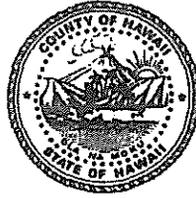


Harry Kim
Mayor



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

June 13, 2006

Ms. Nancy Lee Seifers
P.O. Box 951
Pahoa, Hawaii 96778

Dear Ms. Seifers:

SUBJECT: Additional Farm Dwelling Agreement (fda-06-000111)
Applicant: Nancy Lee Seifers
Land Owners: Nancy Lee Seifers and Gary Floyd Alexander
State Land Use: Agricultural
County Zoning: A-10a
Land Area: 12.293 Acres
Tax Map Key: (3) 1-4-012:008

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/landowner.
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. There are 42 full grown, producing citrus trees.

- ii. Applicant states that the ongoing activity requires approximately 25 man-hours per week of hired out labor.

(b) Proposed agricultural activities include the following:

- i. The proposal is to increase citrus trees by 68 in the next three years for a total of 100 trees.
 - ii. The additional trees will increase weekly labor man-hours to approximately 60.
3. In support of the application, evidence of organic certification, small farm exemption (USDA/NOP Program), DOA measuring devices license, tax returns and a State of Hawaii Department of Taxation's General Excise (GE) Tax License has 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 prior to June 4, 1976, 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, various certifications/associations and GE Tax License (30107343), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and that the income has been taxed.
4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (DWS) (Letter dated May 23, 2006):

“Please be informed that the parcel is not within the Department’s existing service limits. The closest point of adequacy is the end of an existing 8-inch waterline within Kapoho-Paho Road approximately 2.1 miles west of the subject parcel.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed additional farm dwelling.

Should there be any questions, please call Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.”

(b) Real Property Tax Office (RPT):

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

(c) Department of Health (DOH) (Memorandum dated May 17, 2006):

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

Ms. Nancy Lee Seifers

Page 4

June 13, 2006

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 June 14, 2008, may cause the Director to initiate proceedings to invalidate the AFDA.

Ms. Nancy Lee Seifers
Page 5
June 13, 2006

Should you have any questions, please feel free to contact Jonathan Holmes of this Department.

Sincerely,



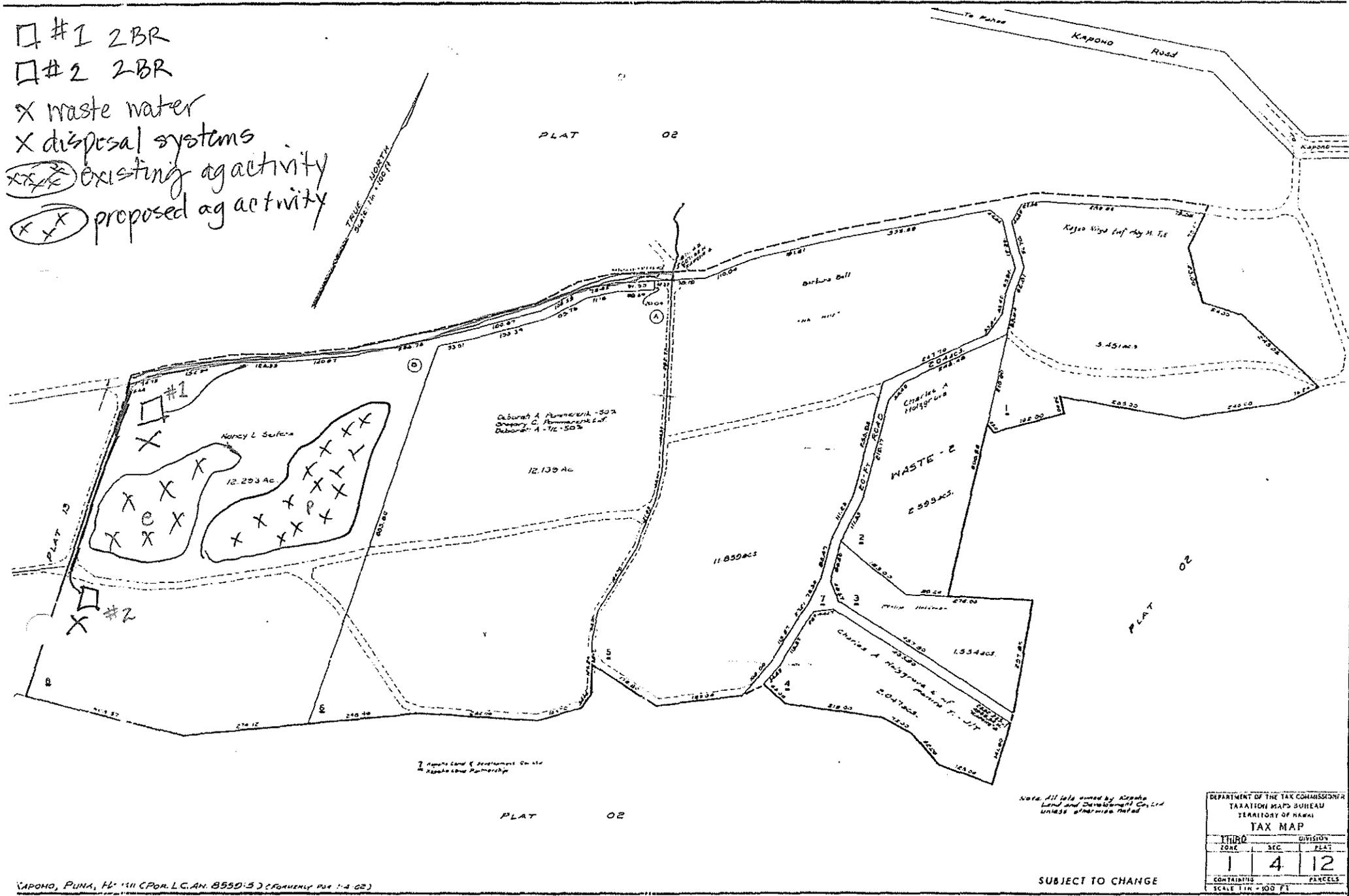
CHRISTOPHER J. YUEN
Planning Director

JRH:cd
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Enclosures: AFDA document
AFDA document instruction sheet

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

- #1 ZBR
- #2 ZBR
- X waste water
- X disposal systems
- ~~XX~~ existing ag activity
- ~~XX~~ proposed ag activity



Note: All lots owned by Kapono Land and Development Co., Ltd. unless otherwise noted.

DEPARTMENT OF THE TAX COMMISSIONER		
TERRITORY MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
THRU	DIVISION	
ZONE	SEC	PLAT
1	4	12
CONTAINING		PARCELS
SCALE 1" = 100' F1		

SUBJECT TO CHANGE

KAPONO, PUNA, HI. (P.O.R. L.C.A.N. 8550-3) (FORMERLY P.O.R. 1-4 02)