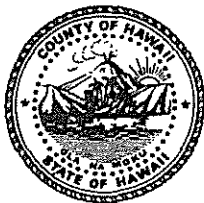


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA, LEED™ AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

April 30, 2008

Mr. and Mrs. Joseph Buchholz
P.O. Box 115
Volcano, HI 96785

Dear Mr. and Mrs. Buchholz:

SUBJECT: Additional Farm Dwelling Agreement (FDA-08-000206)
Applicants: Joseph Michael and Jane Marie Buchholz
Land Owners: Joseph Michael and Jane Marie Buchholz
State Land Use: Agricultural
County Zoning: A-3a
Land Area: 3.0 Acres
Tax Map Key: (3) 1-1-027-133

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 the signatures of the landowners.
2. A farm plan or evidence of the applicants' 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. Palms, herb/ornamental house plants and various native plants are grown from seedlings in the 20' x 36' greenhouse situated on the property. The palm keiki

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- ii. come from the 50 palms planted on the property;
 - iii. Herbal plant seedlings are started every two (2) weeks to keep up with demand;
 - iv. There are 10 fruit trees and around 50 banana plants;
 - v. Vegetables and orchids are also grown;
 - vi. A 10' x 20' Koi pond provides fertilizer material for the plants; and
 - vii. Current income is approximately \$100.00 to \$150.00 per month and about 20 hours per week is spent on the enterprise.
- b. Proposed agricultural activities include the following:
- i. The addition of another greenhouse should more than double the output and income from the farm;
 - ii. The addition of chickens for eggs and fertilizer are proposed;
 - iii. Applicant will expand the selling outlets beyond the Hirano Store in Glenwood and the True Value Store in Volcano into the weekly farmer's market in Volcano; and
 - iv. Again, the existing income and labor should easily double with the additional labor and growing space.
3. 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, Hawai'i 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 1268) approved 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, evidence of a State of Hawai'i General Excise tax license (#W00989976-01) 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.

4. In addition, the following agencies have submitted their comments as stated below:

a. Department of Water Supply (DWS) (Letter dated March 10, 2008):

"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 closest point of adequacy is from a 6-inch waterline within South Kulani Road approximately 8.3 miles from the subject parcel. Further, the property is situated at an elevation where water cannot be delivered at adequate volume and pressure under peak-flow and fire-flow conditions.

Therefore, the Department has no objections to the proposed application as the applicant has indicated 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 this application as of this date.

c. Department of Health (DOH) (Memorandum dated March 7, 2008):

"The use of individual wastewater systems is allowed. The type and number of individual wastewater systems will be determined by the wastewater rules in effect at the time of building permit application.

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.

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.htm. Any comments specifically applicable to this project should be adhered to.”

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 applicant is required to obtain all necessary governmental approvals for any unpermitted structures on the property. Please consult with the Department of Public Works – Building Division to determine which structures may require building permits.
2. 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.
3. 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.
4. 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

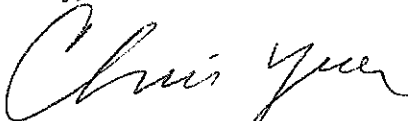
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gallons for domestic consumption or potable uses. This catchment system should adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements 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 Hawai'i County Fire Department.
5. 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 any other reviewing agencies/divisions listed on the Building Permit (BP) Application shall be adhered to.
6. Your AFDA has been approved based on ongoing and expanded agricultural activity as summarized previously in this letter.
7. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
8. 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 30, 2010 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,

