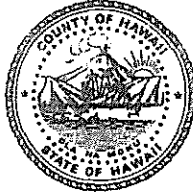


Harry Kim
Mayor



County of Hawaii
PLANNING DEPARTMENT

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

Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

April 3, 2007

Owen-Haoseur Royal Palms, Inc.
268 West Hospitality Lane #303
San Bernadino, California 92408

Dear Owen-Haoseur Royal Palms, Inc.:

SUBJECT: Additional Farm Dwelling Agreement (FDA-07-000155)
Applicants: Owen-Haoseur Royal Palms, Inc.
Land Owners: Owen-Haoseur Royal Palms, Inc.
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 12.845 Acres
Tax Map Key: (3) 3-4-004:026

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. The activity occupies approximately 11.0 of the 12.845 acres;
- ii. Current crops include lychee, palms coffee and mangosteen;
- iii. Presently there are approximately 50 man-hours per week spent on the undertaking.

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(b) Proposed agricultural activities include the following:

- i. The expansion of the coffee crop (no land area or number of trees specified);
 - ii. Estimated increased man hours are 40 per week average for a total of approximately 90 plus for the overall operation.
3. In support of the application, photographs of the property and crops and 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 prior to June 4, 1976 as part of the Maulua-Waikaumalo Homesteads, 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 W30394812-01), photographic evidence of the agricultural activity 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 March 8, 2007):

Owen-Haoseur Royal Palms, Inc.

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

Please be informed that the subject parcel is not within the Department's existing service limits. The nearest point of connection is from a 6-inch waterline within Hawaii Belt Road approximately 1.5 miles from the subject parcel.

Should there be any questions, please contact Mr. Ryan Quitoriano of our Water Resources and Planning Branch at 961-8070, extension 256."

(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 March 19, 2007):

"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.

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.

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."

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. **Please note that pages 4 and 5 of the document will require the printing of the legal signatory's name and page 4 will require said signatory's signature. Those amendments to the document will also be required to be initialed and dated by your notary.** 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.

Owen-Haoseur Royal Palms, Inc.

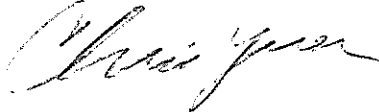
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5. Your AFDA has been approved based on ongoing and future expansion of the agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior 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 April 4, 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

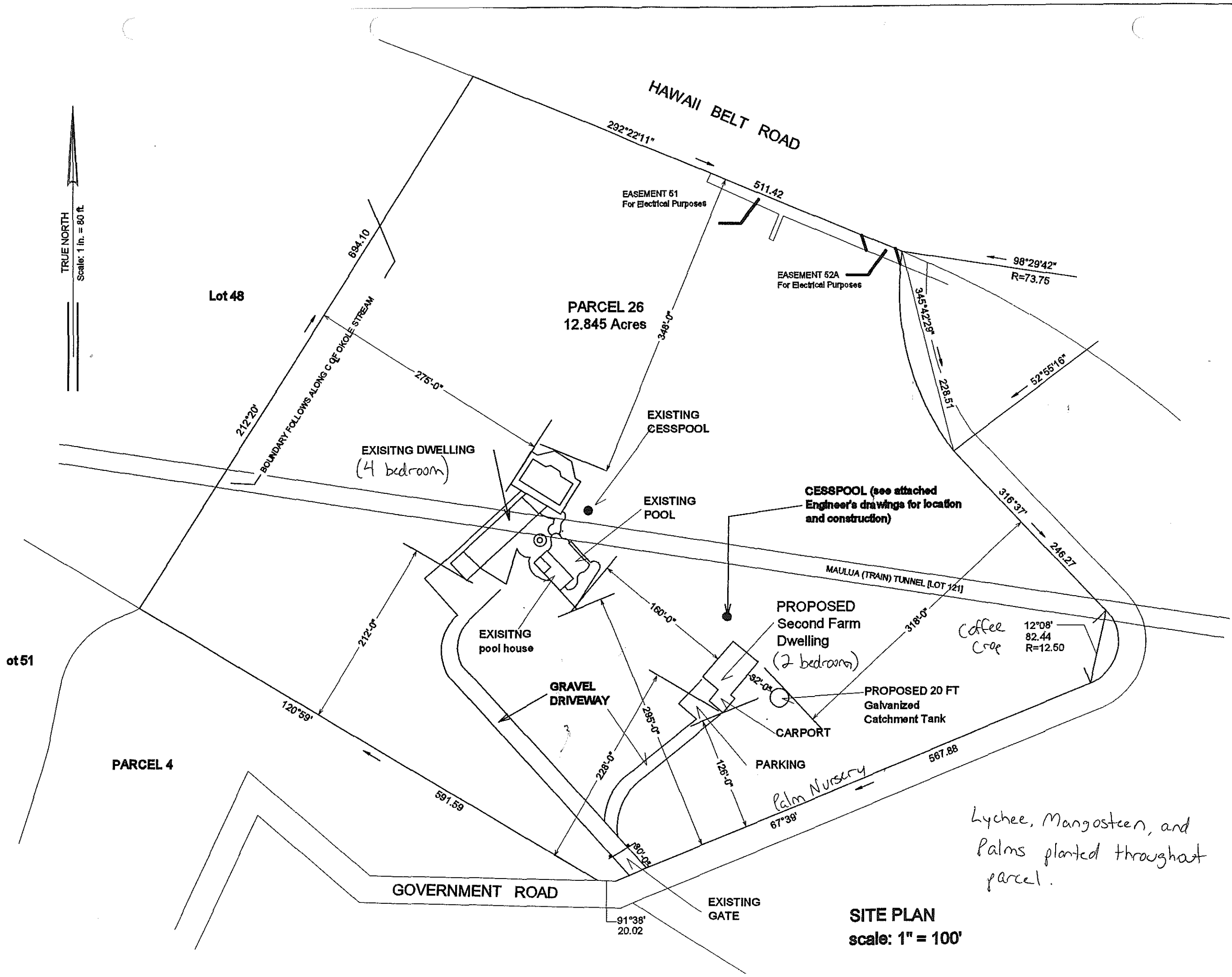
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Enclosures: AFDA document
AFDA document instruction sheet

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

TRUE NORTH
Scale: 1 in. = 80 ft



Lychee, Mangosteen, and
Palms planted throughout
parcel.

SITE PLAN
scale: 1" = 100'