

R-779

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

MAY 10, 1999 08:02 AM

Doc No(s) 99-073320

/s/CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

---

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

WAYNE T. ONOMURA  
808 KOMOMALA DRIVE  
HILO HI 96720

---

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

---

PARTIES TO DOCUMENT:

WAYNE T. ONOMURA

---

PROPERTY DESCRIPTION:

TMK: 2-4-46:1

---

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 29<sup>th</sup> day of April, 1999,

by and between WAYNE T. ONOMURA herein called the  
"First Party," whose mailing address is 808 KOMOMALA DRIVE, HILO, HI 96720

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 2-4-046:01 situated within the State Land Use AGRICULTURAL district and zoned Agricultural 1-acre (A-1a) 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.

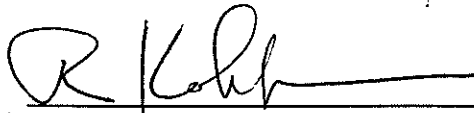
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY

  
\_\_\_\_\_  
(Legal Owner) WAYNE T. ONOMURA

\_\_\_\_\_  
(Lessee)

SECOND PARTY

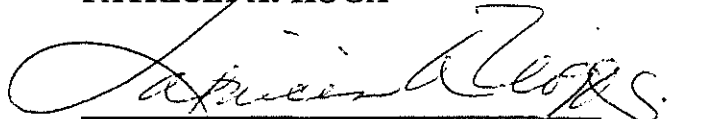
  
\_\_\_\_\_  
for Planning Director  
County of Hawaii Planning Department

STATE OF HAWAII     )  
                                  )  
COUNTY OF HAWAII    )     SS.

On this 18th day of March , 1999, before me personally appeared WAYNE T. ONOMURA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as his free act and deed.

Witness my hand and seal.

PATRICIA A. KOGA



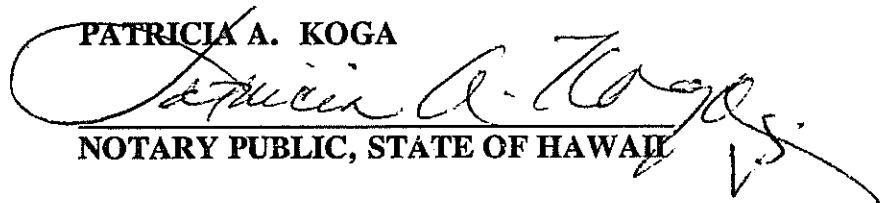
Notary Public, State of Hawaii

My Commission Expires:

7/17/02

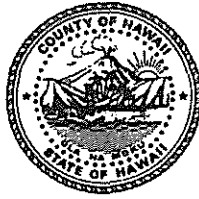
STATE OF HAWAII        )  
                                  ) SS.  
COUNTY OF HAWAII    )

On this 29th day of APRIL, 1999, before me personally appeared RUSSELL KOKUBUN, to me personally known, who, being by me duly sworn, did say that he is the Deputy Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said RUSSELL KOKUBUN, acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

PATRICIA A. KOGA  
  
NOTARY PUBLIC, STATE OF HAWAII

MY COMMISSION EXPIRES: 7/17/02

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

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

April 23, 1999

Mr. Wayne T. Onomura  
808 Komomala Drive  
Hilo, HI 96720

Dear Mr. Onomura:

Additional Farm Dwelling Agreement  
Applicant: Wayne T. Onomura  
Land Owner: Wayne T. Onomura  
Tax Map Key: 2-4-46:1

Pursuant to authority conferred to the Planning Director in Ordinance 96-160, 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 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 Additional 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.
- (e) In support, evidence of a State of Hawaii Department of Taxation's Gross Income License (GE 30039333) has also been presented.

APR 29 1999

003725

**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** 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 Farm Plan, GE Tax License, and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is agricultural activity and that income is being/will be taxed.
3. In addition, the following agencies have submitted their comments as stated below:
  - a. Department of Water Supply (Memorandum dated April 19, 1999):

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

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling at 600 gallons per day. This application is proposing an additional detached dwelling, so the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting the following conditions:

1. Installation, by the Department of Water Supply, of a second 1-inch service lateral to service a 5/8-inch meter.
2. Installation of a backflow preventer (reduced pressure type) by a licensed contractor on the applicant's property just after the meter. The installation and assembly of the backflow preventer must be inspected and approved by the Department before the water meter can be installed. The backflow preventer shall be operated and maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicant to



- help them understand this requirement.
3. Remittance of the following charges, which are subject to change, to our Customer Service Section:
- a. Facilities Charge  
(One 2nd service at \$3,375.00 each) \$3,375.00
  - b. Service Lateral Installation Charge  
(Install one meter on a County road) 1,200.00
- Total \$5,575.00

Should there be any questions, please contact our Water Resources and Planning Branch at 961-8660.

