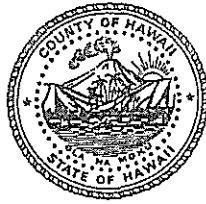


Harry Kim
Mayor



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

March 7, 2005

Mr. Richard Zeisse
14-4324 Kapoho Road
Pahoa, Hawaii 96778

Dear Mr. Zeisse:

SUBJECT: **Additional Farm Dwelling Agreement (2004-0029)**
Applicant: **Richard Zeisse**
Land Owners: **Richard Zeisse and June Zeisse**
State Land Use: **Agricultural**
County Zoning: **A-10a**
Land Area: **11.859 Acres**
Tax Map Key: **(3) 1-4-012:005**

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 four (4) additional farm dwellings on the subject property. Your submittals included the following information:

1. Name, address and signatures of the applicant and 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 these additional farm dwellings are needed in connection with the agricultural productivity or farming operation.

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

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(a) Ongoing agricultural activities include:

- i. One acre, more or less, of bananas, papayas, coconuts and annuals;

(b) Proposed agricultural activities include:

- i. Addition of 2 acres of unspecified orchard crops, miscellaneous herbs and produce, a piggery and poultry. (Please be aware that the establishment of piggery operations is defined as the raising of 5 or more weaned pigs, shall take place no closer than 1,000 feet from the Kapoho Road and must be approved by the State Department of Health).

(c) The farm plan presented states that the combined labor man-hours are expected to be approximately 100 per week at full implementation.

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 prior to June 4, 1976 as Land Commission Award 8559:3, 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 30097440), and the agreement to use the dwellings for agricultural or farm-related activity on the building site demonstrate that there has been and will continue to be income producing agricultural activity and the income is and will continue to be taxed.

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

(a) Department of Water Supply (DWS) (Letter dated February 3, 2005):

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

The property does not have an existing water service with the Department as the parcel is beyond the service limits of the Department’s existing water system.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to this parcel.

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 (Web page inquiry):

Status	“Paid”
Amount Due	“\$0.00”

(c) Department of Health (DOH) (Memorandum dated February 7, 2005):

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

Decision:

In view of the above, your request to construct four additional farm dwellings is **denied**. However, we have found sufficient proposed agricultural activity to allow **a third (first AFD) dwelling** (in addition to the existing single-family dwelling and approved ohana dwelling unit) to be located on the subject property under the following conditions:

Mr. Richard Zeisse

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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 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. The First Party shall comply with any and all requirements of the Planning Departments' directives as relates to ZCV 04-088.
5. Your Additional Farm Dwelling Agreement has been approved based on ongoing/increased agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. 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 March 8, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
8. In reference to the DWS comment, may we suggest the following:

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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.

Once again, we regret to inform you that this application must be partially denied for lack of sufficient agricultural activity to warrant the four (4) additional farm worker houses.

Section 25-2-20 (a) (c) of the Zoning Code states:

- (a) Any person aggrieved by the decision of the director or the commission in the administration or application of this chapter, except for decisions regarding variance applications and decisions which are directly appealable to the circuit courts under state law, may, within thirty days of the director or commission's written decision, appeal the decision to the board of appeals...
- (c) An appeal shall be in writing, in the form prescribed by the board of appeals, and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. Any such appeal shall be accompanied by a filing fee of \$250. The person appealing a decision of the director or commission shall provide a copy of the appeal to the director or commission, as appropriate, and to the owners of the affected property and shall provide the board of appeals with the proof of service.

A General Petition for Appeal of Decisions by Planning Director has been enclosed for your convenience.

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

Sincerely,

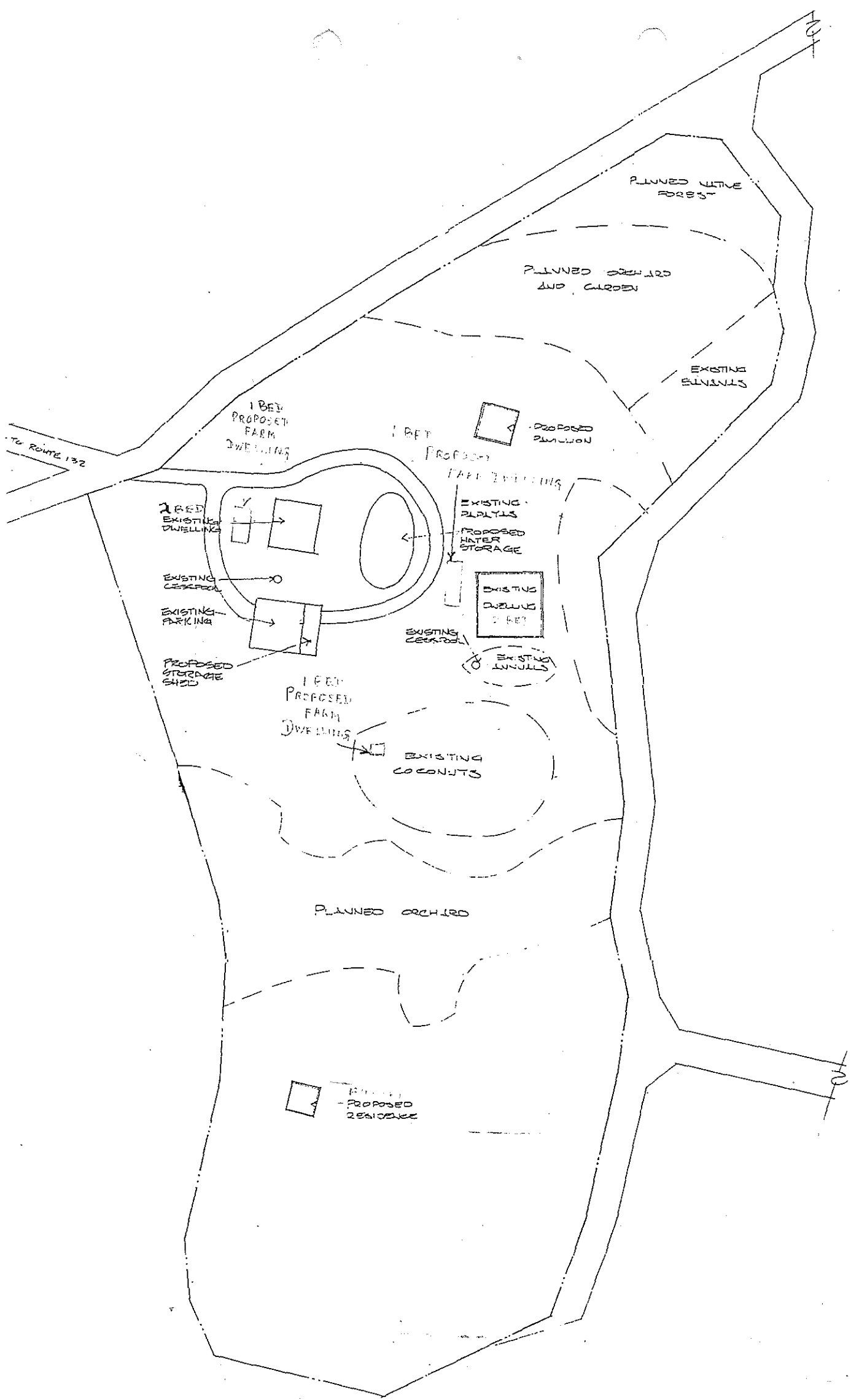


CHRISTOPHER J. YUEN
Planning Director

JRH:cd
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Enclosures: AFDA document
AFDA document instruction sheet
Board of Appeals Application

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department, Hilo office, Zoning Inspector



SITE PLAN

SCALE 1" = 50.00'

	TITLE: A SITE MASTERPLAN FOR <u>RICHARD ZEISSE</u> 1-2-12-5	CONTENTS: SITE PLAN	DRAWN BY: KEANU COATING BLUE PRINT 966-683	DATE: SEPT. 1995	SHEET 1 OF 1
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