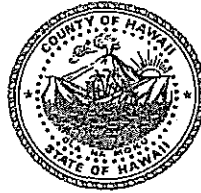


Harry Kim  
Mayor



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 5, 2004

Yamami Farms  
Steve Yamami and Lani Yamami  
1545-C Ainaola Drive  
Hilo, Hawaii 96720

Dear Mr. and Mrs. Yamami:

**SUBJECT: Additional Farm Dwelling Agreement**  
**Applicants: Steve Yamami and Lani Yamami**  
**Land Owners: Kiyotsugu Oshiro and Hatsuye Oshiro**  
**State Land Use: Agricultural**  
**County Zoning: Agricultural (A-3a)**  
**Land Area: 23.767-acres**  
**Tax Map Key: (3) 2-4-005:035**

---

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 20 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 income producing agricultural activities:

(a) Ongoing agricultural activities include the following:

- i. Approximately 3-acres are presently cultivated. 10,000 sq.ft. in various vegetables. Macadamia, coffee and avocado trees throughout the site. There is a small bamboo grove planted as well as a variety of citrus trees and anthuriums. Much of the cultivated area has been poorly maintained and is in need of care and will also be expanded. A portion of the site is also used in cattle grazing.
- ii. The additional farm dwelling will be occupied by the applicants. The original first single-family dwelling is and will continue to be occupied by the land owners' caretaker and the second single-family dwelling is and will continue to be occupied by the land owners, the parents of the applicants.
- iii. The weekly labor man-hours of the present operation are 16 by the landowners for crop production and 8 by the tenant for the cattle grazing and miscellaneous duties.

(b) Proposed agricultural activities include the following:

- i. The proposal indicates that the farming activities will be expanded from the approximately 3-acres to a combined 17 + acres (13-acres of orchard, truck crops and anthuriums and 4-acres of pastureland).
- ii. Additional weekly man-hours anticipated for the expanded farm would be at least 40 direct and indirect by the applicants. This is in addition to the hours already dedicated per above.

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

**EXHIBIT**

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 0271) approved on April 10, 1950, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling. The second dwelling on the property is also a single-family dwelling by virtue of the Ohana Dwelling Permit that was issued on March 31, 1986 and executed by Building Permit 860574 for construction of same.
3. The Farm Plan, GE Tax License (ID number 30028757) 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 March 22, 2004):

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

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling unit at an average of 400 gallons per day. Therefore, a second 5/8-inch meter should be installed for the proposed additional farm dwelling. Water is available from the 4-inch waterline in ‘Āinaola Drive, which fronts the subject parcel.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting the following conditions:

1. Installation, by the Department of Water Supply, of a second 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons as is the existing service.
2. Installation of a backflow preventer (reduced pressure type) by a licensed contractor on the applicant’s property just after the meter. The installation and

**EXHIBIT**

A

assembly of the backflow preventer must be inspected by the Department before the water meter can be installed. The backflow preventer shall be operated and maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicant to help them understand this requirement.

3. Remittance of the following charges, which are subject to change, to our Customer Service Section:

a. Facilities Charge (One 2 <sup>nd</sup> service at \$4,350.00 each)	\$5,500.00
b. Service Lateral Installation Charge (Install one meter on 'Āinaola Drive, a County road)	<u>2,600.00</u>
Total (Subject to Change)	\$8,100.00

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 (Response form dated March 1, 2004):

“Property is receiving agricultural use value.

Formal dedication to Agricultural use H149A effective 7/1/1972 was expired for 2001; the agricultural use assessment has continued. Property assessment will change with changes in activity on the property.  
Real Property taxes are paid through June 30, 2004.”

(c) Department of Health (Memorandum dated March 22, 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 **third (first AFD) dwelling** on the property is approved subject to the following conditions:

**EXHIBIT**  
A

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.
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. The First Party shall consult with the Department of Water Supply to arrange for payment of fees and inspections.
4. 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 shall be adhered to.
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 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.
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 April 3, 2006 may cause the Director to initiate proceedings to invalidate the AFDA.

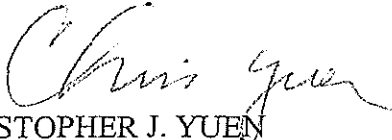
**EXHIBIT**

A

Yamami Farms  
Steve Yamami and Lani Yamami  
Page 6  
April 2, 2004

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\apv\yamamiapvt.doc

Enclosure: AFDA document  
AFDA document instruction sheet

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

**EXHIBIT**

A



R-1018 STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
MAY 18, 2004 08:02 AM  
Doc No(s) 2004-099853



/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

20 1/1 Z2

N

---

---

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: KİYOTSUGU OSHIRO and HATSUYE OSHIRO**

**SECOND PARTY: COUNTY OF HAWAII**

---

---

PROPERTY DESCRIPTION:

**TMK: (3) 2-4-005:035**

---

---

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 2<sup>nd</sup> day of April, 2004, by and between **KIYOTSUGU OSHIRO and HATSUYE OSHIRO**, herein called the "First Party," whose mailing address is 1545 C 'Āinaola Drive, Hilo, Hawaii 96720, 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) 2-4-005:035 situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) 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.

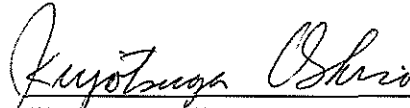


IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and 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:

  
\_\_\_\_\_  
**KIYOTSUGU OSHIRO**, Legal Owner

FIRST PARTY:

  
\_\_\_\_\_  
**HATSUYE OSHIRO**, Legal Owner

SECOND PARTY:

  
\_\_\_\_\_  
**CHRISTOPHER J. YUEN**, Planning Director  
County of Hawaii Planning Department

STATE OF HAWAII

)

) SS.

COUNTY OF HAWAII

)

On this 27th day of April, 2004 before me personally appeared **KIYOTSUGU OSHIRO and HATSUYE OSHIRO** 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.

L. Kinoshita L. KINOSHITA

Notary Public, State of Hawaii

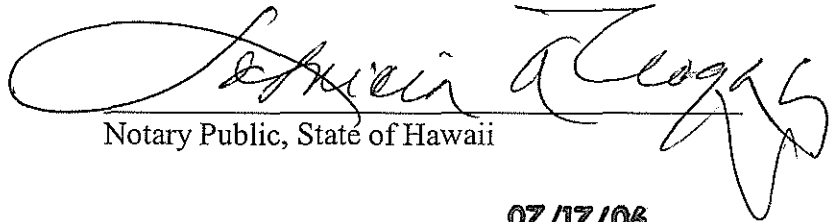
✓

My commission expires: 11-1-05

STATE OF HAWAII            )  
  ) SS  
COUNTY OF HAWAII        )

On this 7<sup>th</sup> 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

**07/17/06**

My commission expires: \_\_\_\_\_

PLOT PLAN  
A FOUR-BEDROOM DWELLING FOR:  
MR. & MRS. KYOTSUGU OSHIRO

TAX KEY: 2-4-05-35: LOT 1205 A  
WAIKEA HOMESTEAD SECOND SERIES  
WAIKEA, SOUTH HILO, HAWAII

SCALE: 1" = 150'

TRUE NORTH

