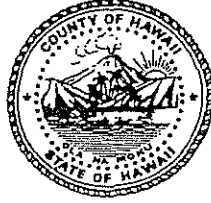


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

May 27, 2004

Lani Gay Wattson
P.O. Box 511
Anahola, Hawaii 96703

Dear Ms. Wattson:

Additional Farm Dwelling Agreement
Applicant: Lani Gay Wattson
Owner: Lani Gay Wattson
Walter Gay
Nicole Gay
Anna Lindsey
Kristen Harter
Jennifer Dorn
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 100.154 acres
TMK: (3) 8-8-002: 011

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

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EXHIBIT "A"

productivity or farming operation. Your farm plan included the following ongoing and proposed income producing agricultural activities:

- a. Proposed agricultural activities include the following:
 - i. Cultivate 100 Rambutan plants on 2 acres.
 - ii. Cultivate 100 Avocado plants on 2 acres.
 - iii. Cultivate 100 Tangelo plants on 2 acres.
 - iv. Cultivate 100 Kona Orange plants on 2 acres
 - v. Cultivate 1000 Coffee plants on 3 acres.
 - b. The anticipated labor man-hours are approximately 700 hours to plant and a combined 220 per week to maintain and harvest.
5. In additional support, evidence of an application for 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 prior to June 4, 1976, which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.
3. The Farm Plan, GE Tax License (ID number 400701168), 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) (Letter dated May 6, 2004):

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

The property does not have an existing water service with the

Department as the parcel is beyond the service limits of the Department's existing water system. Also, as the applicant indicates that the additional farm dwelling will be on a water catchment system, the Department has no objections to the application.

Should there be any questions, please contact Ms. Shari Komata of our Water Resources and Planning Branch at 961-8070, extension 252."

- b. Real Property Tax Office (RPT) (Letter dated April 27, 2004):
"The above mentioned parcel is not in ag use. Furthermore we do not have an ag use application on file for TMK 8-8-002-011"
- c. Department of Health (DOH) (Letter dated April 30, 2004):
"The Health Department found no environmental health concerns with regulatory implications in the submittals."

Decision:

In view of the above, your request to construct a **second farm dwelling** is 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. The First Party shall adhere to 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

Lani Gay Wattson
May 27, 2004
Page 2

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 May 28, 2006 may cause the Director to initiate proceedings to invalidate the AFDA.

If you have any questions please call Deanne Bugado of our West Hawaii Office at 327-3510.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

BM:deb

P:\afda\Kona AFDA\Approval\AFDAAp-8-8-2-11 Wattson.doc

Enclosure: AFDA document
AFDA document instruction sheet

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

EXHIBIT 'A'

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: LANI GAY WATTSON
 WALTER GAY
 NICOLE GAY
 ANNA LINDSEY
 KRISTEN HARTER
 JENNIFER DORN**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 8-8-002:011

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 27th day of May, 2004, by and between LANI GAY WATTSON, WALTER GAY, NICOLE GAY, ANNA LINDSEY, KRISTEN HARTER and JENNIFER DORN, herein called the "First Party," whose mailing address is P.O. Box 511, Anahola, Hawaii 96703, 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) 8-8-002:011 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.

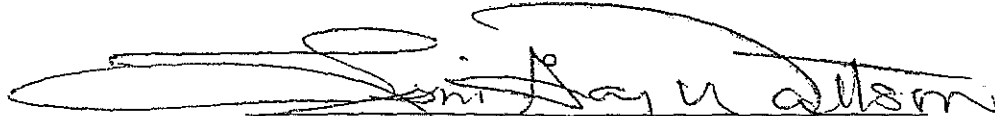
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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:



Lani Gay Wattson, Legal Owner


Walter Gay, Legal Owner

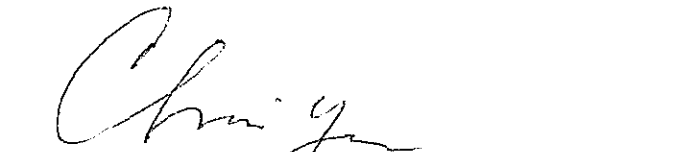

Nicole Gay, Legal Owner


Anna Lindsey, Legal Owner


Kristen Harter, Legal Owner


Jennifer Dorn, Legal Owner

SECOND PARTY:


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

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 17th day of June, 2004 before me
personally appeared ~~LANI GAY WATTSON, WALTER GAY, NICOLE GAY,~~ *KJV/MP*
~~ANNA LINDSEY, KRISTEN HARTER and JENNIFER DORN~~ to me known to be *KJV/MP*
the persons described in and who executed the foregoing instrument, and
acknowledged that ^{HE} ~~they~~ executed the same as ^{his} ~~their~~ free act and deed. *KJV/MP*

Kathleen J. Vall
Kathleen J. Vall
Notary Public, State of Hawaii

My commission expires: 6-14-2008

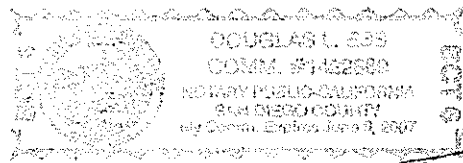
L.S.

