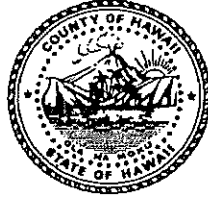


Harry Kim
Mayor



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 23, 2001

William J. Weingang
Anthony D. Amato
P.O. Box 2339
Kailua-Kona, Hawaii 96745

Dear Messrs. Weingang and Amato:

Additional Farm Dwelling Agreement

Applicants: William J. Weingang and Anthony D. Amato

Land Owners: William J. Weingang and Anthony D. Amato

Tax Map Key: (3) 7-3-007:005

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.

002815

MAR 24 2001

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Anthony D. Amato
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5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License application 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 30121832), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that significant agricultural activity is proposed 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 March 19, 2001):

"We have reviewed the subject application and have the following comments:

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 12-inch waterline along Mamalahoa Highway, approximately 1,000 feet from the property.

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.

William J. Weigang
Anthony D. Amato
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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 2nd service at \$4,350.00 each) \$4,350.00
 - b. Service Lateral Installation Charge
(Install one meter on Mamalohoa Highway, a State Highway) 4,000.00

Total (Subject to Change) \$8,350.00

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

(b) Real Property Tax Office (Memorandum dated February 23, 2001):

"Property is not receiving an agricultural use assessment nor has one been applied for or on file.

Real Property taxes are paid through June 30, 2001."

(c) Department of Health (Memorandum dated February 28, 2001):

"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 or into public sewer when accessible."

Decision:

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

William J. Weingang
Anthony D. Amato
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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.
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

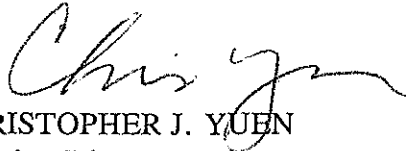
3. Include a self-addressed stamped envelope to have the recorded document returned to you.

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.

William J. Weingang
Anthony D. Amato
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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,



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

RECORDING DEPARTMENT
County Of Hawaii
75-1116 Kuakini Hwy. #109
Kailua-Kona, HI 96740

RECEIVED APR 16 2001

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE APR 09 2001 TIME 9:30
DOCUMENT NO. 2001-090565

AFTER RECORDATION, RETURN BY MAIL TO:

William J. Weigang
P.O. Box 2339
Kailua-Kona, Hawaii 96745

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

First Party: William J. Weigang and Anthony D. Amato
Second Party: County of Hawaii

PROPERTY DESCRIPTION:

TMK: (3) 7-3-007:005

3255

ADDITIONAL FARM DWELLING AGREEMENT

CS
WJW
ADA

THIS AGREEMENT made and executed this 22 day of January, 2001, by ~~26~~ Nov,
and between WILLIAM J. WEIGANG & ANTHONY D. AMATO herein called the "First Party," whose mailing address is P.O. Box 2339, KAILUA KONA, HI 96745, 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 7-3-07:05 Lot 14 situated within the State Land Use AGRICULTURE district and zoned AG 3 ACRE 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.

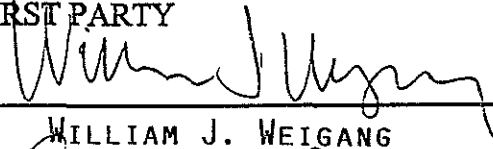
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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.

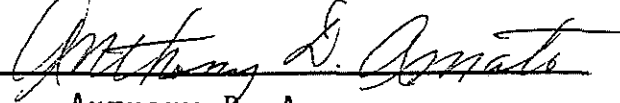
IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

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

FIRST PARTY

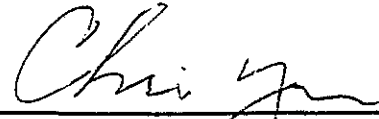


WILLIAM J. WEIGANG



ANTHONY B. AMATO

SECOND PARTY



Planning Director
County of Hawaii Planning Department

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 22nd day of January, 2001, before me personally appeared

William J. Weigang & Anthony D. Arnatz, 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.

L.S.

Charmaine E. Gaspar

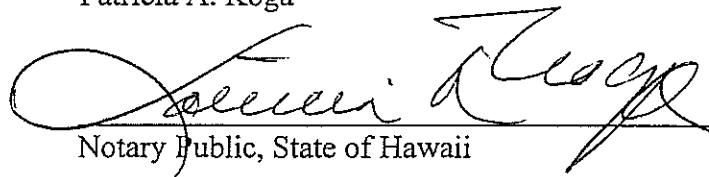
Notary Public, State of Hawaii
CHARMAINE E. GASPAR

