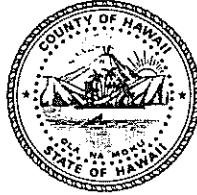


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

November 8, 2000

Mr. Christian Sieber
Wainani Farms Corporation
P.O. Box 955
Pepeekeo, HI 96783

Dear Mr. Sieber:

Additional Farm Dwelling Agreement
Applicant: Wainani Farms Corporation
Land Owner: Christian Sieber
Tax Map Key: 2-9-004:035

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 submittal included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the proposed Additional Farm Dwelling Agreement.
2. Name and address of the landowner or lessee, 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 if the request is filed by the lessee.
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 additional farm dwelling is needed in connection with the agricultural productivity or farming operation.

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Mr. Christian Sieber
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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, 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 Farm Plan, GE Tax License (ID number 10570099), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is agricultural activity and that income from your agricultural activity is being taxed.
3. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Memorandum dated August 30, 2000):

"We have reviewed the subject application and have the following comments.

For your information, there is an existing 1-inch service lateral for a 5/8-inch meter to service the subject property, which is adequate for only one dwelling at 600 gallons per day. The service lateral is on chin Chuck Road, approximately 5,300 feet away. The meter was removed in February 1995 and no one has applied for service since then. The water availability conditions for this water system are such that only one service is available for each lot of record. No additional water is available at this time for the proposed additional farm dwelling.

As this lot was created with water variance No. 869, the Department has no objections to the application subject to the applicant being responsible for following the conditions of the approved variance. This means that the

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additional farm dwelling cannot be hooked up to the existing departmental water service and must be on a catchment system.

Should there be any questions, please contact our Water Resources and Planning Branch at 961-8665.”

(b) Real Property Tax Office:

No comments.

(c) Department of Health:

No comments.

Decision:

In view of the above, your request to construct a second farm dwelling is approved subject to the following conditions:

1. The second farm dwelling shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site.
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. 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. Building Permit (BP) #001341, for the storage/potting shed, and Grading Permit #004964, for excavation of the pond, must receive final inspection and be closed before this Department will approve a BP for the additional farm dwelling.
5. In reference to the Department of Water Supply's comment (**concerning the catchment system**), may we suggest the following:

Christian Sieber
Wainani Farms Corporation
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- (a) Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 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.
- (b) Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department.

The Planning Director has completed the appropriate portions of the enclosed Additional Farm Dwelling Agreement. **You must record this approved Additional Farm Dwelling Agreement with the State Bureau of Conveyances and/or Land Court within thirty days of receipt of this approval.** In sending this document out for recordation, please note the following:

1. The original and one copy of the document must be submitted for recordation.
2. A check in the amount of \$25.00 to cover the recordation fee should be made out to the State of Hawaii, Bureau of Conveyances and attached to the Agreement. Their address is as follows:

State of Hawaii
Bureau of Conveyances
P.O. Box 2867
Honolulu, HI 96803

3. Also required is a self-addressed stamped envelope to have the recorded document returned to you.

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You must submit a copy of the recorded Farm Dwelling Agreement to the Planning Director prior to approval of the building permit for the farm dwelling.

Should you have questions or require further information, please feel free to contact Larry Brown of my staff at 961-8288.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

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Enclosure

xc: Mr. Milton Pavao, DWS
Mr. Frank Manalili, Finance Department

2-9-4-35

2001 JAN 8 AM 11 23
PLANNING DEPARTMENT
COUNTY OF HAWAII

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

BUREAU OF CONVEYANCES
DATE: DEC 28 2000 TIME 802
DOCUMENT NO: 2000-183216

AFTER RECORDATION, RETURN BY MAIL (X) PICK-UP ()

Christian Sieber, President
Wainani Farms Corporation
Box 955
Pepeekeo, HI 96783

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Wainani Farms Corporation
County of Hawaii

PROPERTY DESCRIPTION:

TMK: (3) 2-9-004:035

000131

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 5th day of July, 2000,
by and between Wainani Farms Corporation herein called the
"First Party," whose mailing address is Box 395 Pepeekeo HI 96783

and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling
located on the property described by Tax Map Key 2-9-4:35
situated within the State Land Use Agricultural district
and zoned A-10a by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the lessee
(legal owner/lessee)
of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct an additional farm
dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to only person(s)
involved in the agricultural or farm-related activity on the building site.
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. The landowner or lessee shall record the approved Additional Farm Dwelling
Agreement with the State of Hawaii, Bureau of Conveyances and/or with the

Land Court System within thirty days from the date of receipt of approval. A copy of the recorded Additional Farm Dwelling Agreement shall be submitted to the Planning Director of the County of Hawaii prior to approval of the building permit.

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 imposed 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

Christian Sieber Eiler
(Legal Owner)

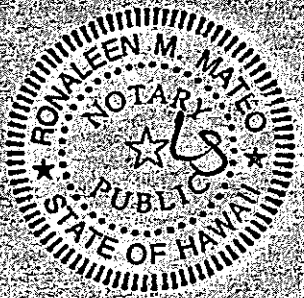
Wai'anae Farms Corporation Eiler pres.
(Lessee) 100% own

SECOND PARTY

Virginia Grubbs
Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 13 day of July, 2000 before me personally
appeared Christian Sieber, to me known to be the person
described in and who executed the foregoing instrument, and acknowledged that he she
executed the same as his her free act and deed.



Ronaleen M. Mateo
Notary Public, State of Hawaii
RONALEEN M. MATEO

My commission expires: July 25, 2003

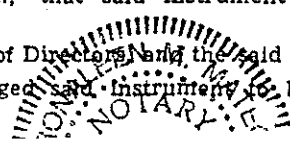
STATE OF HAWAII }
COUNTY OF HAWAII } SS.

On this the 13 day of July, 2000, before me
appeared Christian Sieber

to me personally known, who being by me duly sworn did say that he is President
are


of Wainani Farms, Corporation
an Hawaiian corporation, and ~~that the seal affixed to the foregoing instrument is the corporate seal of said corporation;~~ that said instrument was signed and sealed in behalf of said corporation by authorization of
its Board of Directors and the said President
acknowledged and instrument is be the free act and deed of said corporation.

Agreement Application dated



STATE OF HAWAII)
)
COUNTY OF HAWAII) SS:

On this 1ST day of NOVEMBER, 2000, before me personally appeared Virginia Goldstein to me personally known, who, being by me duly sworn, did say that ~~he~~/she 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 Virginia Goldstein acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.



NOTARY PUBLIC, State of Hawaii
Patricia A. Koga
My commission expires: 7/17/02

