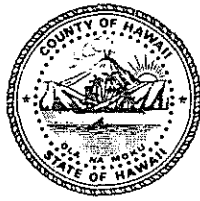


Harry Kim  
Mayor



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

March 28, 2001

Mr. and Mrs. Vernon Hunnings  
77-344 Nohealani Street  
Kailua-Kona, Hawaii 96740

Dear Mr. and Mrs. Hunnings:

#### **Additional Farm Dwelling Agreement**

**Applicants: Vernon J. Hunnings and Dixie L. Hunnings**

**Land Owners: Vernon J. Hunnings and Dixie L. Hunnings**

**Tax Map Key: 8-2-008:081**

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 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 consisted of the following:

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Mr. and Mrs. Vernon Hunnings

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March 28, 2001

- (a) Approximately 250 existing commercial coffee trees estimated to be salvageable;
  - (b) Additional plantings of commercial coffee trees to provide a total of approximately 1,000 trees;
  - (c) The construction of a 25'x60' greenhouse to be used for the growing of orchids, anthuriums, heliconium and other lei flowers for commercial and personal use;
  - (d) Five (5) existing mango trees for personal and commercial harvesting;
  - (e) Additional planting of at least another ten (10) mango trees for personal and commercial harvesting;
  - (f) The planting of at least ten (10) orange trees for commercial and personal harvesting;
  - (g) The planting of an unspecified number of other fruit trees of mixed variety and pineapple in suitable areas of the property where soil and terrain permit.
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 30092556), 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.

Mr. and Mrs. Vernon Hunnings  
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3. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (Memorandum dated March 20, 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. 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. Water is available from the 8-inch waterline in Napoopoo Road, which fronts the subject parcel.

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, which shall be restricted to a maximum daily flow of 600 gallons as the existing service is.
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 effective April 1, 2001, which are subject to change, to our Customer Service Section:

a. Facilities Charge (One 2 <sup>nd</sup> service at \$4,350.00 each)	\$4,350.00
b. Service Lateral Installation Charge (Install one meter on Napoopoo Road, a County road)	<u>+2,250.00</u>
<b>Total (Subject to Change)</b>	<b>\$6,600.00</b>

Mr. and Mrs. Vernon Hunnings  
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Should there be any questions, please contact our Water Resources and Planning Branch at 961-8070.”

(b) Real Property Tax Office:

No comments received.

(c) Department of Health (Memorandum dated March 28, 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.”

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 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.

Mr. and Mrs. Vernon Hunnings

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March 28, 2001

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:

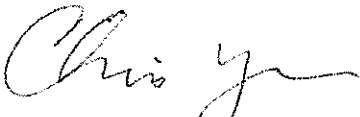
State of Hawaii  
Bureau of Conveyances  
P.O. Box 2867  
Honolulu, HI 96803

3. Include a self-addressed stamped envelope to have the recorded document returned to you.

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

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

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Enclosure

xc: Mr. Milton Pavao, DWS  
Mr. Mike McCall, RPT  
Planning Department - West Hawaii Office

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AFTER RECORDATION, RETURN BY MAIL TO:

**Vernon J. and Dixie L. Hunnings**  
**77-344 Nohealani Street**  
**Kailua-Kona, Hawaii 96740**

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TITLE OF DOCUMENT:

**Additional Farm Dwelling Agreement**

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PARTIES TO DOCUMENT:

**First Party: Vernon J. Hunnings and Dixie L. Hunnings**  
**Second Party: County of Hawaii**

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PROPERTY DESCRIPTION:

**TMK: (3) 8-2-008:081**

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ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 27<sup>th</sup> March day of March, 2008, by L. HUNNINGS and between VERNON J. HUNNINGS AND DIXIE herein called the "First Party," whose mailing address is 77-344 NOHEALANI STREET KAILUA-KONA, HI 96740, 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)-8-2-008-081 situated within the State Land Use AGRICULTURAL district and zoned AGRICULTURAL-5 ACRES 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

*Verna Hunning*  
*Dicie S. Hunning*  
(Legal Owner)

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

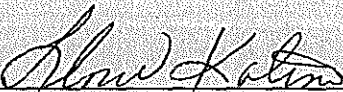
SECOND PARTY

*Chris Yuen*  
Planning Director  
County of Hawaii Planning Department

STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

On this 5<sup>th</sup> day of January, 2001 before me personally appeared Veeron J. Hunnings and Dixie L. Hunnings to me known to be the persons or described in and who executed the foregoing instrument, and acknowledged that he/she/they or executed the same as his/her free act and deed.

