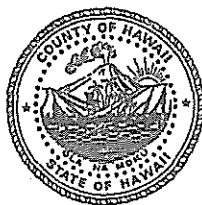


Harry Kim
Mayor



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

July 5, 2005

Ms. Sherri Carden
P.O. Box 10967
Hilo, Hawaii 96721

Dear Ms. Carden:

SUBJECT: Additional Farm Dwelling Agreement (2005-0058)

Applicants: Sherri Carden
Land Owners: Sherri Carden
State Land Use: Agricultural
County Zoning: A-3a
Land Area: 3.0 Acres
Tax Map Key: (3) 1-6-012:210

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 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 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:

Hawaii's County is an equal opportunity provider and employer

JUL 06 2005

Ms. Sherrie Carden

July 5, 2005

Page 2

- i. Approximately 2 of the three acres are involved in the agricultural activity. The crops on the farm include 1-acre of macadamia nut trees, ½-acre plus of various citrus trees and ornamental plants.
- ii. There are also a goat, a couple of sheep, chickens, ducks and geese on the property.
- iii. Applicant states that the various tasks associated with the farm at present require approximately 50 man-hours per week (the farm has been recently acquired and was in bad shape).

(b) Proposed agricultural activities include the following:

- i. The addition of more animals and plants.
 - ii. Packaging and marketing of plants, trees and produce and the breeding and selling of animals.
 - iii. Applicant expects net income of over \$500.00 per month at full implementation with man-hours in excess of 90 per week.
3. In support, numerous receipts for farm expenditures have been presented. Also, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has been presented
5. 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 1302) approved on November 24, 1958, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.

Ms. Sherri Carden
July 5, 2005
Page 3

3. The Farm Plan, GE Tax License (ID number 20090242), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and that the income has been taxed.
4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (DWS) (Letter dated June 27, 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. Also, the applicant indicates that the additional farm dwelling will be on a water catchment system, the Department has no objections to 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 June 20, 2005):

“Property is receiving agricultural use value. 0.5 acre assessed as citrus in the non-dedicated agricultural use program. Real Property taxes are paid through June 30, 2005.”

(c) Department of Health (DOH) (Memorandum dated June 22, 2005):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used on a lot 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** 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.

Ms. Sherri Carden

July 5, 2005

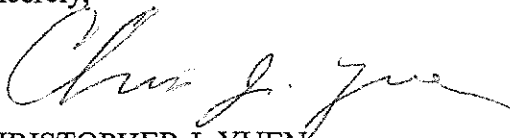
Page 4

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. 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 on ongoing and expanded 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 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 July 6, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

Ms. Sherri Carden
July 5, 2005
Page 5

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: je
p:\afda\afdajrh\apvl\cardenapvl.doc

Enclosures: AFDA document
AFDA document instruction sheet

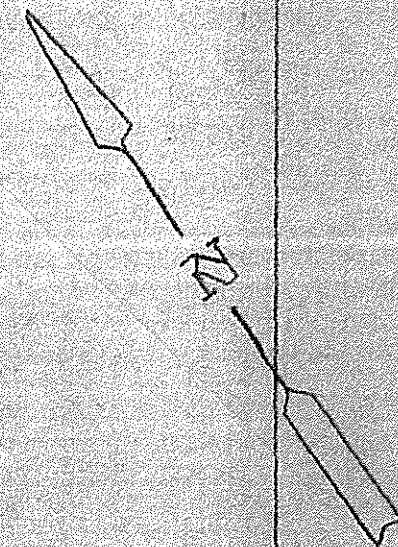
xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT

