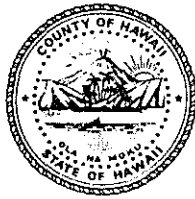


Harry Kim  
Mayor



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

October 18, 2001

Mr. Sidney Fuke  
Planning Consultant  
100 Pauahi Street, Suite 212  
Hilo, Hawaii 96720

Dear Mr. Fuke:

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

**Applicants:** Edgar and Deborah Ombac, d.b.a. Takehiro Orchid Co.  
**Land Owners:** Minoru Takehiro, Jr. and Katherine G. Takehiro  
**Tax Map Key:** (3) 2-2-056:002

---

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 enclosed Additional Farm Dwelling Agreement to be submitted for recordation with the Bureau of Conveyances.
2. Name and address of the landowner(s) or lessee(s), 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(s) 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.

Exhibit A

Mr. Sidney Fuke  
Planning Consultant  
Page 2  
October 18, 2001

Your farm plan included the following ongoing and proposed agricultural activities:

(a) Ongoing agricultural activities include the following:

- i. Commercial cultivation of orchids within six (6) greenhouses covering an area of 16,810 square feet;
- ii. Approximately 1.6 acres of mature macadamia nut trees for commercial purposes, and;
- iii. Commercial cultivation of heliconia on .229 acres.

(b) No additional agricultural activity has been proposed in connection with this application.

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 (HRS), 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 subject lot was created by Grant S-14259 prior to June 4, 1976, which, pursuant to HRS §205-4.5(b), defines the first dwelling on the lot as a single-family dwelling.
3. The Farm Plan, GE Tax License (ID number 30100401), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and the income is being taxed.

Mr. Sidney Fuke  
Planning Consultant  
Page 3  
October 18, 2001

4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (Letter dated September 27, 2001):

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

For your information, an existing 1½-inch meter services this parcel and, based on current consumption, the meter is adequate for the two existing dwellings and the proposed additional farm dwelling. As the property already has a backflow preventer installed, the Department has no objections and requirements for the proposed application.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8070.”

(b) Real Property Tax Office (Memorandum dated September 19, 2001):

“Property is receiving agricultural use value.

Real Property taxes are paid through December 31, 2001.”

(c) Department of Health (Memorandum dated September 18, 2001):

“The subject proposal is located in a Critical Wastewater Disposal Area. Under the current rules, a lot size of one (1) acre or more is required for the use of a cesspool to service a total of 1,000 gallons per day or 5 bedrooms. Only one (1) cesspool would be allowed on the lot. A septic tank system would be needed if a second disposal system is needed on this lot.”

Decision:

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

1. The additional farm dwelling 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

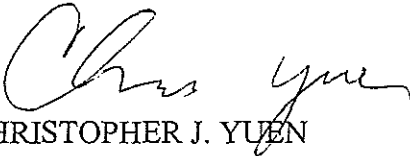
Mr. Sidney Fuke  
Planning Consultant  
Page 4  
October 18, 2001

engaged in agricultural or farm-related activities 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. 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. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
5. 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 October 18, 2003 may cause the Director to initiate proceedings to invalidate the AFDA.

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

Sincerely,



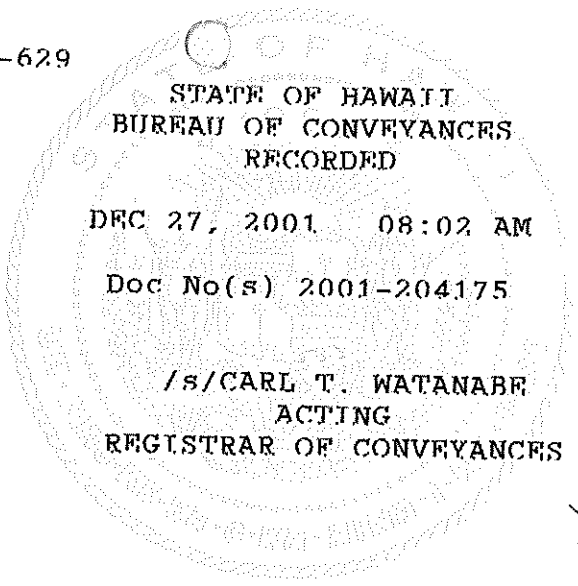
CHRISTOPHER J. YUEN  
Planning Director

LMB:pak  
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Enclosure

Exhibit A

✓  
C R-629



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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: MINORU TAKEHIRO, JR. & KATHERINE G. TAKEHIRO**

