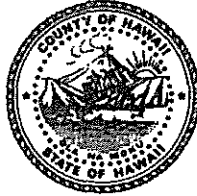


**Harry Kim**  
*Mayor*



**Christopher J. Yuen**  
*Director*

**Brad Kurokawa, ASLA**  
**LEED® AP**  
*Deputy Director*

**County of Hawaii**  
**PLANNING DEPARTMENT**

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224  
(808) 961-8288 • FAX (808) 961-8742

January 14, 2008

Mr. Richard Michael Santoro  
and Ms. Phyllis Sue Watson  
513 Indian Way  
Novato, California 94949

Dear Mr. Santoro and Ms. Watson:

**SUBJECT:** Additional Farm Dwelling Agreement (FDA-07-000196)  
**Applicants:** Richard Michael Santoro and Phyllis Sue Watson  
**Land Owners:** Richard Michael Santoro and Phyllis Sue Watson  
**State Land Use:** Agricultural  
**County Zoning:** A-1a  
**Land Area:** 1.0 Acres  
**Tax Map Key:** (3) 1-5-016:021

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 applicants' agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation.

Your farm plan included the following ongoing and proposed income producing agricultural activities:

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(a) Ongoing agricultural activities include:

- i. The activity is proposed and/or presently being implemented.

(b) Proposed agricultural activities include:

- i. There will be 25 to 30 banana trees along the frontage of the property; and
  - ii. A variety of orchids are proposed including cattaleya, cymbidium and phalaenopsis. Expectations are for 75 to 100 plants at any given time; and
  - iii. Man hours are estimated to be 10 to 14 per week for the orchids and 25 per week (sic) for the bananas (we estimate no more than 2.5 hours averaged per week); and
  - iv. Annual income is expected to be \$1,500 to \$2,200 for the orchids and \$250 for the bananas.
3. Applicants' 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 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 taxed.
4. In addition, the following agencies have submitted their comments as stated below:

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(a) Department of Water Supply (DWS) (Letter dated December 13, 2007):

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

The subject parcel located within the Hawaiian Paradise Park subdivision, does not have an existing water service with the Department as the parcel is not within the service limits of the Department's existing water system. The closest point of adequacy is an existing 12-inch waterline within the Keaau-Pahoa Highway approximately 2,200 feet from the subject property.

Further, in accordance with the Hawaiian Paradise Park Homeowners' Association policy, County water is only to those parcels within Hawaiian Paradise Park that either front on the Keaau-Pahoa Road, or along Paradise Drive up to the fire station.

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. Please note that the applicant indicates that the proposed additional farm dwelling will be on a water catchment system.

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

(b) Real Property Tax Office (RPT):

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

(c) Department of Health (DOH) (Memorandum dated December 17, 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 Hawai'i Administrative Rules, Title 11, Chapter 20. Recommend the subdivision lots be connected to an existing public water system.

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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.html](http://www.state.hi.us/health/environmental.env-planning/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.”

In view of the above, your request to construct a **second (first AFD) dwelling** is approved subject to the following conditions:

1. The additional farm dwelling 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 Additional Farm Dwelling Agreement must be returned to the Planning Department with the appropriate notarized signature along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed Additional Farm Dwelling Agreement 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. The First Party shall comply with 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.

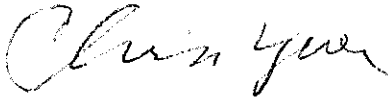
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4. Your AFDA has been approved based on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (property owners) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the building permit for the additional farm dwelling. The Second Party (County of Hawai'i 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 Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter. The applicant must secure a building permit for the additional farm dwelling within that time. Failure to secure a building permit for this additional farm dwelling on or before January 15, 2010 may cause the Director to initiate proceedings to invalidate the AFDA.
7. The First Party is required to comply with all requirements of the State and Federal taxation authorities as regards income derived from the agricultural activity.
8. 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.

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Should you have any questions, please contact Jonathan Holmes of this office.

