

6-4-01:5  
363

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RECORDATION REQUESTED BY:

89 140878

AFTER RECORDATION, RETURN TO:  
Planning Department  
County of Hawaii  
25 Aupuni Street  
Hilo, HI 96720

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECEIVED FOR RECORD

RETURN BY: Mail (X) Pickup ( )

1989 SEP 15 AM 11:57  
23648 320  
LIBER/PG  
ARCHIE K. VIELA, REGISTRAR

FARM DWELLING AGREEMENT

WHEREAS, Hirako Farms, Inc.,

(hereinafter "Owner"), whose residence mailing address is

P.O. Box 297 Kamuela, Hawaii 96743

\_\_\_\_\_, desires to enter into an agreement with the PLANNING DEPARTMENT of the County of Hawaii (hereinafter "County"); and

WHEREAS, there exists a single family dwelling on land which is within the exclusive use, possession, and control of Owner and which is legally described as follows:

TMK: 6-4-01:5 Lots 31 & 32  
Containing a land area of 19.44 acres  
Grant 4978  
Puukapu Homesteads, 1st Series  
Waimea, South Kohala, Hawaii

and zoned Agricultural (A-5a)

by the County of Hawaii and classified within an agricultural district by the State Land Use Commission; and

WHEREAS, Owner seeks the County's approval for the construction of an additional single family dwelling (hereinafter "farm dwelling") on the property described above; and

WHEREAS, Owner intends to conduct substantial agricultural activity on the subject property in furtherance of the State Land Use policies relating to agricultural land and has commenced initial agricultural activity which, if pursued, will develop into a viable and substantial undertaking.

NOW, THEREFORE, IT IS AGREED that the County's approval is given and accepted, subject to the following conditions:

1. The farm dwelling shall be used to provide shelter only to persons conducting agricultural activity on the subject land; and
2. The existing dwelling shall be used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling as defined in Section 15-15-03, Subchapter 1 of the Hawaii Land Use Commission Rules; and
3. Owner grants to the County the right-of-entry, after reasonable notice, for inspection of the premises to assure compliance with provisions of this agreement; and
4. This agreement shall run with the land and bind Owner's heirs, successors, and assigns with regard to the future use of the dwellings above described; and
5. The County's approval of the construction of the farm dwelling by this agreement shall be effective only until the agricultural activity ceases to exist, unless otherwise extended pursuant to Owner's written request prior to the above termination date. After such timely request, the County shall extend its approval upon the

terms of this agreement only if it determines that the agricultural activity that is being conducted is viable, substantial in income production, and conforms to the applicable provisions of the State Land Use District regulations and policies; and

6. Owner shall record this agreement with the State of Hawaii Bureau of Conveyances and shall furnish a recorded copy of it to the County's Planning Department within six (6) months from the date of approval of the building permit for the farm dwelling; and

7. Failure of Owner to abide by this agreement shall result in the immediate removal of the farm dwelling by Owner at Owner's expense upon demand by County. Upon Owner's failure to remove the farm dwelling within one month after demand is made by the County, the parties agree that this agreement will be a nullity and the County may treat the additional farm dwelling as a violation of Chapter 205, Hawaii Revised Statutes, as amended, and applicable ordinances then in existence. This enforcement provision shall be binding on Owner's heirs, devisees, successors, and assigns.

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, rules, and regulations change to authorize said dwelling, upon request of the undersigned, this agreement may be reconsidered for possible amendment and/or severance.

IN CONSIDERATION OF THE AFORESAID, the County hereby accepts this agreement as being in conformity with Section 15-15-25, Subchapter 3 of the Hawaii Land Use Commission Rules and Chapter 205, Hawaii Revised Statutes, as amended, relative to permitted uses within the Agricultural District.

IN WITNESS WHEREOF, the undersigned parties have caused this instrument to be executed on the 1st day of September, 1989.

Kujotengu Hirako  
President

"Owner"

COUNTY OF HAWAII, through its Planning Department,

By Amie Gordon  
Its Planning Director

STATE OF HAWAII )  
                          ) SS:  
COUNTY OF HAWAII )

On this 1st day of September, 1989, before me personally appeared KIYOTSUGU (HIRAKU) to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he/she/they executed the same, by signing, and delivering the same, as his/her/their free act and deed.

Marilyn P. Baranick  
Notary Public, Third Judicial Circuit, State of Hawaii  
My commission expires 11-14-91

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STATE OF HAWAII )  
 ) SS:  
COUNTY OF HAWAII )

On this 8<sup>th</sup> day of September, 1989, before me personally appeared Deane Kanaha to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the Planning Department of the County of Hawaii; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a governmental agency, and said Deane Kanaha acknowledged said instrument to be the free act and deed of said Planning Department, County of Hawaii.  
*said Department has no seal*

Amy C. Bigada  
Notary Public, Third Judicial  
Circuit, State of Hawaii  
My commission expires 11/25/89