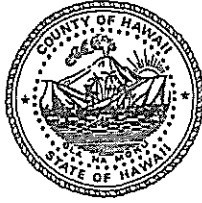


Harry Kim
Mayor



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

June 6, 2005

Mr. John Kihara
30 Hoaka Road
Hilo, Hawaii 96720

Dear John Kihara:

SUBJECT: Additional Farm Dwelling Agreement (2005-0051)
Applicant: John Kihara
Land Owner : John Kihara
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 50.00 Acres
Tax Map Key: (3) 1-7-013:115

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 the signature of the landowner.
2. A farm plan or evidence of the applicants' 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:

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

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- i. The majority (49.5) of the acreage is devoted to the grazing of cattle. At any time there are 25 to 40 head on the ranch.
 - ii. Over the ten years that the property has been owned by the applicant, \$30,000 has been expended for miscellaneous farm equipment and tools.
 - iii. Historically, labor has averaged 24 hours per week.
- b. Proposed agricultural activities include the following:
 - i. Continued preparation of the remaining pasture.
 - ii. Additional heads of cattle.
 - iii. It is anticipated that the agricultural operation will entail the same 24 plus man-hours per week.
3. In support, a copy of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has 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, 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, copy of GE Tax License (#30037661) 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:

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a. Department of Water Supply (DWS) (Letter dated May 18, 2005):

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

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling at an average of 400 gallons per day.

Inasmuch as this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with the Department’s regulations. However, the Department’s existing water system facilities cannot support an additional meter for the proposed additional farm dwelling at this time. Extensive improvements and additions, including source, storage, transmission, and distribution facilities, must be constructed. Currently, sufficient funding is not available and no time schedule is set.

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 proposed additional farm dwelling. Further, should the application be approved, both dwellings must not share the existing meter.

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 April 26, 2005):

“Property is dedicated to agricultural use. New 10 year agricultural dedication effective July 1, 2005 for 49.5 acres of pasture. Real Property taxes are paid through June 30, 2005.”

c. Department of Health (DOH) (Memorandum dated May 5, 2005):

“WWB found no wastewater/environmental health concerns with regulatory implications in the submittal.”

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.
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 dwelling on a water catchment system should 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.
4. Additionally, in regards to water catchment systems:

The Department of Health's authority on drinking water quality is based on the definition of a "public water system." A "public water system" means a system which provides water for human consumption through pipe or other conveyance if such system has fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20.

Past episodes of water quality concerns for lead, copper, algae and microbiological and chemical contamination in private rain catchment systems have identified the need for self-monitoring.

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The Department of Health does not support the use of these private rain catchment systems for drinking purposes since the quality may not meet potable water standards.”

5. 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 (BP) Application shall be adhered to.
6. Your AFDA has been approved based on ongoing and proposed expansion of the agricultural activity as summarized previously in this letter.
7. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
8. 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 June 7, 2007 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,

