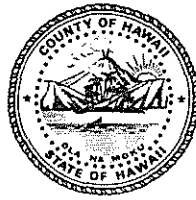


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

November 5, 2001

Klaus D. Conventz, B.D.B., M.S.
Baumeister Consulting
P.O. Box 2308
Kailua-Kona, Hawaii 96745-2308

Dear Mr. Conventz:

Additional Farm Dwelling Agreement

Applicant: Patricia P. Pearlman

Land Owner: Patricia P. Pearlman

Tax Map Key: (3) 8-4-005:047

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 client's request for an additional farm dwelling on the subject property. Your submittals included the following information:

1. A notarized affidavit that the additional dwelling shall be used for farm-related purposes in the form of the enclosed Additional Farm Dwelling Agreement to be submitted for recordation with the Bureau of Conveyances.
2. Name and address of the landowner(s) or lessee(s), 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(s) if the lessee filed the request.
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.

Exhibit A

Klaus D. Conventz, B.D.B., M.S.
Baumeister Consulting
Page 2
November 5, 2001

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

(a) Ongoing agricultural activities include the following:

- i. Approximately 680 mature coffee trees with sales of parchment for the year 2000 in the amount of approximately \$11,300.00.

(b) Proposed agricultural activities include the following:

- i. A harvest of approximately 11,560 lbs. of coffee cherry in the year 2001 from the existing mature trees to be processed by applicant for sale as certified organically grown roasted coffee with estimated sales of \$45,900.00;
 - ii. The planting of an additional 26 coffee trees;
 - iii. Approximately 50 mature banana trees with the sale of bananas and stalks estimated at \$2,250.00 annually;
 - iv. An estimated \$1,250.00 annually from sale of miscellaneous fruit from mature fruit trees on the property.
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 (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)

Klaus D. Conventz, B.D.B., M.S.
Baumeister Consulting
Page 3
November 5, 2001

2. The subject lot was created by Land Commission Award 9473:2 prior to June 4, 1976, which, pursuant to HRS §205-4.5(b), defines the first dwelling on the lot as a single-family dwelling.
3. The Farm Plan, GE Tax License (ID number 30091256), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity and the income is being taxed.
4. In addition, the following agencies have submitted their comments as stated below:
 - (a) Department of Water Supply (Letter dated October 16, 2001):

“We have reviewed the subject application and our records show that the subject parcel does not have water service with the Department. It is our understanding that the applicants will use a catchment system for their water; therefore, the Department has no objections to the application.

However, should the applicant elect to acquire water service through the Department, water can be made available from an existing 8-inch waterline along Mamalahoa Highway with the following conditions:

1. Submittal of a schematic diagram prepared by a licensed engineer in the State of Hawaii to the Department of Water Supply for approval.
2. Execution of an Elevation Agreement and a Policy and Conditions for Water Service (premises not within service limits of the Department).
3. Installation, by the Department of Water Supply, of a 1¼-inch service lateral to service a 1-inch meter, which shall be restricted to a maximum daily flow of 1,200 gallons per day.
4. Installation of a backflow preventer (reduced-pressure type) by a licensed contractor on the applicant's property just after the meter servicing the additional farm dwelling. 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

Klaus D. Conventz, B.D.B., M.S.
Baumeister Consulting
Page 4
November 5, 2001

maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicant to help her understand this requirement.

5. Remittance of the following charges, which are subject to change, to our Customer Service Section:

For a 1-inch meter:

- a. Facilities Charge (for a 1-inch meter with 2 units) \$10,875.00
- b. Service Lateral Installation Charge
(Install one meter on Mamalahoa Highway, a State Highway) 5,700.00

Total (Subject to Change) \$16,575.00

Should there be any questions, please contact our Water Resources and Planning Branch at 961-8070.”

- (b) Real Property Tax Office:

No comments were submitted.

- (c) Department of Health (Memorandum dated October 25, 2001):

“By current rules, the subject lot is located in a Critical Wastewater Disposal Area. A lot size of five (5) acres or more is required for the use of a cesspool. 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 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.

