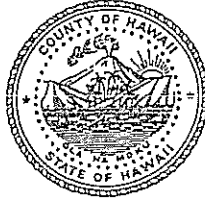


Harry Kim
Mayor



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

June 21, 2004

Mr. John H. and Mrs. Janice H. Dean
44-2610 Kolopa Mauka Road
Honoka'a, Hawaii 96727

Dear Mr. and Mrs. Dean:

SUBJECT: **Additional Farm Dwelling Agreement**
Applicants: **John H. Dean and Janice H. Dean**
Land Owners: **John H. Dean, Janice H. Dean and Sunshine Walker**
State Land Use: **Agricultural**
County Zoning: **Agricultural (A-5a)**
Land Area: **5.002-acres**
Tax Map Key: **(3) 4-4-008:138**

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.

Hawai'i County is an equal opportunity provider and employer.

EXHIBIT

A

Mr. John H. and Mrs. Janice H. Dean

Page 2

June 21, 2004

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 AFD is needed in connection with the agricultural productivity or farming operation.

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

- a. Ongoing agricultural activities include the following:
 - i. The property has been used as pasture for at least 10 years. The pasture grasses and legumes growing there were planted for that purpose in the early 1990's.
 - ii. The pasture was leased to a Mr. Gabriel to graze 6 steers, 6 heifers and 6 horses up until January of 2004. The grazing greatly improved the grass growth.
 - b. Proposed agricultural activities include the following:
 - i. Part one of the farm plan is to raise chickens fed with organic grain in movable pens. 30 to 36 chickens will be started per month and finished between 8 to 10 weeks.
 - ii. Part two of the two-part farm plan will be to develop a breed of hair sheep that are heat and parasite resistant.
 - iii. It is anticipated that the agricultural operation, once up and running, will entail about 26 man-hours per week.
5. In support, a copy of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has 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 6789) approved on November 18, 1996, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

EXHIBIT

A

Mr. John H. and Mrs. Janice H. Dean

Page 3

June 21, 2004

3. The Farm Plan, promise to obtain a GE Tax License (#30136310) 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 (DWS) (Letter dated May 26, 2004):

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

Our records show that this property does not have an account with the Department and, therefore, does not have water service with us. As this lot was created with a variance from the subdivision water requirements, the Department has no objections to the application subject to the applicant being responsible for following the conditions of the approved variance. This means that the additional farm dwelling must be on a catchment system as indicated on the application.

Should there be any questions, please call Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 252.”

- b. Real Property Tax Office (RPT):

RPT did not comment on this application as of this date.

- c. Department of Health (DOH) (Memorandum dated June 2, 2004):

“Sewage generated within the property boundary must be treated and disposed within the same property.”

Decision:

In view of the above, your request to construct a **second (first AFD) farm dwelling** on the property is approved subject to the following conditions:

1. The AFD 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.

EXHIBIT

A

Mr. John H. and Mrs. Janice H. Dean

Page 4

June 21, 2004

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 AFD 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 AFDA 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. In reference to the DWS comment, may we suggest the following:
 - a. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain catchment system which includes a minimum 6,000 gallons for domestic consumption or potable uses. This catchment system should adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.
 - b. Any dwelling on a water catchment system should be provided with and maintain an additional 3,000 gallon water storage capacity for fire fighting and emergency purposes. The emergency water supply system, including the necessary compatible connector system and location of the water storage facility on the property, should meet with the approval of the Hawaii County Fire Department..
4. 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 shall be adhered to.
5. Your AFDA has been approved based 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 the First Party.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.

EXHIBIT

A

Mr. John H. and Mrs. Janice H. Dean
Page 5
June 21, 2004

7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before June 22, 2006 may cause the Director to initiate proceedings to invalidate the AFDA.

Should you have any questions, please feel free to contact Jonathan Holmes of this office at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH: cd
P:\afda\afda\jrh\apv\deanapvl.doc

Enclosures: AFDA document
AFDA document instruction sheet

cc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT

EXHIBIT

A



R-1088 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
JUL 23, 2004 08:02 AM
Doc No(s) 2004-150967



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 11 Z6

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: JOHN H. DEAN, JANICE H. DEAN and SUNSHINE
WALKER**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 4-4-008:138

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 21st day of June, 2004, by and between **JOHN H. DEAN, JANICE H. DEAN and SUNSHINE WALKER**, herein called the "First Party," whose mailing address is 44-2610 Kalopa Mauka Road, Honoka'a, Hawaii 96727, 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) 4-4-008:138 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:



JOHN H. DEAN, Legal Owner



JANICE H. DEAN, Legal Owner



SUNSHINE WALKER, Legal Owner

SECOND PARTY:

pdw/MP
ROY TAKEMOTO ~~CHRISTOPHER J. YUEN, Planning Director~~
Deputy Planning Director County of Hawaii Planning Department

STATE OF HAWAII

)

) SS.

