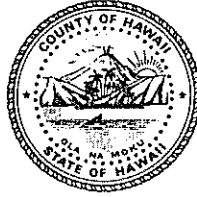


Stephen K. Yamashiro
Mayor



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

August 25, 2000

Mr. Avery Freed
1035 Clark Street, Apt 4
Santa Rosa, CA 95404

Dear Mr. Freed:

Additional Farm Dwelling Agreement
Applicant(s): Avery Freed
Owner(s): Avery Freed
Tax Map Key: 1-3-003:058

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 submittal included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the proposed Additional Farm Dwelling Agreement.
2. 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.
3. Written authorization of the landowner if the request is filed by the lessee.
4. A farm plan or evidence of the applicant's continual 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.

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SEP 11 2000

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5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

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 (ID number 30119658), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate the planned agricultural activity and that income from your agricultural activity will be taxed.
3. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Memorandum dated August 16, 2000):

“We have reviewed the subject application and have the following information.

The property does not have an existing water service with the Department as the parcel is beyond the service limits of the Department’s existing water system. The Department’s nearest facility is an 8-inch waterline on the Pohoiki-Kapoho Road, approximately 4.7 miles from the front of the applicant’s parcel.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting the Department cannot provide water service to either the existing dwelling or the proposed additional farm dwelling

Should there be any questions, please call our Water Resources and Planning Branch at 961-8665.”

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(b) Real Property Tax Office:

No comment.

(c) Department of Health (Memorandum dated August 3, 2000):

“The existing cesspool may service a total of 1,000 gallons per day of wastewater. A total of five bedrooms are allowed in the two dwelling units. A second cesspool may not be allowed due to portions of the lot being located within a critical wastewater disposal area.”

Decision:

In view of the above, your request to construct a second farm dwelling is approved subject to the following conditions:

1. The second farm dwelling shall only be used to provide shelter for persons 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. 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.
4. A building permit application under this agreement will not be approved until a building permit has been obtained for the first farm dwelling, which is allowed with the submittal of a completed First Farm Dwelling Notice to the Planning Department.
5. In reference to the Department of Water Supply's 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-water catchment system with a minimum capacity of 6,000 gallons for domestic consumption or potable uses. This

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- (b) 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.
- (c) Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department.

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

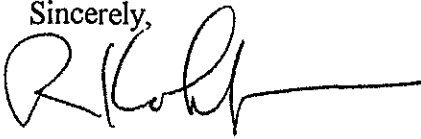
3. Also required is a self-addressed stamped envelope to have the recorded document returned to you.

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.

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Should you have questions or require further information, please feel free to contact Larry Brown of my staff at 961-8288.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

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Enclosure

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

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

Avery Freed
1035 Clark Street, Apt. 4
Santa Rosa, CA 95404

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Avery Freed
County of Hawaii

PROPERTY DESCRIPTION:

TMK: (3) 1-3-003:058

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 25th day of August, 2000,
by and between Avery Freed herein called the
"First Party," whose mailing address is 1035 Clark St. #4, Santa Rosa,
California 95404
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 13 003 058 0000 001
situated within the State Land Use "A" Puna district
and zoned A-10a Agriculture 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

Avery Ford
(Legal Owner)

(Lessee)

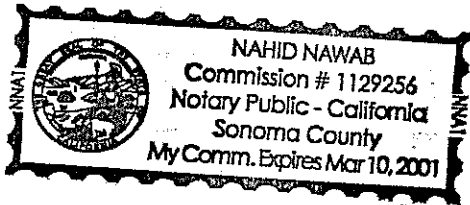
SECOND PARTY

Russell Kahl
Planning Director
County of Hawaii Planning Department

STATE OF ~~HAWAII~~ (California)
) SS.
COUNTY OF ~~HAWAII~~ (Sonoma)

On this 12th day of July, 2000 before me personally
appeared Avery Freed, 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.

Naheed Nawab
Notary Public, State of ~~Hawaii~~ California



My commission expires: March 10, 2001

STATE OF HAWAII)
)
COUNTY OF HAWAII)

