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

September 9, 2005

Shigeto & Satsuko Tanaka
P.O. Box 722
Kealakekua, Hawaii 96750

Dear Mr. & Mrs. Tanaka:

Additional Farm Dwelling Agreement Application (FDA-05-000076)

Applicant:	Shigeto & Satsuko Tanaka
Owner:	Tanaka Satsuko Trust
	Tanaka Shigeto Trust
State Land Use:	Agricultural
County Zoning:	Agricultural (A-1a)
Land Area:	3.560 acres
TMK:	(3) 7-9-004: 029

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:
      i. Maintain and harvest 3 acres of coffee and ½ acre of macadamia nut trees
   b. The labor man-hours are approximately 25-40 hours per week to maintain, harvest and distribute.

SEP 1 5 2005

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 4689) approved on August 28, 1981, 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 30021226 & 30061049), 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 August 29, 2005):

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

      For your information, this parcel has an existing service lateral for a 5/8-inch meter and is adequate for only one dwelling 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 6-inch waterline in St. Paul Road, which fronts the subject parcel.

      Therefore, the Department has no objections to the proposed application subject to the applicants 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 2nd service @ $5,500.00 each)	$5,500.00
SERVICE LATERAL INSTALLATION CHARGE	
(Install one meter in St. Paul Road, a County right-of-way))	2,600.00
Total (**Subject to Change**)	$8,100.00

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):

No comments were received.

c. Department of Health (DOH):

No comments were received.

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 entirely on existing agricultural activity as summarized previously in this letter.

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 September 10, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

7. The First Party or current owner/lessee shall submit proof of remittance of the Department of Water Supply Service Lateral Installation Charge with the submittal of a building permit application.

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

Sincerely,

for 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