OFFICE
2nd
Dwelling

CITRUS

1st
dwelling

catchment

coffee

Ilima

Mamake

olaia

Citrus
10

Black/white
sapote. 40
each

gate

gate

N. Pszyk Rd.

Fencing Complete ||||