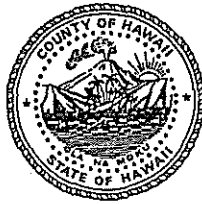


Harry Kim  
Mayor



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 19, 2005

Mr. Clarence Turley III  
34-1236 Mamalahoa Highway  
Ninole, Hawaii 96773

Dear Mr. Turley III:

**SUBJECT: Additional Farm Dwelling Agreement (2005-0038)**  
**Applicants: Clarence Turley III**  
**Land Owner: Clarence Turley III**  
**State Land Use: Agricultural**  
**County Zoning: A-20a**  
**Land Area: 6.469 Acres**  
**Tax Map Key: (3) 3-4-003:056**

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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. Name, address and signature of the landowner.
2. 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:

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

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- (a) Ongoing agricultural activities include:
    - i. The activity is proposed.
  - (b) Proposed agricultural activities include:
    - i. Planting of 180 plumeria, 20 palms and various seasonal fruits and vegetables (including melon, tomatoes, cabbage, zucchini, cucumbers and peppers). The proposal will cover approximately 2 acres of the property.
  - (c) Combined labor man-hours are anticipated to be approximately 40 per week.
3. Applicant's commitment to the farm plan will be shown in the form of the enclosed Additional Farm Dwelling Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.

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 5245) approved on May 17, 1985, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be 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 will be income producing agricultural activity. The applicant is responsible the filing of income and/or excise taxes from the proceeds of the agricultural activity.
4. In addition, the following agencies have submitted their comments as stated below:
  - (a) Department of Water Supply (DWS) (Letter dated March 10, 2005):

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“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.

Therefore, the Department has no objections to the proposed application subject to the applicant understanding and accepting that the Department cannot provide water service to this parcel.

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):

The RPT office did not respond to this application as of this date.

(c) Department of Health (DOH) (Memorandum dated March 17, 2005):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used 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 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.

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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 comply with 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 solely 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 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. The applicant must secure a building permit for the additional farm dwelling within that time. Failure to secure a building permit for this additional farm dwelling on or before April 6, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
7. 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.

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- b. Any dwelling on a water catchment system should also 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.

