

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

March 27, 2008

Mr. Muhammad Yunis
RR2 Box 3918
Pahoa, Hawai'i 96778

Dear Mr. Yunis:

SUBJECT: Additional Farm Dwelling Agreement (FDA-08-000205)
Applicant: Muhammad Yunis
Land Owner: Yunis Family Trust
State Land Use: Agricultural
County Zoning: A-1a
Land Area: 3.071 Acres
Tax Map Key: (3) 1-4-072:038

Thank you for the additional clarifying information, dated March 8, 2008, regarding the agricultural activity on the subject parcel. We acknowledge that our previous perception that the adjoining property was included in your farm plan was in error and apologize for any trepidation that was caused to you.

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 applicant/landowner.
2. A farm plan or evidence of the applicants' 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.

MAR 28 2008

Mr. Muhammad Yunis
Page 2
March 27, 2008

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

(a) Ongoing agricultural activities include:

- i. The activity involves the raising of goats, cows and horses for meat and/or breeding. The applicant is a Doctor of Veterinary Medicine.

(b) Proposed agricultural activities include:

- i. With farm help residing in the Additional Farm Dwelling, the number of animals can be expanded and include chickens for meat and eggs.
 - ii. Additional agricultural activity will also involve the growing of eggplants, sweet small bell peppers, pumpkins and fruit trees (mangos and citrus, etc.)
 - iii. Estimation of man hours is 35 plus per week.
 - iv. Income is estimated to be \$2,500.00 to \$3,500.00 per month when farm is further developed.
3. Applicants' 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 7859) approved on September 23, 2004, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

Mr. Muhammad Yunis

Page 3

March 27, 2008

3. The Farm Plan, evidence of a State of Hawaii General Excise Tax license (#W54568724-01, Tropical Vacation Homes, LLC & subsidiary Kapoho Ranch Farms) 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 that 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 14, 2008):

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is adequate for only one dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department’s 6-inch waterline within Kapoho Kai Drive, fronting 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 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily flow of 600 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2nd service to the parcel
\$5,500.00

SERVICE LATERAL INSTALLATION CHARGE:

Install one meter on Kapoho Kai Drive, a County Road
\$2,600.00

Mr. Muhammad Yunis

Page 4

March 27, 2008

WATER COMMITMENT DEPOSIT CREDIT (WCD):

1 additional unit (paid) @ \$150.00/unit

allowed through simultaneous subdivision withdrawal (150.00)

Total (Subject to change) \$7,950.00

3. Installation of a backflow prevention assembly (reduced pressure type) by a licensed contractor on the applicant's property within five (5) feet of the meter. If the existing meter does not have an approved backflow prevention assembly, the installation of one will also be required as there is existing or proposed agricultural activity on the property. The installation of the backflow prevention assembly must be inspected and approved by the Department before water service can be granted. A copy of our backflow prevention handout is being forwarded to the applicant to help them understand this requirement.

Should there be any questions, please call Mr. Ryan Quitoriano of our Water Resources and Planning Branch at 961-8070, extension 256."

(b) Real Property Tax Office (RPT):

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

(c) Department of Health (DOH) (Memorandum dated February 22, 2008):

"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.

We recommend that you review all of the Standard Comments on our website: www.state.hi.us/health/environmental/env-planning/landuse/landuse.html. Any comments specifically applicable to this project should be adhered to."

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

Mr. Muhammad Yunis

Page 5

March 27, 2008

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.

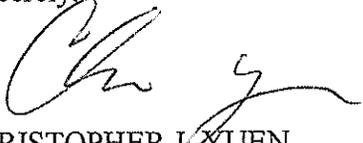
The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.

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.
4. Your AFDA has been approved based on proposed expanded 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 March 8, 2010 may cause the Director to initiate proceedings to invalidate the AFDA.