My commission expires: 07-02-2004

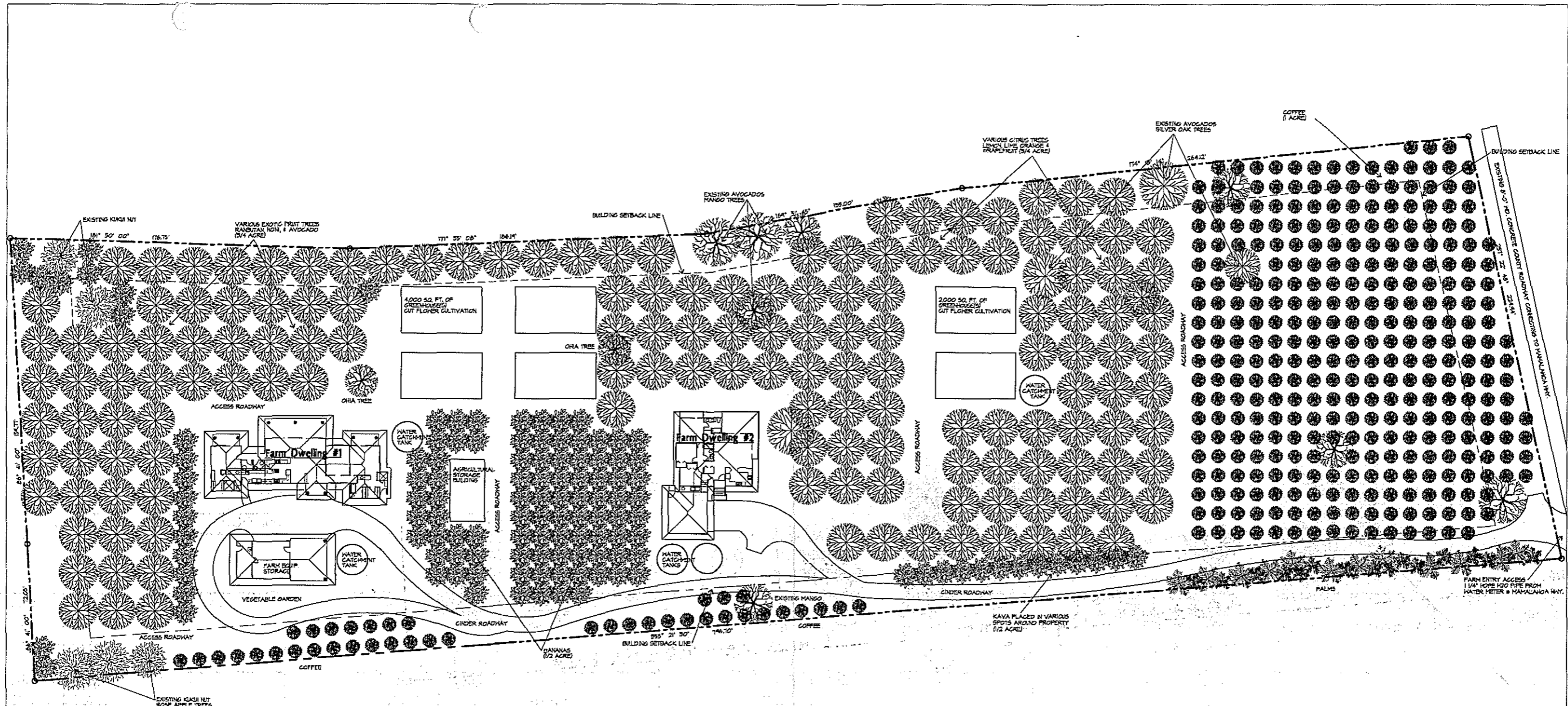
STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 28th day of March, 2000 before me personally
appeared Christopher J. 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 Christopher J. Guen acknowledged the
instrument to be the free act and deed of said Planning Department, County of Hawaii.

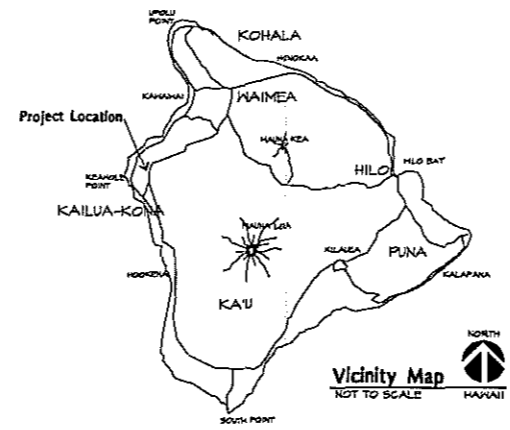
Patricia A. Koga


Notary Public, State of Hawaii

My commission expires: 7/17/02



Farm & Agricultural Development Plan
 SCALE: 1" = 20'-0"



Vicinity Map
 NOT TO SCALE

Project Data

Proposed Farm Dwellings for:
 Bill Weigang & Tony Amato
 Owners and Partners of Kohanaiki Hale Hana Farm at:
 Kohanaiki, North Kona, Hawaii
 Tax Map Key: T-3-07: 05
 Being the whole of Lot 14 of the Kohanaiki Homesteads
 Lot Area: 3.26 Acres
 State Land Use: Agriculture
 Zoning: Ag 3 Acre