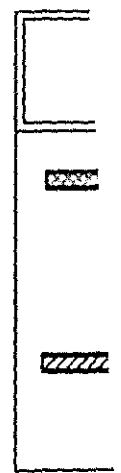
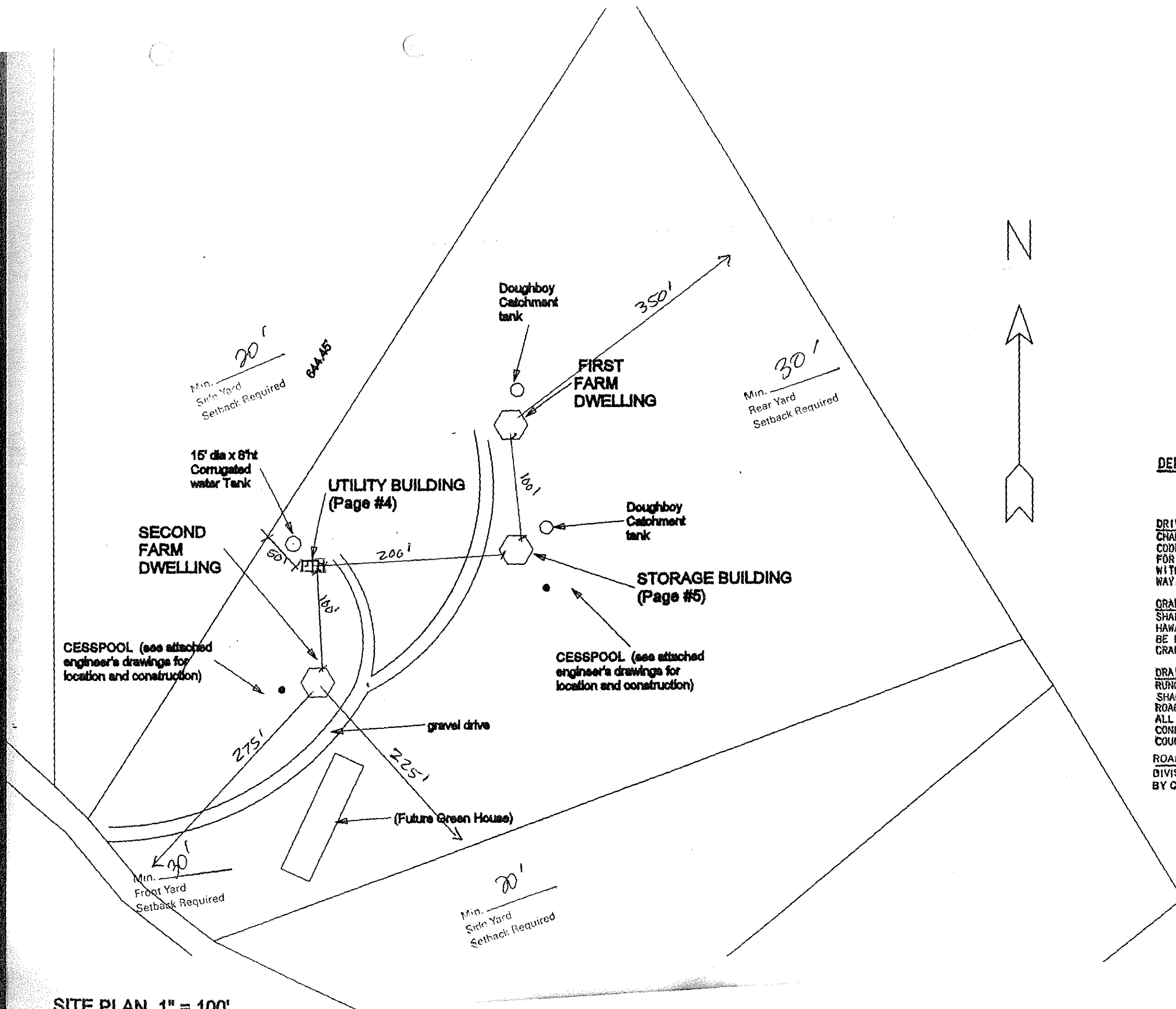
SS:

On this 25th day of August, 2000, before me personally appeared Russell K. Kubur to me personally known, who, being by me duly sworn, did say that he/she is planning 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 Russell K. Kubur 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

Patricia A. Koga

My commission expires: 7/17/02



DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION

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 CONFORM TO CHAPTER 10 OF THE HAWAII COUNTY CODE. A PERMIT MAY BE REQUIRED FOR LOT GRUBBING AND/OR GRADING.

DRAINAGE: NO ADDITIONAL RAINFALL RUNOFF GENERATED BY THIS PROJECT SHALL BE DISPOSED OF ONTO COUNTY ROADWAYS OR ADJACENT PROPERTIES. ALL DRAINAGE IMPROVEMENTS SHALL CONFORM TO CHAPTER 27 OF THE HAWAII COUNTY CODE.

ROADWAY: CHECK WITH HIGHWAYS DIVISION IF ROADWAY IS MAINTAINED BY COUNTY OF HAWAII

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION

REVIEWED BY: [Signature]
 DATE: 10/27/00

SITE PLAN 1" = 100'