Mr. Muhammad Yunis
Page 6
March 27, 2008

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

Sincerely,



CHRISTOPHER L. YUEN
Planning Director

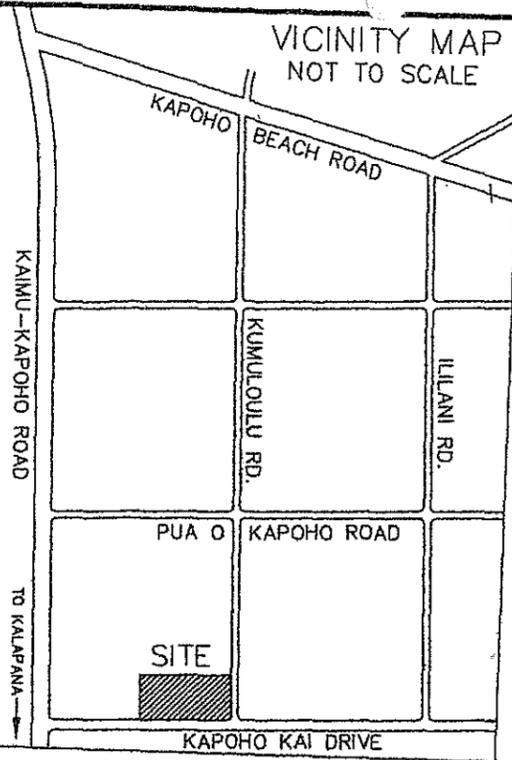
JRH:cs

o:\afda\afdajrh\apvl\yunisapvl.doc

Enclosures: AFDA document
AFDA document instruction sheet

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

VICINITY MAP
NOT TO SCALE



TOTAL AREA: 3.071 ACRES
OWNER: YUNIS FAMILY TRUST
MUHAMMAD & LYNETTE YUNIS, TRUSTEES
RR 2 BOX 3918, PAHOA, HAWAII 96778
ZONE: A-1A

