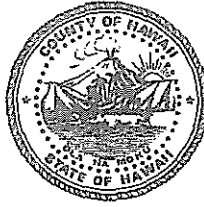


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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

April 20, 2010

Ms. Diana V. Keffer
P. O. Box 728
Honaunau, Hawaii 96726

Dear Ms. Keffer:

SUBJECT: Additional Farm Dwelling Agreement (FDA-10-000264)
Applicant: Diana V. Keffer
**Land Owner: Diana V. Keffer and Keith G. Keffer,
Trustees of the Diana V. Keffer Trust and
the Keith G. Keffer Trust**
State Land Use: Agricultural
County Zoning: A-5a
Land Area: 5.073 Acres
Tax Map Key: (3) 8-7-004:028

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 the signatures of the applicants/landowners.
2. A farm plan or evidence of the applicants' 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. Your farm plan included the following ongoing income producing agricultural activities:
 - i. The growing of fruit and coffee trees;
 - ii. Approximately 40 hours per week are required for running 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, Hawai'i 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.**
2. The subject lot was created by subdivision (SUB 08-000201) approved on April 22, 2009 which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity.
4. In addition, the following agencies have submitted their comments as stated below:
 - a. Department of Water Supply (DWS)(Letter dated March 29, 2010):

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

Please be informed that the subject property is not within the Department's existing service limits. The nearest point of connection is from the end of an existing 8-inch waterline within Māmalahoa Highway approximately 3.5 miles north at the Hookena Junction.

However, as the applicant has indicated that they will utilize a private rainwater catchment system for the proposed additional farm dwelling, we

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April 20, 2010

have no objection to the proposed application.

Should there be any questions, please contact Mr. Ryan Quitarano of our Water Resources and Planning Branch at 961-8070, extension 256.”

b. Department of Health (DOH)(Memorandum dated April 12, 2010):

“The Department of Health’s Safe Drinking Water Branch authority on drinking water quality is based on the definition of a “public water system.” A “public water system” means a system which provides water for human consumption through pipe or other constructed conveyance if such system has fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20. Recommend the subdivision lots be connected to an existing public water system.

Concerns on water quality for lead, copper, algae and microbiological and chemical contaminations in private water systems have identified the need for self monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking purposes since the quality may not meet potable water standards.

We recommend that you review all of the Standard Comments on our website: www.hawaii.gov/health/environmental/env-planning/landuse/landuse.htm. Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopment projects. We also ask you to share this list with others to increase community awareness on healthy community design.”

Decision:

In view of the above, your request to construct an **Additional Farm Dwelling** on the

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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 \$30.00 in accordance with the enclosed AFDA 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 any other reviewing agencies/divisions listed on the Building Permit (BP) Application shall be adhered to.
4. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
5. Your AFDA has been approved based on ongoing agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This AFDA 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 BP for this additional farm dwelling on or before April 20, 2012 may cause the Director to initiate proceedings to invalidate the AFDA.

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April 20, 2010

Please feel free to contact Jonathan Holmes of this office at 961-8288 should you have other questions and/or concerns.

Sincerely,


TODD B. LETT
Planning Director

JH/MM:mm
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Enclosures: AFDA document
AFDA document instruction sheet

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

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: DIANA V. KEFFER and KEITH G. KEFFER, TRUSTEES of
the DIANA V. KEFFER TRUST and the KEITH G. KEFFER
TRUST**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 8-7-004:028

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 6th day of May, 2010, by and between **DIANA V. KEFFER AND KEITH G. KEFFER, TRUSTEES OF THE DIANA V. KEFFER TRUST AND THE KEITH G. KEFFER TRUST**, herein called the "First Party," whose mailing address is P.O. Box 728, Honaunau, Hawaii 96726, and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a farm dwelling located on the property described by Tax Map Key (3) 8-7-004:028 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:
DIANA V. KEFFER TRUST and KEITH G. KEFFER TRUST

Diana V. Keffer, Trustee
DIANA V. KEFFER, TRUSTEE

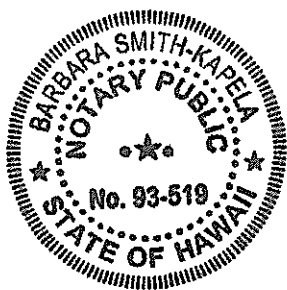
Keith G. Keffer, Trustee
KEITH G. KEFFER, TRUSTEE

SECOND PARTY:

BJ Leithead-Todd
BJ LEITHEAD-TODD, DIRECTOR
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 27 day of April, 2010 before me personally appeared **DIANA V. KEFFER AND KEITH G. KEFFER, Trustees of the DIANA V. KEFFER TRUST and the KEITH G. KEFFER TRUST** 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.