Exhibit A

Klaus D. Conventz, B.D.B., M.S.
Baumeister Consulting
Page 5
November 5, 2001

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. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
5. This Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter to secure a building permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before October 30, 2003 may cause the Director to initiate proceedings to invalidate the AFDA.

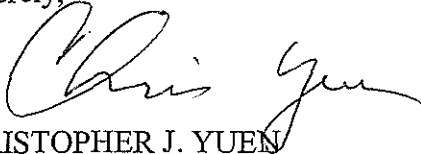
In reference to the Department of Water Supply's comment, we suggest the following:

1. 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.
2. 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.

Klaus D. Conventz, B.D.B., M.S.
Baumeister Consulting
Page 6
November 5, 2001

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:pak
P:\WPWIN60\Larry\FDA\Pearlman 8-4-5-47 apv1.doc

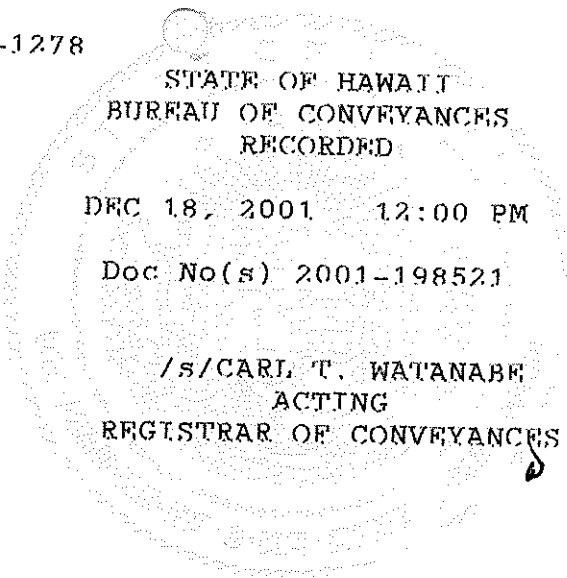
Enclosure

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department – West Hawaii Office

Exhibit A

75

R-1278



AFTER RECORDATION, RETURN BY MAIL TO:

✓ County of Hawaii Planning Department
 25 Aupuni Street, Room 109
 Hilo, Hawaii 96720

6 pgs

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

FIRST PARTY: PATRICIA P. PEARLMAN

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 8-4-005:047

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 30th day of October, 2001, by and between PATRICIA P. PEARLMAN, herein called the "First Party," whose mailing address is P.O. Box 959, Honaunau, Hawaii 96726, 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 (3) 8-4-005:047 situated within the State Land Use Agricultural district and zoned Agricultural (A-5a) by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner 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 person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity are allowed to reside in the farm dwelling.
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 agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit "A".

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

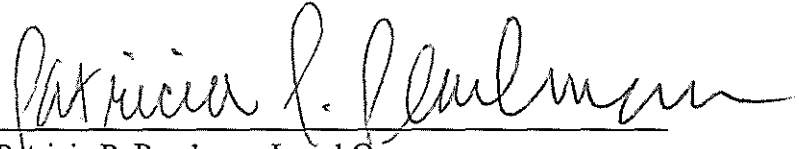
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose 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.

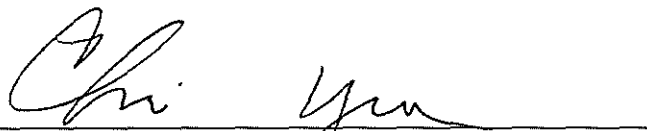
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY:



Patricia P. Pearlman, Legal Owner

SECOND PARTY:

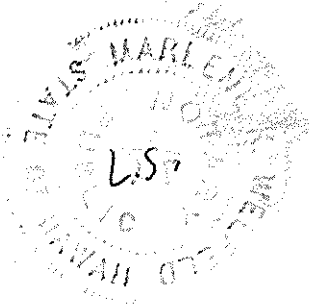


Christopher J. Yuen, Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 27th day of November, 2001 before me personally appeared PATRICIA P. PEARLMAN to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

