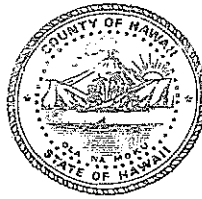


Harry Kim  
Mayor



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

September 6, 2002

Fred B. Hopkins  
Corrinne B. Hopkins  
6872 Santa Teresa Blvd.  
San Jose, CA 95119

Dear Mr. and Mrs. Hopkins:

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

**Applicants:** Fred B Hopkins and Corrinne B. Hopkins

**Land Owners:** Fred B Hopkins and Corrinne B. Hopkins

**Tax Map Key:** (3) 7-7-004:091

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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.

Exhibit A

Fred B. Hopkins  
Corrinne B. Hopkins  
Page 2  
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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 income producing agricultural activities:
  - (a) No ongoing agricultural activities were identified.
  - (b) Proposed agricultural activities include the following:
    - i. Construction of a 24'x50' barn for storage of agricultural equipment and supplies and to serve as a processing and packing facility for the cut flowers;
    - ii. Approximately 21,404 sq. ft. to be planted with 204 Singapore Plumeria trees;
    - iii. Approximately 7,603 sq. ft. to be planted with 72 ornamental palms of mixed variety;
    - iv. An additional 2,682 sq. ft. to be planted with 37 Areca Palms to provide starts for future propagation in the nursery;
    - v. Approximately 7,244 sq. ft. to contain 565 potted Singapore Plumeria trees;
    - vi. Approximately 10,662 sq. ft. to contain 847 potted palms of mixed variety; and
    - vii. Approximately 21,093 sq. ft. to be planted with 2,527 Tuberose plants.
5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

Fred B. Hopkins  
Corrinne B. Hopkins  
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September 6, 2002

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 subdivision (SUB 7022-c) approved on June 28, 2000, which, pursuant to HRS §205-4.5(b), requires that the first dwelling on the lot shall be used as a farm dwelling.
3. The subject property is situated within the Special Management Area (SMA). Pursuant to Rule 9-4D, Planning Commission Rule of Practice and Procedure, the Director has found that the construction of a second dwelling on a lot situated within the SMA may have a significant adverse environmental or ecological effect on the Special Management Area. Therefore, such activity is defined as "development" and subject to the SMA permitting requirements in Rule 9.
4. The Farm Plan, GE Tax License (ID number 30124060), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there will be income producing agricultural activity and the income will be taxed.

Fred B. Hopkins  
Corrinne B. Hopkins  
Page 4  
September 6, 2002

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

(a) Department of Water Supply (Letter dated August 27, 2002):

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

For your information, an existing service lateral for a 5/8-inch meter is available to 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 6-inch waterline in Hoomaluhia Place, 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 per day.
2. Installation of two backflow preventers (reduced pressure type) by a licensed contractor on the applicant's property just after each of the meters. The installation and assembly of the backflow preventers must be inspected and approved by the Department before the water meter can be installed. The backflow preventers 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.

Fred B. Hopkins  
Corrinne B. Hopkins  
Page 5  
September 6, 2002

3. Remittance of the following charges, 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. Capital Assessment Fee	500.00
c. Service Lateral Installation Charge (Install one meter on Hoomaluhia Place, a County road)	<u>2,250.00</u>
<b>Total (Subject to Change)</b>	<b>\$7,100.00</b>

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

(b) Real Property Tax Office (Memorandum dated August 13, 2002):

“The ag-plan sketch does not appear to indicate that the majority of the site’s land area will be eligible for Ag-Use special assessment.

Real Property taxes are paid through June 30, 2002.”

(c) Department of Health (Memorandum dated September 3, 2002):

“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 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 engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.

Fred B. Hopkins  
Corrinne B. Hopkins  
Page 6

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. The enclosed Additional Farm Dwelling Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.
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. A Special Management Area (SMA) Use Permit shall be secured prior to the issuance of a building permit for the additional farm dwelling. A SMA Use Permit Assessment Application may be submitted in lieu of the SMA Use Permit Application if the total value of the additional farm dwelling is less than \$125,000.00. A SMA Use Permit Application and a SMA Use Permit Assessment Application have been enclosed for your convenience.
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) 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) of the Agreement may allow time extensions and modifications for good cause shown by First Party.
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 September 4, 2004 may cause the Director to initiate proceedings to invalidate the AFDA.

