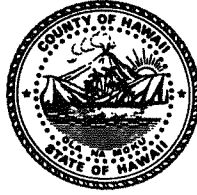


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

August 30, 2000

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

Mr. Colin J. Cornelius
P. O. Box 672
Kapaau, Hawaii 96755

Dear Mr. Cornelius:

Additional Farm Dwelling Agreement
Applicant: COLIN J. CORNELIUS
Owners: COLE J. & NANCY L CORNELIUS
BRUCE W. EBY, JENNIFER VAN SWAE
Tax Map Key: 5-5-003:010

Pursuant to authority conferred to the Planning Director in Ordinance 96-160, 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:

- a. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the proposed Additional Farm Dwelling Agreement.
- b. 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.
- c. Written authorization of the landowner.
- d. A farm plan of the applicant's continual agricultural productivity or farming operation within the County. The plan shows how the farm dwelling will be utilized for engagement in agricultural productivity or farming operation.
- e. The Real Property Tax Clearance form certified on July 31, 2000, that the owner of record has paid all property taxes up to and including the June 30, 2000 payment.

009926

SEP 13 2000

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 farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling.
2. The Farm Plan 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 is being/will be taxed.
3. In addition, the following agencies have submitted their comments as stated below:
 - a. The Department of Health Memorandum dated August 3, 2000, states:

"The subject lot(s) is located in a Non-Critical Wastewater Disposal Area where cesspools are allowed under the current rules. More than one cesspool is allowed provided 10,000 sq. ft. per cesspool is available. Each cesspool can dispose of 1,000 gallons per day of wastewater."
 - b. The Department of Water Supply Memorandum dated August 16, 2000, states:

"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 at 600 gallons per day.

"In as much as this application is proposing an additional dwelling the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. However, the water availability conditions in this area cannot support an additional water meter at this time. A second service would be available in the third

August 30, 2000

quarter of next year once the Department's project, *North Kohala Water Improvements, Job No. 97-690*, is complete.

"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 service 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. This meter shall be applied for once the Department's project, *North Kohala Water Improvements, Job No. 97-690*, is complete.
- "2. Installation of a backflow preventer (reduced pressure type) by a licensed contractor on the applicant's property just after the meter. The installation and assembly of the backflow preventer must be inspected and approved by the Department before the water meter can be installed. The backflow preventer 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:
 - a. Facilities Charge
(One 2nd service at \$3,375.00 each) \$3,375.00
 - b. Service Lateral Installation Charge
(Install one meter on Hawi Road,
a State highway) 1,900.00Total (Subject to Change) \$5,275.00
- "4. Should this application be approved, both dwellings must **not** share the existing meter while waiting until the second meter is installed.

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

August 30, 2000

- c. The Real Property Tax Office Memorandum dated July 13, 2000, states:

"Comments from the appraisal section: There are no rollback tax consequences.

"Comments from the collection section:

Status of real property taxes: Current.

"Remarks: Real Property taxes are paid through June 30, 2000."

- d. The Real Property Tax Office Letter dated August 1, 2000, states:

"This letter can be used as verification of the current agricultural use as fenced pasture for grazing animals. This parcel is assessed annually under the standard 'Agricultural Use' program, and has been in pasture ag. Use for many years. The conversion to some orchard and continuation of pasture clearly meets the requirement for continued agricultural use of the land.

"Please let me know if I can be of further service in assisting with the application for the Additional Farm Dwelling Agreement."

4. The subject parcel was issued the following building permit:

- a. Building Permit No. 000022 was issued on January 4, 2000, for a single family dwelling consisting of a kitchen, 1 bedroom, 1 bath, storage, office and screened porch. This permit remains open.
- b. Building Permit No. 001125 was issued on August 15, 2000 to move a teacher's cottage consisting of 1 bedroom and 2 baths. This cottage was moved from Tax Map Key: 5-4-007:008. A separate permit is required to set and occupy the structure.

Decision:

In view of the above, your request to construct an additional farm dwelling is approved 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.

August 30, 2000

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. This Farm Dwelling Unit Permit is subject to all other applicable rules, regulations, and requirements of the Planning Department, including but not limited to those of the Zoning Code (Chapter 25, Ordinance No. 96-106, Effective: December 7, 1996); Department of Public Works; Department of Water Supply; Fire Department; State Department of Health; and other reviewing agencies/divisions listed on the Building Permit Application.

As stated in the Department of Water Supply's comments, a second meter will be available in the third quarter of next year to service this additional farm dwelling. Please coordinate with this agency to fulfill this requirement.