TMK 1-4-72:38

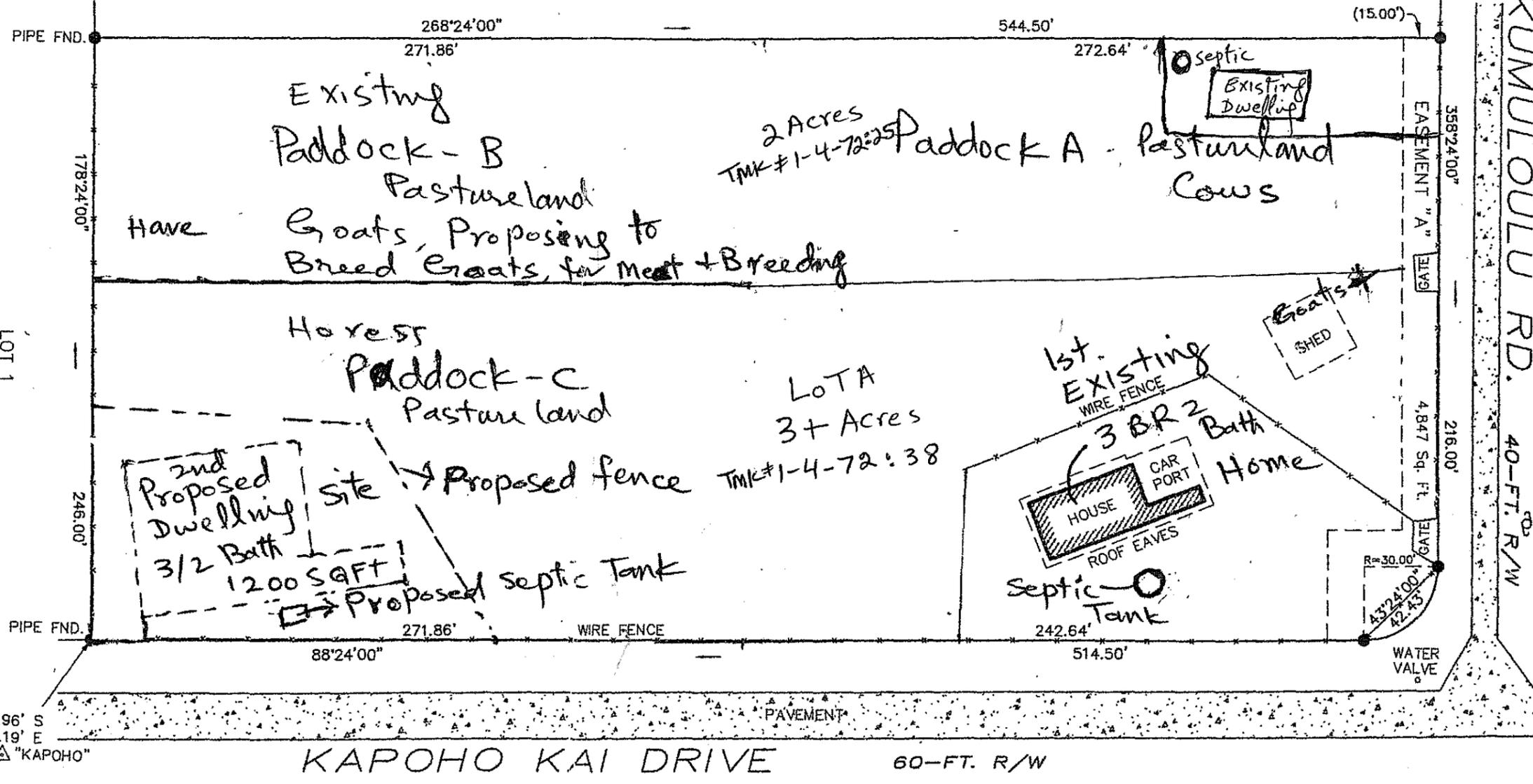
LOT 18-A, VACATIONLAND HAWAII

A PORTION OF ROYAL PATENT 4497 AND
LAND PATENT 8177, LAND COMMISSION AW: 8559,
APANA 5 TO C. KANAINA
KAPOHO, PUNA, HAWAII, HAWAII

Water will be supplied by extending DWS system to each home meeting SDWA standards.

No watercourses or areas of flood inundation on site.

LOT 18-A 3 Acres
YUNIS FAMILY TRUST



Existing Paddock - B
Pastureland
Have Goats, Proposing to Breed Goats for Meat + Breeding

2 Acres
TMK #1-4-72:25 Paddock A - Pastureland Cows

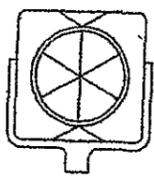
Horses
Paddock - C
Pastureland

2nd Proposed Dwelling site
3/2 Bath
1200 SQFT
Proposed septic Tank

1st. EXISTING
WIRE FENCE
3 BR 2 Bath Home
HOUSE CAR PORT
ROOF EAVES
Septic Tank

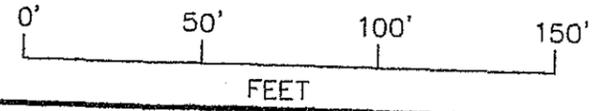


This work was prepared by me or under my direct supervision
Niels Christensen
Niels Christensen
Licensed Professional Land Surveyor
License Number 9077



The Independent Hawaii Surveyors
P.O. BOX 577
Hilo, HI 96721
Phone 808 959-0360
Fax 808 959-0353
info@hawaiiboundary.com

LEGEND
☉ = UTILITY POLE



DATE: Sept. 19, 2007
Drawing: JOB8135
TMK: 1-4-72: 38

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

August 9, 2013

Mr. Muhammad Yunis, Manager
Janet Investment, LLC
RR 2 Box 3918
Pahoa, HI 96778

Dear Mr. Yunis:

**SUBJECT: RECORDED CANCELLATION OF ADDITIONAL FARM
DWELLING AGREEMENT(S)
AFDA: FDA-08-000205
Document No.: A-49131045
Owner(s): JANET INVESTMENT, LLC BY MUHAMMAD YUNIS,
ITS MANAGER
TMK: (3) 1-4-072:025, 038, 041 & 042**

Enclosed for your records please find the original document of the above-referenced Additional Farm Dwelling Agreement for the subject TMK parcel(s), which was recorded with the State Bureau of Conveyances on June 14, 2013. A copy of this document will be maintained in our files at the Hilo office.

Should have any questions, please contact this office at (808) 961-8288.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane Kanuha".

DUANE KANUHA
Planning Director

SHG:nci

p:\admin\permits\division\afda\2008\afda-08-000205\janetinvestment\letmk14072025,038,041&042.doc

Encs.: Recorded AFDA (Original) Document #A-49131045 (June 14, 2013)

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
BUREAU OF CONVEYANCES

DOCUMENT NO. _____

[Doc A-49131045

June 14, 2013 8:02 AM

AFTER RECORDATION, RETURN BY MAIL TO:

Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

TITLE OF DOCUMENT:

**CANCELLATION OF ADDITIONAL FARM DWELLING AGREEMENT(S)
(FDA-08-000205)**

PARTIES TO DOCUMENT:

FIRST PARTY: JANET INVESTMENT, LLC BY MUHAMMAD YUNIS, ITS MANAGER

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 1-4-072:025, 038, 041 & 042

CANCELLATION OF AGREEMENT

THIS CANCELLATION OF AGREEMENT, made and executed this 20th day of May, 2013, by and between **JANET INVESTMENT, LLC** by **MUHAMMAD YUNIS**, its manager , herein called the "First Party," whose mailing address is RR 2 Box 3918, Pahoa, HI 96778, and the **COUNTY OF HAWAI'I**, herein called the "Second Party."

