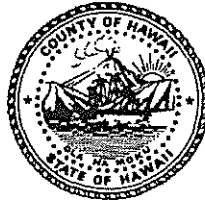


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

August 24, 2005

Thomas M. Okino  
Patricia Lacuesta  
73-1300 Hi'olani St.  
Kailua-Kona, Hawaii 96740

Dear Mr. Okino & Ms. Lacuesta:

#### Additional Farm Dwelling Agreement Application (FDA-05-000070)

Applicant:	Thomas M. Okino Patricia Lacuesta
Owner:	Thomas M. Okino Patricia Lacuesta
State Land Use:	Agricultural
County Zoning:	Agricultural (A-1a)
Land Area:	43,562 s.f.
TMK:	<u>(3) 7-3-046: 032</u>

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 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.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling 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:

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- i. Maintain and harvest 38 macadamia nut, 34 coffee, 2 mango, 2 pu'ukenikeni, 2 calamansi, 1 ulu, 1 ka'u orange, 1 mountain apple, 1 lychee, 1 avocado, 7 papaya, 2 kava kava, 1 fig and 5 coconut trees.
  - b. Proposed agricultural activities include the following:
    - i. Germinate new seedlings for replacement and sales of existing crops and experimental crops.
    - ii. Build a new shade house for the above activity.
  - c. The current labor man-hours are approximately 10-15 hours per week to maintain, harvest and distribute. The proposed labor man-hours are approximately 85-100 hours per week to maintain, harvest and distribute for total labor man-hours to be 95-115 hours per week
4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also 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 4040) approved on January 10, 1978, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, GE Tax License (ID number W02851242-01 and W02851242-02), 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 (DWS) (Letter dated July 22, 2005):

“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, or a maximum of 600 gallons per day. As this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 8-inch waterline in Hiolani Street, 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 two backflow preventers (reduced pressure type) by a licensed contractor on the applicant's property just after each meter. The installation and assembly of the backflow preventers must be inspected and approved by the Department before the water meter can be installed. The backflow preventers 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 prior to the Planning Department's approval for the building permit for this application:

FACILITIES CHARGE (One 2 <sup>nd</sup> service @ \$5,500.00 each )	\$5,500.00
SERVICE LATERAL INSTALLATION CHARGE (Install one meter on Hiolani Street, a County road)	2,600.00
<b>Total (Subject to Change)</b>	<b>\$8,100.00</b>

Should there be any questions, please contact Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 252.”

- b. Real Property Tax Office (RPT) (Memorandum dated July 6, 2005):

“Comments from the Appraisal Section: Property is receiving agricultural use value. Property has been receiving an agricultural use assessment for over 10 years.

Comments from the collection section: Current. Real property taxes are paid through June 30, 2005.”

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- c. Department of Health (DOH) (Memorandum dated August 4, 2005):  
“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 farm dwelling** is subject to the following conditions:

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 adhere to 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. Your Additional Farm Dwelling Agreement has been approved based primarily 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..
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
6. This Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter to secure a building permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before August 25, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

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August 24, 2005  
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If you have any questions please call Deanne Bugado of our West Hawaii Office at 327-3510.

Sincerely,

  
CHRISTOPHER J. YUEN  
Planning Director

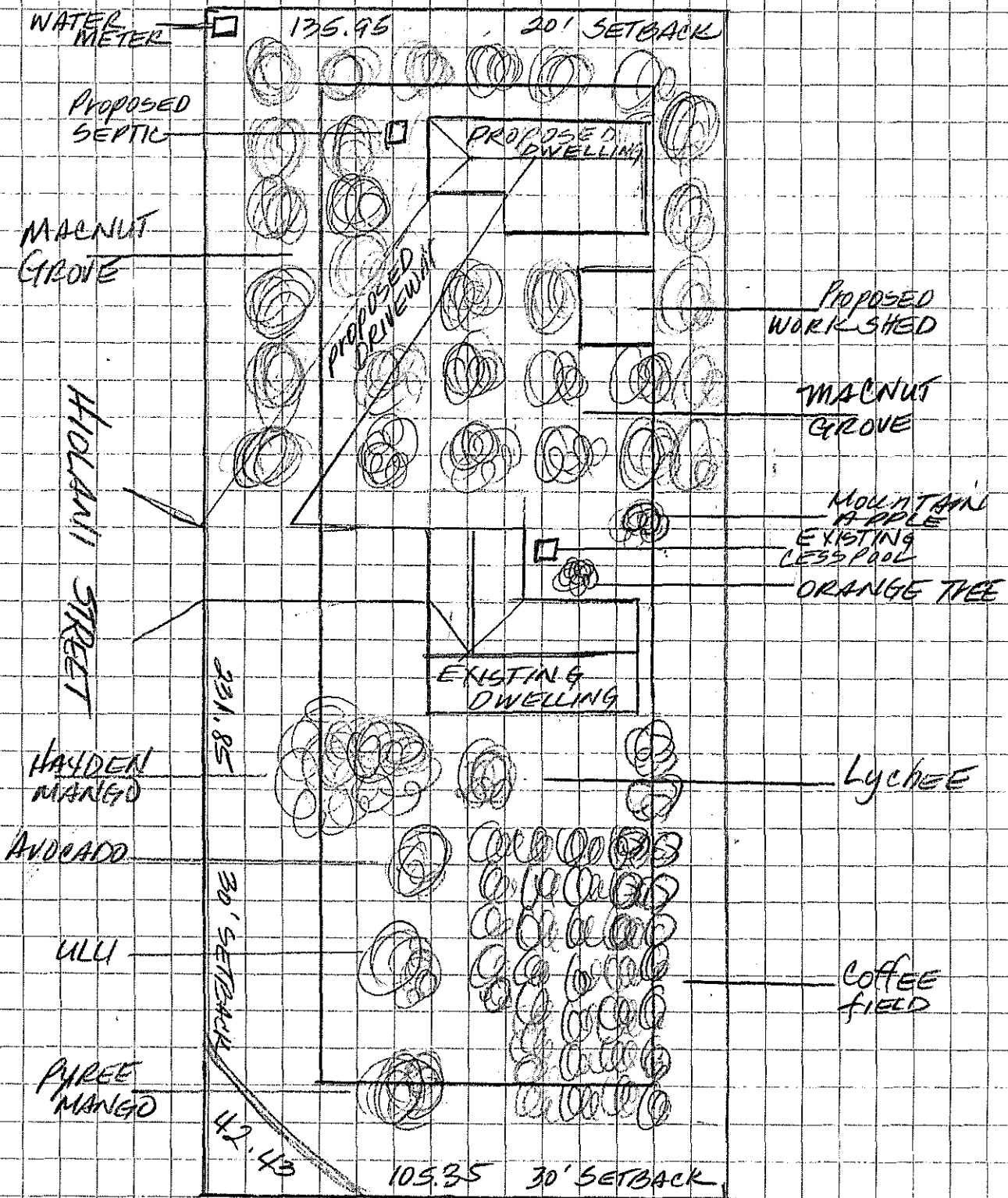
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Enclosure: AFDA document  
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS  
Mr. Mike McCall, RPT  
Planning Department – Kona

SCALE - 1 BLOCK = 10'



NEHIWA STREET