Sincerely,



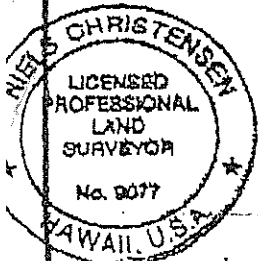
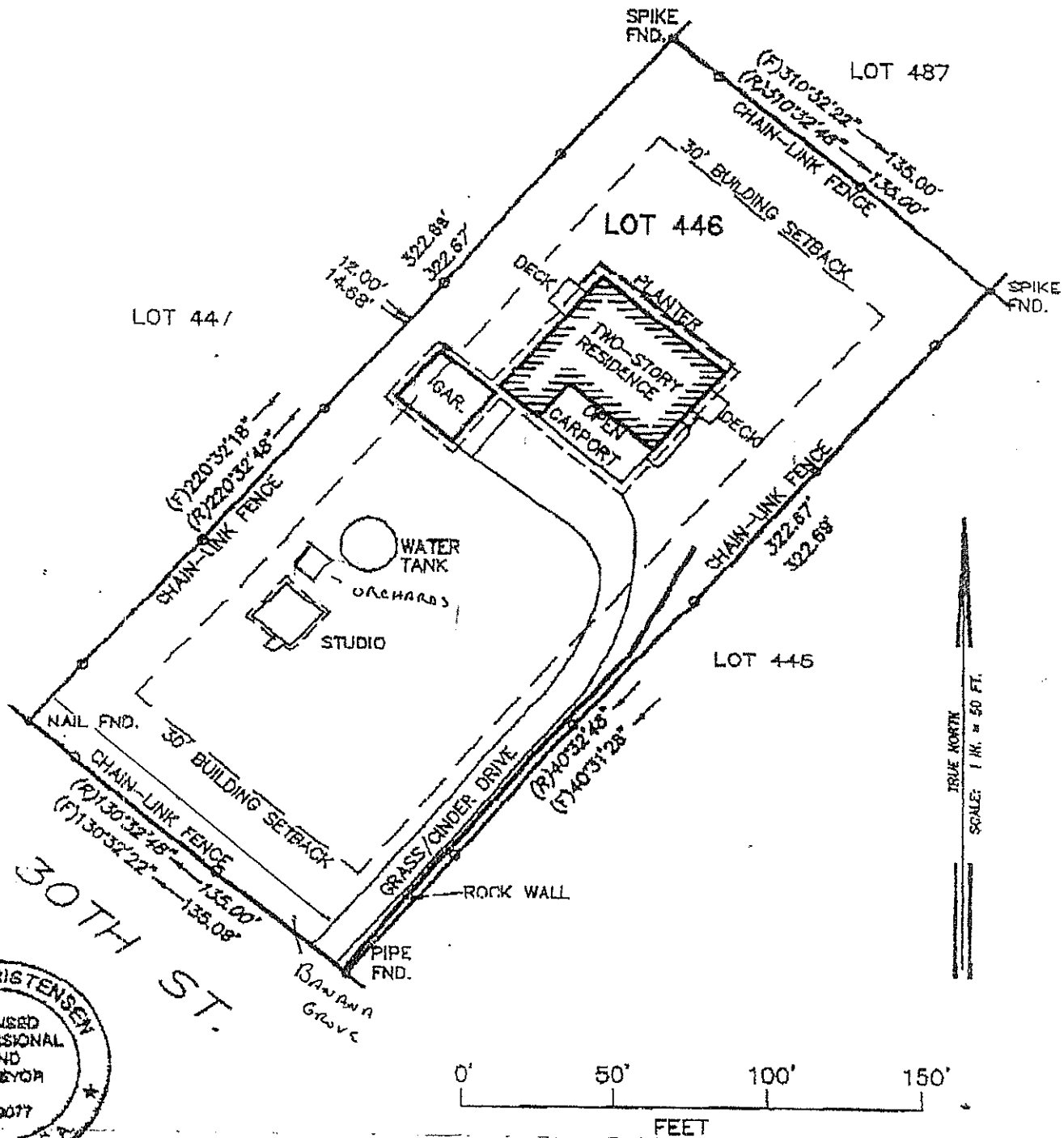
CHRISTOPHER J. YUEN  
Planning Director

JRH:cd  
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Enclosures: AFDA document  
AFDA document instruction sheet

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

MAP SHOWING EXISTING CONDITIONS  
UPON LOT 446, BLOCK 8  
HAWAIIAN PARADISE PARK  
KEAAU, PUNA, HAWAII, HAWAII  
TMK: (3) 1-5-16: 21



This work was prepared by me  
or under my direct supervision

*Niels Christensen*

Niels Christensen  
Licensed Professional Land Surveyor  
License Number 9077

NOTES:

1. The features shown hereon were located by an actual field survey performed on May 31, 1999.
2. No boundary encroachments were found except as shown.
3. No violations of County Zoning Setback Codes were found except as shown.