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

Sincerely,



CHRISTOPHER J. YUEN

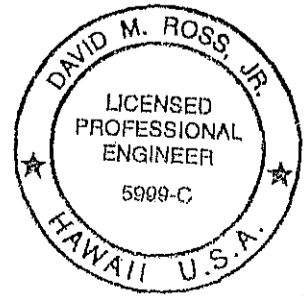
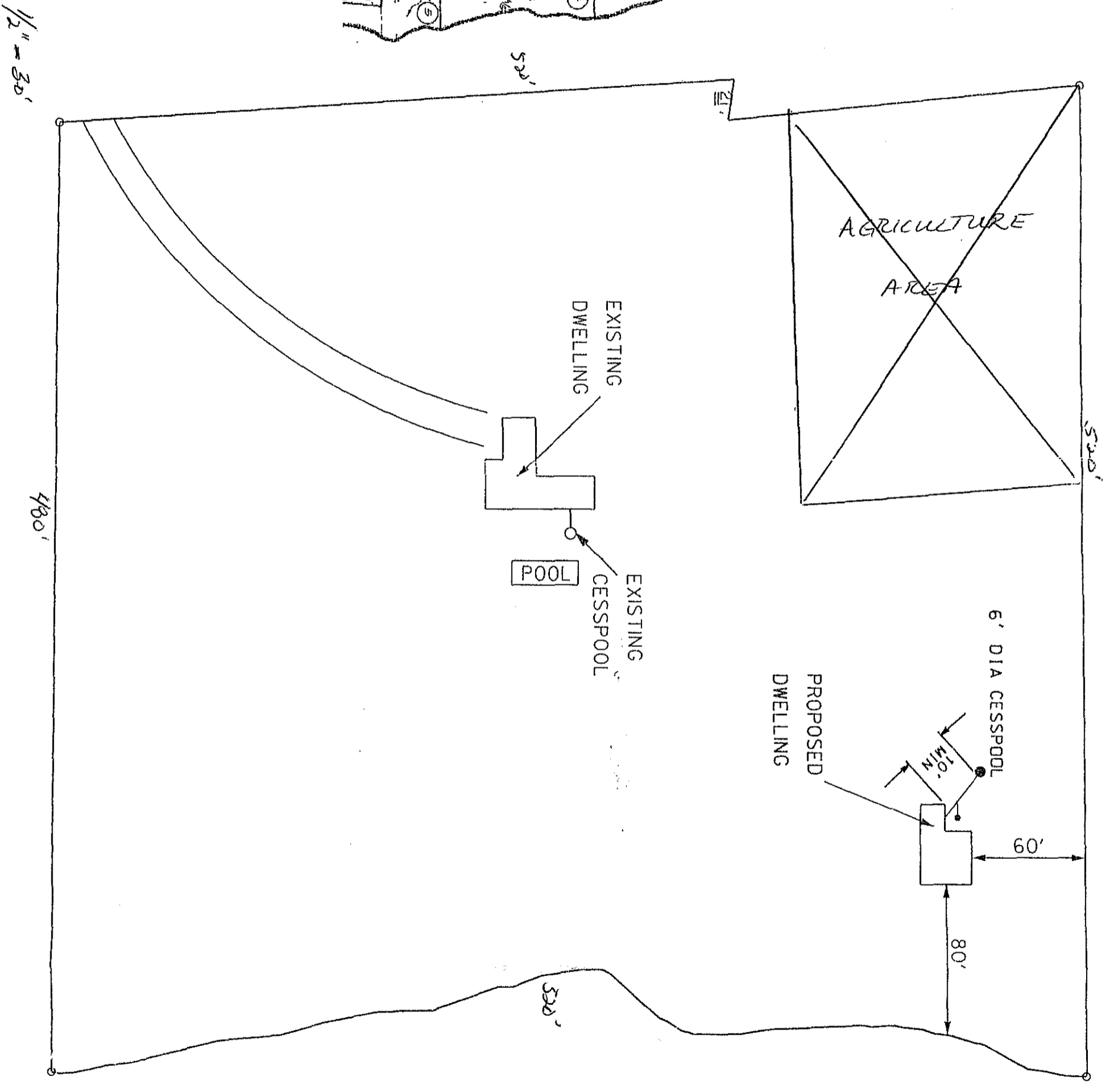
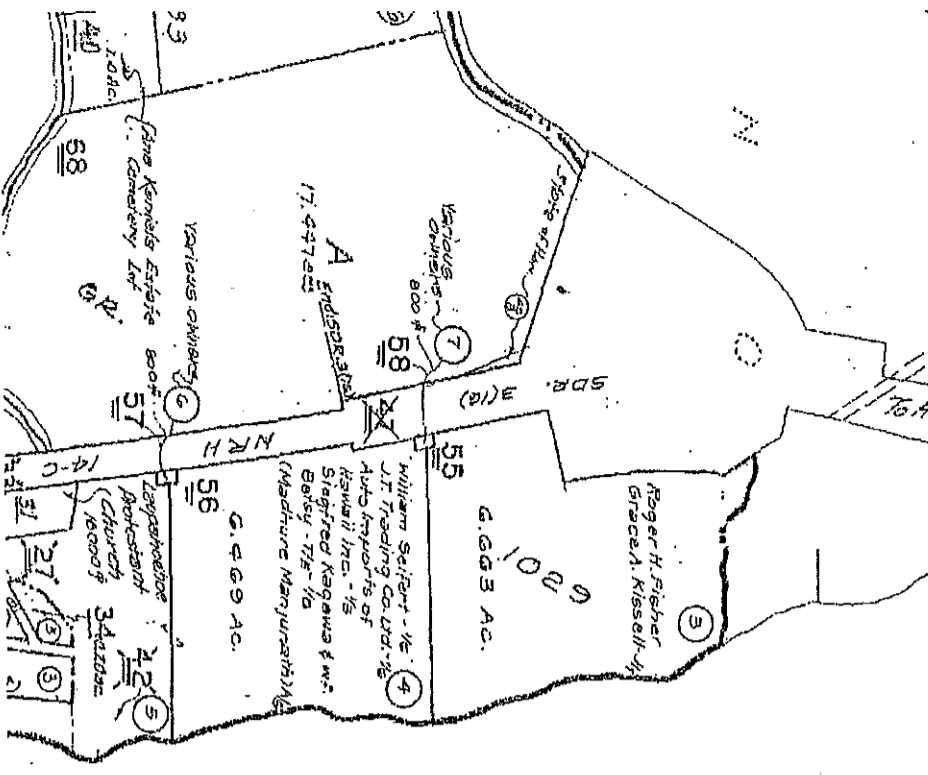
Planning Director

JRH:cd

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Enclosures: AFDA document  
AFDA document instruction sheet

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



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION WILL BE UNDER MY OBSERVATION (AS DEFINED UNDER SEC 16-82-2 OF CHAPER 92).

*David M. Ross, Jr.*  
 ENGINEER DATE 9/14/04

[EXPIRES 30APR06] (ORIGINAL SIGNATURE MUST BE IN RED)

### IWS - SITE PLAN

PROJECT NAME: TURLEY CESSPOOL  
 PROJECT NUMBER: 20504 TMK: (3) 3-4-003:056

ROSS ENGINEERING, INC. DAVID M. ROSS, JR. PE  
 CIVIL ENGINEER  
 77-6219A KAUMALUMALU DR, PHONE (808) 322-7152  
 HOLUALOHA, HI 96725 FAX (808) 322-9501  
 EMAIL: services@rekona.com

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