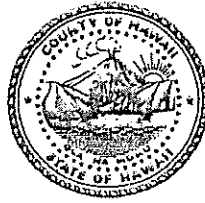


Harry Kim
Mayor



Christopher J. Yuen
Director

County of Hawaii

PLANNING DEPARTMENT

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

December 12, 2000

Ms. Nancy Y. Kim
P.O. Box 44706
Kawaihae, HI 96743

Dear Ms. Kim:

Additional Farm Dwelling Agreement

Applicant: Nancy Y. Kim

Land Owner: Nancy Y. Kim

Tax Map Key: 5-9-005:066

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.
3. 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.
4. In support, evidence of an application for a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

012676

DEC 18 2000

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 30121492), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there will be 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 November 3, 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 receives its water from a private water system.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8665.”
 - (b) Real Property Tax Office (Memorandum dated November 20, 2000):

“While the State Land use Commission and the County of Hawaii both recognize tax plat 5-9-005 as being eligible for “Agricultural” activities, this specific tax map key property currently has no agricultural of any sort. During the last ten (10) years of my field work in Kohala Estates, the subject property has always been assessed for property tax at “market” or “highest and best use” value which recognizes no eligible agricultural activity on the land parcel.

Ms. Nancy Y. Kim
Page 3
December 12, 2000

Any eligible agricultural activity would have to be newly started during year 2001 or later.

Please let me know if I can be of further service in your evaluation of this property.”

Also from Real Property Tax Office (Memorandum dated October 30, 2000):

“There are no rollback tax consequences.

Real Property taxes are paid through December 31, 2000. The cpr numbers are not taxed this year.”

(c) Department of Health (Memorandum dated November 8, 2000):

“The subject lot is located in the Critical Wastewater Disposal Area where cesspools are not allowed. Any development on this lot would require all wastewater be disposed into a Septic Tank System.”

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.

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

Ms. Nancy Y. Kim
Page 4
December 12, 2000

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:

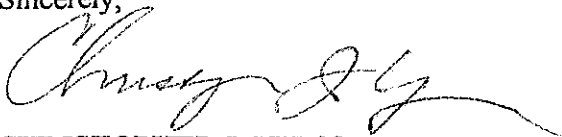
State of Hawaii
Bureau of Conveyances
P.O. Box 2867
Honolulu, HI 96803

3. You must also include 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 welcome to contact Larry Brown of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:pak
P:\WPWIN60\Larry\FDA\Kim 5-9-5-66 apvl.doc

Enclosure

xc: Mr. Milton Pavao, DWS
Mr. Frank Manalili, Finance Department

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

Nancy Y. Kim
P.O. Box 44706
Kawaihae, HI 96743

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Nancy Y. Kim
County of Hawaii

PROPERTY DESCRIPTION:

Kohala Estates
TMK: (3) 5-9-005:066

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 26 day of September, 2000, by and between Nancy Y. Kim herein called the "First Party," whose mailing address is P.O. Box 44706, Kawaihae, HI 96743, and the _____, 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)-5-9-005-066 situated within the State Land Use Agricultural district and zoned AG 3 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.

STATE OF HAWAII)

) SS.

COUNTY OF HAWAII)

On this 12th day of December, 2000, before me personally appeared

Christopher Yuen, to me personally known, who, being by me duly sworn, did

say that he ~~she~~ is the authorized representative of the Planning Department 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 Christopher Yuen, acknowledged the instrument to

be the free act and deed of said Planning Department, County of Hawaii.

Patricia Akosa
Patricia Akosa

Notary Public, State of Hawaii

My commission expires: 1/17/02 ✓

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

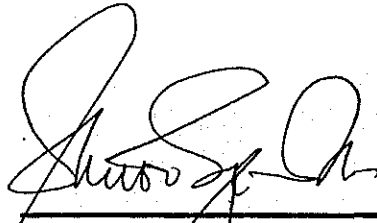
)

On this 26th day of SEPTEMBER, 2000, before me personally appeared

NANCY Y. KIM, to me known to be the person described in and

who executed the foregoing instrument, and acknowledged that he/~~she~~ executed the same as

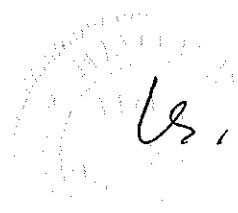
his/~~her~~ free act and deed.



