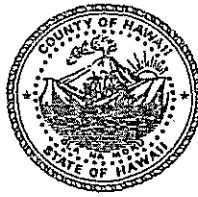


Harry Kim
Mayor



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

September 5, 2003

Sama Farms Inc.
Francis Wandell, President, Robert M Kimball and Sandra Kimball
c/o 78-6423 A Mamalahoa Highway
Holualoa, Hawaii 96725

Dear Mr. and Mrs. Kimball:

SUBJECT: Additional Farm Dwelling Agreement
Applicants: Sama Farms, Inc. (Francis Wandell, President),
Robert M Kimball and Sandra Kimball
Land Owners: Sama Farms, Inc. (Francis Wandell, President),
Robert M Kimball and Sandra Kimball
State Land Use: Agricultural
County Zoning: Agricultural (A-1a)
Land Area: 1.08-acres
Tax Map Key: (3) 7-5-001:091

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 re-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.

EXHIBIT

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Sama Farms Inc.
Francis Wandell, President, Robert M Kimball and Sandra Kimball
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September 5, 2003

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

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

(a) Ongoing agricultural activities include the following:

i. The activity on this parcel is proposed.

(b) Proposed agricultural activities include the following:

i. Germination, Propagation and grow-out of a variety of Ornamental, Landscaping and Tropical fruit specimens for the wholesale market including, but not limited to, Heliconia, Ginger, Palms, Traveler's Palms, Banana, Coffee seedlings and trees, Caladiums and such other Ornamental, Fruit and Bedding plants as may find a market. The activity is to take place on approximately 16,000 sq. ft. of the 1-acre property.

ii. Projected intensity of the various plantings is as follows:

Haleconia	200 starters developing 6 or more starts each per year;
Ornamental Palms (Zamia, as an example)	20 trays of 40+ seeds each x 80% germination = 640 starters twice a year = \$5,600.00 per year
Coffee starts	1,500 for sale, 500 (initially) for in ground production
Caladiums	2,000 to 3,000 bulbs (first year), 3 to a pot = #3,500
Other Ornamentals	Example - Stargazer Lilies at \$9.50 per blooming pot.

4. 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

EXHIBIT

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where agricultural activity provides income to the family occupying the dwelling.
(emphasis added)

2. The subject lot was created by subdivision (6847) approved on December 1, 1995 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 10369377), and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there will be income producing agricultural activity and the income will be taxed.
4. In addition, the following agencies have submitted their comments as stated below:

- (a) Department of Water Supply (Letter dated August 20, 2003):

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

Our records show that this property does not have an account with the Department and, therefore, does not have water service with us. As this parcel is covered by a variance from the subdivision water requirements, the Department has no objections to the application subject to the to the applicant being responsible for following the conditions of the approved variance. This means that the additional farm dwelling must be on a catchment system.

Should there be any questions, please call Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 1.”

- (b) Real Property Tax Office (E-mail confirmation on August 26, 2003):

“Real Property taxes for unit 1 and unit 2 are paid through December 31, 2003.”

- (c) Department of Health (Memorandum dated August 21, 2003):

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

EXHIBIT

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Sama Farms Inc.
Francis Wandell, President, Robert M Kimball and Sandra Kimball
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September 5, 2003

Decision:

In view of the above, your request to construct a **second** (first AFD) 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 entirely 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

EXHIBIT

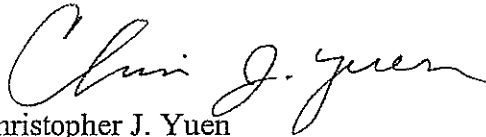
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Sama Farms Inc.
Francis Wandell, President, Robert M Kimball and Sandra Kimball
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before September 6, 2005 may cause the Director to initiate proceedings to invalidate the AFDA.

