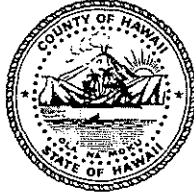


Harry Kim
Mayor



Christopher J. Yuen
Director

2002 SEP 24 PM 1 11 Roy R. Takemoto
Deputy Director

County of Hawaii PLANNING DEPARTMENT
COUNTY OF HAWAII

PLANNING DEPARTMENT

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

June 28, 2002

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

Dear Mr. Fuke:

Additional Farm Dwelling Agreement

Applicant: ~~Reuben Lelah~~ Reuben Lelah *RL*
Land Owner: ~~Reuben Lelah~~ Reuben Lelah *RL*
Tax Map Key: (3) 7-3-048:004

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 client's 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
June 28, 2002

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

(a) Ongoing agricultural activities include the following:

- i. A nursery consisting of approximately 1½ acres consisting of over 600 rose plants and an assortment of other ornamentals such as irises, lilies, daffodils, orchids, and gladiolas; and
- ii. An assortment of approximately 30 fruit trees including lemon, lime, tangerine, orange, peach, plum, apple, and pear have been planted.

(b) Proposed agricultural activities include the following:

- i. The development of an additional 2 acres of the subject property for the cultivation of at least another 1,800 rose plants
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 subdivision (SUB 6367) approved on December 14, 1993, which, pursuant to HRS §205-4.5(b), defines the first dwelling on the lot as a farm dwelling.

Mr. Sidney Fuke
Planning Consultant
Page 3
June 28, 2002

3. The Farm Plan, GE Tax License (ID number 30126649), 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.
4. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Letter dated May 20, 2002):

“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. As this application is proposing an additional detached dwelling, the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 4-inch waterline in Huehue Street.

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 is the existing service.
2. Installation of two backflow preventers (reduced pressure type) by a licensed contractor on the applicant's property just after each meter. 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.

Mr. Sidney Fuke
Planning Consultant
Page 4
June 28, 2002

3. Remittance of the following charges, which are subject to change, to our Customer Service Section:
- | | |
|---|-------------------|
| a. Facilities Charge (One 2 nd service at \$4,350.00 each) | \$4,350.00 |
| b. Capital Assessment Fee | 500.00 |
| c. Service Lateral Installation Charge (Install one meter on Huehue Street, a County road) | <u>2,250.00</u> |
| Total (Subject to Change) | \$7,100.00 |

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

(b) Real Property Tax Office (Memorandum dated May 17, 2002):

“Property is receiving agricultural use value.

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

(c) Department of Health (Memorandum dated May 21, 2002):

“By current rules, the subject lot is located in a Critical Wastewater Disposal Area. A lot size of five (5) acres or more is required for the use of a cesspool. 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 engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.

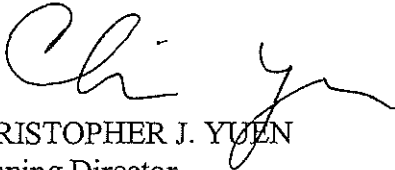
Mr. Sidney Fuke
Planning Consultant
Page 5
June 28, 2002

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. Your Additional Farm Dwelling Agreement has been approved based partially 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 50% 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.
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
6. 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 28, 2004 may cause the Director to initiate proceedings to invalidate the AFDA.

Mr. Sidney Fuke
Planning Consultant
Page 6
June 28, 2002

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

Sincerely,

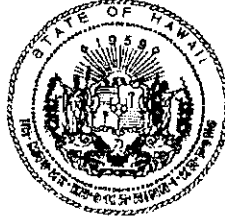


CHRISTOPHER J. YUEN
Planning Director

LMB:pak
P:\WPWIN60\Larry\FDA\Lelah 7-3-48-4 apvl.doc

Enclosure: AFDA document
AFDA document instruction sheet

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



R-470 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
AUG 05, 2002 08:02 AM
Doc No(s) 2002-135672



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

6 1/1 22

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: REUBEN
RUBEN LELAH

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 7-3-048:004

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 28th day of June, 2002, by and between
~~REUBEN~~
~~RUBEN~~ LELAH, herein called the "First Party," whose mailing address is 75-5591 Palani Rd, Suite
2008 B, Kailua-Kona, Hawaii 96740, 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) 7-3-048:004 situated within the State Land Use Agricultural district and zoned Agricultural (A-20a) 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:

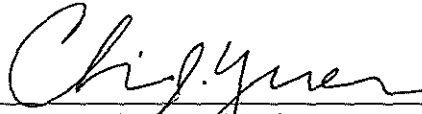


Reuben Lelah, Legal Owner

REUBEN

12

SECOND PARTY:



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

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 9th day of July, 2002 before me personally
appeared ~~REUBEN~~ ^{REUBEN} LELAH 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.



