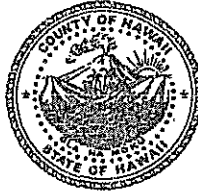


Harry Kim
Mayor



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

November 28, 2003

Mr. John Robin Parmley
32 Kailua Road
Kailua-Kona, Hawaii 96734

Dear Mr. Parmley:

SUBJECT: **Additional Farm Dwelling Agreement Application**
Applicant: **John Robin Parmley**
Owners: **John Robin Parmley**
State Land Use: **Agricultural**
County Zoning: **Agricultural (A-20a)**
Land Area: **12.00-acres**
Tax Map Key: **(3) 3-5-003:022**

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 AFD is needed in connection with the agricultural productivity or farming operation.

EXHIBIT

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DEC 3 2003

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

(a) Ongoing agricultural activities include the following:

i. The activity is proposed.

(b) Proposed agricultural activities include the following:

- i. Crops will be kava, Echinacea, pau d arco, goldenseal, various vegetables, culinary herbs, and medicinal herbs. Bananas, papayas, leechi, avocados, neem, clove, amala, a tree nursery and an assortment of fruit trees also will be grown.
- ii. There will be two acres of banana trees and two acres of papaya trees. Thirty leechi nut trees in a protected area, ten avocado, fifteen curry trees used as a spice, twenty amala trees used for medicinal purposes and an assortment of fruit trees planted around the plantation.
- iii. Livestock to include two to four milk cows, six to ten goats for milking with one male for breeding. There will be forty to fifty chickens for egg production and some horses for breeding.
- iv. Man hour estimation: first year – fifty to sixty per week to establish activity after year one – fifty per week.

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 consolidation/resubdivision (SUB 4630) approved on May 8, 1981, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be used as a farm dwelling.

EXHIBIT

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3. The Farm Plan, GE Tax License (ID number 10705496), 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 (DWS):

The DWS did not respond to this application as of this date.

(b) Real Property Tax Office (RPT) (Real Property Tax Clearance form dated September 24, 2003):

“This is to certify that the real property taxes due to the County of Hawaii on the parcel listed above have been paid up to and including December 31, 2003.

This clearance was requested on behalf of Parmley, Robin for the County Planning Department and is issued for this/these parcel(s) only.”

(c) Department of Health (DOH) (Memorandum dated November 7, 2003):

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

Decision:

In view of the above, your request to construct a **second** (first AFD) farm dwelling on the property is approved subject to the following conditions:

1. The AFD 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 AFD 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 AFDA Instructions. The Planning Department will not

EXHIBIT

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Mr. John Robin Parmley

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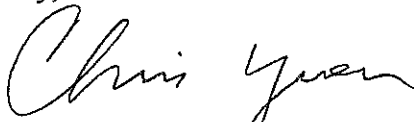
November 28, 2003

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 AFDA has been approved based wholly 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 BP 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 AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a BP for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before November 25, 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

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Enclosure: AFDA document
AFDA document instruction sheet

EXHIBIT

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Mr. John Robin Parmley

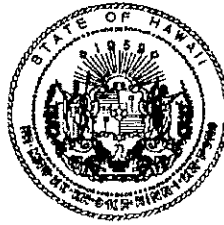
Page 5

November 28, 2003

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

EXHIBIT

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R-995 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
DEC 23, 2003 08:02 AM
Doc No(s) 2003-283731



/s/ 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: JOHN ROBIN PARMLEY

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 3-5-003:022

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 24th day of November, 2003, by and between **JOHN ROBIN PARMLEY**, herein called the "First Party," whose mailing address is 32 Kailua Road, Kailua-Kona, Hawaii 96734, 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) 3-5-003:022 situated within the State Land Use Agricultural district and zoned Agricultural (A-20a) 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.

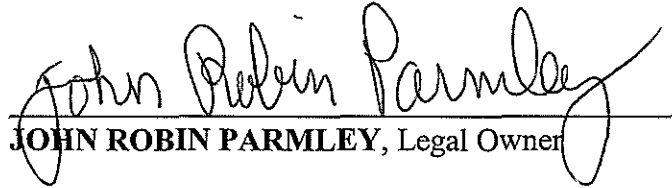
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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.

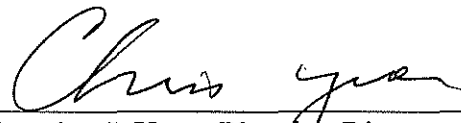
IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

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

FIRST PARTY:


JOHN ROBIN PARMLEY, Legal Owner

SECOND PARTY:


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

STATE OF HAWAII

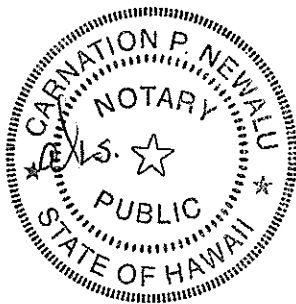
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) SS.

COUNTY OF HAWAII

)

On this 8th day of December, 2003 before me personally appeared **JOHN ROBIN PARMLEY** to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.




Carnation P. Newalu
Carnation P. Newalu
Notary Public, State of Hawaii

My commission expires: 4-8-2004

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: _____

Scanned Map
Unavailable
Due to Size

See File

