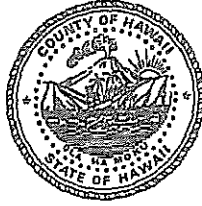


Harry Kim  
Mayor



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

May 31, 2005

Mr. Christian and Mrs. Barbara L. Kankainen  
And Mr. Richard S. Trott  
P.O. Box 488  
Laupahoehoe, Hawaii 96764

Dear Mr. and Mrs. Kankainen and Mr. Trott:

**SUBJECT:** Additional Farm Dwelling Agreement (2005-0047)  
**Applicants:** Christian and Barbara L. Kankainen  
And Richard S. Trott  
**Land Owners:** Christian and Barbara L. Kankainen  
And Richard S. Trott  
**State Land Use:** Agricultural  
**County Zoning:** A-20a  
**Land Area:** 11.03 Acres  
**Tax Map Key:** (3) 3-5-004:019

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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 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 activity is proposed.

*Hawai'i County is an equal opportunity provider and employer*

JUN 03 2005

**EXHIBIT**

(b) Proposed agricultural activities include the following:

- i. The boarding of horses owned by others for a fee and consisting of 4 to 6 stabled horses and 8 to 10 pastured horses.
- ii. The additional farm dwelling is required for a farm manager who will maintain the pastures, fences, stables and arena. The farm manager will also feed, groom and attend to the day to day care of the horses.

(c) It is anticipated that the manager will spend 4 to 6 hours per day on those duties.

3. 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 prior to June 4, 1976 as Grant 7600, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.
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 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 April 27, 2005):

"Please be informed that our comments to the previous Additional Farm Dwelling Application still stand and are as follows.

We have reviewed the subject application, and our records show that the property does not have an existing water service with the Department. It is our understanding that the applicants will use a catchment system for their water; therefore, the Department has no objections to the application.

However, if the applicants would like water service through the Department, they should contact our Water Resources and Planning Branch at 961-8070 for more information. Water can be made available from a point of adequacy...

**EXHIBIT**  
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inch waterline along Homestead Road, approximately 900 feet from the middle of the property, upon the payment of the applicable fees and compliance with our Rules and Regulations and Water System Standards. Please be informed this water availability may change at any time.

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):

“No Taxes Due.”

(c) Department of Health (DOH) (Memorandum dated May 5, 2005):

“WWB found no wastewater/environmental health concerns with regulatory implications in the submittal.”

Decision:

In view of the above, your request to construct a **second (first AFD) dwelling** on the property is approved subject to the following conditions:

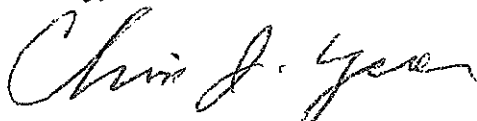
1. The AFD shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.
2. The agreement shall run with the land and 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. 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.
4. Your AFDA has been approved based 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.

**EXHIBIT**  
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6. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a building permit (BP) for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before May 27, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
  
7. 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.

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: jle

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Enclosures: AFDA document  
AFDA document instruction sheet

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

**EXHIBIT**  
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AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawaii Planning Department  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

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TITLE OF DOCUMENT:

**ADDITIONAL FARM DWELLING AGREEMENT**

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PARTIES TO DOCUMENT:

**FIRST PARTY: CHRISTIAN KANKAINEN and BARBARA L. KANKAINEN  
and RICHARD S. TROTT**

**SECOND PARTY: COUNTY OF HAWAII**

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PROPERTY DESCRIPTION:

**TMK: (3) 3-5-004:019**

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ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT, made and executed this 26<sup>th</sup> day of May, 2005, by and between **CHRISTIAN KANKAINEN and BARBARA L. KANKAINEN and RICHARD S. TROTT**, herein called the "First Party," whose mailing address is P.O. Box 488, Laupahoehoe, Hawaii 96764, and the **COUNTY OF HAWAII**, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a second dwelling located on the property described by Tax Map Key (3) 3-5-004:019 situated within the State Land Use Agricultural district and zoned Agricultural (A-20a) by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct one additional farm dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity 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.
3. This agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit "A".

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.


IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

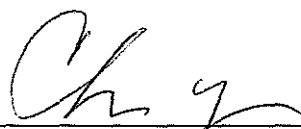
FIRST PARTY:

  
\_\_\_\_\_  
**CHRISTIAN KANKAINEN**, Legal Owner

  
\_\_\_\_\_  
**BARBARA L. KANKAINEN**, Legal Owner

  
\_\_\_\_\_  
**RICHARD S. TROTT**, Legal Owner

SECOND PARTY:

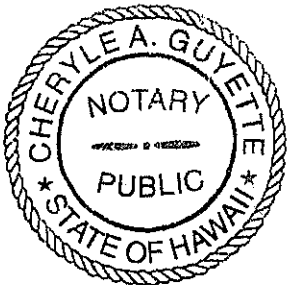
  
\_\_\_\_\_  
**CHRISTOPHER J. YUEN**, Planning Director  
County of Hawaii Planning Department



STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

On this 7<sup>TH</sup> day of June, 2005 before me personally appeared **CHRISTIAN KANKAINEN and BARBARA L. KANKAINEN and RICHARD S. TROTT** to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