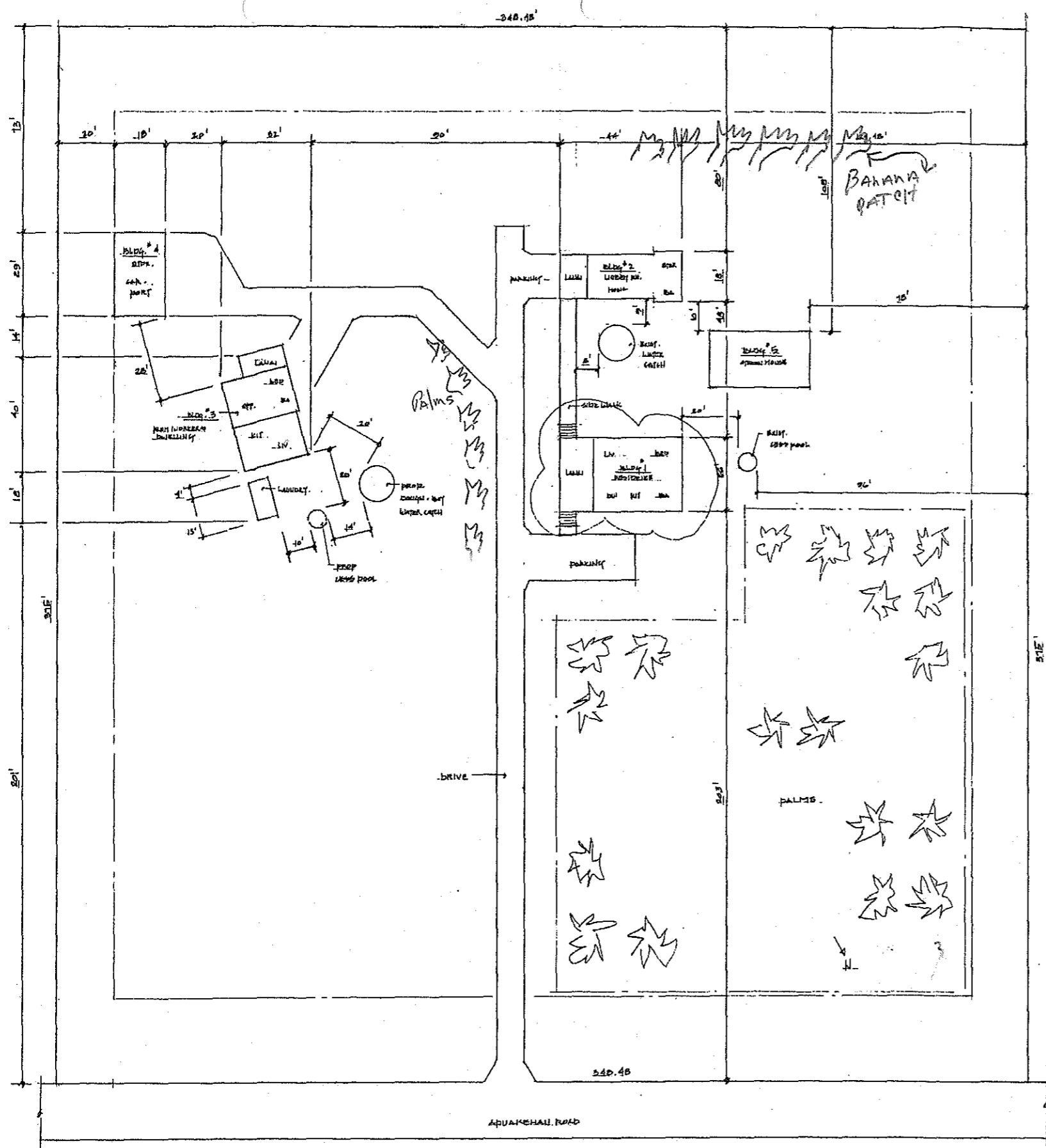


CHRISTOPHER J. YUEN
Planning Director

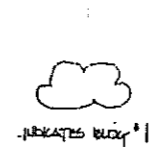
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Enclosures: AFDA document
AFDA document instruction sheet

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



Proposed Farm Plan



PROPOSALS:

- BLDG #1: RESTHOUSE, NEW CONSTRUCTION
1 BEDRM., BATH & LAUN
802 sq. liv. sp. - DWELLING
312 sq. aux. sp. - LAUN
1114 TOT. SQ. FT.
 - BLDG #2: 22' x 14'; HONEY ROOM, BATH, SUPERHITD
MUSIC ROOM, MUSICAL INSTRUMENT STORAGE, BATH & LAUN
564 sq. liv. sp. - HONEY RM.
160 sq. aux. sp. - LAUN
724 TOT. SQ. FT.
 - BLDG #3: 22' x 14'; PART WORKER DWELLING, BATH, SUPERHITD
1 BEDRM., 1/2 BATH, OFFICE, LV, KIT, LAUN, PATIO,
LAUNDRY & AG. STORAGE
158 sq. liv. sp. - DWELLING
622 sq. aux. sp. - LAUN, PATIO, LAUNDRY & AG. STOR.
780 TOT. SQ. FT.
 - BLDG #4: 22' x 14'; CAMPORNT & STORAGE, BATH (PARTIAL) SUPERHITD
322 sq. aux. sp. / TOT. SQ. FT.
 - BLDG #5: 22' x 14'; GREEN HOUSE, BATH, SUPERHITD
PRE-BUILT STEEL FRAME W/ VINYL SKIN DOUBLET TYPE
FROM "GREEN HOUSE SPECIALIST"
120 sq. aux. sp. / TOT. SQ. FT.
- 2154 sq. TOT. LIV. SPACE
2307 sq. TOT. AUX. SPACE
4461 TOTAL SQ. FT.

plot plan: 1" = 30'

OWNER: MR. & MRS. JOSEPH & JEAN BUCHHOLZ		
SCALE: 1" = 30'	APPROVED BY:	DRAWN BY: J. Miller
DATE: 1-1-68		REVISED:
LOCATION: 112015 APUAKESHAN RD., PERU FOREST STATE, BUNIA, HI.		
T.M.K. # (3) 1-1-241133		DRAWING NUMBER: 1