COUNTY OF HAWAII

)

On this 3rd day of July, 2004 before me personally appeared between **JOHN H. DEAN, JANICE H. DEAN and SUNSHINE WALKER** 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.

Lynette M. Ikehara

Lynette M. Ikehara
Notary Public, State of Hawaii

LS-

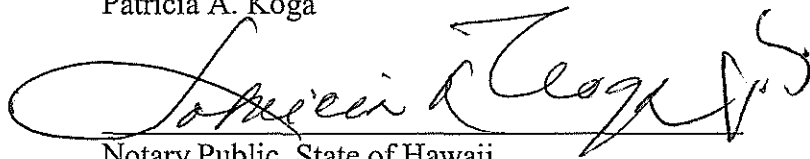
My commission expires: 11-11-2007

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 14th day of July, 2004 before me personally appeared ^{pph, np} Christopher J. ^{ROY TAKENOTO} ~~Yuen~~, to me personally known, who, being by me duly sworn, did say that he is the ^{pph, np Deputy} 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

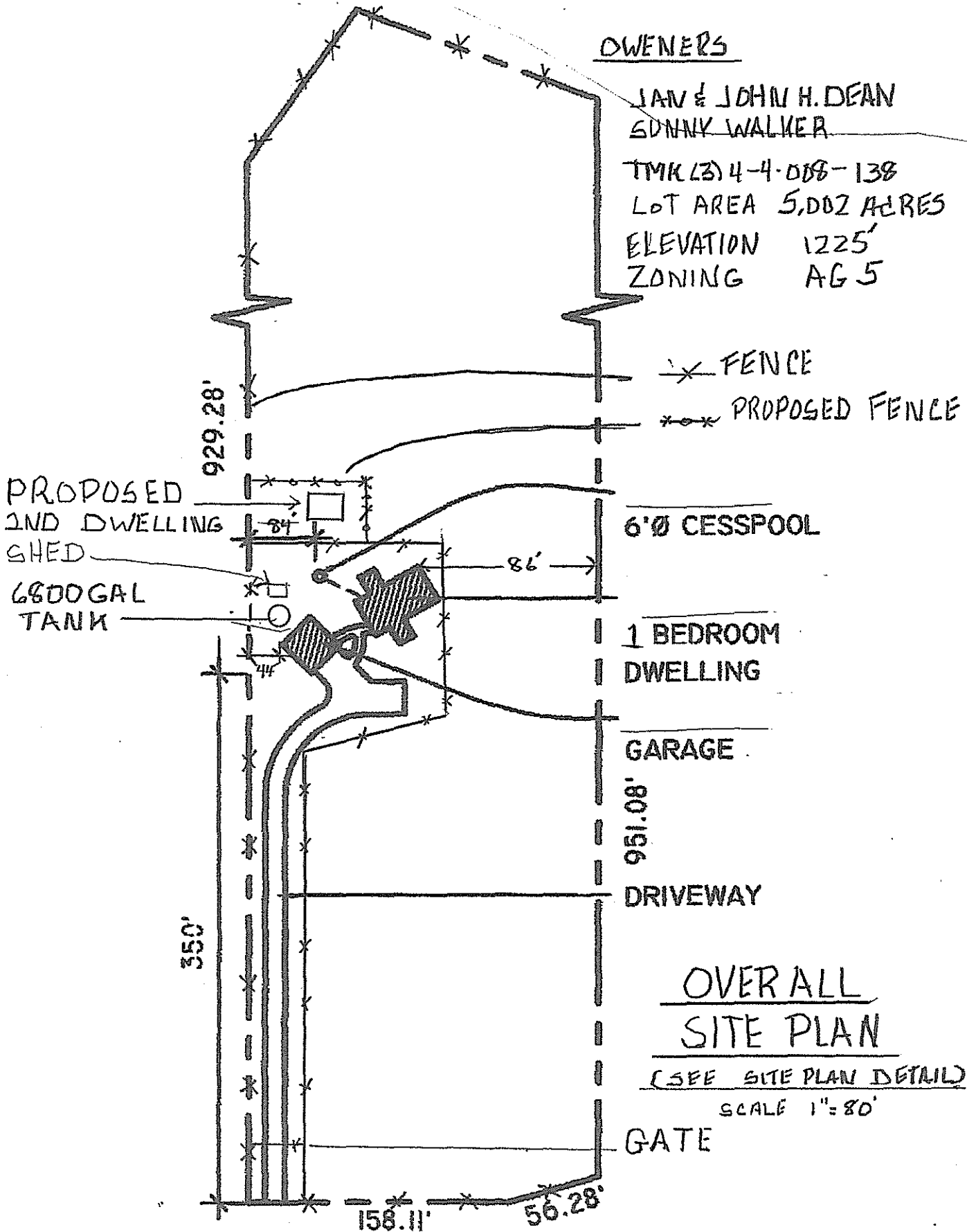
07/17/06

My commission expires: _____

OWNERS

JAN & JOHN H. DEAN
SONNY WALKER

TMK (3) 4-4-008-138
LOT AREA 5,002 ACRES
ELEVATION 1225'
ZONING AG 5



x FENCE
x-x PROPOSED FENCE

PROPOSED
2ND DWELLING
SHED
6800 GAL
TANK

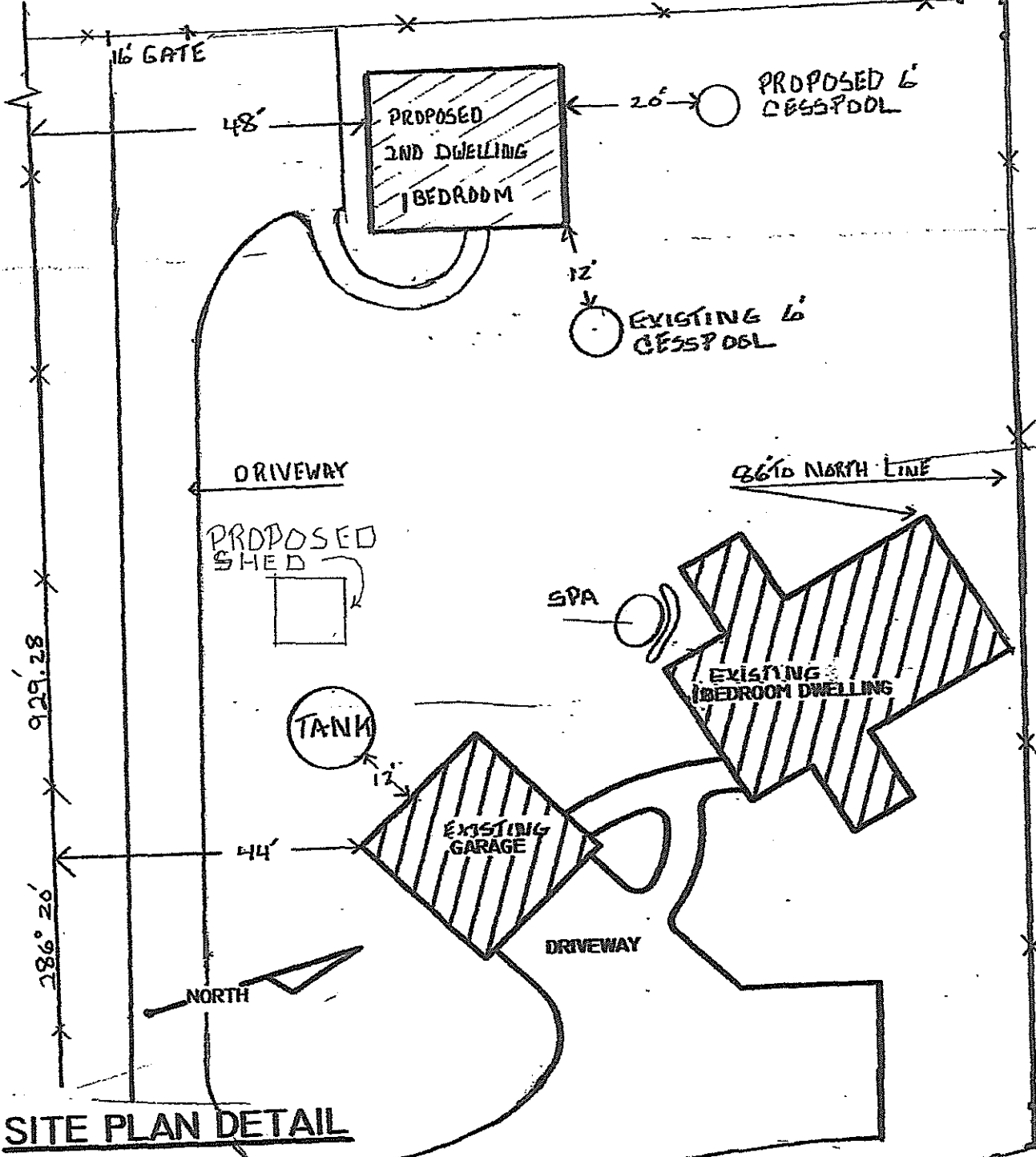
6' Ø CESSPOOL
1 BEDROOM
DWELLING

GARAGE
951.08'
DRIVEWAY

OVERALL
SITE PLAN

(SEE SITE PLAN DETAIL)
SCALE 1" = 80'

GATE



SITE PLAN DETAIL

SCALE: 1" = 20'

OWNERS JIM & JOHN H. DEAN
SUNNY WALKER

FENCE

TMA (3) 4-4-008-138