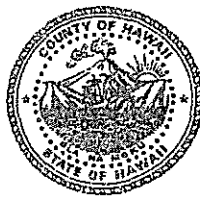


Harry Kim
Mayor



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

May 29, 2003

Ms. Susan van den Hoek-Barnes
% Mr. Klaus D. Conventz
Baumeister Consulting
P.O. Box 2308
Kailua-Kona, Hawaii 96745-2308

Dear Ms. Van den Hoek-Barnes:

SUBJECT: Additional Farm Dwelling Agreement
Applicant: Ms. Susan van den Hoek-Barnes
Land Owner: Same
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 6.814-acres
Tax Map Key: (3) 5-5-007:026

Please pardon the delay in this response.

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.

EXHIBIT

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Ms. Susan van den Hoek-Barnes
% Mr. Klaus D. Conventz
Baumeister Consulting
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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:

(a) Ongoing agricultural activities include the following:

- i. 10 year old orchard consisting of citrus, mango, native trees and bushes such as milo mamane, kukui, Hawaiian wiliwili, true kamani, mamake, alahe'e and a'alii, together with some clumping bamboo.

Since 1986, she has collected and propagated plants used in lei making and hula such as ti, ferns, puakenikeni, plumeria, ohia, lehua, ilima papa, kalauna, pikake, pahupahu, oha'I-ali'i, awapuhi, kupaloke, kika, kiele, kauhi, kepalo, pakalana, male, woodrose, etc., etc.

These plants are well established and ready to go inground, after the rest of the Christmas Berry, cane grass and other noxious weeds are finally eradicated.

(b) Proposed agricultural activities include the following:

- i. Complete the fencing of the 3-acre pasture for 10-12 sheep for meat, wool and keiki, and;
- ii. A 30' diameter fish pond for catfish and/or talapia to be built and stocked, and;
- iii. A shade house to be built for minimum 600 plants, one gallon size, of lavender, pikake, and stephanotis, and;
- iv. A drying house for lavender, a garage and an equipment/storage building.

5. In support, evidence of a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

EXHIBIT

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Ms. Susan van den Hoek-Barnes
% Mr. Klaus D. Conventz
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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 (SUB 6022) approved on April 15, 1991, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, GE Tax License (ID number 30119634), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is/will be income producing agricultural activity and the income is/will be taxed.

There were no comments received from the DOH or DWS. The RPT web site shows that the taxes are paid up to date.

Decision:

In view of the above, your request to construct an additional farm dwelling (the second dwelling on the property) is approved subject to the following conditions:

1. It is noted that a Sears-type shed is on the property according to the RPT records. You should verify if it requires a building permit and, if so, acquire one prior to a permit being issued for the AFD.
2. 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

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Ms. Susan van den Hoek-Barnes
% Mr. Klaus D. Conventz
Baumeister Consulting
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3. 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.
4. 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.
5. Your Additional Farm Dwelling Agreement has been approved based on continuing agricultural activity as summarized previously in this letter. It is required that the First Party (owners and lessees) to the Agreement shall continue this activity.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. 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 May 30, 2005 may cause the Director to initiate proceedings to invalidate the AFDA.

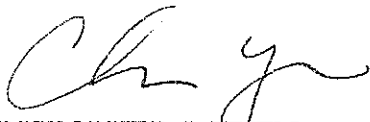
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% Mr. Klaus D. Conventz
Baumeister Consulting
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May 29, 2003

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

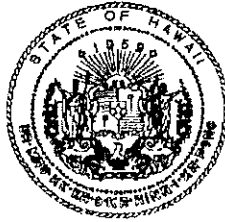
JRH:pak
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Enclosure: AFDA document
AFDA document instruction sheet

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

EXHIBIT

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R-1136 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
JUN 18, 2003 08:02 AM
Doc No(s) 2003-123103



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

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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: SUSAN van den HOEK-BARNES

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 5-5-007:026

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 28th day of April, 2003, by and between **SUSAN van den HOEK-BARNES**, herein called the "First Party," whose mailing address is P.O. Box 1546, Kapa'au, Hawaii 96755, 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) 5-5-007:026 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.

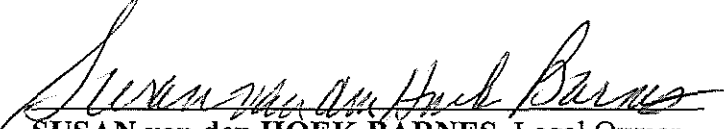
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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:


~~SUSAN van den HOEK-BARNES, Legal Owner~~

SECOND PARTY:

pkh
rp 
~~Christopher J. Yuen, Planning Director~~
~~County of Hawaii Planning Department~~
Roy R. Takemoto, Deputy Director
County of Hawaii, Planning Department

STATE OF HAWAII

)

) SS.

COUNTY OF HAWAII

)

On this 6th day of June, 2003 before me personally appeared **SUSAN van den HOEK-BARNES** 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.

Mariette Weffed
Mariette Weffed
Notary Public, State of Hawaii
County of Hawaii

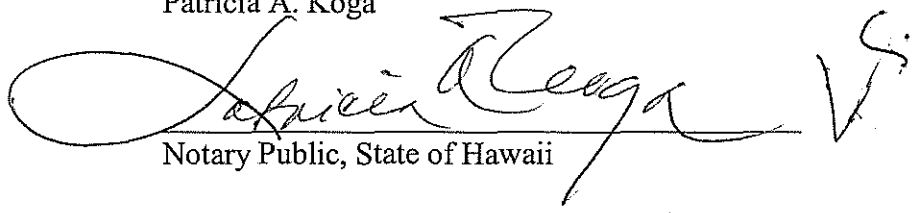
LS.

My commission expires: 10/28/2005

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 10th day of June, 2003 before me personally appeared Roy R. Takemoto, 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 Roy R. Takemoto 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: _____

Scanned Map
Unavailable
Due to Size

See File

