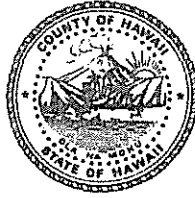


Harry Kim
Mayor



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

February 12, 2007

Mr. Alfred J. and Mrs. Dayle K. Tsuha
129 Alohala Drive
Hilo, Hawaii 96720

Dear Mr. and Mrs. Tsuha:

SUBJECT: Additional Farm Dwelling Agreement (fda-06-000149)
Applicants: Alfred J. and Dayle K. Tsuha
Land Owners: Alfred J. and Dayle K. Tsuha
State Land Use: Agricultural
County Zoning: A-10a
Land Area: 9.951 Acres
Tax Map Key: (3) 1-7-003:010

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. The activity involves at least 0.5 acre of orchard crops (lychee, longan and atamoya), 2.0 acres of cut foliage and tropical flowers (heliconias, ginger, philodendron, calatheas, anthuriums, etc.) and approximately 5 acres of livestock pasturage (cattle).
 - ii. Present man hours are 15 to 20 per week.
- (b) Proposed agricultural activities include the following:
 - i. It is proposed that the foliage and tropicals will be expanded for a total planted area of approximately 4-plus acres.
 - ii. The man-hours required will expand in proportion to the added planted area.
3. In support of the application, evidence of Internal Revenue Service Schedule F of Form 1040 for tax year 2005 and various receipts for farm expenses have 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, income tax Schedule F (2005 tax year), 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 January 16, 2007):

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

Please be informed an existing 5/8-inch meter services the subject parcel, which is adequate for only one dwelling unit and limited to an average of 400 gallons per day. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with Department’s regulations. However, as the parcel does not currently front on the Department’s existing water line, the Department cannot provide an additional service.

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 application be approved, both dwellings shall not share the existing meter.

Further, as the applicant indicates that there is existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed within five (5) feet of the existing meter on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department before commencement of water service.

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

(b) Real Property Tax Office (RPT) (Response form dated January 4, 2007):

“Property is receiving agricultural use value. Real Property taxes are paid through June 30, 2007.”

(c) Department of Health (DOH) (Memorandum dated January 9, 2007):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used will be determined at the time of building permit application.

We recommend that you review all of the Standard Comments on our website: www.state.hi.us/health/environmental/env-planning/landuse/landuse.html. Any comments specifically applicable to this project should be adhered to.”

Mr. Alfred J. and Mrs. Dayle K. Tsuha
Page 4
February 12, 2007

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:

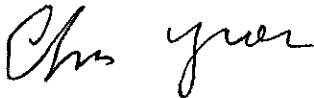
1. The AFD shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.
2. The agreement shall run with the land and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

Mr. Alfred J. and Mrs. Dayle K. Tsuha
Page 5
February 12, 2007

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 February 13, 2009, 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,