  
\_\_\_\_\_  
Notary Public, State of Hawaii



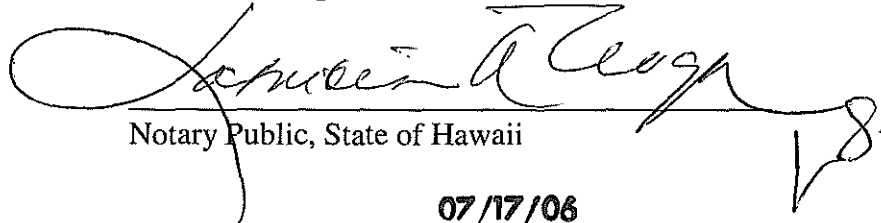
My Commission  
Expires 2/27/2009

My commission expires: 2/27/2009

STATE OF HAWAII            )  
  ) SS  
COUNTY OF HAWAII        )

On this 17<sup>th</sup> day of June, 2005 before me personally appeared **CHRISTOPHER J. YUEN**, to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said **CHRISTOPHER J. YUEN** acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga

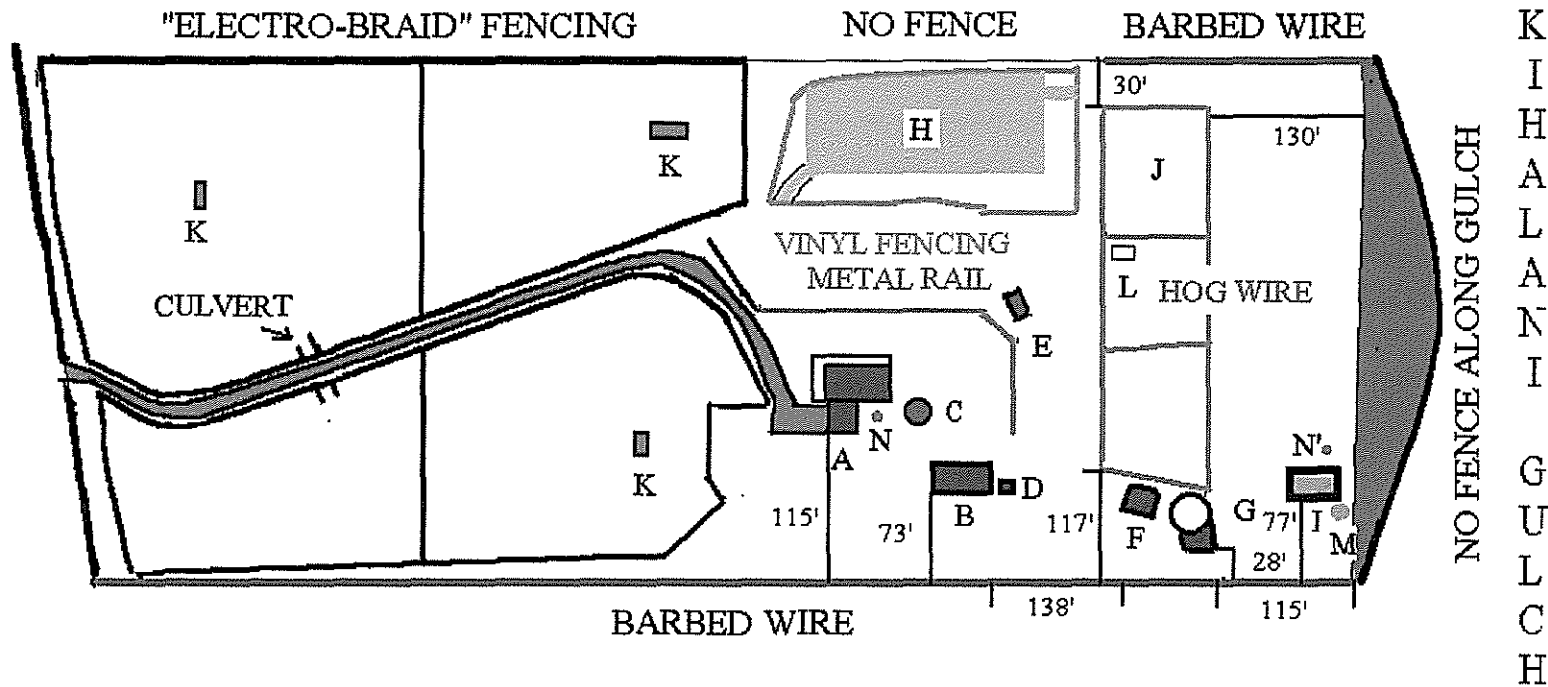





Notary Public, State of Hawaii

**07/17/06**

My commission expires: \_\_\_\_\_

KIHALANI HOMESTEAD ROAD



-  3 RAIL VINYL FENCING AROUND RIDING ARENA
-  HOG WIRE ENCLOSED DOG/GOAT PENS
-  ASPHALT PAVED DRIVEWAY

- A = EXISTING HOUSE/GARAGE 3 BEDROOM
- B = 4 STALL SHED/ROW BARN
- C = WATER CATCHMENT STORAGE TANK
- D = METAL STORAGE SHED
- E = AUXILIARY WATER STORAGE TANK
- F = 20' X 20' "COVERALL" BUILDING - GARAGE
- G = STALL & ROUND PEN
- H = RIDING ARENA (REGULATION DRESSAGE)
- I = PROPOSED ADDITIONAL FARM DWELLING 2 BEDROOM
- J = GOAT/DOG PADDOCKS
- K = HORSE PASTURE SHELTERS
- L = DOG/GOAT SHELTER
- M = PROPOSED CATCHMENT WATER TANK
- N = CESSPOOL N' = PROPOSED

MICHAEL & SANDRA L KROLL  
 35-349 KIHALANI HOMESTEAD ROAD  
 LAUPAHOEHOE, HAWAII 96764  
 T.M.K.: (3) 3-5-4:19  
 11.03 ACRES

AS OF JUNE 1, 2001