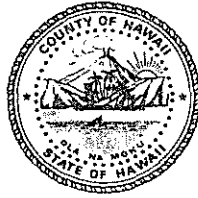


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

August 20, 2001

William L. & Joyce E. L. Ferreira
P.O. Box 1676
Honokaa, Hawaii 96744

Dear Mr. & Mrs. Ferreira:

Additional Farm Dwelling Agreement

Applicants: William L. Ferreira and Joyce E. L. Ferreira

Land Owners: William L. Ferreira and Joyce E. L. Ferreira

Tax Map Key: (3) 4-4-008:036

Based on the additional information submitted with your application for a General Petition for Appeal of Decisions by Planning Director on March 30, 2001, we have reconsidered your request for an additional farm dwelling to be situated on the subject property. Your original Additional Farm Dwelling Agreement application and Board of Appeals submittals 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 lessee filed the request.
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. Your farm plan included the following ongoing and proposed agricultural activities:
 - (a) Ongoing agricultural activity is none.

008901 ✓

Exhibit A

(b) Proposed agricultural activity includes the following:

- i. Planting of 1½ acres in avocado trees for commercial purposes;
 - ii. Rotational pasturing of 6-10 steers/cows owned by applicant for subsistence and commercial purposes with a combined annual value of approximately \$10,500;
 - iii. Planting of approximately ¼-acre vegetable/herb garden for subsistence and commercial purposes with an estimated annual income from commercial sales of \$2,000.00;
 - iv. Purchase and pasturing of approximately 35 nanny goats and one billy goat with an estimated annual income of \$4,375.00 from sales of goat meat;
 - v. Planting of approximately 150 potted dwarf avocado and citrus trees in 15 gallon containers with an estimated annual income of \$7,500.00 from sales of the potted trees;
 - vi. Planting of approximately 50 specimen trees of mixed variety in 30 to 50 gallon containers with an estimated annual income of \$7,500.00 from sales of the potted trees
5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE ID Number 30017262) 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 and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that the proposed 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 January 29, 2001):

“We have reviewed the subject application and have the following comments and conditions:

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling at 600 gallons per day.

Inasmuch as this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant would normally be required in accordance with Department regulations. However, the Department’s existing water system facilities cannot support an additional meter for the proposed additional farm dwelling at this time. Extensive improvements and additions, including source, storage, transmission, booster pumps, and distribution facilities must be constructed. Currently, sufficient funding is not available and no time schedule is set.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to the proposed additional farm dwelling. Further, should the application be approved, both dwellings must not share the existing meter.

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

- (b) Real Property Tax Office (Memorandum dated January 30, 2000):

“Property is receiving agricultural use value.

This parcel has been condominiumized into 2 units.

TMK 4-4-008-036-0001 is current. Real property taxes are paid through 12/30/00.

4-4-008-036-0002 is current. Real property taxes are paid through 6/30/01.”

- (c) Department of Health (Memorandum dated January 22, 2001):

“The subject lot(s) are located in a Non-Critical Wastewater Disposal Area where

cesspools are allowed under the current rules. More than one cesspool is allowed provided 10,000 sq. ft. per cesspool is available. Each cesspool can dispose of 1,000 gallons per day of wastewater.

The proposed milking barn and processing facility would need to meet the requirements of Chapter 12, Food Establishment Sanitation and Chapter 15, entitled Milk.”

Decision:

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

1. Both the first and the second farm dwellings 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 a farm-related activity are allowed to reside in the farm dwelling.
2. The applicant shall submit a completed First Farm Dwelling Notice to the Planning Department prior to approval of a building permit for the approved second farm dwelling. A First Farm Dwelling Notice form is enclosed for your convenience.
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.
4. 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.
5. Your Additional Farm Dwelling Agreement has been approved based entirely on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees), or their successors, to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the building permit for the additional farm dwelling. The Second Party (County of Hawaii Planning Department) to the Agreement may allow time extensions and modifications for good cause shown by First Party.

