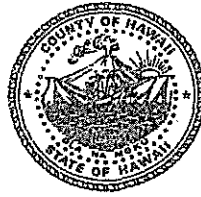


Harry Kim
Mayor



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

October 24, 2003

Ms. Jan M. Hino
P.O. Box 345
Honokaa, Hawaii 96727

Dear Ms. Hino:

Additional Farm Dwelling Agreement

Applicant:	Jan M. Hino
Land Owners:	Robert M. Hino and Itsue H. Hino
State Land Use:	Agricultural
County Zoning:	Agricultural (A-5a)
Land Area:	5.00-acres
Tax Map Key:	(3) 4-6-008:029

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.

EXHIBIT

A

NOV 21 2003

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

(a) Ongoing agricultural activities include the following:

- i. Present inventory includes, but is not limited to, 13 varieties of Heleconia, 3 varieties of Ginger, Kahuna Ti plants and Maile seedlings. Other potentially marketable plants existing that needs to be further propagated: Lantern Ilima, Creeping Gardenia, Palapalai fern Portuguese cabbage, Shiso and dryland Taro.

(b) Proposed agricultural activities include the following:

- i. Continued propagation and replenishment of the existing stock. Introduction of other plants as the market dictates: Additional varieties of Haleconia and various landscape plants (Red Waiwi, black bamboo, etc.).
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)
2. The subject lot was created by subdivision (4664) approved on November 16, 1979, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be used as a farm dwelling.
3. The Farm Plan, GE Tax License (ID number 30132848), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is be income producing agricultural activity and the income is being taxed.
4. In addition, the following agencies have submitted their comments as stated below:

EXHIBIT

A

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(a) Department of Water Supply (DWS) (Memorandum dated October 15, 2003):

“We have reviewed the Additional Farm Dwelling Application and the subject property is not within the service zone limits of the Department of Water Supply’s existing water system facilities. The 1980 subdivision that created this parcel was done by Waiver File No. 79040 that states “No Water” and indicates that the property is not entitled to County water. Therefore, there are no requirements to be satisfied for this Department.

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

(b) Real Property Tax (RPT) Office (Memorandum dated September 22, 2003):

“Property is receiving agricultural use value. Real Property taxes are paid through June 30, 2004.”

(c) Department of Health (Memorandum dated October 2, 2003):

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used will be determined by the wastewater rules in effect at the time of building permit application.”

Decision:

In view of the above, your request to construct a **second** (first AFD) dwelling on the subject property 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

EXHIBIT

A

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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 mostly 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 before October 21, 2005 may cause the Director to initiate proceedings to invalidate the AFDA.

Should you have any questions, please feel free to contact Jonathan Holmes of this office at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH:pak
p:\afda\afdajrh\apvl\hinoapvl.doc

Enclosure: AFDA document/AFDA document instruction sheet

EXHIBIT

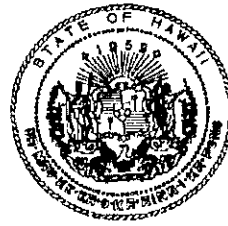
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xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT
Planning Department - Kona

EXHIBIT

A



R-994

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
DEC 23, 2003 08:02 AM

Doc No(s) 2003-283730



Is/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z3

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 M. HINO and ITSUE H. HINO

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 4-6-008:029

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 20th day of October, 2003, by and between **ROBERT M. HINO and ITSUE H. HINO**, herein called the "First Party," whose mailing address is P.O. Box ^{959 Kimo Side} ~~345~~, Honokaa, Hawaii 96727, 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) 4-6-008:029 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 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.

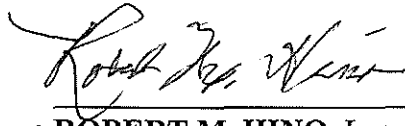
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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:

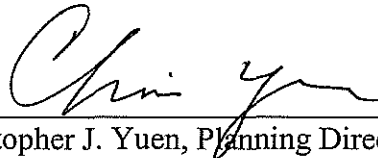


ROBERT M. HINO, Legal Owner



ITSUE H. HINO, 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, 2003 before me personally appeared **ROBERT M. HINO and ITSUE H. HINO** 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.

Lynn H. Higashi
LYNN H. HIGASHI
Notary Public, State of Hawaii

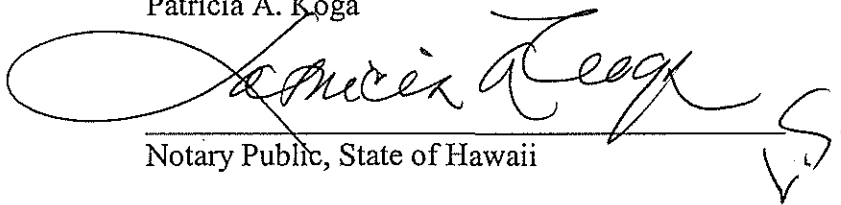
l.s.

My commission expires: 12/16/2005

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 17th day of December, 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

07/17/06

My commission expires: _____

200'

Pu'Ano Road

--- Waterline

***** ELECTRICAL LINE

Existing crop plant area

planned area

(A) = EXISTING HOUSE

(B) = PROPOSED DWELLING
(2 BR, 1 OFFICE)

2003 AUG 20

PM 1 13

BEANING COUNTY

DEPARTMENT OF HAWAII

1000'

