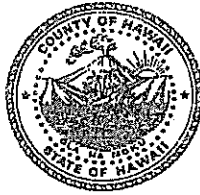


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

December 18, 2002

Mr. Robert Gary Hansen
P.O. Box 442
Kurtistown, Hawaii 96760

Dear Mr. Hansen:

Additional Farm Dwelling Agreement

Applicant: Robert Gary Hansen

Land Owners: Robert Gary Hansen and Patricia L. Hansen

Tax Map Key: (3) 1-6-052:068

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

DEC 20 2002

Exhibit A

Mr. Robert Gary Hansen

Page 2

December 18, 2002

(a) Ongoing agricultural activities include the following:

- i. Approximately 7,500 square feet of orchard with a variety of fruit trees yielding approximately 1,320 pounds of produce annually;
- ii. An unspecified number of Norfolk Pines, for eventual Christmas tree sales, growing in a 380' row;
- iii. An approximately 30'x34' vegetable garden of mixed variety with sales proposed in local Farmer's Markets;
- iv. Cultivation of pineapple plants yielding up to 80 fruit per year to be sold in local Farmer's Markets;
- v. Aquaculture activity including a 16'x16' catfish pond, a 24'x26' koi pond, and two 6' round spawning tank;
- vi. A 50'x15' greenhouse used to cultivate seedlings and starts;
- vii. A small piggery operation in a 36'x14' 4-stall/yard facility; and
- viii. Cultivation of approximately 75 Royal palms for eventual sale to hotels.

(b) Proposed agricultural activities include the following:

- i. Expansion of the aquaculture and fruit orchard activities.

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

Mr. Robert Gary Hansen

Page 3

December 18, 2002

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 subject lot was created by subdivision (SUB 1249) approved on May 9, 1958, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be used as a single-family dwelling.
3. The Farm Plan, GE Tax License (ID number 30119943), 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 December 4, 2002):

“We have reviewed the subject application and have the following information.

The property does not have an existing water service with the Department as the parcel is beyond the service limits of the Department’s existing water system. Also, as the applicant indicates that the additional farm dwelling will be on a water catchment system, the Department has no objections to the application.

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

(b) Real Property Tax Office (Memorandum dated November 29, 2002):

“Property is receiving agricultural use value.

Real Property taxes are paid through December 31, 2002.”

(c) Department of Health (Memorandum dated December 2, 2002):

“Under current rules, cesspools are allowed on this lot. However, rule changes may require a septic system in the future. If the applicant has any questions, please feel free to call our wastewater engineer at 933-0401.”

Mr. Robert Gary Hansen

Page 4

December 18, 2002

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.
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. The enclosed Additional Farm Dwelling Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.
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. Your Additional Farm Dwelling Agreement has been approved based partially on proposed agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) years of approval of the building permit for the additional farm dwelling. The Second Party (County of Hawaii Planning Department) of the Agreement may allow time extensions and modifications for good cause shown by First Party.
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
6. 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

Mr. Robert Gary Hansen

Page 5

December 18, 2002

before December 12, 2004 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.

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

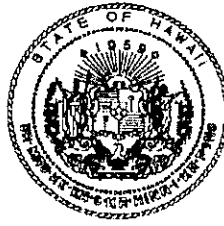
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Enclosure: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT

Exhibit A



R-922 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
APR 08, 2003 10:00 AM
Doc No(s) 2003-064839



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z1

N

AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

FIRST PARTY: ROBERT GARY HANSEN and PATRICIA L. HANSEN

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 1-6-052:068

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 12th day of December, 2002, by and between ROBERT GARY HANSEN and PATRICIA L. HANSEN, herein called the "First Party," whose mailing address is P.O. Box 442, Kurtistown, Hawaii 96760, and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a second farm dwelling located on the property described by Tax Map Key (3) 1-6-052:068 situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) 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 one 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.