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\kimballapvl.doc

Enclosure: AFDA document
AFDA document instruction sheet

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

EXHIBIT

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R-729

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
NOV 06, 2003 08:02 AM

Doc No(s) 2003-244865



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z6

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: SAMA FARMS, INC. (FRANCIS WANDELL,
PRESIDENT), ROBERT M. KIMBALL and SANDRA
KIMBALL**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 7-5-001:091

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 2nd day of September, 2003, by and between **SAMA FARMS, INC. (FRANCIS WANDELL, PRESIDENT), ROBERT M. KIMBALL and SANDRA KIMBALL**, herein called the "First Party," whose mailing address is c/o 78-6423 A Mamalahoa Highway, Holualoa, Hawaii 96725, 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) 7-5-001:091 situated within the State Land Use Agricultural district and zoned Agricultural (A-1a) 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.

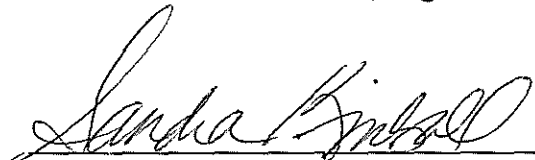
FIRST PARTY:



SAMA FARMS, INC. (FRANCIS WANDELL,
PRESIDENT), Legal Owner

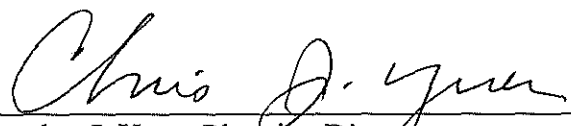


ROBERT M. KIMBALL, Legal Owner



SANDRA KIMBALL, Legal Owner

SECOND PARTY:



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

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 6th day of October, 2003, before me personally appeared **FRANCIS WANDELL**, proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that he is the President of SAMA FARMS, INC., and that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Willetha T. Archer C.S.

Name: Willetha T. Archer

Notary Public, State of Hawaii

My commission expires: 5-19-03

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 10th day of October, 2003, before me personally appeared **ROBERT M. KIMBALL**, proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Willetta T. Archer L.S.
Name: Willetta T. Archer
Notary Public, State of Hawaii
My commission expires: 5-19-07

STATE OF HAWAII

)

)

ss.

)

COUNTY OF HAWAII

On this 10th day of October, 2003, before me personally appeared **SANDRA KIMBALL**, proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Willetta T. Archer

G.S.

Name: Willetta T. Archer

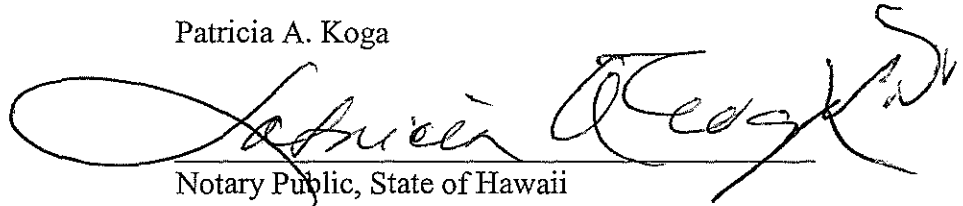
Notary Public, State of Hawaii

My commission expires: 5-19-07

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 31st day of October, 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

N

170.53

Planting area A. Heliconia, Floral Gingers and Banana for propagation

CPR #1

EXISTING
CESSPOOL

Fruit Trees and Garden Area

EXISTING
DWELLING

Planting area H. Heliconia, Floral Gingers for propagation

Planting Area G. Maturing Area for larger potted palms
And seasonals i.e.: Caladiums, Lilies, etc.

135.

292.55

79.79'

38.57'

Planting Area F. Potting Staging.

GREEN
HOUSE

Area (for seedlings)

PROPOSED
2BED 2BATH

Planting Area B. Heliconia
and Floral Gingers

Greenhouse and Potting Area Service Lane
Planting Area E. Seedling Grow-out area (various types)

111.00'

Planting Area C. Coffee Stock,
for seed, seedlings

Planting Area D. Coffee Stock,
for seed, seedlings

157.96'

40.42