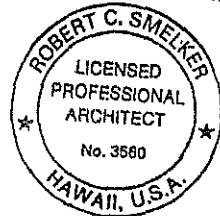
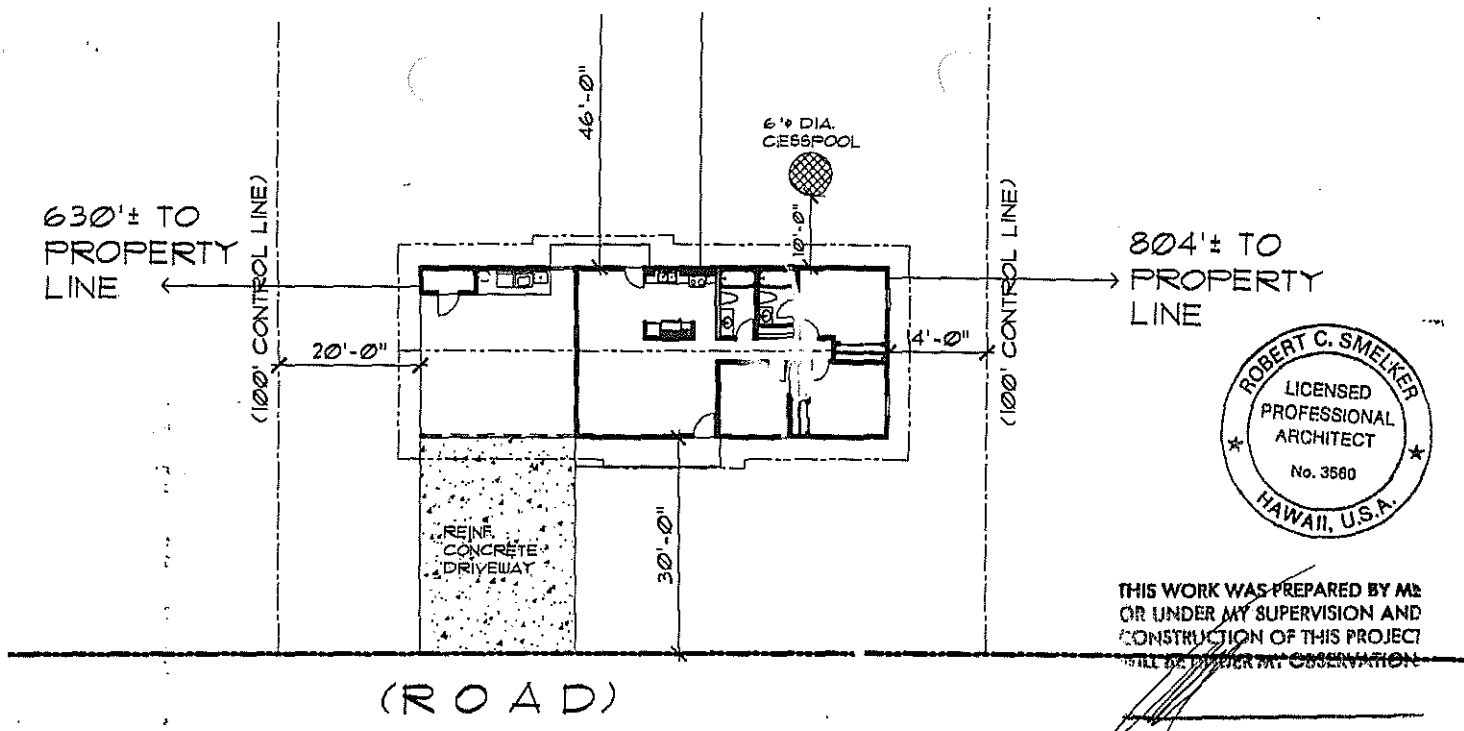


CHRISTOPHER J. YUEN
Planning Director

JRH:cd
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Enclosures: AFDA document
AFDA document instruction sheet

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



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION

DEPARTMENT OF PUBLIC WORKS

ENGINEERING DIVISION

DRIVEWAY: IN ACCORDANCE WITH CHAPTER 22 OF THE HAWAII COUNTY CODE, A PERMIT SHALL BE OBTAINED FOR DRIVEWAY CONSTRUCTION WORK WITHIN THE COUNTY ROAD RIGHT-OF-WAY.

GRADING: ALL EARTHWORK AND GRADING SHALL CONFORM TO CHAPTER 10 OF THE HAWAII COUNTY CODE. A PERMIT MAY BE REQUIRED FOR LOT GRUBBING AND/OR GRADING.

DRAINAGE: NO ADDITIONAL RAINFALL RUNOFF GENERATED BY THIS PROJECT SHALL BE DISPOSED OF INTO COUNTY ROADWAYS OR ADJACENT PROPERTIES. ALL DRAINAGE IMPROVEMENTS SHALL CONFORM TO CHAPTERS 22 OF THE HAWAII COUNTY CODE.

