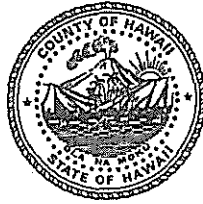


Harry Kim  
Mayor



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

January 17, 2006

Mr. Paul M. and Mrs. Edith S. De Silva  
3020 Ainaola Drive  
Hilo, Hawaii 96720

Dear Mr. and Mrs. De Silva:

**SUBJECT:**           **Additional Farm Dwelling Agreement (fda-05-000087)**  
**Applicants:**       **Paul M. and Edith S. De Silva**  
**Land Owners:**     **Paul M. and Edith S. De Silva**  
**State Land Use:**   **Agricultural**  
**County Zoning:**   **A-3a**  
**Land Area:**       **3.001 Acres**  
**Tax Map Key:**      **(3) 2-4-007:161**

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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. Names, address and signatures of the applicants/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 County is an equal opportunity provider and employer.*

JAN 24 2006

- i. The Property has 23 planted fruit trees and some 8-year old macadamia nut trees along with a grove of six varieties of bananas. Fruit trees, planted on approximately 2 ½ acres, include Lychee, Longan, Sapote, Abiu, Jackfruit and Rambutan.
- ii. The original farming intent was for raising cattle until it was found that there is insufficient forage to sustain the animals, thus preparations have been made for a change of focus to orchard activities.

(b) Proposed agricultural activities include the following:

- i. The planting of an additional 30 or so of a like variety of fruit trees.
  - ii. Cattle fencing from the previous endeavor needs to be removed and the land further prepared for ease of maintenance.
  - iii. Applicant estimates that the agricultural activity will require 20 hours a week during development and 40 hours during production.
3. In support, numerous receipts for farm expenditures have 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 by subdivision (SUB 5261) approved on June 20, 1985, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

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3. The Farm Plan 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.

4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (DWS) (Letter dated January 4, 2006):

“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 water 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 approval of the waiver. This means that the additional farm dwelling cannot be hooked up to any existing departmental water services.

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) (Web Site Inquiry):

2005-1 taxes paid on August 20, 2005, next due (2005-2) February 21, 2006.

(c) Department of Health (DOH):

The DOH did not comment on this application as of this date.

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.

Mr. Paul M. and Mrs. Edith S. De Silva

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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 January 18, 2008 may cause the Director to initiate proceedings to invalidate the AFDA.

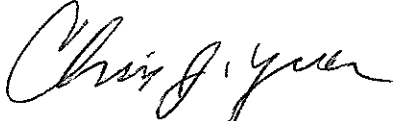
Mr. Paul M. and Mrs. Edith S. De Silva

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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

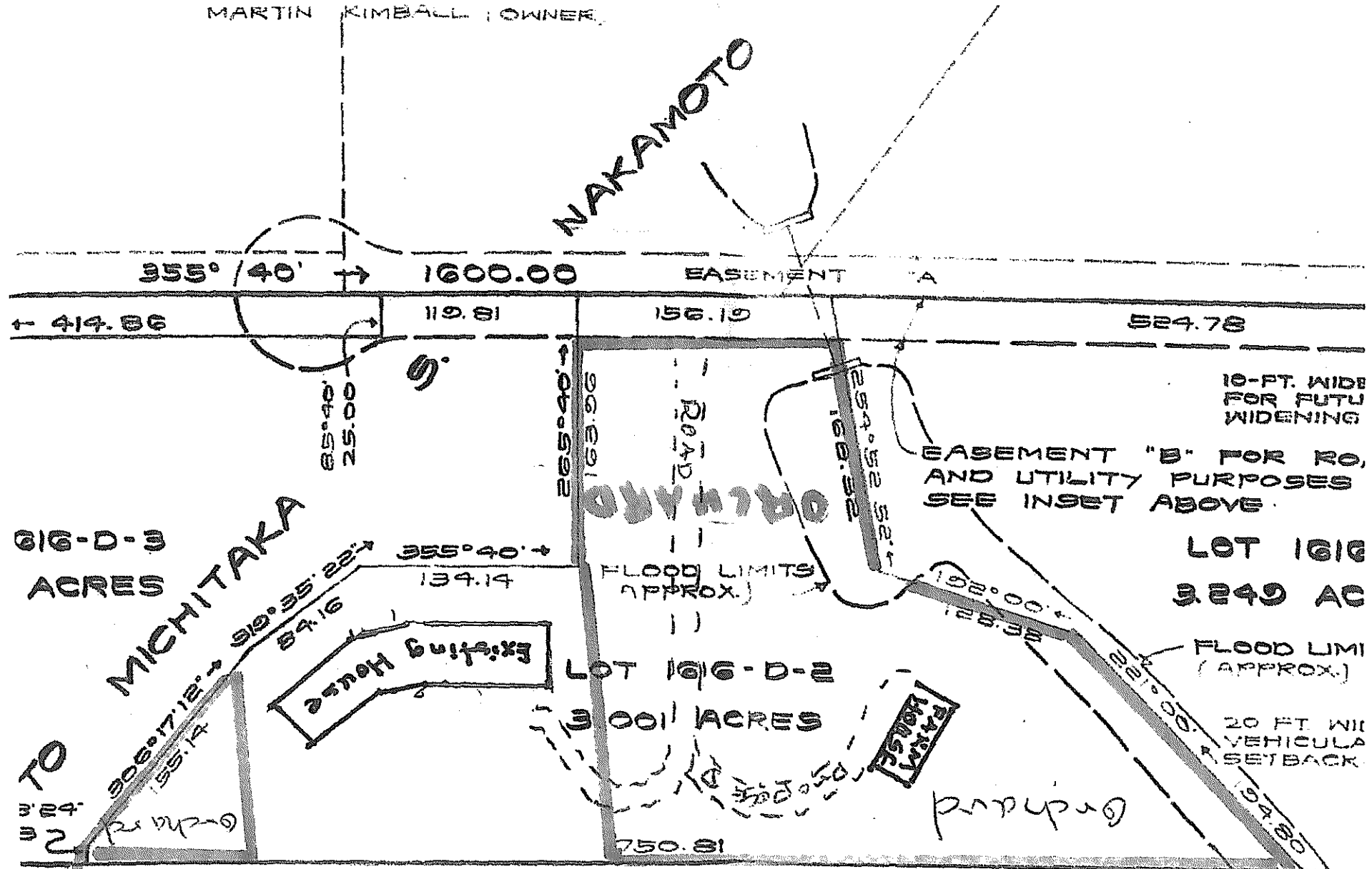
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Enclosures: AFDA document  
AFDA document instruction sheet

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

MARTIN KIMBALL, OWNER

NAKAMOTO



355° 40' → 1600.00 EASEMENT A

← 414.86      119.81      156.19      524.78

10-FT. WIDE FOR FUTURE WIDENING

EASEMENT "B" FOR ROAD AND UTILITY PURPOSES SEE INSET ABOVE

LOT 1616  
3.249 AC

FLOOD LIMITS APPROX.

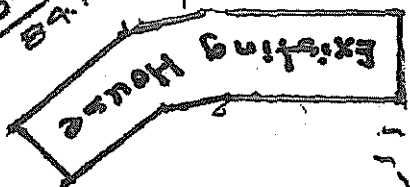
FLOOD LIMIT (APPROX.)

20 FT. MIN. VEHICULAR SETBACK

TO MICHITAKA

616-D-3  
ACRES

LOT 1616-D-2  
3.001 ACRES



175° 40' ← 1600.00

South 25° 21' 45" West 1600.00