TMK(3) 1-6-012-210

U.B.C. 2005

EXISTG DWELLING W/ PROPOSED CARETAKER'S COTTAGE
PLOT PLAN

M



SITE PLAN
SHEPPARDEN OWNER
CARETAKER'S COTTAGE

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION

REVIEWED BY: *[Signature]*

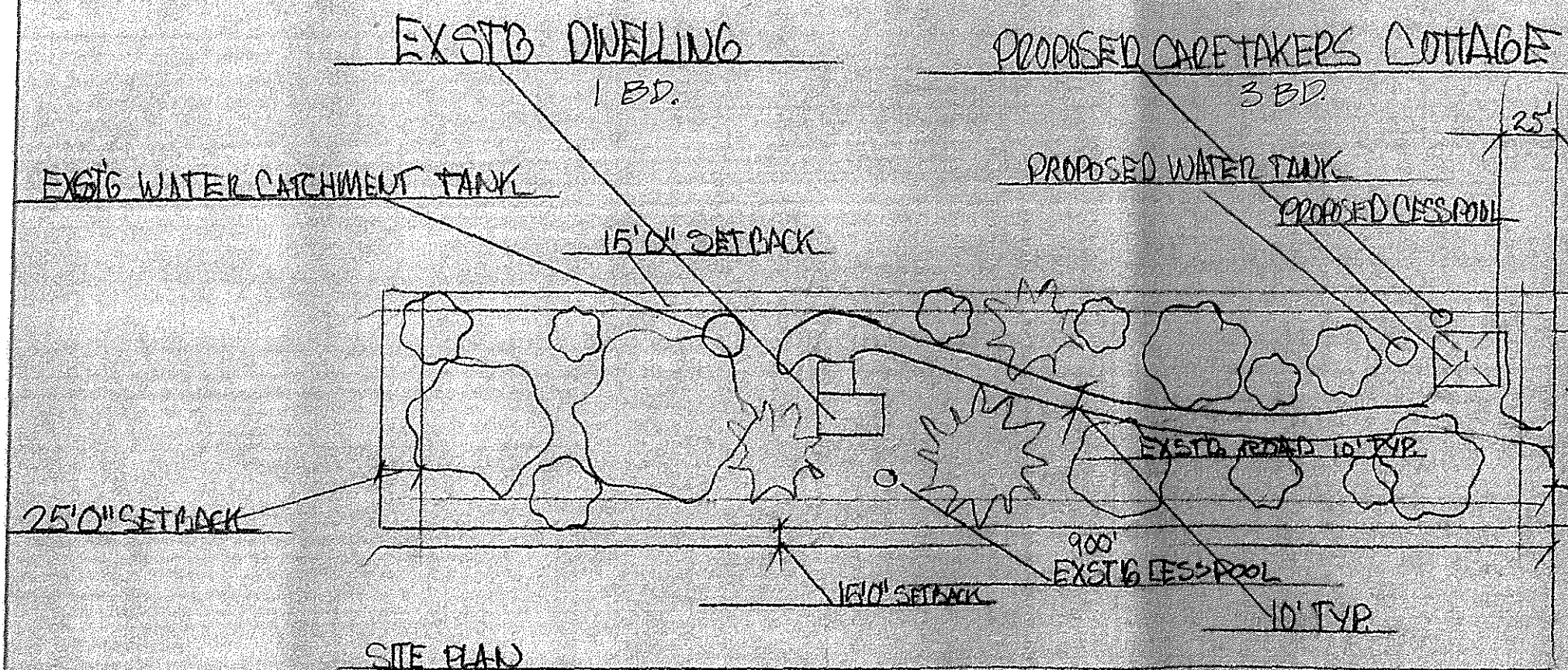
DATE: MAY 04 2005

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 CRUBBING AND/OR GRADING.

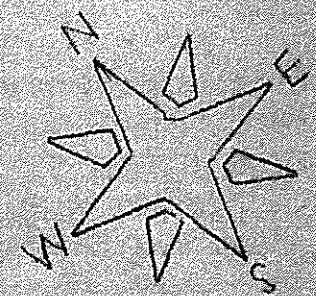
DRAINAGE: NO ADDITIONAL RAINFALL RUNOFF GENERATED BY THIS PROJECT SHALL BE DISPOSED OF ONTO COUNTY ROADWAYS OR ADJACENT PROPERTIES. ALL DRAINAGE IMPROVEMENTS SHALL CONFORM TO CHAPTER 27 OF THE HAWAII COUNTY CODE.

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



SITE PLAN

1" = 10'



PAGE 2

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION (SEC. 16-115.9) DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS