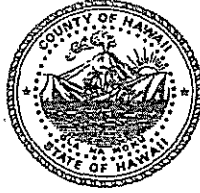


Harry Kim
Mayor



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

April 15, 2004

Mr. Riley T. Yamagata
P.O. Box 216
Kealahou, Hawaii 96750

Dear Mr. Yamagata:

SUBJECT: Additional Farm Dwelling Agreement
Applicant: Riley T. Yamagata
Owners: Edmund and Naomi Yamagata
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 4.31-acres
Tax Map Key: (3) 7-9-010:027

Please pardon the delay in responding to this communication.

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

APR 20 2004
APR 20 2004

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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 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. 380 coffee trees and 7 banana trees, 9 guava trees, and one tree each of lemon and tangelo trees. Much of the cultivated area has been poorly maintained and is in need of care and will also be expanded.
- ii. The additional farm dwelling will be occupied by the applicant. The original first single-family dwelling is and will continue to be occupied by the landowners.
- iii. The weekly labor man-hours of the present operation are a minimum of 8 by the landowners. The additional farm dwelling will allow the applicant to rescue the coffee that exists and expand the coffee operation by approximately twice the present number of trees.

(b) Proposed agricultural activities include the following:

- i. The proposal indicates that the coffee operation will be expanded from the 380 coffee trees to approximately twice that number.

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 on May 18, 1929, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.

EXHIBIT

A

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3. The Farm Plan, GE Tax License (ID number 30074345), 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 February 27, 2004):

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

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. Further, the property is at an elevation beyond the pressure service limits of the system.

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 (RPT):

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

(c) Department of Health (DOH) (Memorandum dated arch 17, 2004):

“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 (first AFD) 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.
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

EXHIBIT

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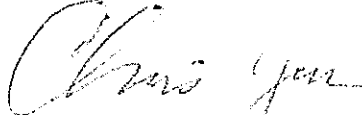
Mr. Riley T. Yamagata
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April 15, 2004

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. The First Party shall consult with the Department of Water Supply to determine how you can come into compliance with water availability/usage rates.
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 ongoing/expanded agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
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 March 23, 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

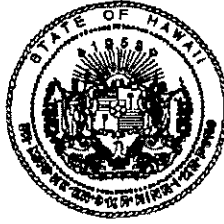
EXHIBIT

A

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

EXHIBIT
A



R-1017 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
MAY 18, 2004 08:02 AM
Doc No(s) 2004-099852



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z2

Handwritten mark

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: EDMUND YAMAGATA and NAOMI YAMAGATA

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 7-9-010:027

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 22nd day of March, 2004, by and between **EDMUND YAMAGATA and NAOMI YAMAGATA**, herein called the "First Party," whose mailing address is P.O. Box 216, Kealahou, Hawaii 96750, 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) 7-9-010:027 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.

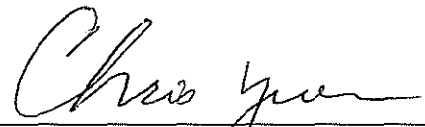
FIRST PARTY:


_____ **EDMUND YAMAGATA**, Legal Owner

FIRST PARTY:


_____ **NEOMI YAMAGATA**, Legal Owner
NAOMI YAMAGATA
all n.p. my

SECOND PARTY:


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

STATE OF HAWAII
COUNTY OF HAWAII

)
) SS.
)

On this 23rd day of April, 2004 before me personally appeared **EDMUND YAMAGATA and NAOMI YAMAGATA** 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.

Denise Kauni DENISE KAUNI
Notary Public, State of *Hawaii*

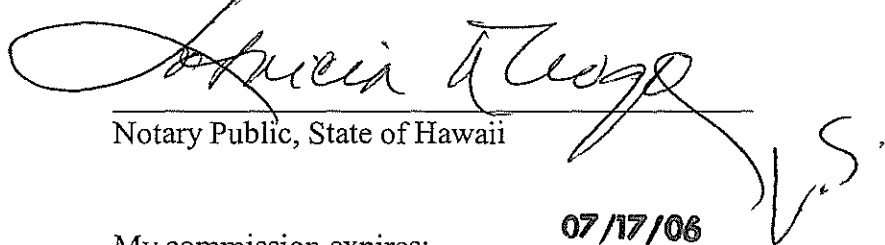
My commission expires: *9/02/05*

LS

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 7th day of May, 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

Proposed additional coffee trees.

