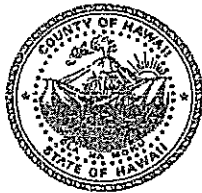


Harry Kim
Mayor



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 23, 2004

Wilfredo M. and Florence Q. Fiesta
P.O. Box 841
Hilo, Hawaii 96720

Dear Mr. and Mrs. Fiesta:

Additional Farm Dwelling Agreement

Applicants: Wilfredo M. and Florence Q. Fiesta
Land Owners: Wilfredo M. Fiesta, Florence Q. Fiesta,
Vincente M. Fiesta and Perlita M. Fiesta
State Land Use: Agricultural
County Zoning: Agricultural (A-3a)
Land Area: 3.412-acres
Tax Map Key: (3) 1-6-064:125

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

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Wilfredo M. and Florence Q. Fiesta

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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) Ongoing agricultural activities include the following:

- i. Most of the 3 plus acre parcel is planted in guava trees since 1984.

(b) Proposed agricultural activities include the following:

- i. Continuation of the same.

5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has been presented as well as evidence of the sale of produce.

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 Number 1302 that was issued Final Approval on November 24, 1958, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.
3. The Farm Plan proposal, GE Tax License (ID number 30105750), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and the income is being taxed.

EXHIBIT

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Wilfredo M. and Florence Q. Fiesta

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

(a) Department of Water Supply (Memorandum dated February 20, 2004):

“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 is beyond the service limits of the Department’s existing water system. The Department’s nearest facility is a 12-inch waterline in the Keaau-Pahoa Road approximately 0.5 miles from the front of the applicant’s property. Water is available for the existing dwelling should Hawaiian Hui Hanalike approve of a private waterline within the association’s roads. Please be informed that water availability is subject to change at any time depending on the current water situation. Therefore, the Department has no objections to the application subject to the applicant understanding that the additional farm dwelling cannot be hooked up to any existing water services from the Department.

Should there be any questions, please call Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 1.”

(b) Real Property Tax Office (Response form dated January 26, 2004):

“Property is receiving Agricultural use value.
3.162 acres of guavas receiving the agricultural use value.
Real Property taxes are paid through December 31, 2003.”

(c) Department of Health (memorandum dated February 18, 2004):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems will be determined by the wastewater rules in effect at the time of building permit application.”

Decision:

In view of the above, your request to construct a **second (first AFD) 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
- 2.

EXHIBIT

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Wilfredo M. and Florence Q. Fiesta

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

3. 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.
4. The 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 farm dwelling should be provided with and maintain a private water supply system which includes 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.
5. 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.
6. Your Additional Farm Dwelling Agreement has been approved based wholly on continued agricultural activity as summarized previously in this letter.

EXHIBIT

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Wilfredo M. and Florence Q. Fiesta

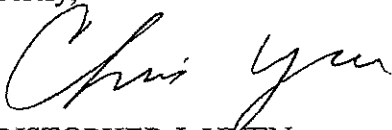
Page 5

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7. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
8. 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 24, 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:pak

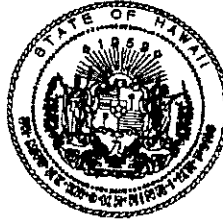
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Enclosure: AFDA document
AFDA document instruction sheet

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

EXHIBIT

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R-1091 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
MAY 05, 2004 08:02 AM
Doc No(s) 2004-090306



20 1/1 Z6

/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

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: WILFREDO M. FIESTA, FLORENCE Q. FIESTA,
VINCENTE M. FIESTA AND PERLITA M. FIESTA**
deceased th

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 1-6-064:125

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 23rd day of February, 2004, by and between **WILFREDO M. FIESTA, FLORENCE Q. FIESTA, VINCENTE M. FIESTA and PERLITA M. FIESTA**, herein called the "First Party," whose mailing address is P.O. Box 841, Pahoa, Hawaii 96778, 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) 1-6-064:125 situated within the State Land Use Agricultural district and zoned Agricultural (A-1a) 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.

