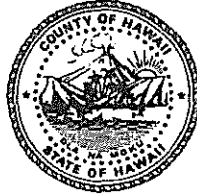


Harry Kim
Mayor



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

July 24, 2006

Mr. Paul W. Bryant
P.O. Box 201
Papa'aloa, Hawaii 96780

Dear Mr. Bryant:

SUBJECT: Additional Farm Dwelling Agreement
(fda-06-000115)
Applicants: Paul W. Bryant
Land Owners: Paul Bryant and Kazumi Koike
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 12.06 Acres
Tax Map Key: (3) 3-5-004:032

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. Sheep are raised for the lamb meat market.

- ii. Various bearing fruit and nut trees.
- (b) Proposed agricultural activities include the following:
- i. The sheep will be phased out and replaced with organic tea and olives. The olives will be pressed for olive oil. Both products are intended for the high-end market.
 - ii. Further planting of fruit and nut orchard.
- (c) The majority of the existing pasture will be transformed into the new venture. Estimated man-hours are difficult to predict but the endeavor is anticipated to generate sustaining incomes to the partners.
3. In support of the application, evidence of 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 as Grant 6230 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, GE Tax License (ID number 30098849), 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 is being taxed.
4. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (DWS) (Letter dated June 21, 2006):

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

The subject parcel does not have an existing service with the Department. The nearest point of connection is from an existing 6-inch waterline within Kihalani Homestead Road near the eastern corner of the lot. Please be informed that the subject parcel is not within the Department's existing pressure zone. Parcels that are not within the Department's pressure zone are limited to one (1) Unit of water, or one 5/8-inch meter, at an average of 400 gallons per day, which is adequate for only one (1) single-family dwelling.

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 the applicant apply for the first service available, a Policy and Conditions for Water Service, or Out-of-Bounds Agreement letter must be signed? In addition, the applicant would be required to execute an Elevation Agreement with the Department, due to the parcel not being within the existing pressure zone. The applicant would also need to provide a tank and pump system schematic, prepared by a professional engineer licensed in the State of Hawai'i, for review and approval.

Due to there being existing agricultural activity on the [parcel], the applicant would also be required to install a reduced pressure type backflow prevention assembly within five (5) feet of the meter on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department before water service can be granted.

Should the application be approved, and the first service is installed, both dwellings shall not share the same meter.

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 June 13, 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.
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 July 25, 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 Department.

Sincerely,



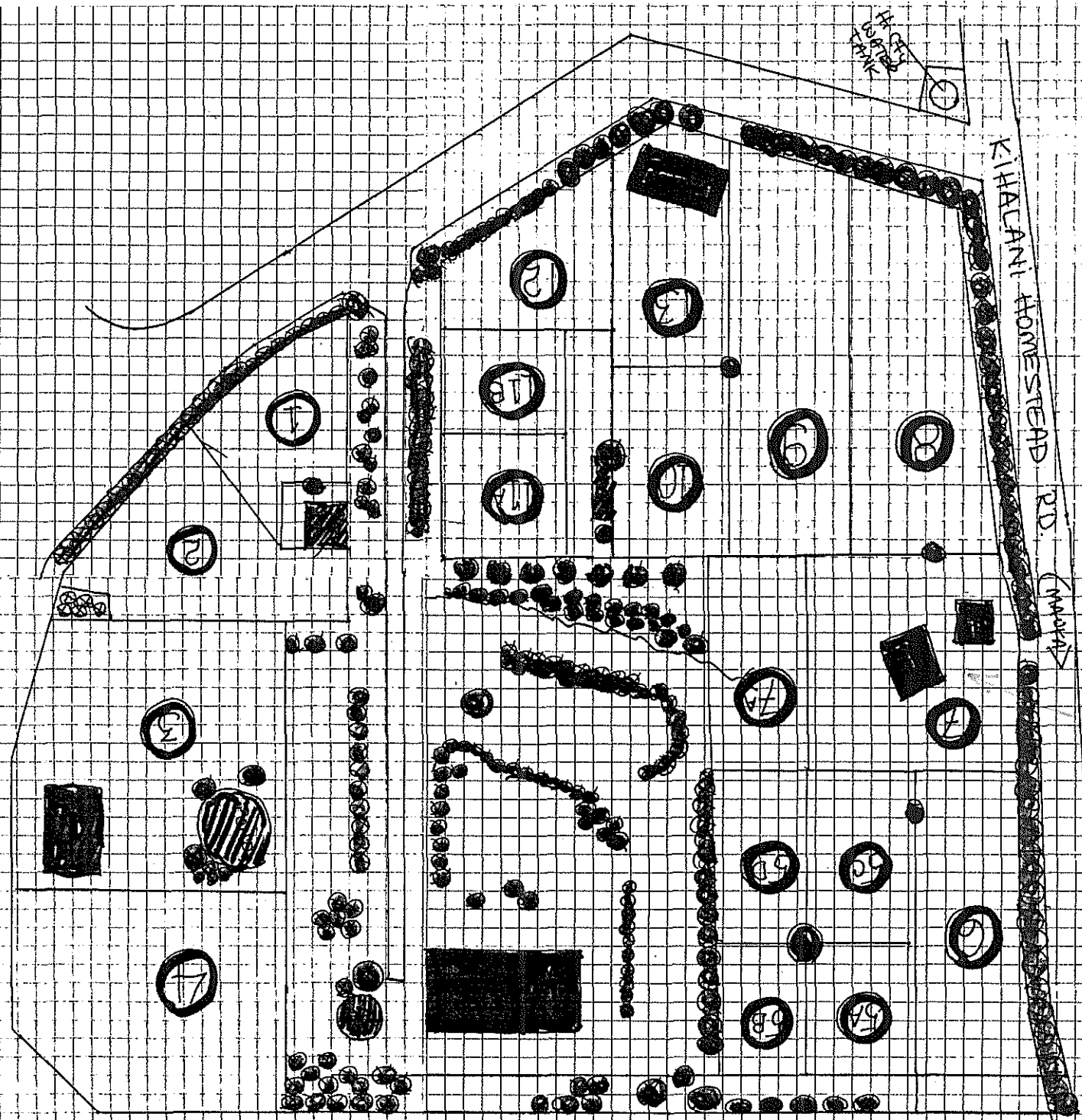
CHRISTOPHER J. YUEN
Planning Director

JRH:ld

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Enclosures: AFDA document
AFDA document instruction sheet

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



KIHALANI HOMESTEAD RD. (MAY 1947)

K. H. S. P. L.

MADE BY
MAY 1947