STATE OF HAWAII-California)
) SS.
COUNTY OF HAWAII-San Diego) b/c

On this 23 day of July, 2004 before me personally appeared ~~LANI GAY WATTSON, WALTER GAY, NICOLE GAY, ANNA LINDSEY, KRISTEN HARTER and JENNIFER DORN~~ to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that ^{she} ~~they~~ _{b/c} executed the same as ^{her} ~~their~~ _{b/c} free act and deed.

Dog Lu

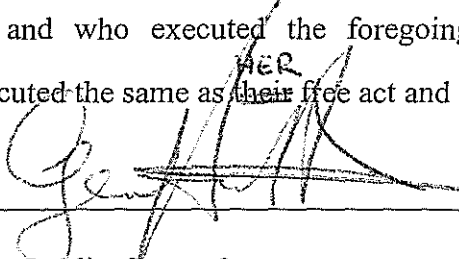
Notary Public, State of California



My commission expires: June 6, 2007

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 5th day of JUNE, 2004 before me personally appeared LANI GAY WATTSON, ~~WALTER GAY NICOLE GAY,~~ ANNA LINDSEY, KRISTEN HARTER and JENNIFER DORN to me known to be the persons ~~described~~ described in and who executed the foregoing instrument, and acknowledged that ~~they~~ ^{SHE} executed the same as ~~their~~ ^{HER} free act and deed.



Notary Public, State of _____

GEOFFREY CULVERHOUSE
Notary Public, State of Hawaii
Commission Expires 01/31/2007

My commission expires: _____

STATE OF HAWAII)
) s.s.
COUNTY OF HAWAII)

On this 18th day of June, 2004

before me personally appeared Anna Lindsey
W.P. to me known to be the person(s)

described in and who executed the foregoing instrument and acknowledged
that she executed the same as her free act and deed.

Witness my hand and seal.

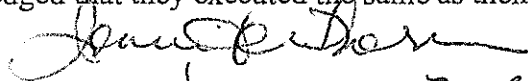
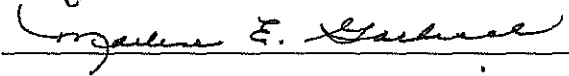
L.S.

Doreen N Sabin

Doreen N Sabin, Notary Public
Third Judicial Circuit, State of Hawaii
My commission expires: 09/09/2004

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 24th day of June, 2004 before me personally appeared ~~LANI GAY WATTSON, WALTER GAY, NICOLE GAY, ANNA LINDSEY, KRISTEN HARTER~~ and JENNIFER DORN 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 Hawaii

My commission expires: 9-17-06

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 200__ before me personally appeared ~~LANI GAY WATTSON, WALTER GAY, NICOLE GAY, ANNA LINDSEY, KRISTEN HARTER and JENNIFER DORN~~ 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.

Kristen Harter

Notary Public, State of Wisconsin

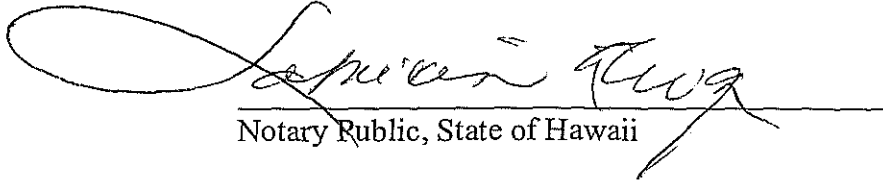
Barbara J. Katz

My commission expires: Sept. 10, 2006

STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 25th day of August, 2004 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: _____

3

5

1,204.4'

Fence

LANI & GAY WATTSON
EXOTIC TROPICAL GARDENS
100 ACRES +
TMK (3) 8-8-2:11
SCALE 1"=30'

4,059.14'

3,580.34'

Fence

WATER
Tank

Cesspool

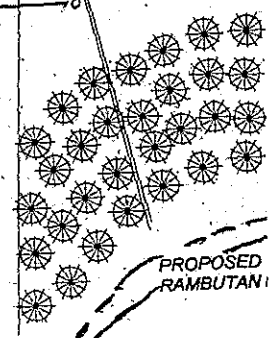
PROPOSED 2 BEDROOM
A.D.U FARM DWELLING

Cesspool

NOBAIN'S
2 Bedroom
HOUSE

EXISTING
RESIDENCE
WATER TANK

TO SOUTH POINT



PROPOSED
RAMBUTAN

Fence

TO KONA