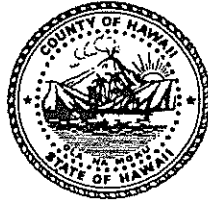


Harry Kim
Mayor



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

October 24, 2005

Brian K Jenkins
75-5259 D Mamalahoa Hwy.
Holualoa, Hawaii 96725

Dear Mr. Jenkins:

Additional Farm Dwelling Agreement Application (FDA-05-000081)

Applicant:	Brian K. Jenkins
Owner:	Brian K. Jenkins Carvat Jenkins James I. Jenkins Gary H. Jenkins
State Land Use:	Agricultural
County Zoning:	Agricultural (A-5a)
Land Area:	5.000 acres
TMK:	(3) 7-5-001: 067

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 4 acres of macadamia nut and ½ acre of coffee trees.
 - b. The current labor man-hours are approximately 42-45 hours per week, and proposed labor man-hours are approximately 35-40 hours per week for the total

labor man-hours of 77-85 hours per week to maintain, harvest and distribute the macadamia nut and coffee.

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 4362) approved on August 31, 1979, 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 W03329442-01), 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 September 15, 2005):

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

Our records show that this property does not have an account with the Department as it is outside the Department's service limits. In addition, this lot was created by a subdivision with a waiver from the water system requirements; therefore, the Department has no objections to the application subject to the applicant being responsible for following the conditions of the approved waiver. This means that the additional farm dwelling cannot be hooked up to any existing departmental water services.

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):

Brian K. Jenkins
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No comments were received.

- c. Department of Health (DOH) (Memorandum dated September 15, 2005):
“The existing individual wastewater system can continue to serve the existing dwelling. However, wastewater generated from any additional dwelling unit/building must meet the wastewater rules in effect at the time of building permit application.”

Decision:

In view of the above, your request to construct a **Third 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 October 25, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

In reference to the Department of Water Supply's comment, we suggest the following:

Brian K Jenkins

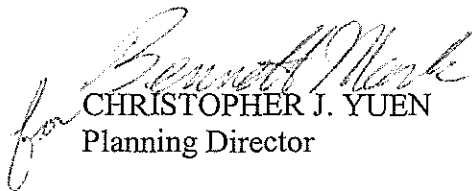
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1. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 6,000 gallons for domestic consumption or potable uses. This catchment system should 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.
2. Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department.

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

Sincerely,

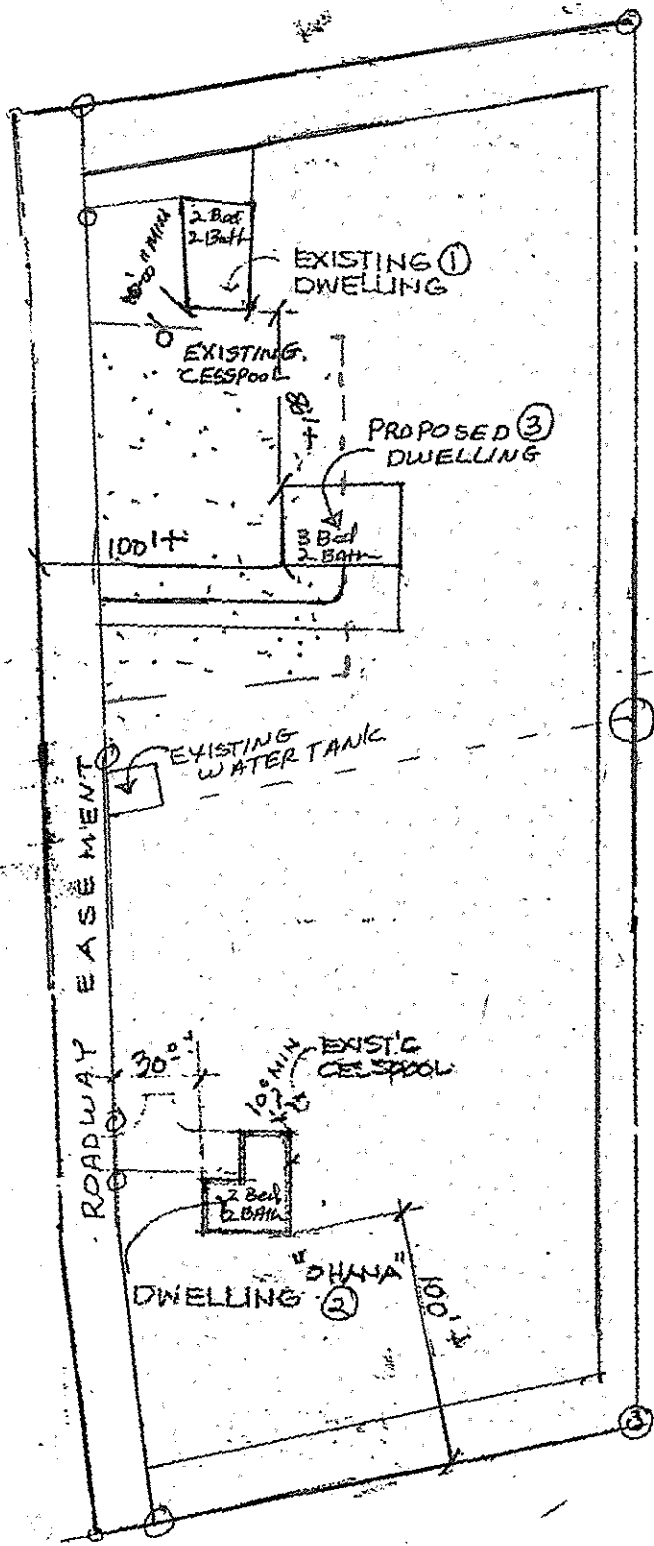

CHRISTOPHER J. YUEN
Planning Director

DEB:deb

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Enclosure: AFDA document
AFDA document instruction sheet

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



Red = Coffee
 GREEN = Macadamia Nuts

PLOT PLAN

SCALE: 1" = 100 FT.

T.M.K.: 7-5-01-67 LOT E-3
 LOC: MOEAUOA, NORTH KONA
 AREA: 5.00 ACS.