

THE ORIGINAL OF THE INSTRUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES
APR 6 1998
DATE
DOCUMENT NO. 98-046580 900

AFTER RECORDATION, RETURN BY MAIL (X) PICK-UP ()

L. MIKE SMITH & CAROL PETERS

P.O. Box 235

HAKALAU, HI 96710-0235

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

L. MIKE SMITH & CAROL PETERS

PROPERTY DESCRIPTION:

2-9-4:17

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 3RD day of MARCH, 1998,
by and between L. MIKE SMITH & CAROL PETERS herein called the
"First Party," whose mailing address is P.O. Box 235
HAKALAU, HI 96710-0235,
and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling
located on the property described by Tax Map Key 3/2-9-4-17
situated within the State Land Use A district
and zoned A-10a by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the LEGAL OWNER
(legal owner/lessee)
of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct an additional farm
dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s)
involved in the agricultural or farm-related activity on the building site.
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.
3. The landowner or lessee shall record the approved Additional Farm Dwelling
Agreement with the State of Hawaii, Bureau of Conveyances and/or with the

Land Court System within thirty days from the date of receipt of approval. A copy of the recorded Additional Farm Dwelling Agreement shall be submitted to the Planning Director of the County of Hawaii prior to approval of the building permit.

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

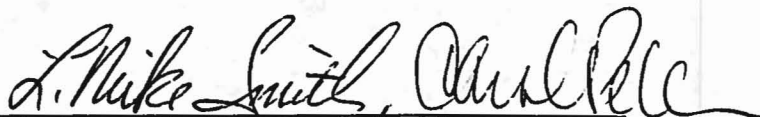
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may imposed a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year
first above written.

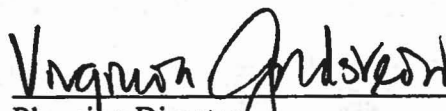
FIRST PARTY



(Legal Owner) L. Mike Smith
Carol Peters

(Lessee)

SECOND PARTY



Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 2nd day of April, 1998, before me personally appeared Virginia Pedersen, to me personally known, who, being by me duly sworn, did say that she is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Virginia Pedersen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Samuel G. King
Notary Public, State of Hawaii
My commission expires: 7/17/98

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

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On this 3 day of March, 19 98, before me personally
 appeared L. Mike Smith
~~Mike J. Smith~~ + Carol H. Petrus to me known to be the person
 described in and who executed the foregoing instrument, and acknowledged that he/she executed
 the same as his/her free act and deed.

[Signature]

 Notary Public, State of Hawaii

My commission expires: 6/7/98

Stephen K. Yamashiro
Mayor



Virgil

Russell
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

March 27, 1998

Mr. L. Mike Smith
Ms. Carol Peters
P.O. Box 235
Hakalau, HI 96710-0235

Dear Mr. Smith and Ms. Peters:

Additional Farm Dwelling Agreement
Applicants: L. Mike Smith and Carol Peters
Tax Map Key: 2-9-4:17

Pursuant to authority conferred to the Planning Director in Section 25-5-77(c) 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 submittal included the following information:

- (a) A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the proposed Farm Dwelling Agreement.
- (b) Name and address of the landowner or lessee, if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
- (c) Written authorization of the landowner.
- (d) A farm plan of the applicant's continual agricultural productivity or farming operation within the County. The plan shows how the farm dwelling will be utilized for engagement in agricultural productivity or farming operation.

In support, evidence of a State of Hawaii Department of Taxation's Gross Income License (GE 30110891) has also been presented.

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Findings:

1. In Chapter 205, Hawaii Revised Statutes, 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 is 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 State Land Use Law does not limit farm dwellings for only full-time farming operations.
3. The Farm Plan, the agreement to use the dwelling for agricultural or farm-related activity on the building site, and the General Excise Tax License demonstrate that there is agricultural activity and income is being/will be taxed.

Decision:

In view of the above, your request to construct an additional farm dwelling is approved.

The Planning Director has completed the appropriate portions of the Farm Dwelling Agreement. You must record this approved Farm Dwelling Agreement with the State Bureau of Conveyances and/or Land Court within thirty days of receipt of this approval.

In sending this document out for recordation, please note the following:

1. The original and one copy of the document must be submitted for recordation.
2. A check in the amount of \$25.00 to cover the recordation fee should be made out to the State of Hawaii, Bureau of Conveyances and attached to the Agreement. Their address is as follows:

State of Hawaii
Bureau of Conveyances
P.O. Box 2867
Honolulu, HI 96803

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3. Also required is a self-addressed stamped envelope to have the recorded document returned to you.

