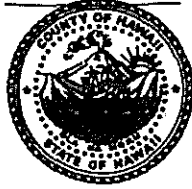


EXHIBIT "A"



Harry Kim
Mayor

Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

February 21, 2003

Ms. Shelia Sakashita
Paul Johnson Park & Niles
P.O. Box 4438
Honolulu, Hawaii 96812-4438

Dear Ms. Sakashita:

SUBJECT: Additional Farm Dwelling Agreement
Applicant: Starbones Trust
Land Owner: Starbones Trust
Tax Map Key (TMK): (3) 6-7-005:018

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

EXHIBIT
A

Ms. Shelia Sakashita
Paul Johnson Park & Niles
Page 2
February 21, 2003

(a) Ongoing agricultural activities include the following:

- i. Start-up of the infrastructure and evidence that the operation is to be relocated from another facility and expanded.

(b) Proposed agricultural activities include the following:

- i. Large-scale horse farm operation in connection with the rescue of abused and neglected animals.
5. In support, evidence of a State of Hawaii Department of Taxation and Internal Revenue Service tax exemption status have 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 5712) approved on November 29, 1988, which, pursuant to HRS §205-4.5(b), defines the first dwelling on the lot as a farm dwelling.
3. The Farm Plan and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is agricultural activity that is of a bonafide non-profit, tax exempt nature and of such intensity as to qualify for a second farm dwelling.
4. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Letter dated January 6, 2003):

EXHIBIT

A

Ms. Shelia Sakashita
Paul Johnson Park & Niles
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February 21, 2003

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

The property does not have an existing water service with the Department as the parcel receives its water from a private water system.

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

(b) Real Property Tax Office:

No comments were submitted.

(c) Department of Health (Memorandum dated January 13, 2003):

“The Health Department found no environmental health concerns with regulatory implications in the submittals.”

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.
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

EXHIBIT

A

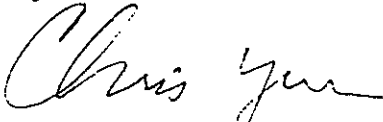
Ms. Shelia Sakashita
Paul Johnson Park & Niles
Page 4
February 21, 2003

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 February 11, 2005 may cause the Director to initiate proceedings to invalidate the AFDA.

Should you have any questions, please contact Jonathan Holmes of this office.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH:mad

p:\afda\afdajrh\apvl\starbonesapvl.doc

Enclosures: AFDA document
AFDA document instruction sheet

cc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department - Kona

EXHIBIT
A

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 18th day of March, 2003 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: 07/17/06



R-757

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 07, 2003 08:02 AM

Doc No(s) 2003-063545



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z6

10

AFTER RECORDATION, RETURN BY MAIL TO:

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

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

**FIRST PARTY: MALUHIA HALE LANI FARMS, LLC, A HAWAII
LIMITED LIABILITY COMPANY, SHEILA L. Y.
SAKASHITA, MANAGER**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 6-7-005:018

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 10th day of February, 2003, by and between **MALUHIA HALE LANI FARMS, LLC, A HAWAII LIMITED LIABILITY COMPANY, SHEILA L. Y. SAKASHITA, MANAGER**, herein called the "First Party," whose mailing address is c/o Paul Johnson Parks & Niles, P.O. Box 4438, Honolulu, Hawaii 96812-4438, 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) 6-7-005:018 situated within the State Land Use Agricultural district and zoned Agricultural (A-40a) 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:

Sheila L. Y. Sakashita

**MALUHIA HALE LANI FARMS, LLC, A HAWAII
LIMITED LIABILITY COMPANY, SHEILA L. Y.
SAKASHITA, MANAGER, Legal Owner**

SECOND PARTY:

Chris Yuen

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

STATE OF HAWAII

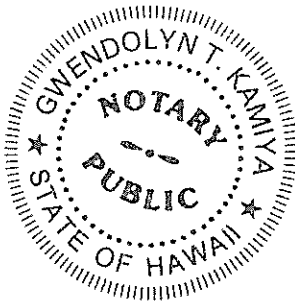
)

) SS.

COUNTY OF HAWAII

)

On this 16th day of March, 2003 before me personally appeared **MALUHIA HALE LANI FARMS, LLC, A HAWAII LIMITED LIABILITY COMPANY, SHEILA L. Y. SAKASHITA, MANAGER** to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.