William L & Joyce E.L. Ferreira
Page 5
August 20, 2001


6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter to secure a building permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before June 20, 2003 may cause the Director to initiate proceedings to invalidate the AFDA.

In reference to the Department of Water Supply's comments, may we suggest the following? 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 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.

1. 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.

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

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

LMB:pak
P:\WPWIN60\Larry\FDA\Ferreira 4-4-8-36 apv1rev2.doc

Enclosure

Exhibit A

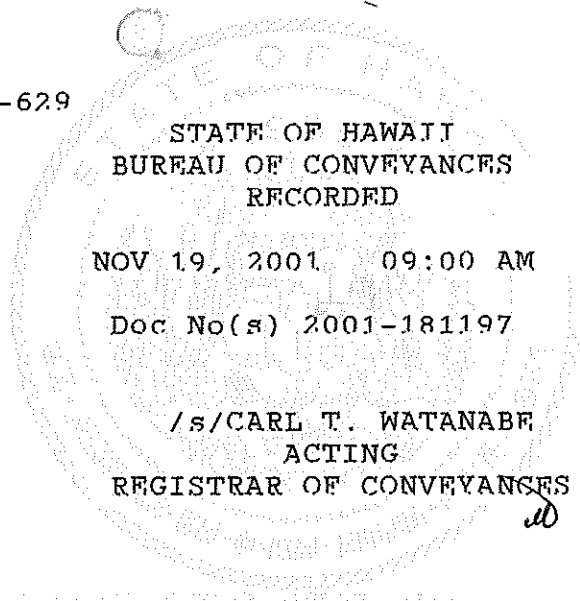
William L & Joyce E.L. Ferreira

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August 20, 2001

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department – Kona
Mr. Klaus D. Conventz –Baumeister Consulting

R-629



AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawaii Planning Department
25 Aupuni Street, Room 109
Hilo, Hawaii 96720

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

FIRST PARTY: WILLIAM L. FERREIRA and JOYCE E.L. FERREIRA

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 4-4-008:036

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 20TH day of June, 2001, by and between WILLIAM L. FERREIRA and JOYCE E. L. FERREIRA herein called the "First Party," whose mailing address is P.O. Box 1676, Honokaa, Hawaii 96744, 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) 4-4-008:036 situated within the State Land Use Agricultural district and zoned Agricultural (A-5a) by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner 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 person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity are allowed to reside in the farm dwelling.
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. This agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit "A".

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 impose 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:

William L. Ferreira
William L. Ferreira, Legal Owner

Joyce E. L. Ferreira
Joyce E. L. Ferreira, Legal Owner by
William L Ferreira, Attorney -in-Fact

SECOND PARTY:

Chris Yuen
Christopher J. Yuen, Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

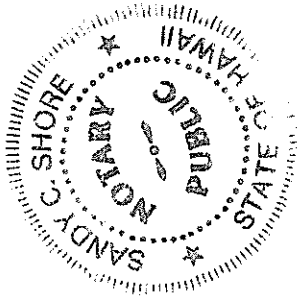
On this 6 day of August, 2001 before me
personally appeared WILLIAM L. FERREIRA and [†]JOYCE E. L.

FERREIRA to me known to be the person(s) described in and who executed the
foregoing instrument, and acknowledged that they executed the same as their free
act and deed.

*† Personally appeared William L Ferreira as
attorney in fact for Joyce E. L. Ferreira*

[Signature]

Notary Public, State of Hawaii

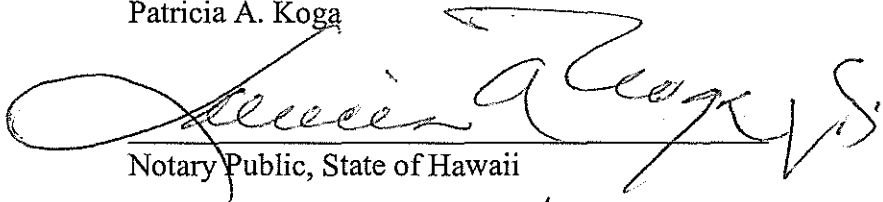


Sandy C. Shore
Expiration Date: October 15, 2004

My commission expires: _____

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 27th day of October, 2001 before me personally appeared Christopher J. Yuen, to me personally known, who, being by me duly sworn, did say that he 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 Christopher J. Yuen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