WITNESSETH

WHEREAS, on March 14, 2008 an agreement was entered into by and between the First Party and the Second Party whereby the First Party was authorized to construct an additional farm dwelling on the property described as Tax Map Keys (3) 1-4-072:025, 038, 041 & 042; and

WHEREAS, the subject area is zoned Agricultural (A-1a) by the County of Hawai'i and classified Agricultural by the State Land Use Commission; and

WHEREAS, the agreement to construct said improvements was duly recorded with the State of Hawai'i Bureau of Conveyances as Document Number 2008-063995; and

WHEREAS, the subject properties have since been subdivided; and

WHEREAS, the First Party and the Second Party agree that execution of said agreement should be cancelled as there is no longer any valid, compelling reason for it because only a maximum of one dwelling is located on any of the resultant lots.

NOW, THEREFORE, in consideration of the above recitals and the conditions and covenants contained therein, the parties agree as follows:

The Second Party agrees that the agreement dated March 14, 2008, recorded at the State of Hawai'i Bureau of Conveyances as Document Number 2008-063995, between the First Party and the Second Party is no longer applicable and that the agreement is hereby declared null and void.

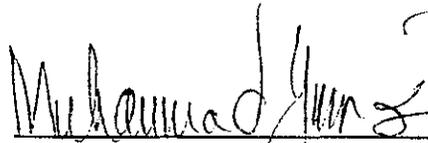
The Second Party agrees that the agreement dated March 14, 2008 no longer constitutes covenants or encumbrances running with the land as it relates to Tax Map Keys (3) 1-4-072:025, 038, 041 & 042.

The First Party agrees to pay for all of the necessary costs and expenditures to record this Cancellation of Agreement.

IT IS MUTUALLY AGREED BY AND BETWEEN the parties that if any additional documents are necessary that they will execute same in order that the agreement dated March 14, 2010 no longer constitutes an encumbrance on Tax Map Key (3) 1-4-072:025, 038, 041 & 042.

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

FIRST PARTY:



JANET INVESTMENT, LLC Legal Owner
by MUHAMMAD YUNIS, its Manager

SECOND PARTY:



BJ LEITHEAD TODD, Planning Director
County of Hawai'i Planning Department

STATE OF HAWAII)

) SS:

COUNTY OF HAWAII)

On this 10th day of May 2013, before me personally appeared **MUHAMMAD YUNIS, MANAGER OF THE JANET INVESTMENT TRUST** to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

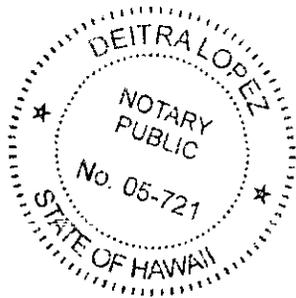
[Handwritten Signature]

Notary Public, State of Hawaii

Deitra Lopez

11/27/2013

My commission expires:



Doc. Date: May 10, 2013 # Pages 5

Notary Name: Deitra Lopez Third Circuit

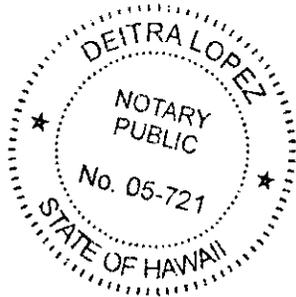
Doc. Description: Cancellation of Additional Farm deed by

[Handwritten Signature]

05/10/13

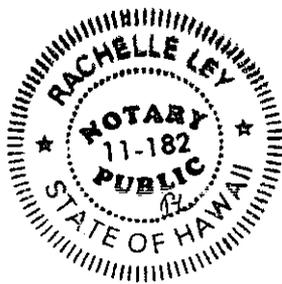
Notary Signature

Date



STATE OF HAWAI'I)
) SS.
 COUNTY OF HAWAI'I)

On this 20th day of May 2013, before me personally appeared BJ Leithead Todd, to me personally known, who, being by me duly sworn, did say that BJ Leithead Todd is the Planning Director of the County of Hawai'i, and that the Planning Department of the County of Hawai'i has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawai'i, a government agency, and said BJ Leithead Todd acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawai'i.



Rachelle Ley

 Rachelle Ley

Notary Public, State of Hawai'i
 Third Judicial Circuit

My Commission Expires: June 12, 2015

Document Date:	<u>May 20, 2013</u>	No. of Pages:	<u>6</u>
Notary Name:	<u>Rachelle Ley</u>		<u>Third Judicial Circuit</u>
Doc. Description:	<u>Cancellation of Additional Farm Dwelling Agreement</u>		
	<u>FDA-08-000205</u>		
	<u>Tax Map Key (3) 1-4-072:025, 038, 041 & 042</u>		
<i>Rachelle Ley</i> Notary Signature		<u>MAY 20 2013</u>	Date

