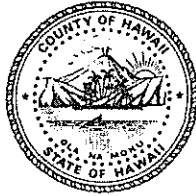


Stephen K. Yamashiro
Mayor



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

August 8, 2000

Mr. & Mrs. Abraham Mahuna, Jr.
250-A Alaloa Road
Hilo, HI 96720

Dear Mr. & Mrs. Mahuna:

Additional Farm Dwelling Agreement
Applicant: Abraham Mahuna Jr. & Sherrie K. Tulang Mahunā
Land Owner: Gerald R. Tulang
Tax Map Key: 2-4-032:022

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.
5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax Return for July 1999 to December 1999 has also been presented.

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Mr. & Mrs. Abraham Mahuna, Jr.

Page 2

August 8, 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 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 Return (ID number 30058498), 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 taxed.
3. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Memorandum dated August 1, 2000):

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

For your information, an existing 1-inch service lateral services this property and no service has been applied for as of this writing. The 5/8-inch meter that will be installed, once applied for, is adequate for only one dwelling at 600 gallons per day. This application is proposing an additional detached dwelling, so the installation of a separate 5/8-inch meter by the applicant is required in accordance with Department regulations. Water is available from the 4-inch waterline in Alaloa Drive, 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 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.
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

Mr. & Mrs. Abraham Mahuna, Jr.
Page 3
August 8, 2000

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 Alaloa Road, a County road) +1,200.00
- Total (Subject to Change) \$4,575.00**

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

- (b) Real Property Tax Office (Memorandum dated July 6, 2000):

Property is receiving agricultural use value.

Real Property taxes are paid through June 30, 2000.

- (c) Department of Health (Memorandum dated June 30, 2000):

The subject lot is located in a Critical Wastewater Disposal Area. Under the current rules, a lot size of one (1) acre or more is required for the use of a cesspool to serve 1,000 gallons per day or 5 bedrooms. Only one (1) cesspool would be allowed on the lot. A septic tank system would be needed if a second disposal system is needed on this lot.

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.

Mr. & Mrs. Abraham Mahuna, Jr.

Page 4

August 8, 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. 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.

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.

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.


Mr. & Mrs. Abraham Mahuna, Jr.

Page 5

August 8, 2000

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

LMB:

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Enclosure

xc: Mr. Milton Pavao, DWS
Mr. Spencer Kalani Schutte, Finance Department

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

BUREAU OF CONVEYANCES
DATE **SEP 11 2000** TIME **402**
DOCUMENT NO. **2000-126363**

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

Sherry K. Tulang Mahuna
250-A Alaloa Road
Hilo, HI 96720

TITLE OF DOCUMENT:

Additional Farm Dwelling Agreement

PARTIES TO DOCUMENT:

Gerald R. Tulang, Abraham Mahuna, Jr., and Sherry K. Tulang Mahuna
County of Hawaii

PROPERTY DESCRIPTION:

TMK: (3) 2-4-032:022

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this _____ day of _____, 20____,
by and between Gerald R. Tulang, Abraham Mahuna, Jr., Sherry K. Tulang Mahuna, herein called the
"First Party," whose mailing address is 250-A Alaloa Road

Hilo, HI 96720

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 2-4-32:22
situated within the State Land Use Agriculture district
and zoned Agriculture by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner/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

x Gerald R. Tuohy
(Legal Owner)
Sharon Mahana Jr.
Therrie K. Luong Makua
(Lessee)

SECOND PARTY

Vivian Anderson
Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 12th day of June, 2000 before me personally
appeared Abraham Mahuna, Jr, 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.

Lianne Inoue
Notary Public, State of Hawaii
2nd Judicial

LS

My commission expires: Feb 6 2004

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 16th day of Jan, 2000 before me personally
appeared Gerald R. Tulang, 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.

[Signature]
Notary Public, State of Hawaii

My commission expires: 03-05-01

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 1st day of June, 19²⁰⁰⁰06-10, before me personally
 appeared Sherrie K Tulang - Mahuna, 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.

L.S

Carla N. Seki
 Notary Public, State of Hawaii

My commission expires: 10-6-2002

Scanned Map
Unavailable
Due to Size

See File