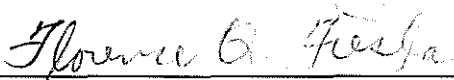
IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25,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

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

FIRST PARTY:



WILFREDO M. FIESTA, Legal Owner



FLORENCE Q. FIESTA, Legal Owner

deceased 

VINCENTE M. FIESTA, Legal Owner



PERLITA M. FIESTA, Legal Owner

SECOND PARTY:



CHRISTOPHER J. YUEN, Planning Director
County of Hawaii Planning Department

STATE OF HAWAII

)

) SS.

COUNTY OF HAWAII

)

On this 6th day of April, 2004 before me personally appeared **WILFREDO M. FIESTA, FLORENCE Q. FIESTA, VINCENTE M. FIESTA and PERLITA M. FIESTA** 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.

Teresita F. Hernandez

Notary Public, State of Hawaii

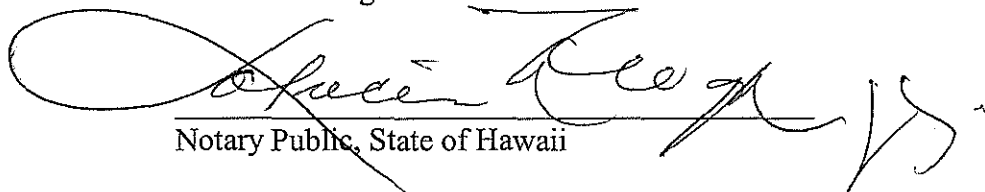
Teresita F. Hernandez

My commission expires: Jan. 26, 2007

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 20th day of April, 2004 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