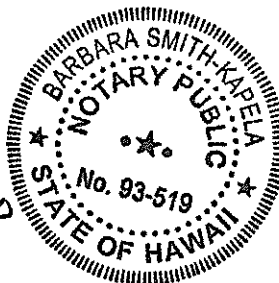
Barbara Smith-Kapela
Notary Public, State of HAWAII

My commission expires: 9/19/2013

Doc. Date: UNATED # Pages: 11
Barbara Smith-Kapela Third Circuit
Doc. Description: ADDITIONAL
FARM DWELLING
AGREEMENT

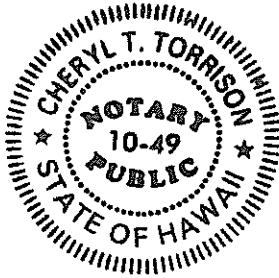
Barbara Smith-Kapela 4/27/2010
Notary Signature Date

NOTARY CERTIFICATION



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

On May 6, 2010, 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 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 BJ Leithead Todd acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.



Cheryl Torrison
CHERYL T. TORRISON
Notary Public, State of Hawai'i

My Commission Expires: 03-07-2014

NOTARY CERTIFICATION STATEMENT

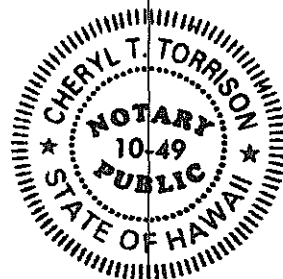
Doc. Description: Additional Farm Dwelling Agreement
(Diana V Keffer Tr & Keith G Keffer Tr)
Doc. Date: _____ or Undated at time of notarization.

No. of Page: 11 including Exhibit Jurisdiction: Third Circuit

Notary Name: Cheryl T. Torrison

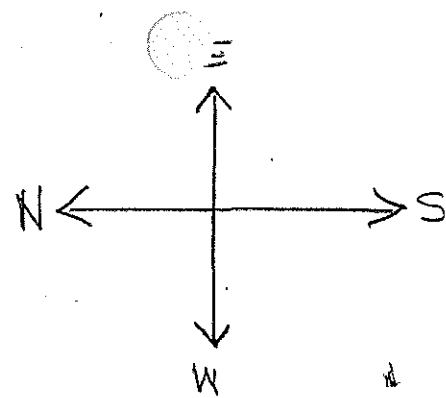
Cheryl Torrison _____
Notary Signature Date

5/06/2010



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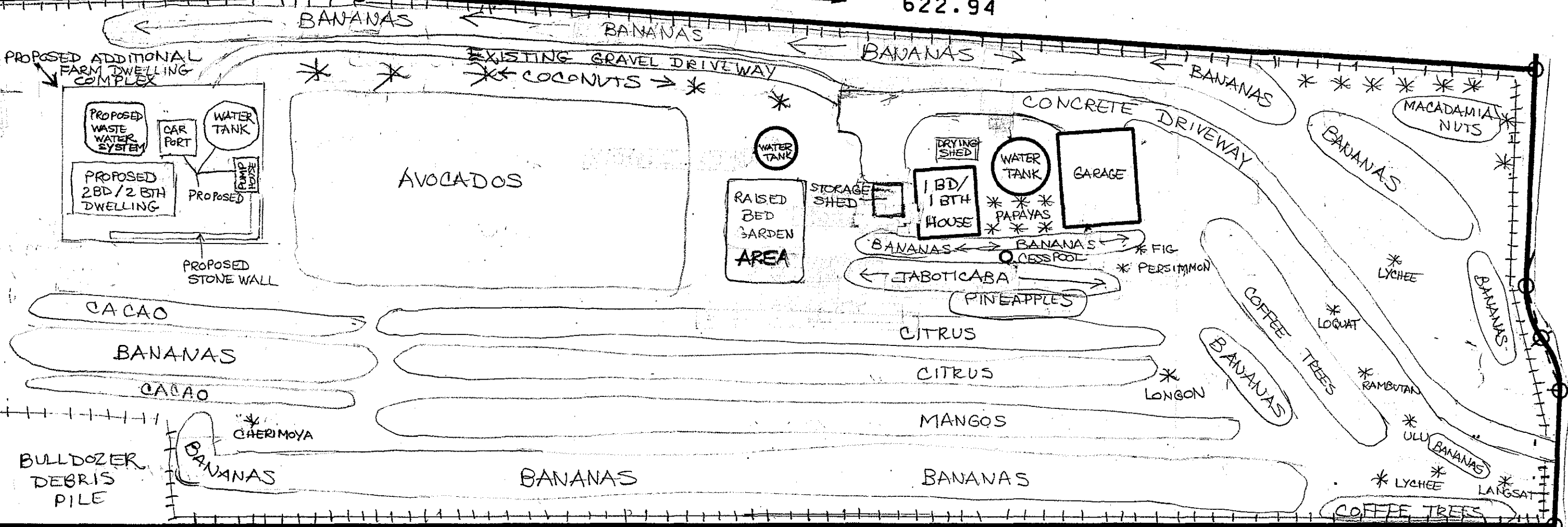
- EVERYTHING IS
EXISTING UNLESS
OTHERWISE NOTED
AS "PROPOSED"

SCALE APPROX
1" = 50'

- PROPOSED NEW WASTE WATER SYSTEM SEPTIC OR CESSPOOL
TO BE DETERMINED

622.94

99.51
180.43



830.68

++++ HOGWIRE FENCING

(3)8-7-004:028
KEITH AND DIANA KEFFER TRUST