

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

October 20, 2005

Dakota Frenz and Michael Mamarpaac
1145 West Kawaihine Street
Hilo, Hawaii 96720

Dear Dakota Frenz and Michael Mamarpaac:

SUBJECT: Additional Farm Dwelling Agreement (fda-05-000086)
Applicants: Dakota Frenz and Michael Mamarpaac
Land Owners: Frederick J. Frenz Trust et al
State Land Use: Urban
County Zoning: A-3a
Land Area: 17.0 Acres
Tax Map Key: (3) 2-4-070:001

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. Names, address and signatures of the applicants and the landowners.
2. A farm plan or evidence of the applicant's proposed 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:

Hawai'i County is an equal opportunity provider and employer.

OCT 21 2005

Dakota Frenz and Michael Mamarpaac

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October 20, 2005

- (a) Ongoing agricultural activities include:
 - i. The parcel has been and will continue to be used for the raising of beef cattle. Approximately 15 to 20 head are maintained on the property.
 - (b) Proposed agricultural activities include:
 - i. Continued operation as a beef cattle ranch.
 - (c) Labor man-hours are at least 20 hours per week for fence repairs, water line and trough checks, pest control, invasive plant control, cattle rotation and herding of cattle for slaughter and processing. The Additional Farm Dwelling will be occupied by the Frenz family, the owners and operators of the farm.
3. Applicant's commitment to the farm plan will be shown in the form of the enclosed Additional Farm Dwelling Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.

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 3890) approved on December 13, 1976, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, Hawaii G.E. Tax license (GE ID Number 30108882) 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 that the income will be taxed.

4. Documentation of Agricultural Dedication by the Department of Finance effective July 1, 2001 has been presented.

5. In addition, the following agencies have submitted their comments as stated below:

(a) Department of Water Supply (DWS) (Letter dated October 13, 2005):

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

For your information, an existing service lateral for a 1 ½ -inch meter services this property and is adequate for the existing uses and the additional farm dwelling. Therefore, the Department has no objections to the proposed application subject to the applicants understanding and accepting that a backflow preventer (reduced pressure type) shall be installed by a licensed contractor on private property just after the meter. The installation and assembly of the backflow preventer must be inspected and approved by the Department. The backflow preventer shall be operated and maintained by the customer. A copy of our backflow preventer handout is being forwarded to the applicants to help them understand this requirement.

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

(b) Real Property Tax Office (RPT):

The RPT office did not comment on this application as of this date. However, notice of the Agricultural Dedication mentioned previously supports this approval.

(c) Department of Health (DOH):

The DOH did not comment on this application as of this date.

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. The First Party shall comply with 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 on ongoing agricultural activity as summarized previously in this letter.
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. The applicant must secure a building permit for the additional farm dwelling within that time. Failure to secure a building permit for this additional farm dwelling on or before October 22, 2007 may cause the Director to initiate proceedings to invalidate the AFDA.
7. The applicant is urged to contact the State DOH to ascertain the number and type of individual wastewater systems that may be allowed on the lot.

Dakota Frenz and Michael Mamarpaac
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October 20, 2005

Should you have any questions, please contact Jonathan Holmes of this office.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

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Enclosures: AFDA document
AFDA document instruction sheet

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

20 ACRE PARCEL

TMK
2-4-070-001

TOTAL
= 17.000 Acre

PASTURE

fence — CONFINED ANIMALS
(15.940 Ac)

PASTURE

STREAM

Commercial
(21,600p)
PASTURE

Additional
Farm
Dwelling

(.564 Ac
Habitat)

Fence
DAVID FRENZ
RESIDENCE
1 ACRE

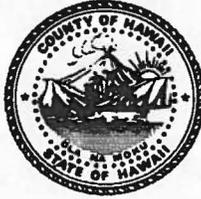
DRIVE
WAY

FRANK'S
FOODS
MR FA
HOME
PASTURE
FENCE
BRUCE FRENZ
.5 ACRE
Residence

Fence
MICHAEL FRENZ
RESIDENCE
1 ACRE

KAWAIIANUI ST.

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

December 10, 2012

State of Hawaii
Bureau of Conveyances
P.O. Box 2867
Honolulu, HI 96803

To Whom It May Concern:

**SUBJECT: Cancellation of Additional Farm Dwelling Agreement
Recordation
Tax Map Key: (3) 2-4-070:001**

Enclosed please find the Cancellation of Additional Farm Dwelling Agreement for the subject parcel, check # 15490 from the First Party in the amount of \$30.00 for the recordation fee, and a self-addressed return envelope, submitted for recordation.