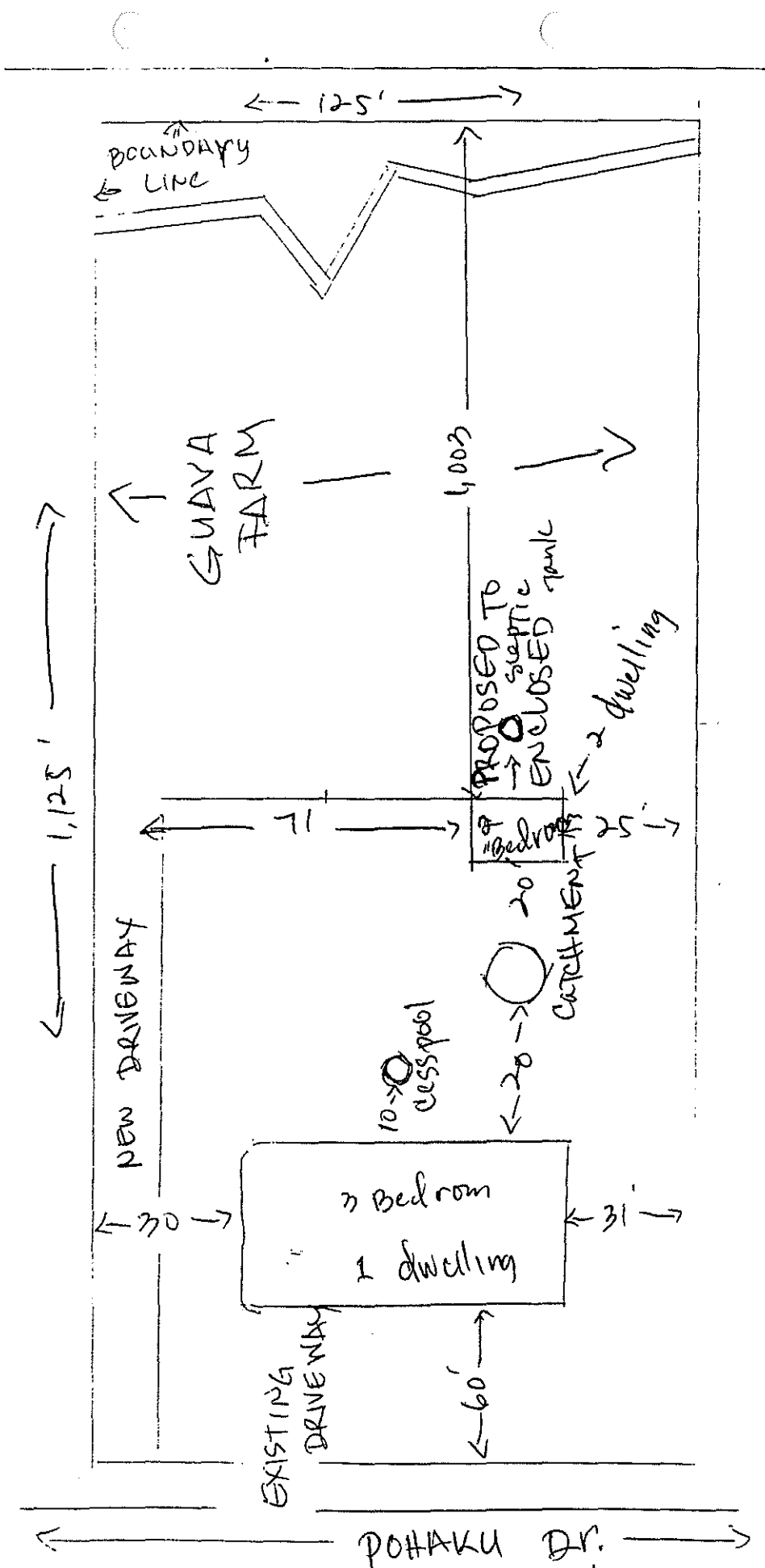
CERTIFICATE OF DEATH

1. DECEASED — FIRST NAME VICENTE			MIDDLE NAME MALVAR			LAST NAME FIESTA			2. SEX MALE		3. DATE OF DEATH (MONTH, DAY, YEAR) NOVEMBER 26, 2003				
4a. RACE Filipino		4b. IS PERSON OF SPANISH ORIGIN? 1 <input type="checkbox"/> Puerto Rican 2 <input type="checkbox"/> Mexican 3 <input type="checkbox"/> Cuban 4 <input type="checkbox"/> Central-S. American 5 <input type="checkbox"/> Other & Unknown Spanish Origin NO. 6 X		5a. AGE—LAST BIRTHDAY (Years) 76		5b. UNDER 1 YR. MOS. DAYS		5c. UNDER 1 DAY HOURS MIN.		6. DATE OF BIRTH (MONTH, DAY, YEAR) April 30, 1927		7a. COUNTY OF DEATH Honolulu			
7a-1. ISLAND OF DEATH Oahu		7b. CITY, TOWN OR LOCATION OF DEATH Honolulu			7c. HOSPITAL OR OTHER INSTITUTION NAME (IF NOT IN EITHER, GIVE STREET AND NUMBER) Straub Clinic & Hospital				7d. IF HOSP. OR INST. INDICATE OOA, OP/EMER. RM., INPATIENT (SPECIFY) Inpatient						
8. STATE OF BIRTH (IF NOT IN U.S.A., NAME COUNTRY) Hawaii		9. CITIZEN OF WHAT COUNTRY U.S.A.		10. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (SPECIFY) Married		11. SURVIVING SPOUSE (IF WIFE, GIVE MAIDEN NAME) Perlita Manon-og			12. WAS DECEDENT EVER IN U.S. ARMED FORCES? (Specify Yes or No) No						
13. SOCIAL SECURITY NUMBER 576-52-0876		14a. USUAL OCCUPATION (GIVE KIND OF WORK DONE DURING MOST OF WORKING LIFE, EVEN IF RETIRED) Laborer (Retired)				14b. KIND OF BUSINESS OR INDUSTRY Pineapple Plantation		14c. EDUCATION (Specify highest grade completed) Unknown							
15a. RESIDENCE-STATE Hawaii		15b. COUNTY Honolulu		15c. CITY, TOWN OR LOCATION Kunia		15d. INSIDE CITY LIMITS (SPECIFY YES OR NO) No		15e. NUMBER, STREET AND ZIP 447 Hope Lane, 96759							
16. FATHER — FIRST NAME Liberato			MIDDLE NAME			LAST NAME Fiesta			17. MOTHER — FIRST NAME Anastacia		MIDDLE NAME		MAIDEN NAME Malvar		
18a. INFORMANT — NAME Garry Manon-og Fiesta				18b. MAILING ADDRESS (STREET OR P.O. BOX, CITY OR TOWN, STATE, ZIP) P. O. Box 241, Kunia, Hawaii 96759											
19a. BURIAL, CREMATION, REMOVAL (SPECIFY) Burial		19b. CEMETERY OR CREMATORY—NAME Valley of the Temples Memorial Park				19c. LOCATION Kaneohe		CITY OR TOWN Hawaii		STATE					