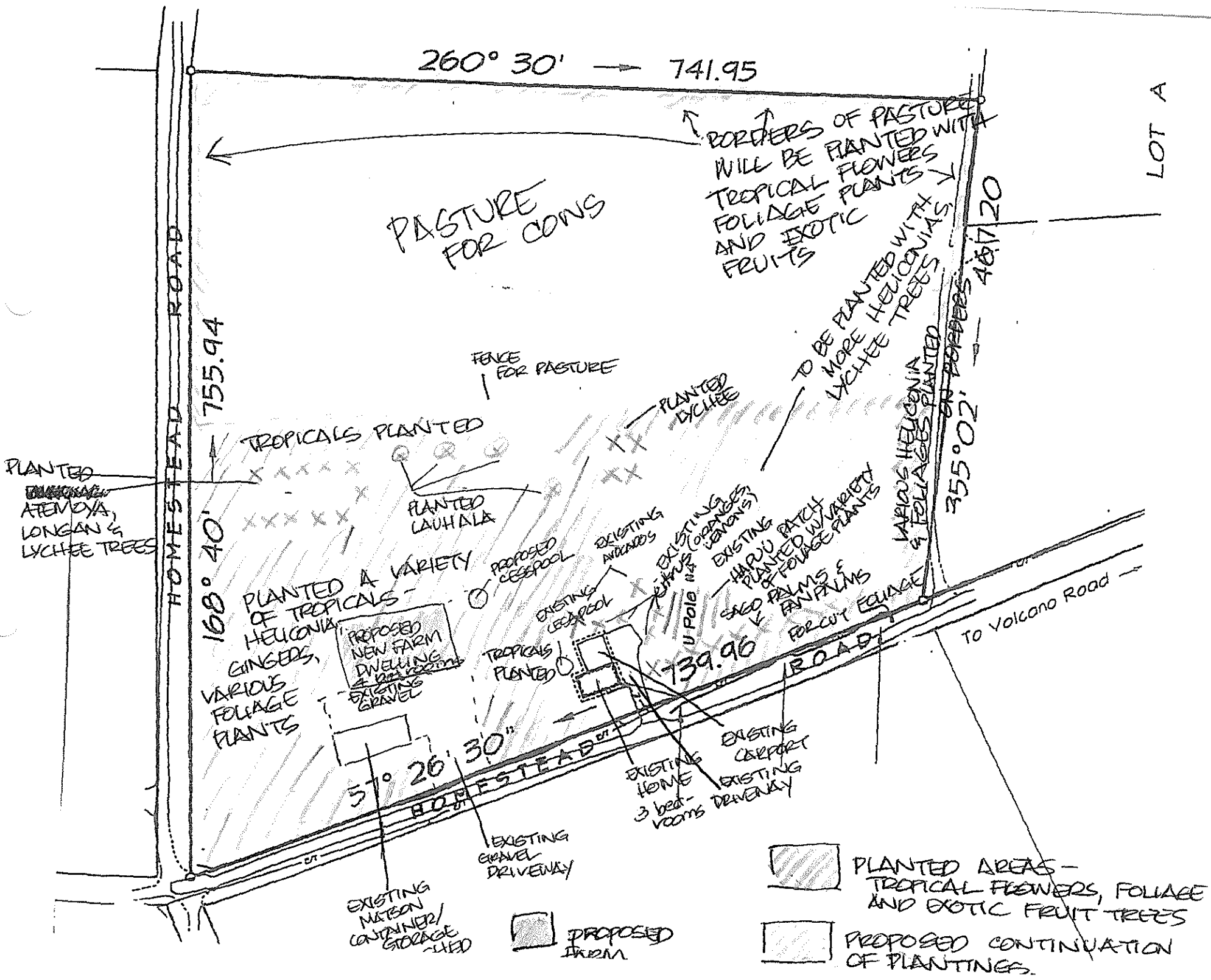
CHRISTOPHER J. YUEN
Planning Director

JRH:cd

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Enclosures: AFDA document
AFDA document instruction sheet

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



260° 30' → 741.95

LOT A

PASTURE FOR COWS

BORDERS OF PASTURE WILL BE PLANTED WITH TROPICAL FLOWERS AND EXOTIC FRUITS

TO BE PLANTED WITH MORE HELICONIAS & LYCHEE TREES

355° 02' → 467.20

FENCE FOR PASTURE

TROPICALS PLANTED

PLANTED ATEMOYA, LONGAN & LYCHEE TREES

PLANTED LAUHALA

PLANTED LYCHEE

PLANTED A VARIETY OF TROPICALS - GINGER, HELICONIA, VARIOUS FOLIAGE PLANTS

PROPOSED CREEK POOL

EXISTING AVOCADOS

EXISTING ORANGES (LONGAN)

EXISTING HIPOU BATCH PLANTED W/ VARIETY OF FOLIAGE PLANTS

VARIOUS HELICONIA & FOLIAGES PLANTED

PROPOSED NEW FARM DWELLING

EXISTING CREEK POOL

739.96

ROAD

To Volcano Road

57° 26' 30"



EXISTING HOME 3 bed-rooms

EXISTING CARPORT & EXISTING DRIVEWAY

EXISTING GRAVEL DRIVEWAY

EXISTING METAL CONTAINER STORAGE - USED

PROPOSED FARM

-  PLANTED AREAS - TROPICAL FLOWERS, FOLIAGE AND EXOTIC FRUIT TREES
-  PROPOSED CONTINUATION OF PLANTINGS