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

Sincerely,


BJ LEITHEAD TODD
Planning Director

JH/MM: mm/ak

\\coh33\planning\public\Admin Permits Division\AFDA\2012\BOC\FrenzFamilyTrustCancel-BOC.doc

Enclosures: Cancellation of AFDA document
Check # 15490
1 Self-addressed Return Envelope

NAKAMOTO, OKAMOTO & YAMAMOTO
ATTORNEYS AT LAW, A LAW CORPORATION

ROY K. NAKAMOTO
ALAN M. OKAMOTO
JEREL I. YAMAMOTO
HENRY T. NAKAMOTO

PLANNING DEPARTMENT
COUNTY OF HAWAII
187 KAPIOLANI STREET
HILO, HAWAII 96720-2687

TELEPHONE (808) 961-0641
FAX (808) 935-3872
ALAN@NOYHAWAII.COM

2012 JUN 12 PM 2: 26

June 8, 2012

BJ Leithead Todd
Planning Director
101 Pauahi Street, Suite 3
Hilo, HI 96720
Attn: Jonathan Holmes

Re: Frenz Family Trust, Michael & Marcia, et al.
TMK: 2-4-070:001
SUB-11-001101

Dear Director Leithead Todd:

Pursuant to your letter dated December 27, 2011 to Alan Inaba, enclosed is the original signed Cancellation of Additional Farm Dwelling Agreement and check for \$30 for recording.

Very truly yours,



Alan M. Okamoto

Enclosures
cc: Michael and Marcia Frenz, Trustees
Alan Inaba



AFTER RECORDATION, RETURN BY MAIL TO:

Planning Department
County of Hawai'i
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

TITLE OF DOCUMENT:

CANCELLATION OF ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

**FIRST PARTY: MICHAEL J. FRENZ, MARCIA L. FRENZ, TRUSTEES OF
 THE Frenz Family Trust, BRUCE J. FRENZ and DAVID M.
 FRENZ**

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 2-4-070:001

CANCELLATION OF AGREEMENT

THIS CANCELLATION OF AGREEMENT, made and executed this 19th day of November, 2012, by and between **MICHAEL J. FRENZ and, MARCIA L. FRENZ, TRUSTEES OF THE Frenz Family Trust, BRUCE J. FRENZ and DAVID M. FRENZ,** herein called the "First Party," whose mailing address is 1141 West Kawaihine Street, Hilo , HI 96720, and the **COUNTY OF HAWAII,** herein called the "Second Party,"

WITNESSETH

WHEREAS, on October 21, 2005 an agreement was entered into by and between the First Party and the Second Party whereby the First Party was authorized to construct an additional farm dwelling (being the second dwelling) on the property described as Tax Map Key (3) 2-4-070:001; and

WHEREAS, the subject area is zoned Agricultural (A-3a) and Residential (RS-40) by the County of Hawai'i and classified Urban by the State Land Use Commission; and

WHEREAS, the agreement to construct said improvements was duly recorded with the State of Hawai'i Bureau of Conveyances as Document Number 2005-241743; and

WHEREAS, the property described as Tax Map Key (3) 2-4-070:001 is being subdivided into two (2) lots leaving only one dwelling on each lot; and

WHEREAS, the First Party and the Second Party agree that execution of said agreement should be cancelled as there is no longer any valid, compelling reason for it because the subdivision will result in no second dwellings being located on either of the lots created from the property described as Tax Map Key (3) 2-4-070:001.

NOW, THEREFORE, in consideration of the above recitals and the conditions and covenants contained therein, the parties agree as follows:

The Second Party agrees that the agreement dated October 21, 2005, recorded at the State of Hawai'i Bureau of Conveyances Document Number 2005-231743, between the First Party and the Second Party is no longer applicable and that the agreement is hereby declared null and void.

The Second Party agrees that the agreement dated October 21, 2005 no longer constitute covenants or encumbrances running with the land as it relates to Tax Map Key (3) 2-4-070:001.

The First Party agrees to pay for all of the necessary costs and expenditures to record this Cancellation of Agreement.

IT IS MUTUALLY AGREED BY AND BETWEEN the parties that if any additional documents are necessary that they will execute same in order that the agreement dated October 21, 2005 no longer constitutes an encumbrance on Tax Map Key (3) 2-4-070:001.

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

FIRST PARTY:

MICHAEL J. AND MARCIA L. FRENZ FAMILY TRUST, legal owner

by Michael J. Frenz
MICHAEL J. FRENZ, TRUSTEE

by Marcia L. Frenz
MARCIA L. FRENZ, TRUSTEE

Bruce J. Frenz
BRUCE J. FRENZ, legal owner

David M. Frenz
DAVID M.. FRENZ, legal owner

SECOND PARTY:

BJ Leithead Todd
**BJ LEITHEAD TODD, Planning Director
County of Hawai'i Planning Department**

STATE OF HAWAII)

) SS:

COUNTY OF HAWAII)

On this 5th day of June, 2012, before me personally appeared MICHAEL J. FRENZ, Trustee of the Frenz Family Trust, to me personally known 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.