- b. Real Property Tax Office (Memorandum dated April 1, 1999):

Comments from the Appraisal Section: Property is currently assessed at market value.

Comments from the collection section: Status of real property taxes - Current. Real Property taxes are paid through June 30, 1999.

- c. Department of Health (Memorandum dated March 29, 1999):

The Health Department found no environmental health concerns with regulatory implications in the submittals.

Decision:

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

The Planning Director has completed the appropriate portions of the enclosed Additional Farm Dwelling Agreement. You must record this approved Additional Farm Dwelling Agreement

Mr. Wayne T. Onomura

Page 4

April 23, 1999

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:

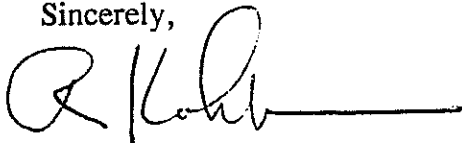
State of Hawaii  
Bureau of Conveyances  
P.O. Box 2867  
Honolulu, HI 96803

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,



for VIRGINIA GOLDSTEIN  
Planning Director

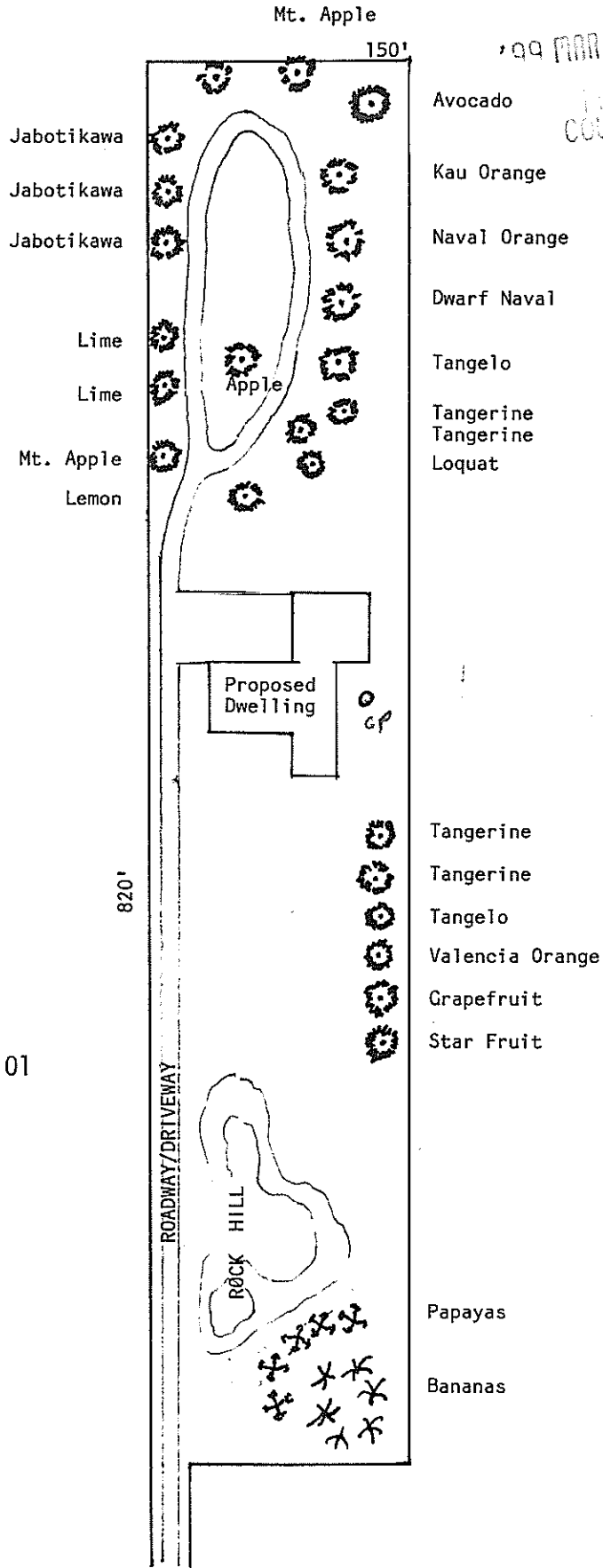
ETI:gp  
F:\WPWIN60\ETI\AGRMNT\ONOMURA.BOC

Enclosure

xc: Mr. Milton Pavao, DWS  
Mr. Kalani Schutte, Finance Department

MAR 18 PM 2 41

COUNTY OF HAWAII



PLOT PLAN  
 Portion of TMK: 2-4-046:01  
 Scale: 1"= 100'-0"