Gwendolyn T. Kamiya
Gwendolyn T. Kamiya
Notary Public, State of Hawaii

My commission expires: 7/23/2004

LICENSED
PROFESSIONAL
ARCHITECT
No. 7656
HAWAII, U.S.A.

This work was prepared by me or under my supervision, and construction of this project will be under my observation. Observation of construction as defined in Hawaii Administrative Rules Title 16 Chapter 115.

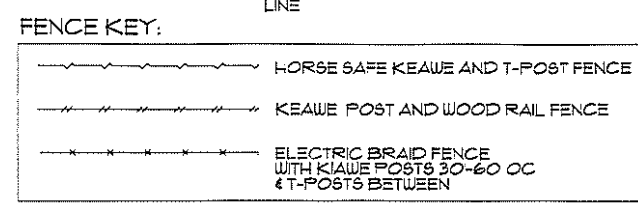
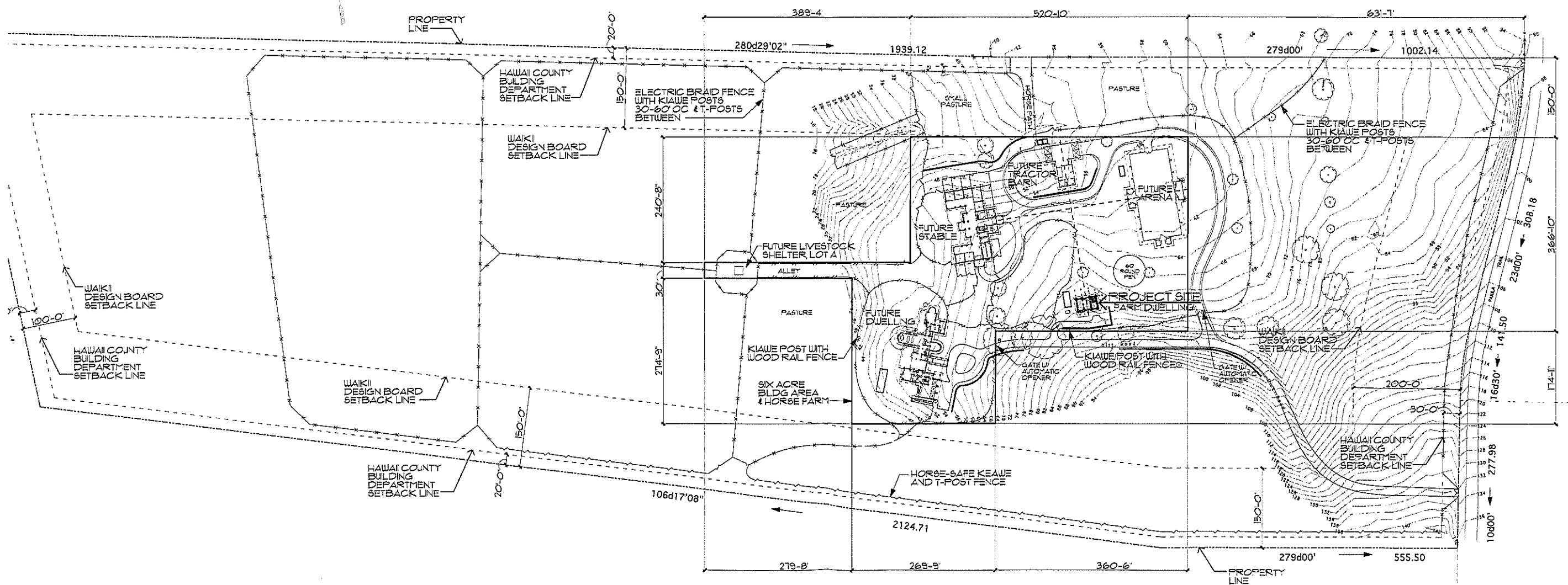
Project Name:
**MALUHIA
HALE LANI
FARMS
FARM DWELLING**