Amy K. Maneki

Amy K. Maneki

Notary Public, State of Hawaii

My commission expires: 5/23/2014

LS

(Seal)

Doc. Date:	or <input checked="" type="checkbox"/> Undated at time of notarization	# Pages:	<u>9</u>
Name of Notary:	<u>Amy K. Maneki</u>	Third	Circuit
Document Description:			
Cancellation of Additional Farm Dwelling Agreement between Michael J. Frenz & Marcia L. Frenz, Trustees of the Frenz Family Trust, Bruce J. Frenz, and David M. Frenz; and County of Hawaii re: TMK (3) 2-4-070-001			
<u>Amy K. Maneki</u>		<u>June 5, 2012</u>	
Notary Signature		Date	
NOTARY CERTIFICATION			
			LS (Seal or Stamp)

STATE OF HAWAI'I)
) SS.
COUNTY OF HAWAI'I)

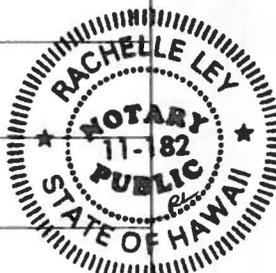
On this 19th day of November, 2012, before me personally appeared BJ Leithead Todd, to me personally known, who, being by me duly sworn, did say that BJ Leithead Todd is the Planning Director of the County of Hawai'i, and that the Planning Department of the County of Hawai'i has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawai'i, a government agency, and said BJ Leithead Todd acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawai'i.




Rachelle Ley

Notary Public, State of Hawai'i
Third Judicial Circuit

My Commission Expires: June 12, 2015

Document Date:	<u>November 19, 2012</u>	No. of Pages:	<u>9</u>
Notary Name:	<u>Rachelle Ley</u>	<u>Third Judicial Circuit</u>	
Doc. Description:	<u>Cancellation of Additional Farm Dwelling Agreement</u> <u>Tax Map Key (3) 2-4-070:001</u>		
 Notary Signature		<u>11/19/2012</u> Date	

STATE OF HAWAII)

) SS:

COUNTY OF HAWAII)

On this 5th day of June, 2012, before me personally appeared MARCIA L. FRENZ, Trustee of the Frenz Family Trust, to me personally known 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.

LS

Amy K. Maneki
AMY K. MANEKI

Notary Public, State of Hawaii

(Seal)

My commission expires: 5/23/2014

Doc. Date:	_____	or <input checked="" type="checkbox"/> Undated at time of notarization	# Pages:	<u>9</u>
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<u>Amy K. Maneki</u>		<u>6/5/12</u>		
Notary Signature		Date		
NOTARY CERTIFICATION				
				LS (Seal or Stamp)

STATE OF HAWAII)

) SS:

COUNTY OF HAWAII)

On this 7th day of June, 2012, before me personally appeared BRUCE J. FRENZ, to me personally known 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.

Amy K. Maneke
AMY K. MANEKE

Notary Public, State of Hawaii

My commission expires: 5/23/2014

LS
(Seal)

Doc. Date:	or <input checked="" type="checkbox"/> Undated at time of notarization	# Pages:	<u>9</u>
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Document Description:			
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<u>Amy K. Maneke</u> Notary Signature		<u>6/7/12</u> Date	LS
NOTARY CERTIFICATION			(Seal or Stamp)

STATE OF HAWAII)

) SS:

COUNTY OF HAWAII)

On this 5th day of June, 2014, before me personally appeared DAVID M. FRENZ, to me personally known 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.

Amy K. Maneki

AMY K. MANEKI

Notary Public, State of Hawaii

LS
(Seal)

My commission expires: 5/23/2014

Doc. Date:	or <input checked="" type="checkbox"/> Undated at time of notarization	# Pages:	<u>9</u>
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<u>Amy K. Maneki</u> Notary Signature		<u>6/5/12</u> Date	LS (Seal or Stamp)
NOTARY CERTIFICATION			

JUN 13 2012

Cash Drawer

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER - SEE REVERSE SIDE FOR COMPLETE SECURITY FEATURES

NAKAMOTO, OKAMOTO & YAMAMOTO
ATTORNEYS AT LAW, A LAW CORPORATION
OFFICE ACCOUNT
187 KAPIOLANI STREET
HILO, HAWAII 96720

REMITTANCE ADVICE					

59-177/1213

15490

THE SUM 30 DOLS 00 CTS

PAY

DOLLARS

DATE	TO THE ORDER OF	
6/8/12	Bureau of Conveyances	Frenz 28487 rec.

CHECK AMOUNT	
30	00

OFFICE ACCOUNT

HAWAII NATIONAL BANK
HAWAII HILO, HAWAII 96720

R M Ota



THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

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