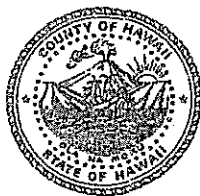


Harry Kim
Mayor



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

August 1, 2003

Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy
and James B. and Harvest C. Edmonds
6323 Southeast 89th Avenue
Portland, Oregon 97266

Dear Property Owners:

SUBJECT: Additional Farm Dwelling Agreement
Applicants: Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy and
James B. and Harvest C. Edmonds
Owners: Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy and
James B. and Harvest C. Edmonds
State Land Use: Agricultural
County Zoning: Agricultural (A-10a)
Land Area: 11.932-acres
Tax Map Key: (3) 3-5-004:096

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.

EXHIBIT

A

039936 (M4)
AUG 6 2003

Pavel V. and Irina M. Zagumennyy,
Ivan I. and Oksana V. Kozinskiy
and James B. and Harvest C. Edmonds

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August 1, 2003

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:

(a) Ongoing agricultural activities include the following:

- i. The activity is proposed.

(b) Proposed agricultural activities include the following:

- i. Ornamental foliage, tropical fruits, organic produce and animal husbandry. These activities will occupy the following land areas:

3-gardens at	13,000 sq.ft.
2-greenhouses and 1-shadecloth house at	16,600 sq. ft.
3 orchards at	146,700 sq. ft.
3-pastures at	<u>169,800 sq. ft.</u>
for a total of	346,100 sq. ft. (or 7.95 acres)

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.

EXHIBIT

A

Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy
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August 1, 2003

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 7508) approved on January 17, 2002, 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 30132419), 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.
4. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (Letter dated July 9, 2003):

“We have no objections to the proposed additional farm dwelling. The subject property has no existing water service account with the Department of Water Supply. The Department’s nearest water facility is at the end of an 8-inch waterline along Papaaloo Avenue and is next to the subject property’s northerly boundary. The subject property may or may not be within the service limits of the existing water system facilities, depending on available line pressures and the site elevations over the extent of the subject property. However, it is understood from the site drawing which accompanied the application that the existing dwelling is on a rain catchment system and that the applicants are proposing rain catchment systems to meet all currently proposed water needs.

Therefore, there are no requirements to be satisfied for this Department at this time.

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

EXHIBIT

A

Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy
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August 1, 2003

(b) Real Property Tax Office (Submitted Printout and Clearance form dated May 15, 2003):

“Property is assessed for pasture use.”

“This is to certify that the real property taxes due to the County of Hawaii on the parcel(s) listed above have been paid through June 30, 2003.”

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

“The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used on each lot 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 an additional farm dwelling (the second dwelling on the parcel) 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.

EXHIBIT

A

Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy
and James B. and Harvest C. Edmonds

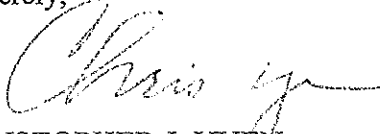
Page 5

August 1, 2003

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 before August 2, 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

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

EXHIBIT

A

Pavel V. and Irina M. Zagumenny,
Ivan I. and Oksana V. Kozinskiy
and James B. and Harvest C. Edmonds
Page 6
August 1, 2003

xc: Edith Crabb Realty (letter only)
101 Aupuni Street, Suite 116
Hilo, Hawaii 96720

EXHIBIT

A



R-896 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
SEP 11, 2003 08:02 AM
Doc No(s) 2003-194025



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

20 1/1 Z1

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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: PAVEL V. ZAGUMENNY, IRINA M. ZAGUMENNY,
IVAN I. KOZINSKIY, OKSANA V. KOZINSKIY, JAMES B. P
~~EDMONDS and HARVEST C. EDMONDS~~

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 3-5-004:096

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 1st day of August, 2003, by and between **PAVEL V. ZAGUMENNYI, IRINA M. ZAGUMENNYI, IVAN I. KOZINSKIY, OKSANA V. KOZINSKIY, ~~JAMES B. EDMONDS and HARVEST C. EDMONDS,~~** ^A herein called the "First Party," whose mailing address is 6323 Southeast 89th Avenue, Portland, Oregon 97266, 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) 3-5-004:096 situated within the State Land Use Agricultural district and zoned Agricultural (A-10a) 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:

Pavel V. Zagumenny
PAVEL V. ZAGUMENNY, Legal Owner

FIRST PARTY:

Irina M. Zagumenny
IRINA M. ZAGUMENNY, Legal Owner

FIRST PARTY:

Ivan I. Kozinskiy
IVAN I. KOZINSKIY, Legal Owner

FIRST PARTY:

Oksana V. Kozinskiy
OKSANA V. KOZINSKIY, Legal Owner

continued next page

FIRST PARTY:

~~JAMES B. EDMONDS, Legal Owner~~

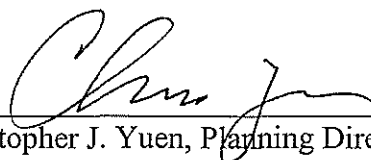


FIRST PARTY:

~~HARVEST C. EDMONDS, Legal Owner~~



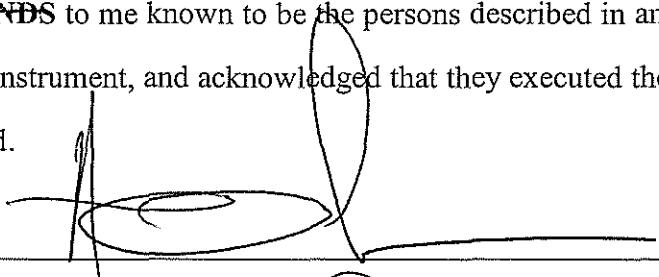
SECOND PARTY:



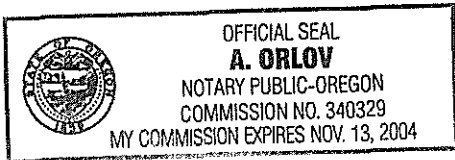
Christopher J. Yuen, Planning Director
County of Hawaii Planning Department

STATE OF ~~HAWAII~~ OREGON)
) SS.
COUNTY OF ~~HAWAII~~ MULTNOMAH)

On this 18th day of August, 2003 before me personally appeared PAVEL V. ZAGUMENNYI, IRINA M. ZAGUMENNYI, IVAN I. KOZINSKIY, OKSANA V. KOZINSKIY, ~~JAMES B. EDMONDS~~ and ~~HARVEST C. EDMONDS~~ 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.



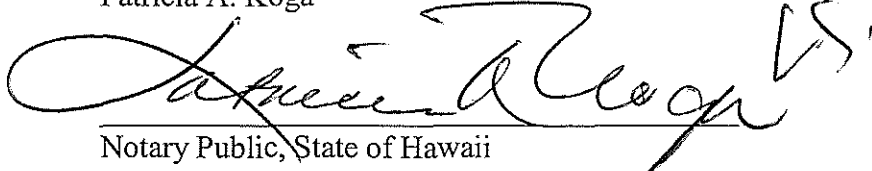
Notary Public, State of Oregon



My commission expires: Nov 13, 2004

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 5th day of September, 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

Scanned Map
Unavailable
Due to Size

See File