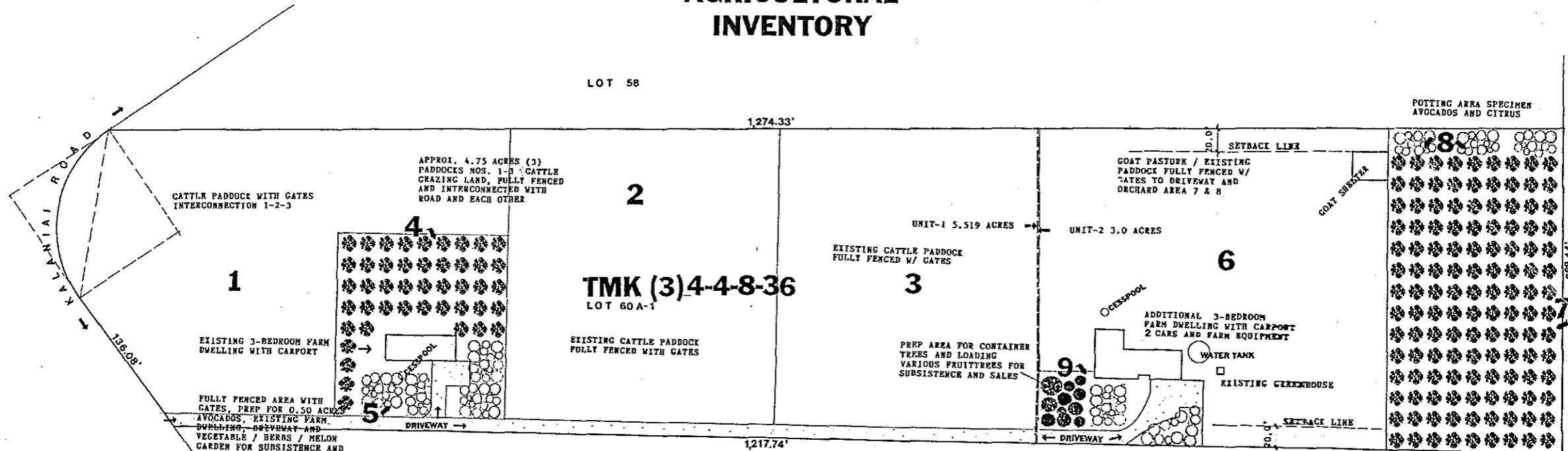
Patricia A. Koga

Notary Public, State of Hawaii

My commission expires: 7/17/02

AGRICULTURAL INVENTORY

1" = 50'

LOT 58



TMK (3)4-4-8-36
LOT 60A-1

LOT 59
APPROXIMATELY 1.0 AC
EXISTING PADDOCK TO
PLANTED IN AVOCADOS
SURPLANTED / CONTAIN
CULTURE AVOCADO - CI

LOT 60 A-2

EXISTING:
ENTIRE PROPERTY FENCED W/
GATES AND PADDOKS 1-7
FIRST FARM DWELLING
COMMERCIAL TRACTOR/MOWER

PROPOSED:
ADDITIONAL FARM DWELLING
WITH GARAGE, CATCHMENT,
GOAT SHELTER, ORCHARD AND
CONTAINER PLANTINGS
35 NANNY/1 BILLY GOAT
UNIT 2

10 STEERS OR COWS WITH
ADDITIONAL OFFSPRING
AVOCADO ORCHARD AND
VEGETABLE/HERB/MELON
GARDEN UNIT 1

OWNER: WILLIAM L. FERREIRA
JOYCE R. L. FERREIRA
P. O. BOX 1676
HONOLUA, HAWAII 96727
TMK: (3) 4-4-8-36
KALOPA HOMESTEADS