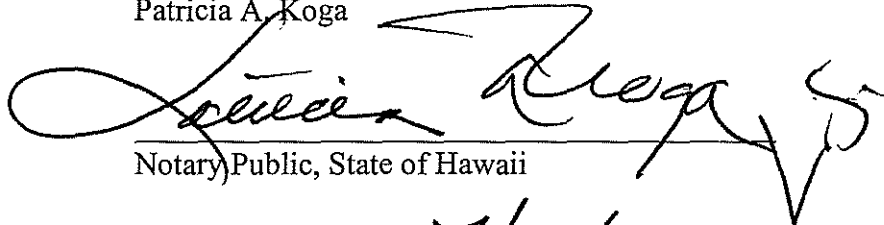
Marlene K. Welfield
Marlene K. Welfield
Notary Public, State of Hawaii



My commission expires: 10/28/2005

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

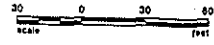
On this 6th day of December, 2001 before me personally appeared Christopher J. Yuen, to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Christopher J. Yuen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga

Notary Public, State of Hawaii
My commission expires: 7/17/02

PLOTPLAN

SPACING OF COFFEE TREES
 3x22, 8x7, 8x8 SPACES.
 HOWEVER IN THE SCHEMATICS
 A UNIFORM SPACING OF 10x10
 HAS BEEN USED. FOR TECHNI-
 CAL REASONS NOT ALL TREES
 ARE THEREFORE SHOWN, IN OR-
 DER TO LEAVE ROOM FOR IN-
 FORMATION.
 ACTUAL COFFEE TREES EXIST:
 654. ADDITIONAL PROPOSED:
 26, FOR TOTAL OF 680 TREES

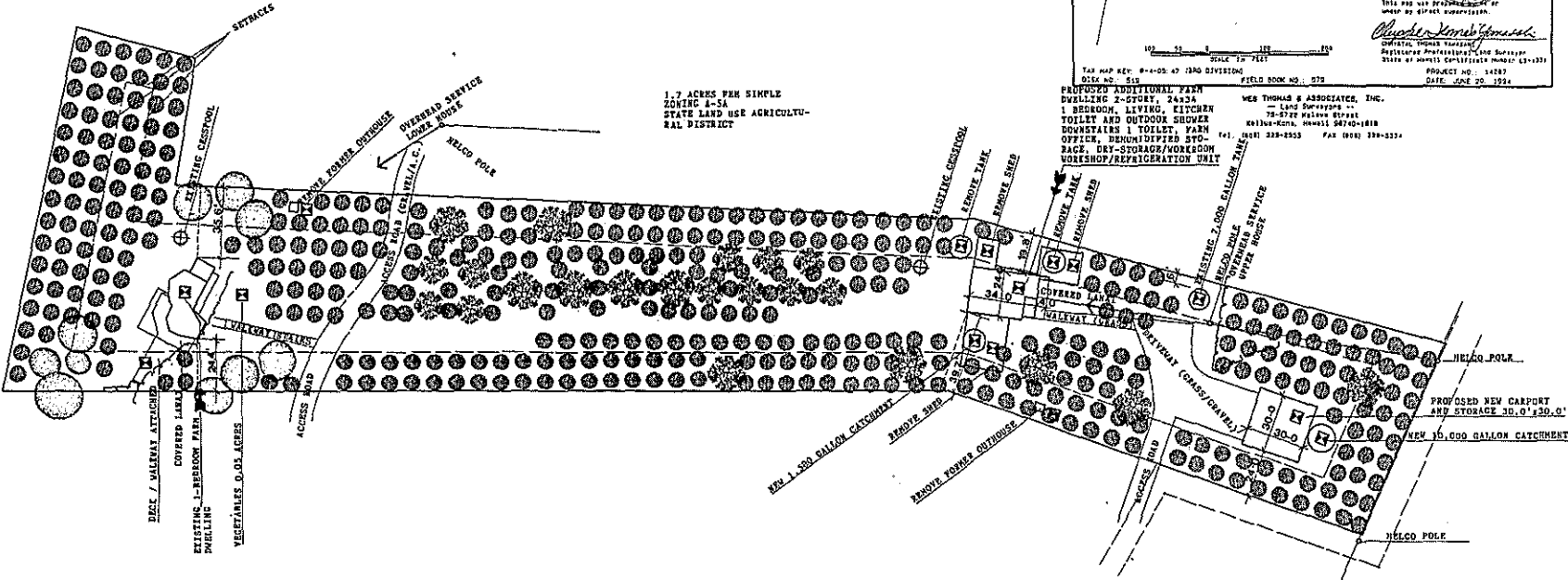
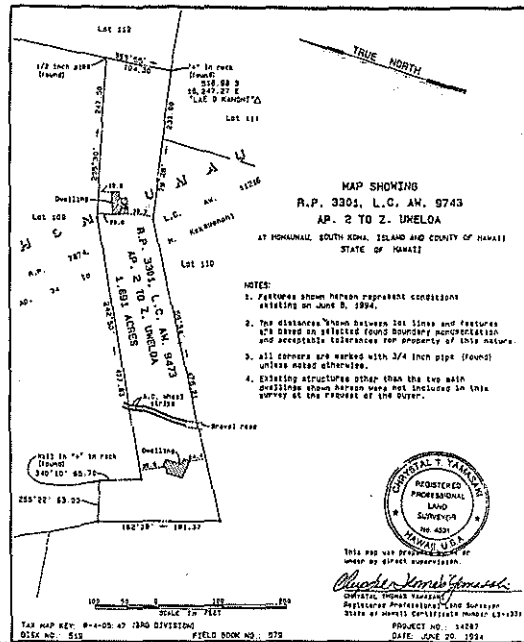
AGRICULTURAL INVENTORY



