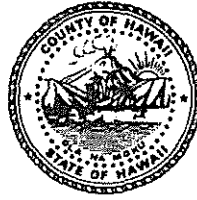


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

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

April 17, 2006

Mr. Grant H. Tolleth and Mrs. Sandra J. Tolleth  
P.O. Box 6792  
Kamuela, Hawaii 96743

Dear Mr. and Mrs. Tolleth:

**SUBJECT: Additional Farm Dwelling Agreement (fda-06-000102)**  
**Applicants: Grant H. Tolleth and Sandra J. Tolleth**  
**Land Owners: Grant H. Tolleth and Sandra J. Tolleth**  
**State Land Use: Agricultural**  
**County Zoning: A-5a**  
**Land Area: 5.094 Acres**  
**Tax Map Key: (3) 4-4-003:066**

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, address and signature of the applicant but only one landowner. Second landowner to sign recordable document.
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:

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- i. The raising of cattle and goats. Three and up to four of each at a time on approximately 3 acres of the lot.
- ii. Land clearing for proposed agricultural activity and extension of a waterline from the Lower Hamakua ditch for irrigation of said activity.

(b) Proposed agricultural activities include the following:

- i. Continuation of the above with the addition of growing landscaping palms in pots (1 acre) and white pineapples (1/2 acre) in appropriate areas of decent soils.
  - ii. Applicant states that the agricultural activity requires approximately 8 hours a week now and will increase to approximately 38 hours in the future and that the AFD will be occupied by applicants' partners who will need to on the farm to start the pineapple production and protect the plants from area wild pigs.
3. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License (W01381284-01) 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 6566) approved on March 30, 1995, 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.

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

(a) Department of Water Supply (DWS) (Letter dated March 20, 2006):

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

For your information, this parcel is part of a subdivision and has no existing service. In this area, subdivisions created by variance are allowed one service (5/8-inch meter) on a first come, first served basis. Our records show that one service already exists for this subdivision. 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 Department regulations. However, the Department's existing water system facilities cannot support any additional meters at this time. Extensive improvements and additions, including source, storage, transmission, booster pumps, 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 applicants understanding and accepting that the Department cannot provide water service to the proposed additional farm dwelling. Further, should the application be approved, dwellings in the subdivision 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):

RPT did not comment on this application as of this date.

(c) Department of Health (DOH) (Memorandum dated March 10, 2006):

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“The Department of Health’s Safe Drinking Water Branch authority on drinking water quality is based on the definition of a ‘public water system’. A ‘public water system’ means a system which provide water for human consumption through pipe or other constructed conveyance if such system has fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20. Recommend the subdivision lots be connected to an existing public water system.

Concerns on water quality for lead, copper, algae and microbial and chemical contaminations in private water systems have identified the need for self monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking purposes since the quality may not meet potable water standards.

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 and the water system agreement recorded with the Bureau of Conveyances as a condition of approval of Subdivision Number 6566, this Additional Farm Dwelling Agreement is further conditioned as follows:

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Any dwellings constructed on the property shall have a minimum 1,500 square feet of roof catchment surface, and a minimum 15,000-gallon corrugated metal water storage facility with a hose coupling for fire protection use approved by the Hawaii County Fire Department. The water storage facility shall at all times be maintained at a minimum of 9,000 gallons.

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 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 April 18, 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.

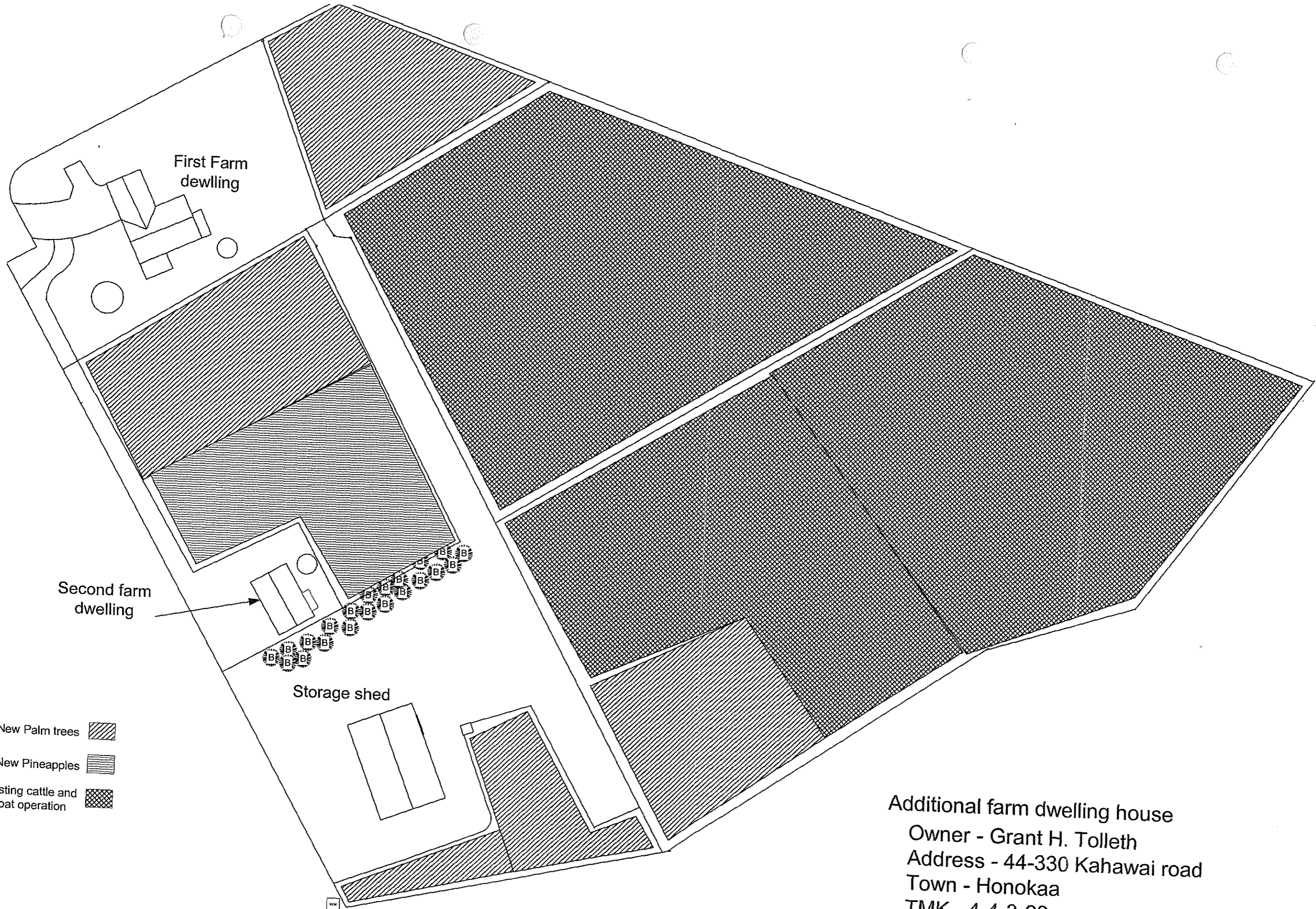
Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

JRH:cd




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First Farm dwelling

Second farm dwelling

Storage shed

- New Palm trees 
- New Pineapples 
- Existing cattle and goat operation 

Additional farm dwelling house  
 Owner - Grant H. Tolleth  
 Address - 44-330 Kahawai road  
 Town - Honokaa  
 TMK - 4-4-3-66  
 Scale 1" = 50'