19d. DATE (MONTH, DAY, YEAR) December 12, 2003		19e. PERMIT NUMBER 6131		20a. FUNERAL HOME—NAME Mililani Memorial Park & Mortuary			20b. FUNERAL DIRECTOR—SIGNATURE <i>Paul Nevin</i>								
21a. To the best of my knowledge, death occurred at the time, date and place stated and described below (Items #21b through #27g where applicable) (Signature and Title) <i>Ronald Schaefer</i> 21b. DATE SIGNED (MO., DAY, YR.) 12-01-03 21c. TIME OF DEATH 7:02 A. M. 21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (TYPE OR PRINT)					To be completed by MEDICAL PHYSICIAN OR CORONER'S PHYSICIAN ONLY			22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and circumstances stated and described below (Items #22b through #27g where applicable) (Signature and Title) <i>Ronald Schaefer</i>							
								22b. DATE SIGNED (MO., DAY, YR.)		22c. TIME OF DEATH					M
								22d. PRONOUNCED DEAD (MO., DAY, YR.)		22e. PRONOUNCED DEAD (TIME)					M
								oo		81					M
23. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, MEDICAL EXAMINER OR CORONER) (TYPE OR PRINT) Ronald Schaefer, M.D., 888 S. King Street, Honolulu, Hawaii 96813										24a. REGISTRAR - SIGNATURE <i>A. Shima</i>		24b. DATE RECEIVED BY LOCAL REGISTRAR DEC - 2 2003		24c. DATE FILED BY STATE REGISTRAR DEC - 2 2003	

PART I. DEATH WAS CAUSED BY: ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c)			APPROXIMATE INTERVAL BETWEEN ONSET AND DEATH		
25. CONDITIONS, IF ANY, WHICH GAVE RISE TO IMMEDIATE CAUSE (a), STATING THE UNDERLYING CAUSE LAST		IMMEDIATE CAUSE (a) Hematoma		months	
		DUE TO, OR AS A CONSEQUENCE OF:			
		(b)			
		DUE TO, OR AS A CONSEQUENCE OF:			
		(c)			
PART II. OTHER SIGNIFICANT CONDITIONS: CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I (a)					26a. AUTOPSY (YES OR NO)
Pleural effusion, Atrial Fibrillation					
Cachexia					26b. IF YES, WERE FINDINGS CONSIDERED IN DETERMINING CAUSE OF DEATH?
27a. ACCIDENT, SUICIDE, HOMICIDE, OR UNDETERMINED (SPECIFY)		27b. DATE OF INJURY (MONTH, DAY, YEAR)		27c. TIME OF INJURY	
27d. INJURY AT WORK? (SPECIFY YES OR NO)		27e. PLACE OF INJURY: AT HOME, FARM, STREET, FACTORY, OFFICE BLDG., ETC (SPECIFY)			
27f. LOCATION (STREET OR R.F.D. NO., CITY OR TOWN, STATE)					

DEC 23 2003

Alvin V. Onaka, M.D.
STATE REGISTRAR



PLOT PLAN

NOT TO SCALE