Proposed Coffee 26
 Existing Coffee 654

25 Misc Fruits
 12 CITRUS: MEYER LEMON, TANGERINES, KEY LIME, ORANGES
 4 CEREAL FRUITS
 1 BANANAS: BLUEFIELD, CAVENDISH

4 CEREAL FRUITS
 1 BANANAS
 1 LYCHEE
 4 AVOCADOS
 1 MOUNTAIN APPLE
 3 LOQUATS
 1 LARGE LILIKOI
 ALL LISTED TREES ARE FULL BEARING AND MATURE



TAX MAP REF: 8-4-54 47 (380 DIVISION) DISK NO. 515 FIELD BOOK NO. 578
 REGISTERED PROFESSIONAL LAND SURVEYOR
 CHARLES KENNETH THOMAS
 No. 4531 HAWAII U.S.A.
 THIS JOB WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.
 REGISTERED PROFESSIONAL LAND SURVEYOR
 STATE OF HAWAII CERTIFICATE NUMBER 45-1321
 PROJECT NO. 14282 DATE: JUNE 20, 1984

PROPOSED ADDITIONAL FARM DWELLING 2-STORY, 24x24 1 BEDROOM, LIVING, KITCHEN TOILET AND OUTDOOR SHOWER DOWNSTAIRS 1 TOILET, YARN OFFICE, DEMONSTRATED 250-2400 DRY-STORAGE/WORKROOM WORKSHOP/REFRIGERATION UNIT
 WEN THOMAS & ASSOCIATES, INC. - Land Surveyors - 78-5771 Kailua Street Kailua-Kona, Hawaii 96740-1818 TEL: 328-2555 FAX (808) 328-2554

OWNER: PATRICIA PEARLMAN
 1145 HANEER 1.4 BELT ROAD
 TELEPHONE EXCHANGE ACCESS
 HONOLULU
 TNE: (3) 8-4-5-147
 AUTHORIZED REPRESENTATIVE
 ILAGA D. CONVENTZ
 DBA DAUMKISTEN CONSULTING
 P.O. BOX 2506
 KAILUA-KONA, HAWAII 96745
 PHONE (808) 329-0898
 FAX (808) 326-7609