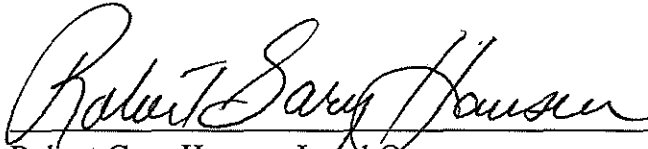
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

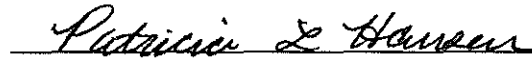
IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and 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:


Robert Gary Hansen, Legal Owner


Patricia L. Hansen, Legal Owner

SECOND PARTY:


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

STATE OF HAWAII

)

) SS.

COUNTY OF HAWAII

)

On this 28th day of February, ²⁰⁰³2002 before me personally appeared ROBERT GARY HANSEN and PATRICIA L. HANSEN to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

*PA
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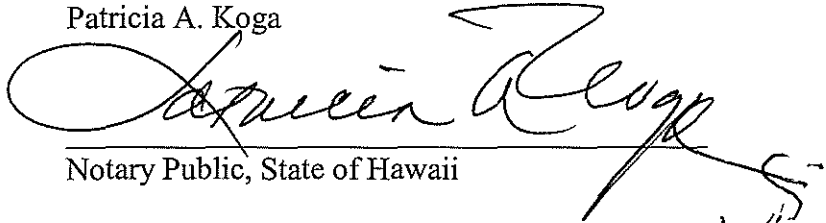
Nyla Silva

Notary Public, State of Hawaii

My commission expires: JAN. 27, 2007

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 7th day of March, 2003 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: 07/17/06

IDE	Description	Size	Existing Fruit Trees
	Vegetable Garden	34x30	River Side 160' + 440'
3	Pineapple Garden	20x18	1. Mulberry
	Proposed Cesspool		2. Lemon
	Proposed watercatchment		3. Tangelo
E	Proposed one Bedroom Farm Dwelling	24x24	4. Red Mt. Apple
	1st Dwelling, existing two bedroom	40x24	5. Mango
	Existing Cesspool		6. White Mt. Apple
t	Cat Fish Pond	16x16	7. Mango
E	Koi Pond	24x26	8. Surinam Cherry
J	Spawning Tanks "Two"	6' round	9. Mango
S	Existing Residence Water Catchment	10,000 Gal.	10. Valencia Orange
-	Existing Agricultural Water Catchment	28,000 Gal.	11. Lemon
1	Existing Green House	50x15	12. Naval Orange
l	Pineapple/Banana Patch	16x14	13. Avacado
>	Pig Coup - Four Stall - Fenced	18x14	14. Lime
'	Royal Palm Grove	18x16	15. Avacado
X	Existing Livestock Pasture/Sheep/Fenced	260x90	16. Mandarin Orange
	Proposed Fruit Orchard		17. Grapefruit
	Existing		18. Grapefruit
W	Pines/Variety - Purchased from Forestry Div. 600'		19. Avacado
W	Norfolk Pines - Proposed Christmas trees 380'		20. Abiu
X	3 sections miniature T's/Veregeted/Drocena		21. Coconut
	A-130' - 200' - 30'x4')	} proposed for nursery sales	22. Acerola
	A-220' - 6x6		23. Lemon
	A-250' - 6x6		24. Mulberry
J	Existing		25. Lychee
J	Proposed		26. Cherimoya
W	Driveways		27. Ulu
W	Elevated, higher land		28. Coconut
J	River Run Off / Ponds		29. Atkin Mango
			30. Loquat
			31. Rambutan
			32. Cherry
			33 + up - Coconut
			Behind Existing Dwelling 300' - 20'
			1. Banana Patch
			2. Joboticaba
			3. Navel Orange
			4. Tangerine
			5. Malomar Chestnut
			200' Right Side (1) Banana

PLANNING DEPARTMENT
COUNTY OF HAWAII

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