TAK No. 6-T-5-1B
Address: Waikii Ranch
Waikii, Hawaii

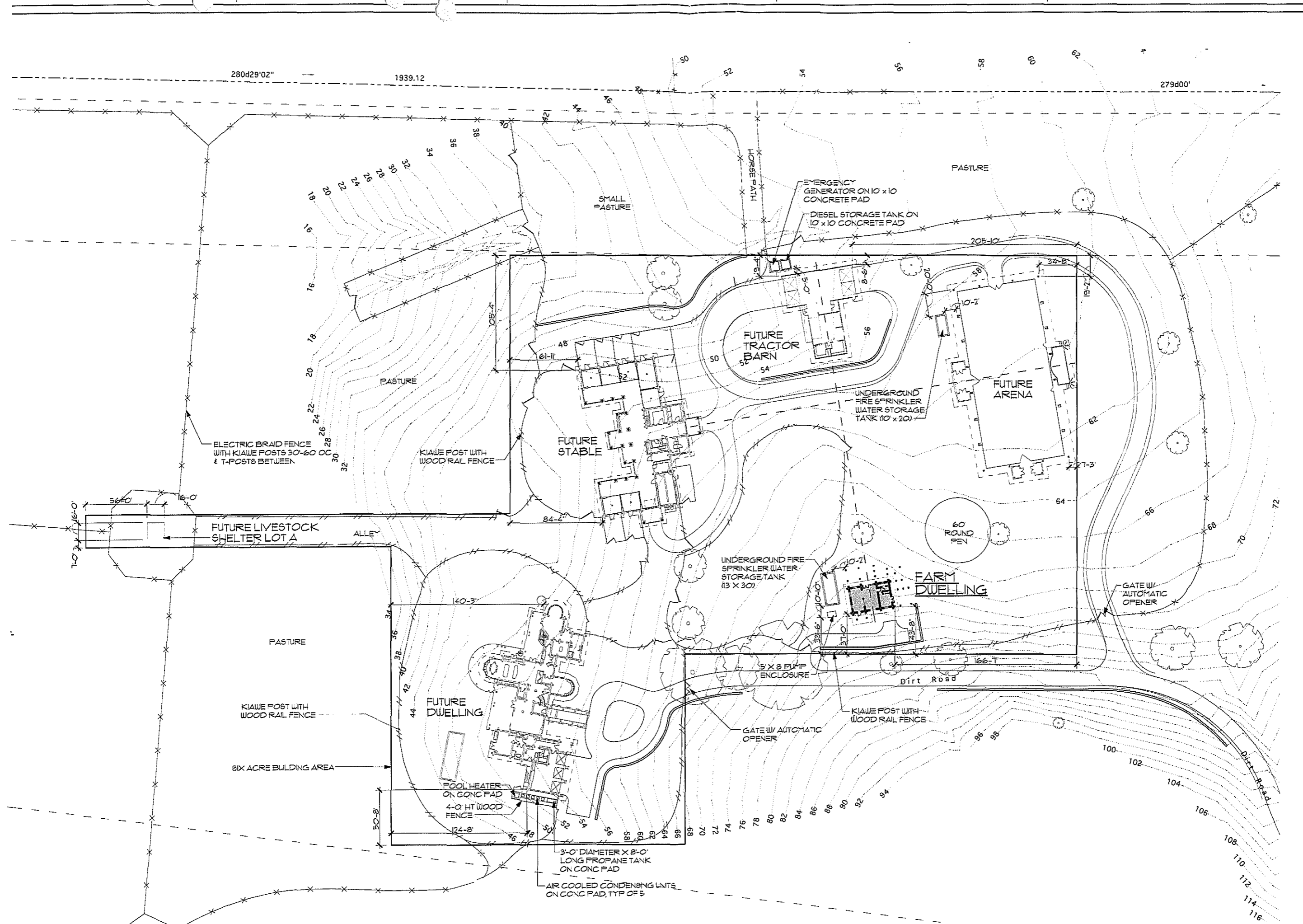
Sheet Contents:
OVERALL SITE PLAN

Date Printed: 9-27-2002
Project Number: 200-25.00

Sheet Number:
AFD-0.1



A OVERALL SITE PLAN
AFD-01 Scale: 1" = 100'-0"
0' 50' 100' 150'



LICENSED
PROFESSIONAL
ARCHITECT
No. 7688
HAWAII, U.S.A.

This work was prepared by me or under my supervision, and construction of this project will be under my observation. Observation of construction as defined in Hawaii Administrative Rules Title 16 Chapter 115.

Project Name:
**MALUHIA
HALE LANI
FARMS
FARM DWELLING**

TAK No. 6-7-5: 18

Address: Waikii Ranch
Waikii, Hawaii

Sheet Contents:
SITE PLAN

Date Printed: 9-27-2002

Project Number: 200-25-00

Sheet Number:
AFD-02

Sheet: 01

(A) **SITE PLAN**
AFD-02 Scale: 1" = 40'-0" 0 10 20 30 40 50