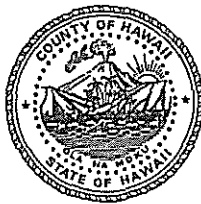


Harry Kim  
Mayor



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

May 10, 2005

Mr. John Hintze and Mrs. Wanda Hintze  
P.O. Box 1599  
Hilo, Hawaii 96721

Dear Mr. and Mrs. Hintze:

**SUBJECT: Additional Farm Dwelling Agreement (2005-0043)**  
**Applicants: John Hintze and Wanda Hintze**  
**Land Owner: Hintze Family Trust**  
**State Land Use: Agricultural**  
**County Zoning: A-5a**  
**Land Area: 18.573 Acres**  
**Tax Map Key: (3) 2-5-006:152**

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. Names, address and signatures of the landowners as trustees.
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.*

**MAY 16 2005**

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(a) Ongoing agricultural activities include:

- i. Clearing of overgrowth of former palm nursery (250 palms in 10,000 sq.ft. shade house). A small tractor and a brush hog/mower have been purchased to up-keep the professionally cleared land. \$13,000 has been expended through this initial start-up phase of the operation.
- ii. There are 3 horses, one cow and a calf in a fenced pasture area on the lot.

(b) Proposed agricultural activities include:

- i. The farm will primarily be devoted to horse breeding and training with some pasture rental for others. There also will be cattle.
- ii. Depending on the outcome of research, there will be some income producing crops. Lavender, peppers, tomatoes and coffee are being considered, along with the further cultivation of palms.

(c) Combined labor man-hours are approximately 28 per week at present with approximately 75 hours at completion.

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 was created by subdivision (SUB 6567) approved on April 5, 1995, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

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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.
4. In addition, the following agencies have submitted their comments as stated below:
  - (a) Department of Water Supply (DWS) (Letter dated April 12, 2005):

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

For your information, an existing 5/8-inch meter services this property and is adequate for only one dwelling unit at an average of 400 gallons per day. This application is proposing an additional detached dwelling, so a second 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 6-inch waterline in Akolea Road, which fronts the subject parcel.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting the following conditions:

1. Installation, by the Department of Water Supply, of a second 1-inch lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons as the existing service is.
2. Installation of two backflow preventers (reduced pressure type) by a licensed contractor on the applicant's property just after each meter. The installation and assembly of the backflow preventers must be inspected and approved by the Department before the water meter can be installed. The backflow preventers shall be operated and maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicant to help them understand this requirement.
3. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (One 2 <sup>nd</sup> Service at \$5,500.00 each)	\$5,500.00
SERVICE LATERAL INSTALLATION CHARGE (Install one meter on a County Road)	\$2,600.00
Total (Subject to change)	\$8,100.00

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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 the subject 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.

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.

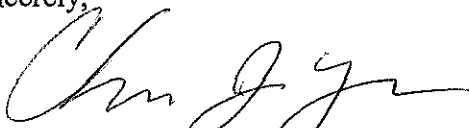
3. The First Party shall comply with all other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25), Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.

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4. Your Additional Farm Dwelling Agreement has been approved based primarily on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (property owners) 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.
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 May 3, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.