Their or

 Flores M. Kalino  
Notary Public, State of Hawaii

or

My commission expires: 10/29/2003

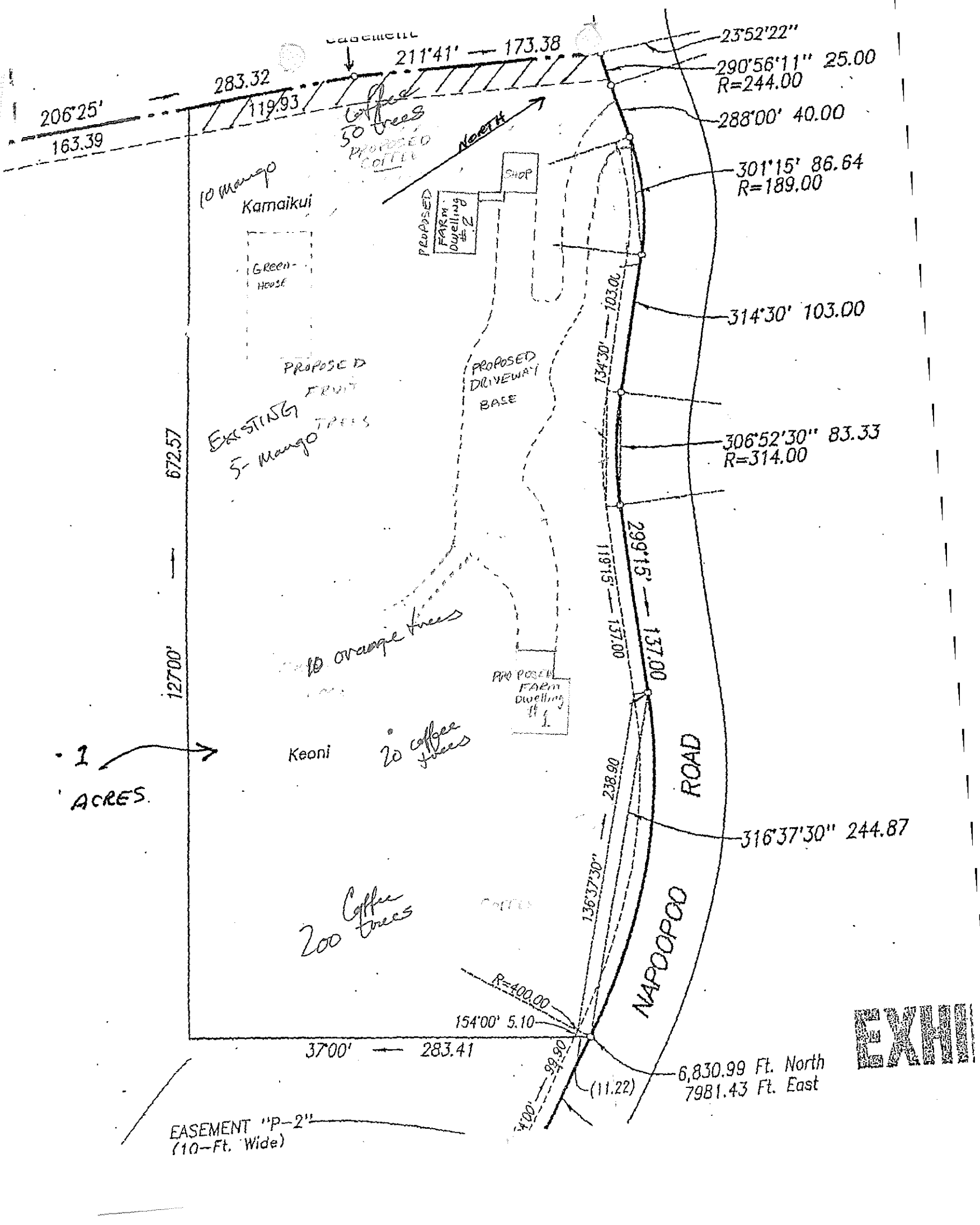
STATE OF HAWAII )  
 ) SS  
COUNTY OF HAWAII )

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

Patricia A. Koga

Patricia A. Koga  
Notary Public, State of Hawaii

My commission expires: 7/17/02



**EXHIBIT**