You must submit a copy of the recorded Farm Dwelling Agreement to the Planning Director prior to approval of the building permit for the farm dwelling.

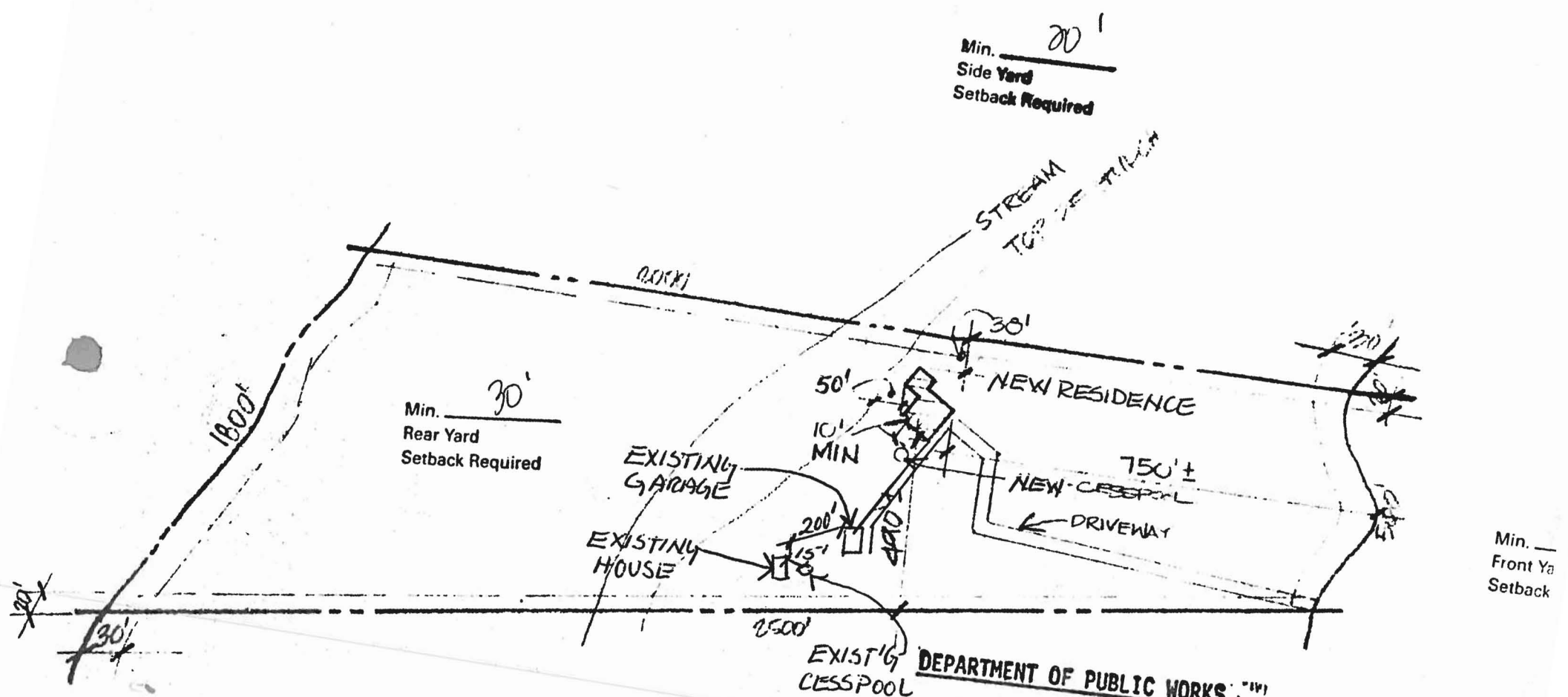
Should you have questions or require further information, please feel free to contact Esther Imamura at 961-8288.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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Enclosure



SITE PLAN
N.T.C.

DRIVEWAY: IN ACCORDANCE WITH CHAPTER 22 OF THE HAWAII COUNTY CODE, A PERMIT SHALL BE OBTAINED FOR DRIVEWAY CONSTRUCTION WORK WITHIN THE COUNTY ROAD RIGHT-OF-WAY.

GRADING: ALL EARTHWORK AND GRADING SHALL BE IN ACCORDANCE WITH CHAPTER 10 OF THE HAWAII COUNTY CODE.

GA
Director
Date: