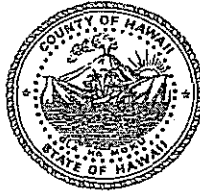


Harry Kim
Mayor



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

April 15, 2004

Mr. Robert E. Patterson
88-1612 Papio Drive
Captain Cook, Hawaii 96704

Dear Mr. Patterson:

SUBJECT: Additional Farm Dwelling Agreement
Applicant: Robert E. Patterson
Owner: Robert E. Patterson
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 3.00-acres
Tax Map Key: (3) 8-8-018:006

Please pardon the delay in responding to this communication.

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

EXHIBIT
A

APR 21 2004

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 AFD 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. The site is presently used for the raising of hogs and steer in connection with 4-H livestock programs.

(b) Proposed agricultural activities include the following:

- i. The additional agricultural activity will be the planting of approximately 700 coffee trees on about one (1) acre of the property. The livestock activities shall continue.
- ii. Man hour estimation: twenty-five hours per week to maintain the coffee, pasture maintenance and special steer projects.

5. 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)

The subject lot was created by subdivision (SUB2458) approved on October 26, 1966, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.

EXHIBIT

A

April 15, 2004

2. The Farm Plan, GE Tax License (ID number 30107631), 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.
3. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (DWS) (memorandum dated March 2, 2004):

“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. The nearest waterline is approximately 12 miles away.

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 the parcel.

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

- (b) Real Property Tax Office (RPT) (Real Property Tax web site inquiry):

“Amount due \$0.00.”

- (c) Department of Health (DOH) (Memorandum dated March 17, 2004):

“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 **second (first AFD) farm dwelling** on the property is approved subject to the following conditions:

1. The AFD 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.

EXHIBIT

A

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 AFD 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 AFDA 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. In reference to the DWS comment, may we suggest the following:
 - 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 farm dwelling should be provided with and maintain a private water supply system which includes 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.
4. The First Party is responsible to follow 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 any other reviewing agencies/divisions listed on the Building Permit Application.
5. Your AFDA 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 (BP) 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.

EXHIBIT

A

Mr. Robert E. Patterson

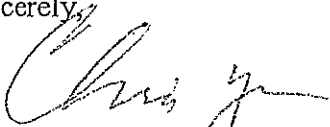
Page 5

April 15, 2004

6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before March 23, 2006 may cause the Director to initiate proceedings to invalidate the AFDA.

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

P:\afda\afdajrh\apvl\pattersonapvl.doc

Enclosure: AFDA document
AFDA document instruction sheet

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

EXHIBIT

A



R-629

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
MAY 24, 2004 08:02 AM
Doc No(s) 2004-103682



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z6

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: ROBERT E. PATTERSON

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 8-8-018:006

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 22nd day of March, 2004, by and between **ROBERT E. PATTERSON**, herein called the "First Party," whose mailing address is 88-1612 Papio Drive, 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) 8-8-018:006 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.

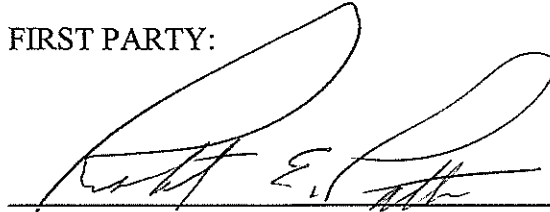
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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.

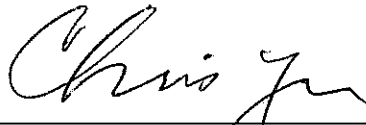
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY:

A handwritten signature in black ink, appearing to read "Robert E. Patterson", written over a horizontal line.

ROBERT E. PATTERSON, Legal Owner

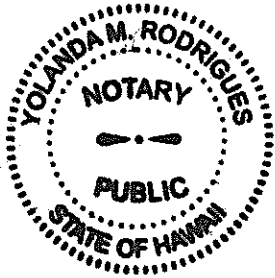
SECOND PARTY:

A handwritten signature in black ink, appearing to read "Chris Yuen", written over a horizontal line.

CHRISTOPHER J. YUEN, Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 30th day of April, 2004 before me personally appeared **ROBERT E. PATTERSON** to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as his free act and deed.