The Planning Director has completed the appropriate portions of the 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 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.

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

Please accept our sincere apologies for this tardy response to your request to construct an additional farm dwelling. Your patience is appreciated.

Mr. Colin J. Cornelius

Page 6

August 30, 2000

Should you have any questions or require further information, please feel free to contact Eleanor Mirikitani of our Kona office at 327-3510.

Sincerely,



J VIRGINIA GOLDSTEIN
Planning Director

PLH:rld

a:\55003010\corneliusfdaapp.doc

Enclosure

xc: West Hawaii Office

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

Cole Cornelius
13400 Saddle Rd
Glen Ellen, CA 95442

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Cole J. Cornelius
Nancy L. Cornelius

Bruce W. Eby
Jennifer Van Swae

PROPERTY DESCRIPTION:

5-5-03: 10

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 27th day of June, 2000,
by and between Bruce W. Eby, Jennifer Van Swae, and Cole and Nancy Cornelius herein called the
"First Party," whose mailing address is 13400 Saddle Rd., Glen Ellen, CA 95442

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 5-5-03: 10
situated within the State Land Use A-20a district
and zoned Agriculture by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the Legal Owners
(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.

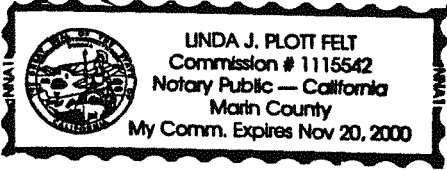
IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

STATE OF ~~HAWAII~~ ^{California} _{en}
COUNTY OF ~~HAWAII~~ ^{MARICOPA} _{en}) SS.

On this 27th day of June, 2000 before me personally
appeared BRUCE W. EBY, to me known ^{on the basis of satisfactory evidence} to be the person _{en}
described in and who executed the foregoing instrument, and acknowledged that he/she
executed the same as his/her free act and deed.



Notary Public, State of Hawaii ^{California}



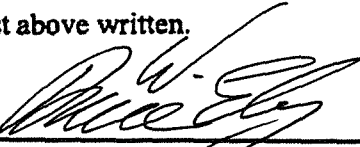
My commission expires: November 20, 2000

Attached to
Additional Form Dwelling Agreement

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year

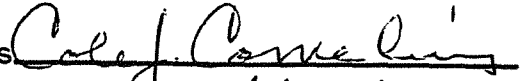
first above written.

Bruce W. Eby

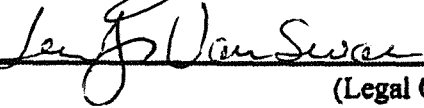


FIRST PARTY

Cole J. Cornelius



Jennifer Van Swae



Nancy L. Cornelius



(Legal Owner)

(Lessee)

SECOND PARTY



Planning Director

Daryn S. Arai

County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 22nd day of June, 2010 before me personally appeared Jennifer Van Swae, 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.

LS

Jillie A. Akin
Notary Public, State of Hawaii
450 800 Akin

My commission expires: 12/30/2010

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 22nd day of June, 2000 before me personally
appeared Eric J. Cornelius, 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.

Jolene Allman
Notary Public, State of Hawaii

~~Commission Expires~~

LS

My commission expires: 12/16/2000

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 30th day of August, 2000, before me personally appeared Darzyn S. Arai, to me personally known, who, being by me duly sworn, did say that he/she is the authorized representative of the Planning Department 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 Darzyn S. Arai, acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.



Notary Public, State of Hawaii
Eleanor Mirikitani

My commission expires: 1/3/2003

LS.

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

BUREAU OF CONVEYANCES

DATE Doc 2010-150136
OCT 06, 2010 02:00 PM
DOCUMENT NO. _____

REGULAR SYSTEM: _____

LAND COURT SYSTEM: _____

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

PARTIES TO DOCUMENT:

FIRST PARTY:

**COLE J. CORNELIUS (TRUSTEE OF THE
CORNELIUS 1996 INTERVIVOS TRUST)**

**BRUCE W. EBY (TRUSTEE OF THE BRUCE
W. EBY 2007 TRUST)**

SECOND PARTY:

COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 5-5-003:010

CANCELLATION OF AGREEMENT

THIS AGREEMENT made and executed this 20th day of August, 2010, by and between COLE J. CORNELIUS (TRUSTEE OF THE CORNELIUS 1996 INTERVIVOS TRUST) AND BRUCE W. EBY (TRUSTEE OF THE BRUCE W. EBY 2007 TRUST), herein called the "First Party," whose property address is 55-564 Old Maliu Road, Kohala, Hawai'i 96719 and the COUNTY OF HAWAI'I, herein called the "Second Party,"