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

Sincerely,

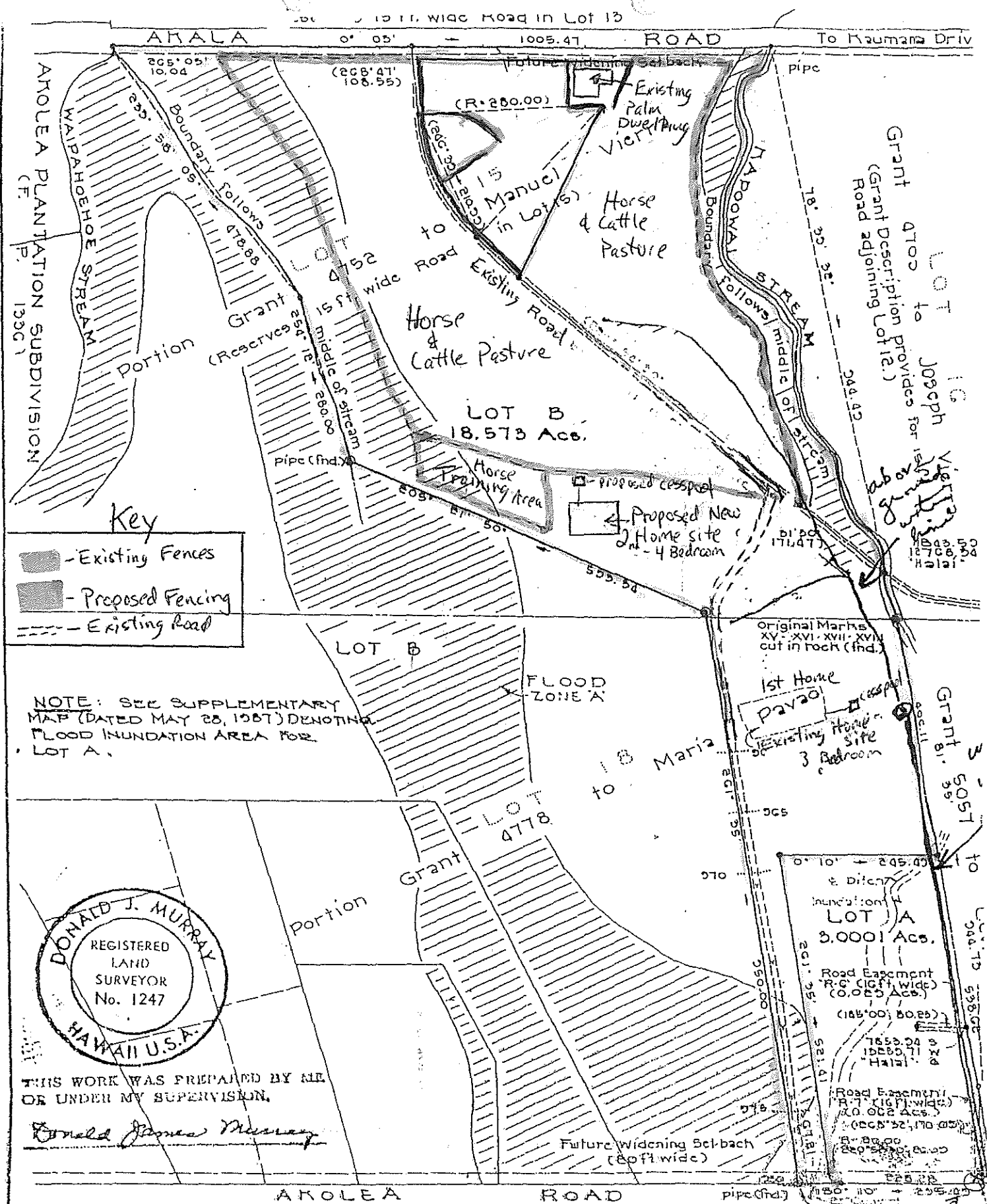


CHRISTOPHER J. YUEN  
Planning Director

JRH:cd  
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Enclosures: AFDA document  
AFDA document instruction sheet

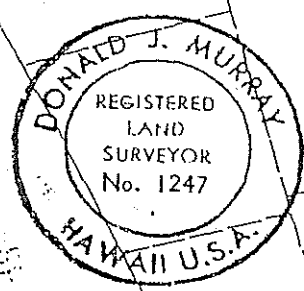
xc: Mr. Milton Pavao, DWS  
Mr. Mike McCall, RPT



Key

- Existing Fences
- Proposed Fencing
- Existing Road

NOTE: SEE SUPPLEMENTARY MAP (DATED MAY 28, 1967) DENOTING FLOOD INUNDATION AREA FOR LOT A.



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION,  
*Donald James Murray*

True North  
 Scale: 1" = 200'

Subdivision of 21.573 Acres

MAP # 940 396 C 3

271 A 4/180

LOT 16  
 to Joseph Victor  
 Grant 4700 to Joseph Victor  
 (Grant Description Lot 12.)  
 Road adjoining Lot 12.)  
*above Joseph Victor*

water meter