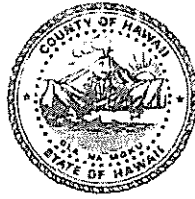


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED™ AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

101 Aupuni Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

February 21, 2006

Mr. Patrick D. and Mrs. Deborah J.K. Cox  
P.O. Box 1298  
Keaau, Hawaii 96749

Dear Mr. and Mrs. Cox:

**SUBJECT:** Additional Farm Dwelling Agreement (fda-05-000088)  
**Applicants:** Patrick D. and Deborah J.K. Cox  
**Land Owners:** Patrick D. and Deborah J.K. Cox  
**State Land Use:** Agricultural  
**County Zoning:** A-5a  
**Land Area:** 5.361 Acres  
**Tax Map Key:** (3) 1-8-086:032

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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:

- i. The Property has 54 newly planted fruit trees. Fruit trees planted include 30

FEB 27 2006

Mr. Patrick D. and Mrs. Deborah J.K. Cox

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Lychee, 12 Avocado, 4 Orange, 4 Tangerine and 4 Mountain Apple.

- ii. The property has approximately 4 ½-acres of fenced area for raising 4 head of cattle.

(b) Proposed agricultural activities include the following:

- i. Continuation of the above with additional labor required as the fruit trees begin to bear.
  - ii. Applicant states that the agricultural activity requires 16 to 20 hours a week now and will increase in the future and that the AFD will be occupied by a family member who will be working on the farm.
3. In support, an expense report for 2005 for farm expenditures has been presented. Also, evidence of an Agricultural Use Application with the RPT and a State of Hawaii Department of Taxation's General Excise (GE) Tax License (W0099264-01) has 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 3653a) approved on January 29, 1980, 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 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 February 21, 2006):

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

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling at a maximum of 600 gallons per day.

As this application indicates that there is farming activity on the parcel, the applicant shall have a licensed contractor install a backflow preventer (reduced pressure type) on the applicant's property just after the existing meter. The backflow preventer 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

Inasmuch as this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with the Department's regulations. However, the Department's existing water system facilities cannot support an additional meter for the proposed additional farm dwelling at this time. Extensive improvements and additions, including source, storage, transmission, and distribution facilities, must be constructed. Currently, sufficient funding is not available and no time schedule is set.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to the proposed additional farm dwelling. Further, should the application be approved, both dwellings must not share the existing meter.

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) (Memorandum dated January 27, 2006):

“Property. Is receiving agricultural use value. Effective with the 2006-07 tax year, there are 4.861 acres of pasture in the Non-Dedicated Agricultural Use Program. Real Property taxes are paid through June 30, 2006.”

(c) Department of Health (DOH) (Memorandum dated January 27, 2006):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used 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) 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.
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

Mr. Patrick D. and Mrs. Deborah J.K. Cox

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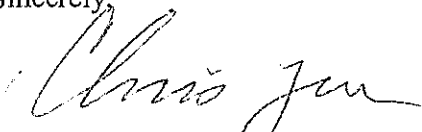
February 21, 2006

(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 just begun and expanded agricultural activity as summarized previously in this letter. It is required that the First Party (property owners) 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 the First Party.
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 February 22, 2008 may cause the Director to initiate proceedings to invalidate the AFDA.

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:mad

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Enclosures: AFDA document  
AFDA document instruction sheet

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

■ = Fenced Area

Aprox 3 ACS fenced

4 COW'S

54 total trees

# PLOT PLAN

SC: 1"=40.00'

TRK: (3) L-8-B6:032

LOT

LOT AREA: 5361 acs

Main house

3 BR room

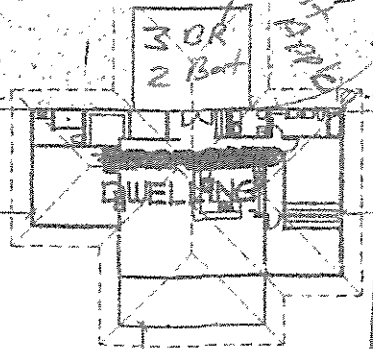
2 Bath

3,000 Sq. ft.

Fence



12 AVOCADO



4 Orange  
4 tangerine

30  
Lychee  
120'-11" trees

Fence Line

PAVED GRAVEL DRIVEWAY

Proposed  
AG  
Building

1000 sq. ft.  
2 concrete  
2 Bedroom 2 Bath

Aprox 10,000'  
Lot fenced ground House

Aprox 1 1/2 ACS  
Fenced

20'

20'-0" SETBACK

Fence Line 285.36'