**SECOND PARTY: COUNTY OF HAWAII**

PROPERTY DESCRIPTION:

**TMK: (3) 2-2-056:002**

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 19<sup>th</sup> day of October, 2001, by and between MINORU TAKEHIRO, JR., and KATHERINE G. TAKEHIRO, herein called the "First Party," whose mailing address is 620 Awa Street, Hilo, Hawaii 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 (3) 2-2-065:002 situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) 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.

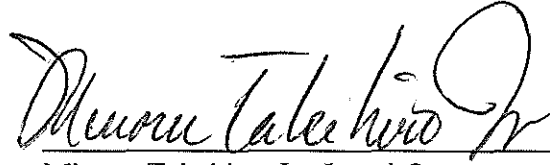
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

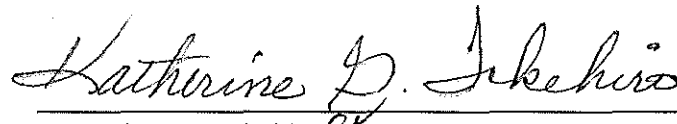
IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and 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.

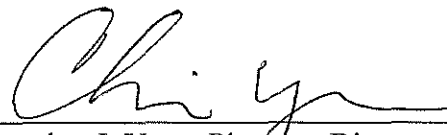
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY:

  
\_\_\_\_\_  
Minoru Takehiro, Jr., Legal Owner

  
\_\_\_\_\_  
Katherine G. Takehiro, Legal Owner  
TAKEHIRO

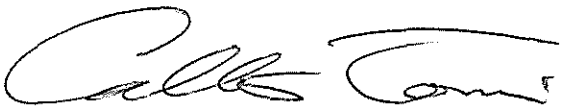
SECOND PARTY:

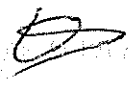
  
\_\_\_\_\_  
Christopher J. Yuen, Planning Director  
County of Hawaii Planning Department



STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HAWAII                )

On this 25 day of October, 2001 before me personally appeared MINORU TAKEHIRO, JR. and KATHERINE G. TAKEHIRO 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.

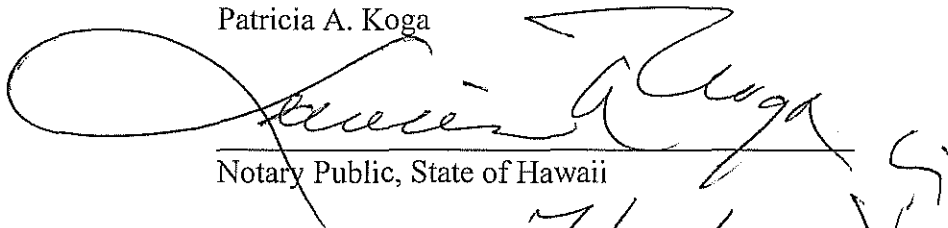
  
\_\_\_\_\_  
Colline Tomei  
Notary Public, State of Hawaii

  
My commission expires: 2/20/2002

STATE OF HAWAII            )  
  ) SS  
COUNTY OF HAWAII        )

On this 19<sup>th</sup> day of December, 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.

