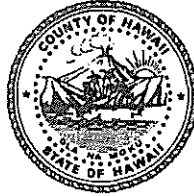


Harry Kim  
Mayor



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

August 7, 2006

Mr. Nathan L. Saiki  
P.O. Box 395  
Kurtistown, Hawaii 96760

Dear Mr. Saiki:

**SUBJECT: Additional Farm Dwelling Agreement (fda-06-000119)**  
**Applicants: Nathan L. Saiki**  
**Land Owners: Nathan L. Saiki and Enid Saiki**  
**State Land Use: Agricultural**  
**County Zoning: A-5a**  
**Land Area: 8.147 Acres**  
**Tax Map Key: (3) 1-7-006:007**

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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 applicant and 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:

Mr. Nathan L. Saiki

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August 7, 2006

- i. The property has 200 Macadamia trees, 100 apple banana trees and 7,488 sq.ft. in four (4) greenhouses (with hydroponic irrigation systems) established on it. All of these are being reclaimed from past neglect.
- (b) Proposed agricultural activities include the following:
  - i. The existing crops and facilities are to be refurbished and brought into full production once again. Tomatoes, cucumbers and lettuce will be the primary crops grown in the greenhouses.
  - ii. Applicant states that the agricultural activity will require 55 hours a week after the initial estimated 400 man-hours to bring the farm back up to productivity. Income from the farm is anticipated in excess of \$20,000 a year.
3. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License (W40910896-01, old number 30070044) 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 5303) approved on September 10, 1985, 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 July 18, 2006):

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is adequate for only one dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department’s 6-inch or 8-inch waterline within Volcano Highway, fronting the subject parcel.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting the following conditions:

1. Installation, by the Department of Water Supply, of a second 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2 <sup>nd</sup> service to the parcel	\$5,500.00
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SERVICE LATERAL INSTALLATION CHARGE:

<u>Install one meter on Volcano Highway, a State Road)</u>	<u>4,600.00</u>
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<b>Total (Subject to change)</b>	<b>\$10,100.00</b>
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3. Installation of a backflow prevention assembly (reduced pressure type) by a licensed contractor on the applicant’s property within five (5) feet of the meter. If the existing meter does not have an approved backflow prevention assembly, the installation of one will also be required as there is existing agricultural activity on the property. The installation of the backflow prevention assembly(s) must be inspected and approved by the Department before the water service can be granted. A copy of our backflow prevention handout is being forwarded to the applicant to help them understand this requirement.

Mr. Nathan L. Saiki  
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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):

RPT did not comment as of this date.

(c) Department of Health (DOH) (Memorandum dated July 17, 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. 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.

Mr. Nathan L. Saiki

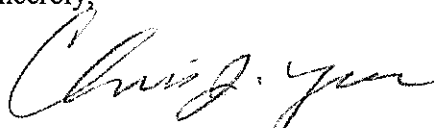
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4. Your AFDA has been approved based on reinstated agricultural activity as summarized previously in this letter. It is required that the First Party (property owners) to the Agreement shall have implemented at least 75% of the proposed farm plan within 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.
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
6. 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 August 5, 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

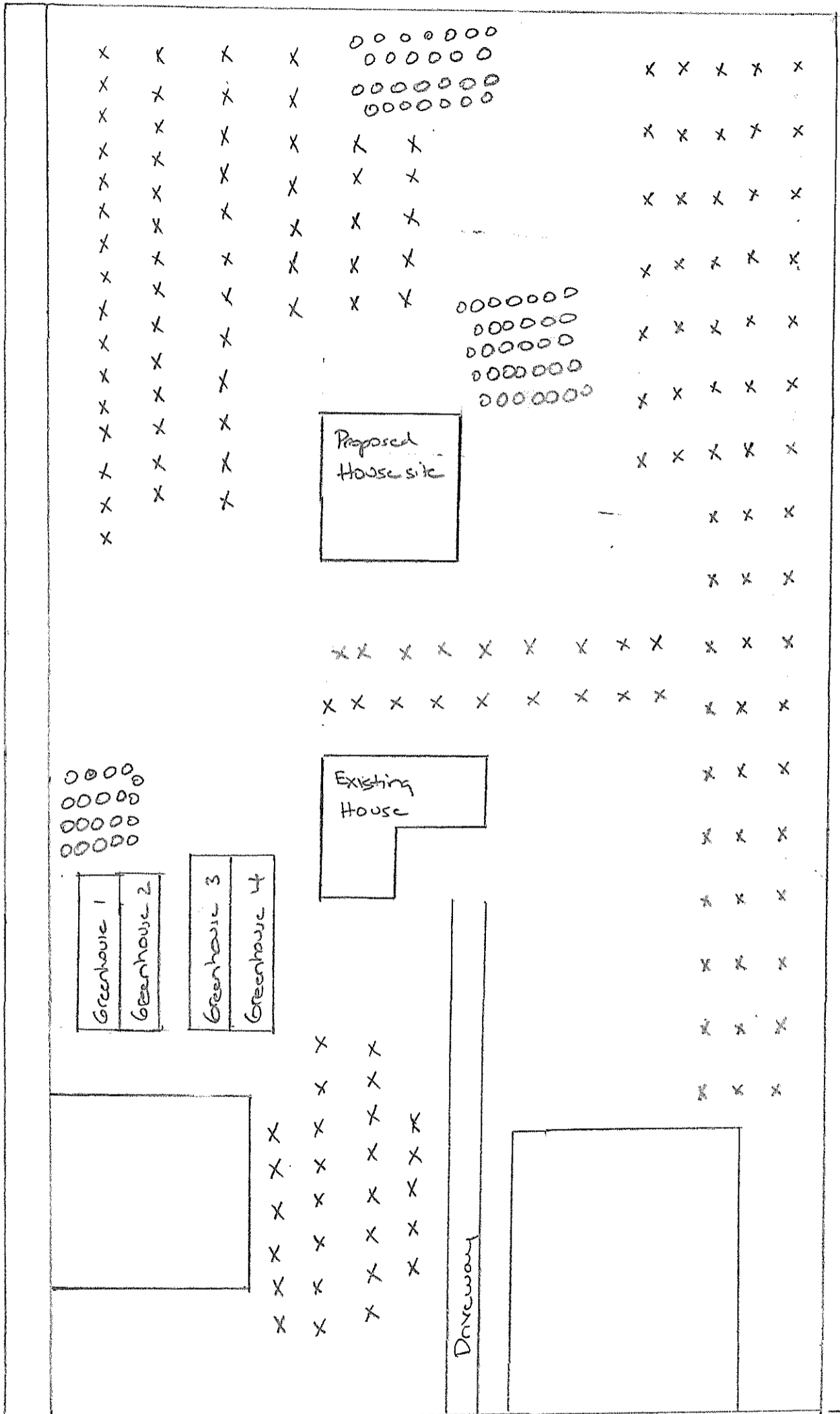
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Enclosures: AFDA document  
AFDA document instruction sheet

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

TMK 1-7-6-7 Nathan + Enid Saiki



Volcano Highway

X - macadamia nut trees  
 O - banana trees