WITNESSETH

WHEREAS, on June 27, 2000, an agreement was entered into by and between the Owner and the County whereby the Owner was authorized to construct a farm dwelling (being the second dwelling) on the property described as Tax Map Key (3) 5-5-003:010 and

WHEREAS, the subject area is zoned Agricultural (A-10a) 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 on November 28, 2000 as document number 2000-166592 and

WHEREAS, the First Party (successors to the property) 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 the property is subdivided thereby leaving only one dwelling on each resultant lot.

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

The County agrees that the agreement dated June 27, 2000, recorded at the State of Hawai'i Bureau of Conveyances, on November 28, 2000 as document number 2000-166592

between the Owner and the County is no longer applicable and that the agreement is hereby declared null and void.


The Second Party agrees that the agreement dated June 27, 2000 no longer constitutes a covenant or encumbrance running with the land as it relates to Tax Map Keys (3) 5-5-003:010.

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 June 27, 2000 no longer constitutes an encumbrance on Tax Map Key (3) 5-5-003:010.

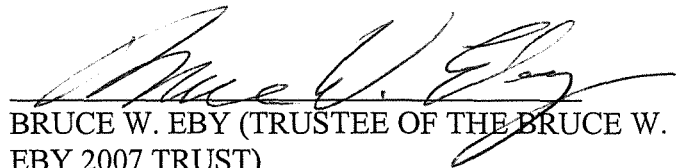
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY



COLE J. CORNELIUS (TRUSTEE OF THE
CORNELIUS 1996 INTERVIVOS TRUST)

FIRST PARTY



BRUCE W. EBY (TRUSTEE OF THE BRUCE W.
EBY 2007 TRUST)

SECOND PARTY:



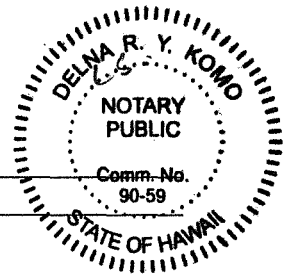
BJ Zeithhead Todd, Planning Director
County of Hawai'i Planning Department

STATE OF HAWAII)
) ss.
 COUNTY OF HAWAII)

On this 20th day of August, 2010, before me personally appeared COLE J. CORNELIUS (TRUSTEE OF THE CORNELIUS 1996 INTERVIVOS TRUST) and BRUCE W. EBY (TRUSTEE OF THE BRUCE W. EBY 2007 TRUST), to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed.

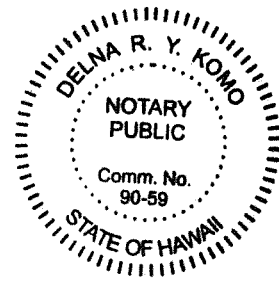
Delna R. Y. Komo

Name: Delna R. Y. Komo
 Notary Public
 State of Hawaii



My commission expires: 2-6-2014

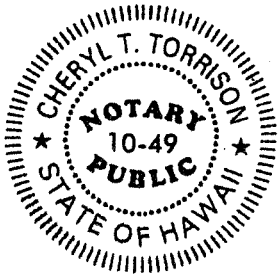
<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description:	Cancellation of Additional Farm Dwelling Agreement
Document Date:	<u>August 20, 2010</u>
No. of Pages:	<u>6</u>
Jurisdiction (in which notarial act is performed):	Third Circuit
<i>Delna R. Y. Komo</i>	August 10, 2010
Signature of Notary	Date of Notarization and Certification Statement
Delna R. Y. Komo	
Printed Name of Notary	



(Notary Stamp or Seal)

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

On October 4, 2010, 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 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 BJ Leithead Todd acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.



Cheryl T. Torrison
CHERYL T. TORRISON
Notary Public, State of Hawai'i

My Commission Expires: 03-07-2014

Doc. Date: <u>August 20, 2010</u>	# Pages: <u>6</u>
Notary Name: Cheryl T. Torrison	Third Circuit
Doc. Description: Cancellation of Additional Farm Dwelling Agreement Cole J Cornelius (Trs of the Cornelius 1996 Intervivos Tr) Bruce W. Eby (Trs of the Bruce W Eby 2007 Tr) TMK 5-5-003:010	
<u>Cheryl T. Torrison</u> Notary Signature	<u>10/4/2010</u> Date