Nadine N. K. Morimoto

Notary Public, State of Hawaii

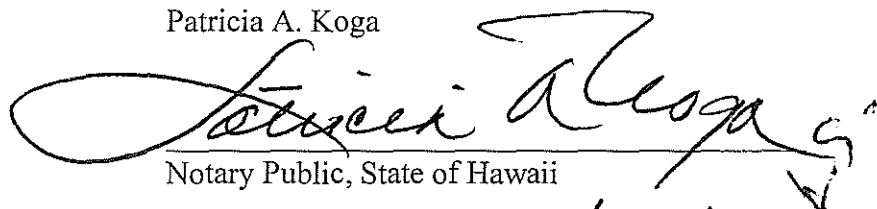
18

My commission expires: 11/25/02

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 25th day of July, 2002 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

Additional Farm Dwelling Application
Reuben Lelah, dba Koloko Farming
TMK: (3) 7-3-48: 004

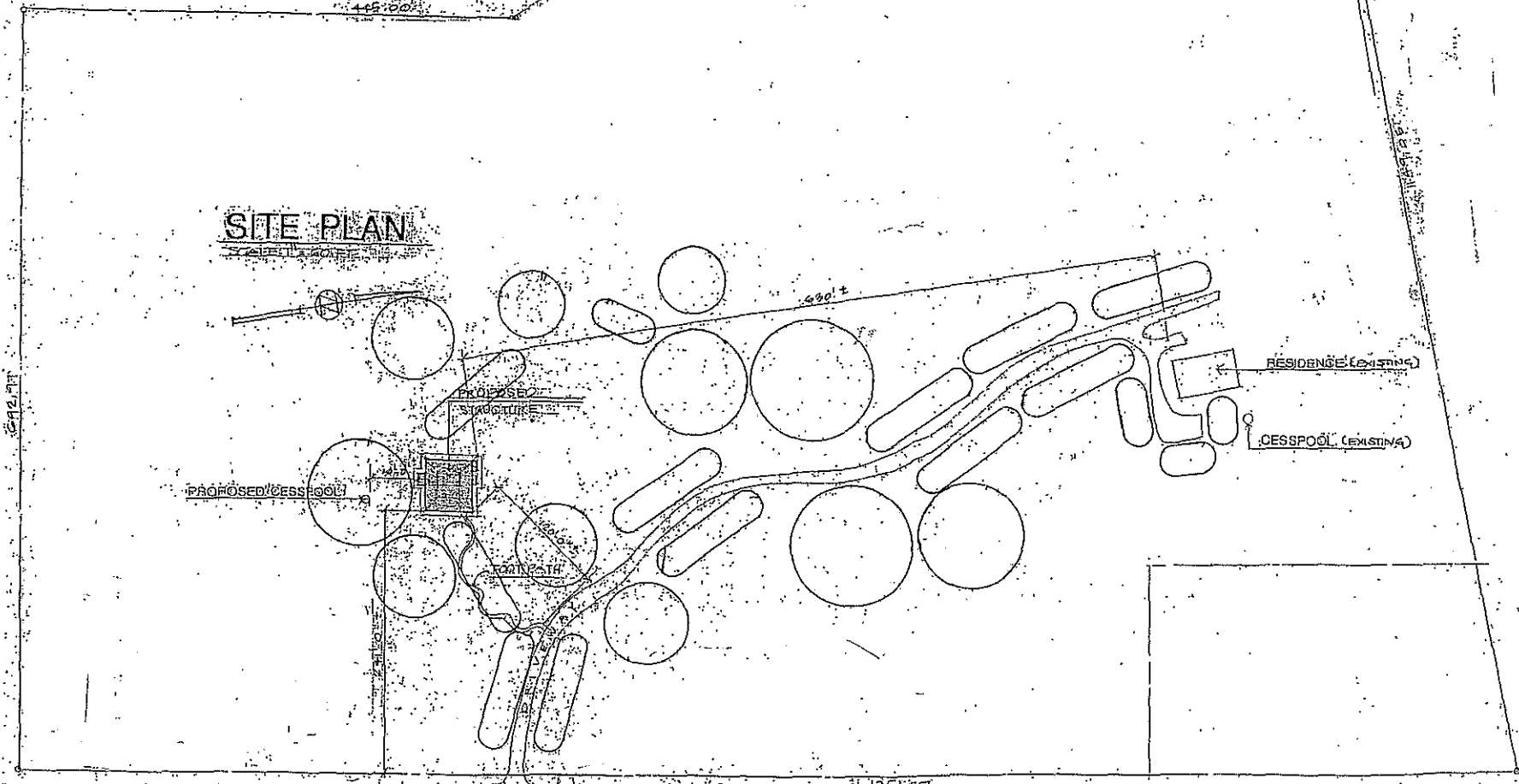
Existing Garden



Proposed Expansion

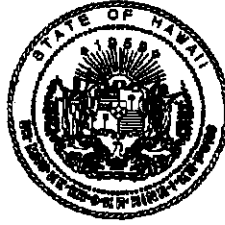


SITE PLAN



Huehue Street

2008 NOV 7 AM 4 44
PLANNING DEPARTMENT
COUNTY OF HAWAII



R-479 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
SEP 22, 2008 08:02 AM
Doc No(s) 2008-147828



ISI NICKI ANN THOMPSON
ACTING REGISTRAR

20 1/1 Z12

AFTER RECORDATION, RETURN BY MAIL TO:

Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

TITLE OF DOCUMENT:

CANCELLATION OF ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

**FIRST PARTY: REUBEN LELAH, TRUSTEE under unrecorded Revocable
Trust Agreement of Reuben Lelah dated November 23, 1999**

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 7-3-048:004

CANCELLATION OF ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 28 day of August, 2008, by and between **REUBEN LELAH, TRUSTEE** under unrecorded Revocable Trust Agreement of Reuben Lelah dated November 23, 1999, herein called the "First Party," whose property address is 73-4340 Huehue Street, Kailua-Kona, HI 96740, and the **COUNTY OF HAWAII**, herein called the "Second Party,"

WITNESSETH

WHEREAS, an Additional Farm Dwelling Agreement dated June 28, 2002 (hereinafter "AFD Agreement") was entered into by and between Reuben Lelah, whose current address is 73-4340 Huehue Street, Kailua-Kona, HI 96740, and the Second Party, whereby Reuben Lelah was authorized to construct an additional farm dwelling (being the second dwelling) on the property described as Tax Map Key (3) 7-3-048:004 (hereinafter "the Property"); and

WHEREAS, the Property is zoned Agricultural (A-20a) by the County of Hawaii and classified Agricultural by the Hawai'i State Land Use Commission; and

WHEREAS, the AFD Agreement to construct said improvements was duly recorded with the State of Hawai'i Bureau of Conveyances on August 5, 2002 as Document Number 2002-135672; and

WHEREAS, building permit number 026083 was issued to Reuben Lelah on August 13, 2002 for the construction of an additional farm dwelling pursuant to the AFD Agreement, and construction was completed on or about January 22, 2003 as certified by the Second Party ; and

WHEREAS, Reuben Lelah conveyed the Property to the First Party by warranty deed dated January 19, 2007 and recorded with the State of Hawai'i Bureau of Conveyances on February 8, 2007 as Document Number 2007-023948, and

WHEREAS, the First Party desires to change the use of the structure permitted by building permit number 026083 as an additional farm dwelling to be instead used exclusively for non-residential, non-farm related, office purposes as conditionally permitted by special permit number SPP-08-000052 issued by the County of Hawaii Planning Commission on May 22, 2008.

NOW, THEREFORE, in consideration of the above recitals and the conditions and covenants contained therein, the parties agree as follows:

The Second Party agrees that the AFD Agreement is no longer applicable and that the AFD Agreement is hereby declared null and void.

The Second Party agrees that the AFD Agreement no longer constitutes a covenant or encumbrance running with the land as it relates to Tax Map Key (3) 7-3-048:004.

The First Party agrees to pay for all of the necessary costs and expenditures to record this Cancellation of Additional Farm Dwelling Agreement.

IT IS MUTUALLY AGREED BY AND BETWEEN the parties that if any additional documents are necessary that they will execute same in order that the AFD Agreement no longer constitutes an encumbrance on Tax Map Key (3) 7-3-048:004.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK:]

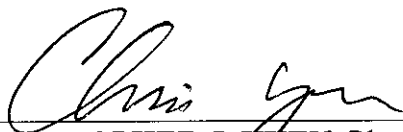
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY:

REUBEN LELAH, TRUSTEE under unrecorded
Revocable Trust Agreement of Reuben Lelah dated
November 23, 1999


REUBEN LELAH, TRUSTEE

SECOND PARTY:


CHRISTOPHER J. YUEN, Planning Director
County of Hawai'i Planning Department

APPROVED AS TO FORM
AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

STATE OF HAWAII)

) SS:

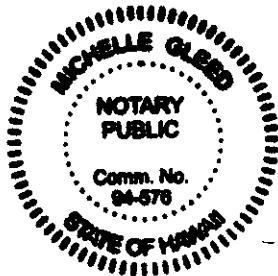
COUNTY OF HAWAII)

On this 31st day of July 2008, before me personally appeared **REUBEN LELAH, TRUSTEE** under unrecorded Revocable Trust Agreement of Reuben Lelah dated November 23, 1999, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed. *(Cancellation of Additional Farm Dwelling Agreement - 6 pages)*

Michelle Gled

Notary Public, State of Hawaii
MICHELLE GLED

My commission expires: 10/6/10



STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 28th day of August, 2008 before me personally appeared **CHRISTOPHER J. YUEN**, to me personally known, who, being by me duly sworn, did say that he is the Director of the Planning Department of the County of Hawai'i; and that the Planning Department of the County of Hawai'i has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawai'i, a governmental agency, and said **CHRISTOPHER J. YUEN**, acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawai'i.

Patricia A. Koga

Patricia A. Koga
Notary Public, State of Hawai'i

07/17/10

My commission expires: _____



Doc. Date: August 28, 2008 # Pages: 6

Patricia A. Koga Third Circuit

Doc. Description: CANCELLATION OF ADDITIONAL FARM DWELLING AGREEMENT

Patricia A. Koga AUG 28 2008

Notary Signature
My commission expires 2010

NOTARY CERTIFICATION