Fred B. Hopkins  
Corrinne B. Hopkins  
Page 7  
September 6, 2002

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:cps  
P:\WPWIN60\Larry\FDA\Hopkins 7-7-4-91 apvl.doc

Enclosure: AFDA document  
AFDA document instruction sheet  
SMA Assessment Application  
SMA Use Permit Application

xc: Mr. Milton Pavao, DWS  
Mr. Mike McCall, RPT  
Planning Dept. – Kona



R-851

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

JUL 26, 2004 08:02 AM

Doc No(s) 2004-152011



/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

20 1/1 Z6

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AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawaii Planning Department  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

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TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

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PARTIES TO DOCUMENT:

FIRST PARTY: FRED B. HOPKINS and CORRINNE B. HOPKINS  
HOWARD R. BRADLEY and LINDA BRADLEY

*R.B.*  
*D.P.*

SECOND PARTY: COUNTY OF HAWAII

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PROPERTY DESCRIPTION:

TMK: (3) 7-7-004:091

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ADDITIONAL FARM DWELLING AGREEMENT

*K.B.*  
*D.P.*  
THIS AGREEMENT made and executed this 4<sup>th</sup> day of September, 2002, by and between **FRED B. HOPKINS and CORRINNE B. HOPKINS, and HOWARD R. BRADLEY and LINDA BRADLEY**, herein called the "First Party," whose mailing address is 6872 Santa Teresa Blvd., San Jose, CA 95119, and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a second farm dwelling located on the property described by Tax Map Key (3) 7-7-004:091 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 one 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.

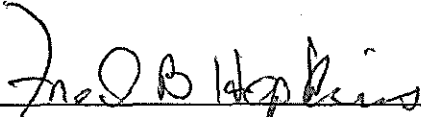
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

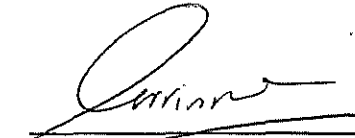
IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and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

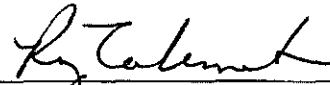
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first  
above written.

FIRST PARTY:

  
\_\_\_\_\_  
Fred B. Hopkins, Legal Owner


  
\_\_\_\_\_  
Corrinne B. Hopkins, Legal Owner

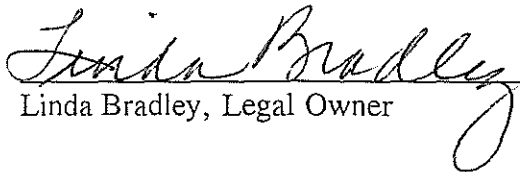
SECOND PARTY:

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

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

FIRST PARTY:

  
Howard R. Bradley, Legal Owner

  
Linda Bradley, Legal Owner

STATE OF Hawaii )  
COUNTY OF Hawaii ) SS.

On this JUN 09 2004 day of June, ~~2002~~ before me personally appeared FRED B. HOPKINS and CORRINNE B. HOPKINS to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

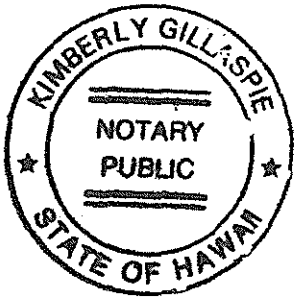
Geraldine M. Nishiyama  
Geraldine M. Nishiyama  
Notary Public, State of Hawaii

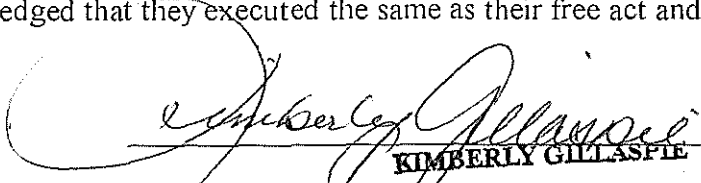
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My commission expires: MAR 14 2007

STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

On this 9<sup>th</sup> day of July, 2004 before me personally appeared **HOWARD R. BRADLEY** and **LINDA BRADLEY** to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