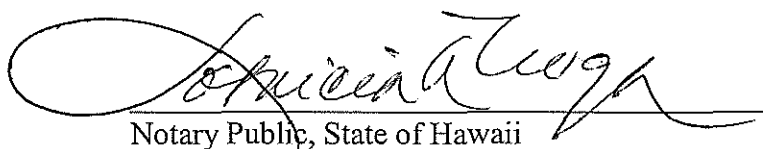


Yolanda M. Rodrigues
Notary Public, State of Hawaii
Yolanda M. Rodrigues

My commission expires: 02/15/2008

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

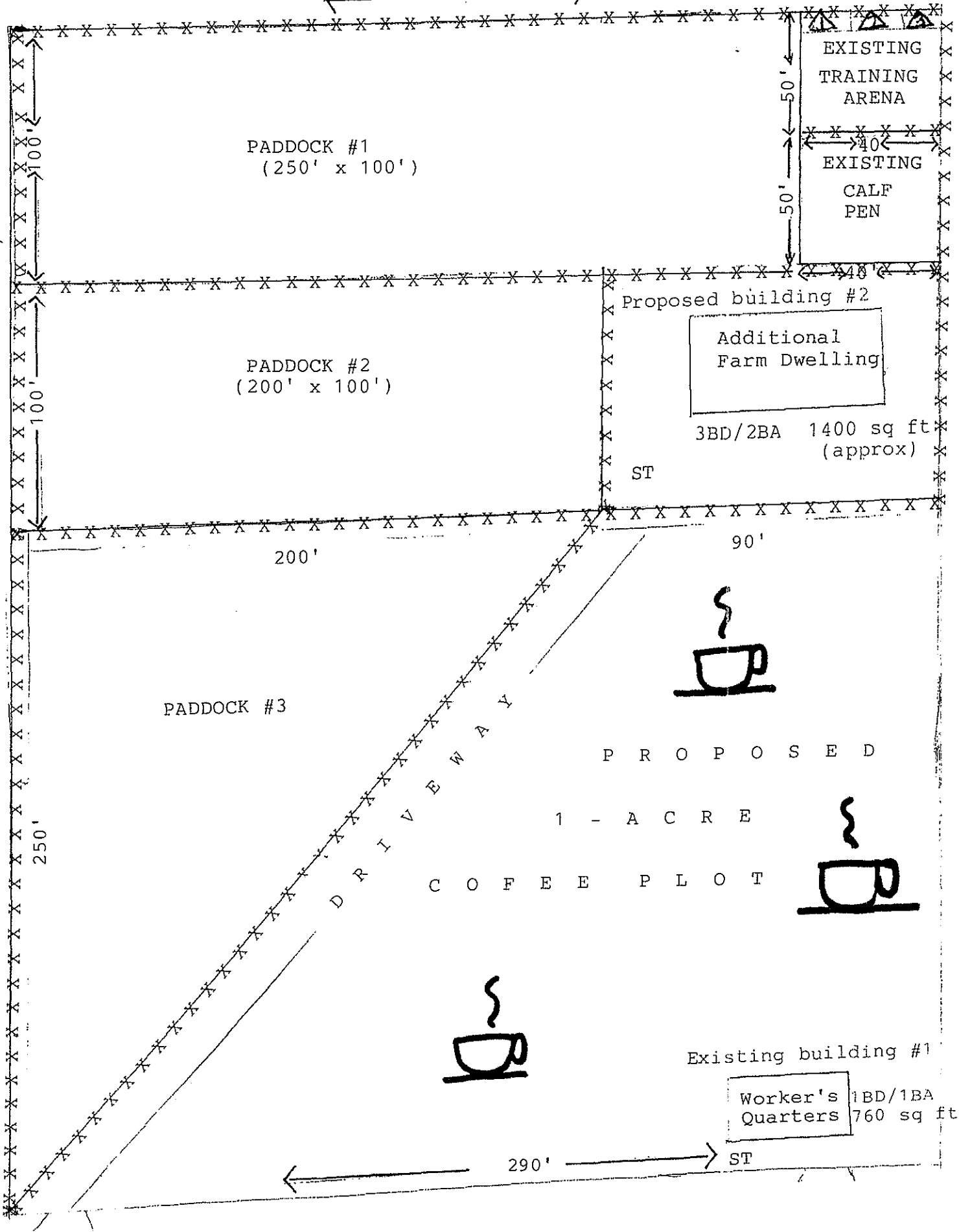
On this 14th day of May, 2004 before me personally appeared **CHRISTOPHER J. YUEN**, to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Christopher J. Yuen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga

Notary Public, State of Hawaii

My commission expires: 07/17/06

- X - Existing Parcel Line
- ☐ - Proposed 1-acre Coffee Plot
- ① ② ③ - Existing Hog Pens
- ST - Septic Tank

← 290' →



PADDOCK #1
(250' x 100')

EXISTING
TRAINING
ARENA

EXISTING
CALF
PEN

PADDOCK #2
(200' x 100')

Proposed building #2

Additional
Farm Dwelling

3BD/2BA 1400 sq ft
(approx)

ST

PADDOCK #3

DRIVEWAY

P R O P O S E D

1 - A C R E

C O F E E P L O T

Existing building #1

Worker's Quarters 1BD/1BA
760 sq ft

← 290' → ST