EXISTING
3 bedroom
2 bath

Existing Coffee Farm

☉ - Coffee tree #380 trees

☉ - Lemon tree #120

🌴 - banana tree #7 trees

☉ - tangelo tree #1 trees

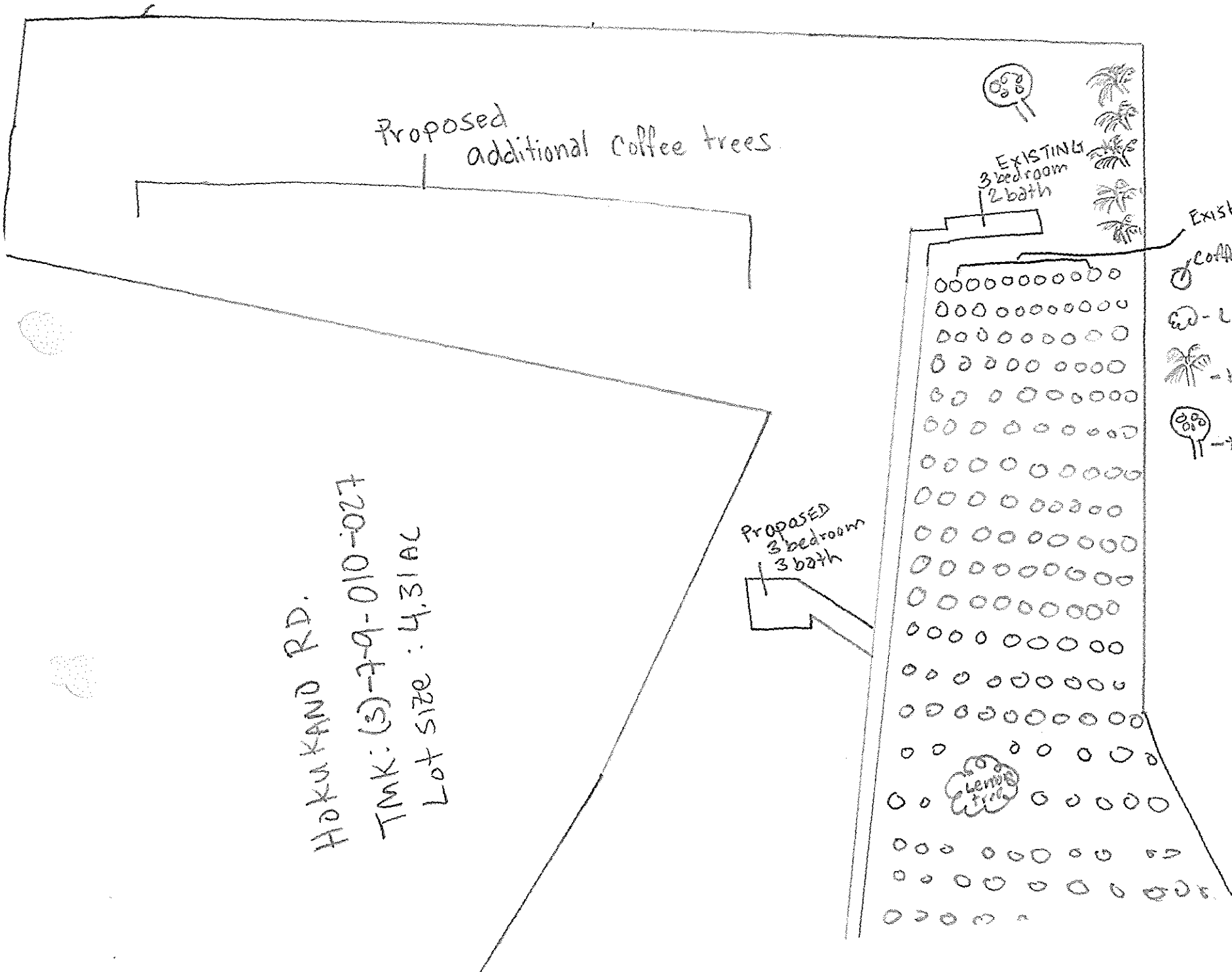
Proposed
3 bedroom
3 bath

Lemon tree

HOKUKAND RD.