ROADWAY: CHECK WITH HIGHWAYS DIVISION IF ROADWAYS MAINTAINED BY COUNTY OF HAWAII

DEPARTMENT OF PUBLIC WORKS

ENGINEERING DIVISION

REVIEWED BY: _____
DATE: FEB 16 2005

(KIHARA RES.)
PLOT PLAN
(NO SCALE)

TK: 1-7-03: 115
LOT# 33
LOT AREA: 50,000 acs.
FOR OLA'A RESERVATION LOTS,
PUNA, HAWAII

SEE ENLARGED MAP

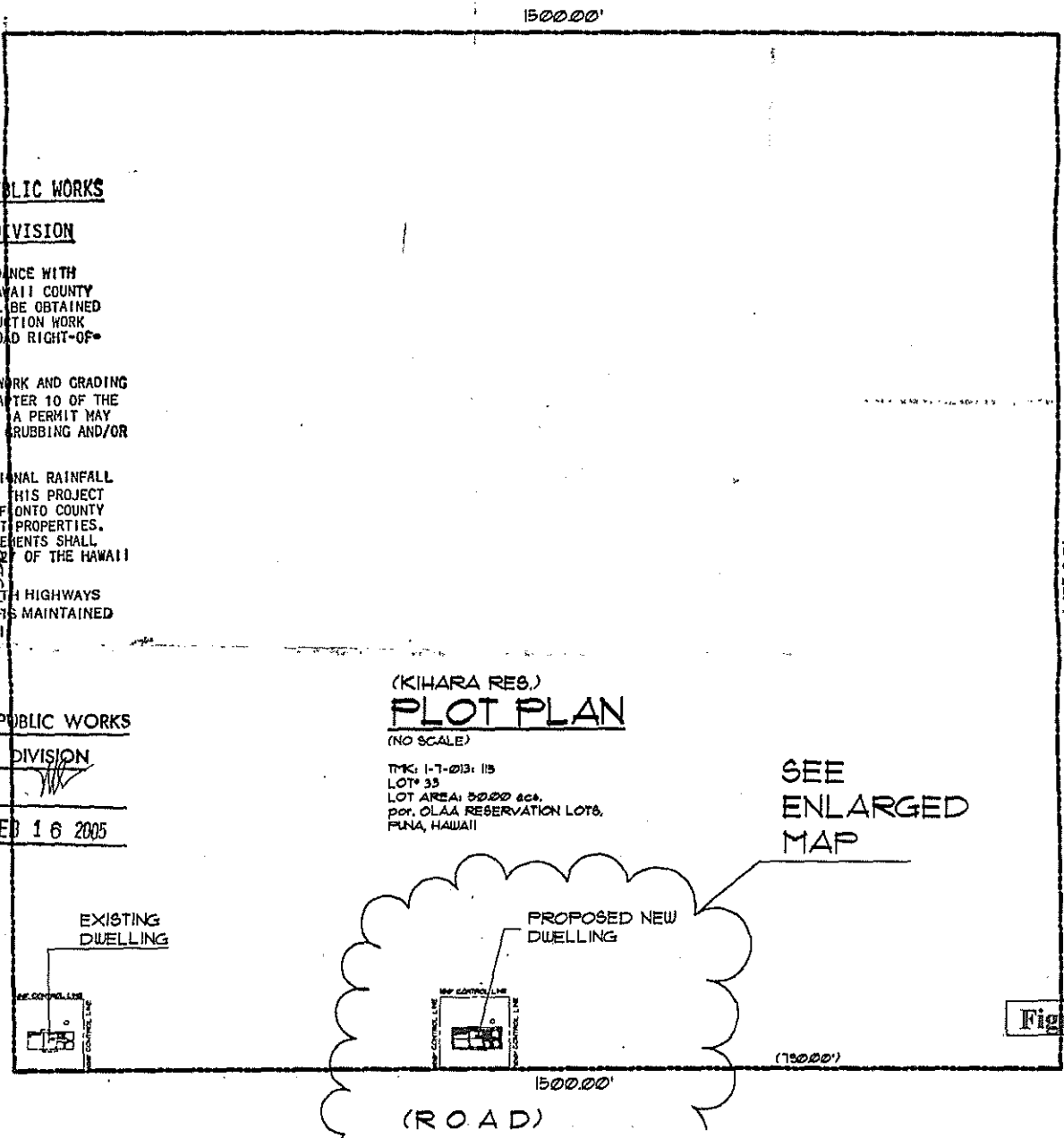


Figure 2