Notary Public, State of Hawaii

SHAWNA-LYNN A. IMAI

My commission expires: 4/10/2003



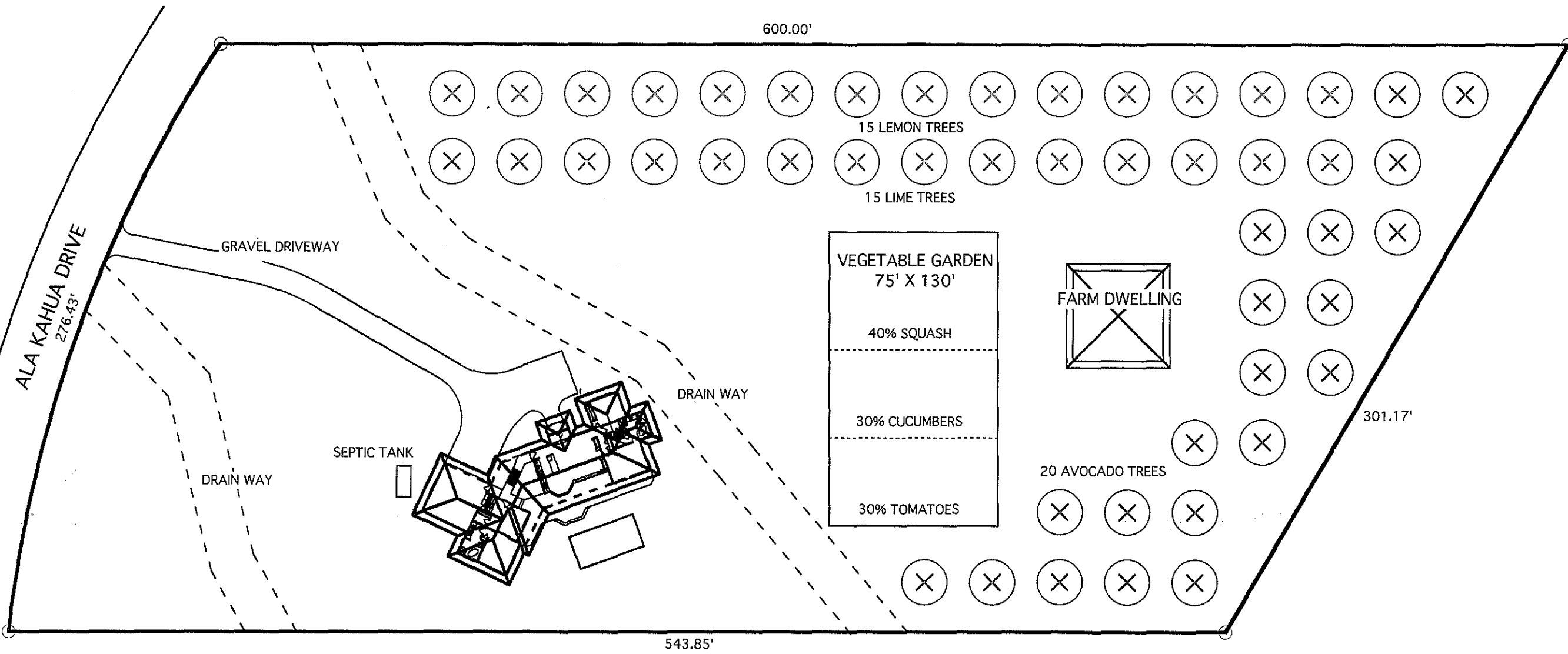
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY

Nancy Y. Kim 9/26/00

SECOND PARTY

Christopher J. Yuen
~~Daryn S. Arai~~
~~Authorized Representative for the~~
Planning Director, ~~Virginia Goldstein~~ Christopher J. Yuen
County of Hawaii Planning Department



TMK (3)5-9-005;066 LOT 51-B

SITE PLAN

1" = 50.00' SCALE

REVISIONS	BY

Aina Ola, Inc.
 ARCHITECTURAL DESIGNER
 LAND DEVELOPMENT
 KAPAAU, HAWAII (808) 889-5902

Nancy Kim Farm Plan
 Kohala Estates, Hawaii

T.M.K.	3/5-9-005:066
DATE	AUGUST 2000
SCALE	AS SHOWN
DRAWN BY	RLT
PROJECT	KIM

SHEET