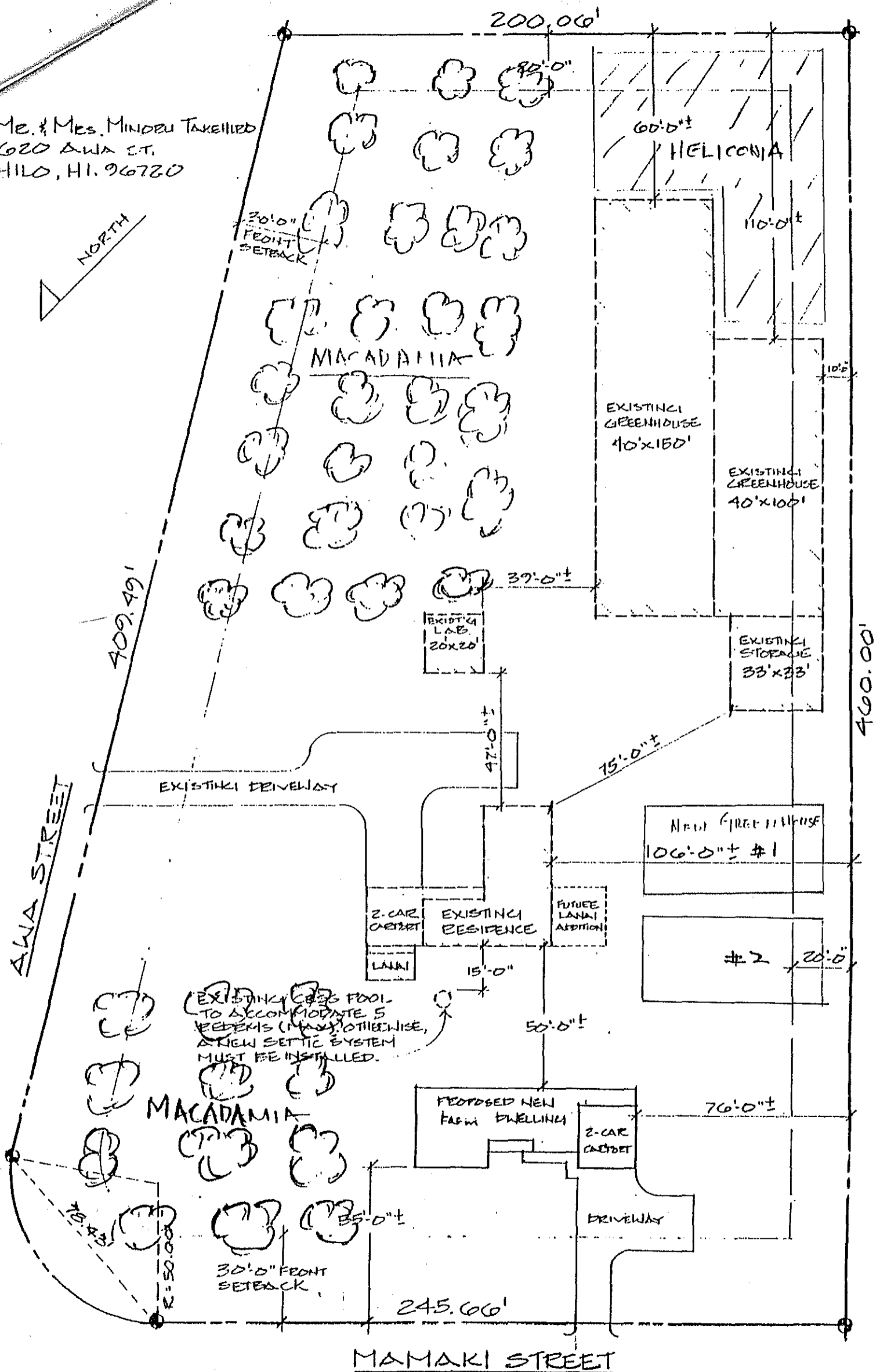
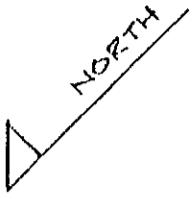
Patricia A. Koga



Notary Public, State of Hawaii

My commission expires: 7/17/02

Mr. & Mrs. MINDU TAKELLID  
 620 AWA ST.  
 HILO, HI. 96720



EXISTING POOL TO ACCOMMODATE 5 BEDEMS (MAX). OTHERWISE, A NEW SEPTIC SYSTEM MUST BE INSTALLED.

SITE PLAN sc. 1"=40.00'  
 "PANAHEWA AGRICULTURAL PARK"  
 WAIKOLA, S. HILO, HAWAII

T.M.K. 2-2-50:2 LOT 12  
 ZONING AG-3  
 AREA 2.66 ACS.