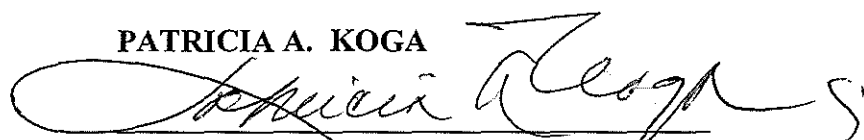


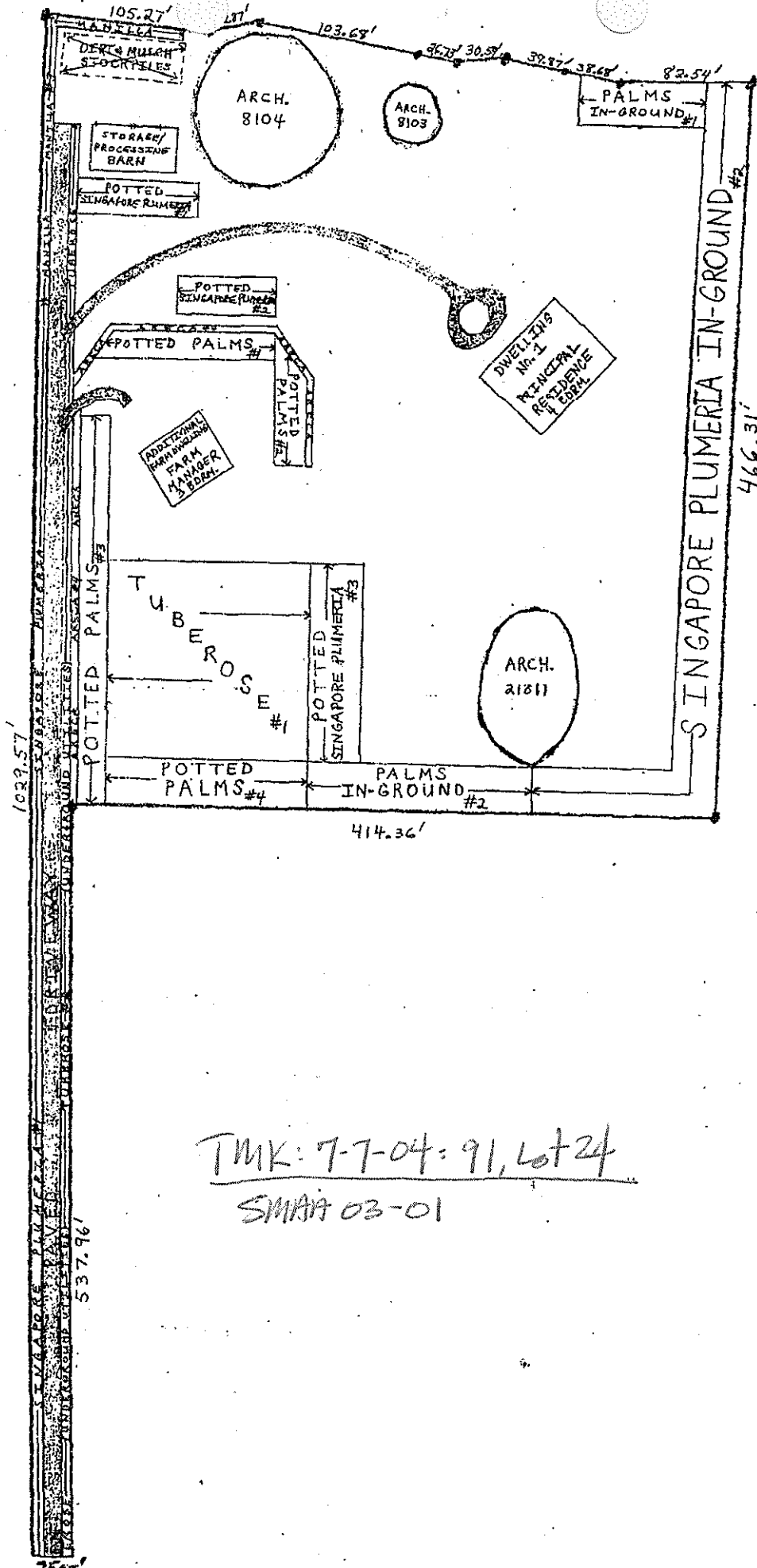
  
\_\_\_\_\_  
Notary Public, State of Hawaii

My commission expires: 6/7/2006

STATE OF HAWAII        )  
                                  ) SS.  
COUNTY OF HAWAII    )

On this 21st day of July 2004, before me personally appeared ROY TAKEMOTO, to me personally known, who, being by me duly sworn, did say that he is the Deputy Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said ROY TAKEMOTO, 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: 7/17/06



TMK: 7-7-04: 91, Lot 24  
 SMAA 03-01