TMK: (S)-7-9-010-027

Lot size: 4.31 AC

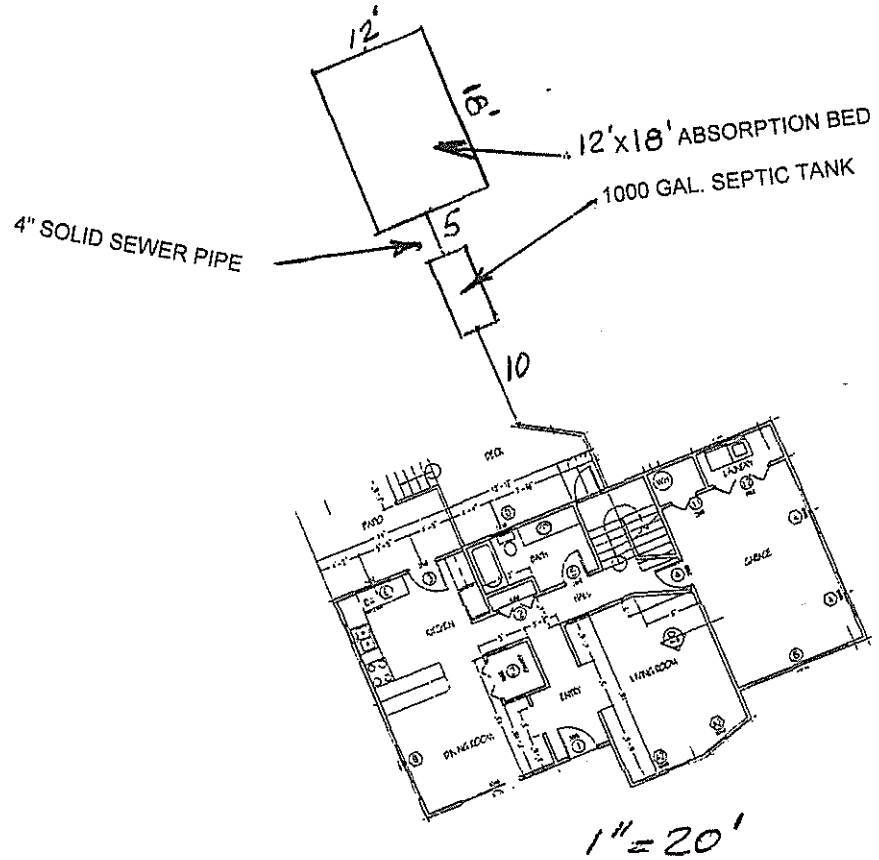
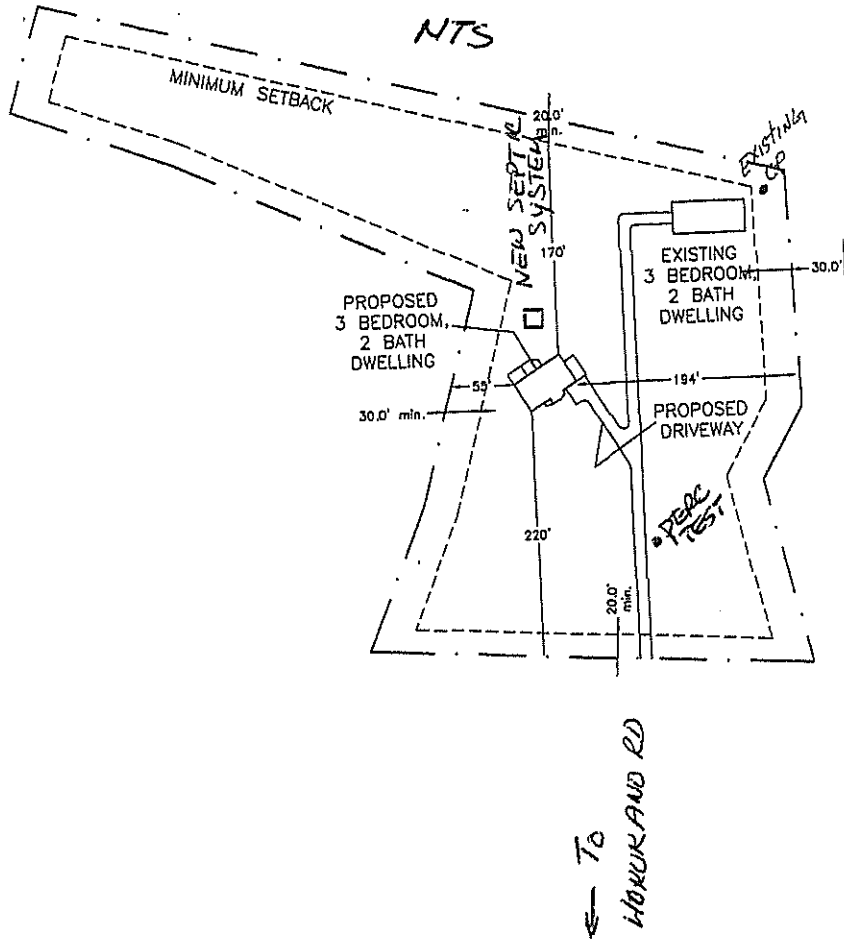




NOTE: MINIMUM SEPERATION DISTANCES FOR
SOIL ABSORPTION SYSTEM
PROPERTY LINE - 5'
BUILDING LINE - 5'
STREAM OR POND - 50'
LARGE TREES - 10'
SEEPAGE PIT - 5'

NOTE: MINIMUM SEPERATION DISTANCES FOR
SEPTIC TANK
PRPOERTY LINE - 5'
BUILDING LINE - 5'
STREAM OR POND - 50'
LARGE TREES - 5'
SEEPAGE PIT - 5'

OWNER: RILEY YAMAGATA
LOCATION: HOKUKANO RD.
TMK (3)-7-9-010:027
LOT SIZE: 4.31 Ac.
NUMBER OF BEDROOMS: THREE



NOTES

SITE PLAN FOR SEPTIC SYSTEM

Septic system must be installed by either of the following licensed contractors: C-9 cesspool; C-37 plumbing; the "A" general engineering; C-37a sewer and drainline; and C-43 sewer, sewer disposal, drain and pipe laying.

Construction of the system shall start only after the County Building Permit is reviewed and approved by the Department of Health.

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION

Ronald Nickel 11-16-03

RONALD NICKEL P. E. 8846-C
12-7109 KALAUNU ST., PAHOA, HI. 96778
PH 965-9911

