

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

July 8, 2010

Mr. Richard E. Alderson, Trustee
P.O. Box 166
Hakalau, Hawaii 96710

Dear Mr. Alderson:

SUBJECT: Additional Farm Dwelling Agreement (FDA-10-000273)
Applicant: Richard E. Alderson, Trustee
Land Owner: Richard E. Alderson Trust
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 283.53 Acres
Tax Map Key: (3) 2-8-011:013

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 activity:
 - i. Sixty (60) acres of the parcel licensed for the purpose of growing and processing primarily sweet potatoes and taro;
 - ii. Approximately 84 hours per week are required for the farm operation.
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

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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 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 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:
 - a. Department of Water Supply (DWS) letter dated June 23, 2010:

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

Please be informed that the subject parcel is not within the Department's existing service limits. The nearest adequate point of connection is from an existing 6-inch waterline within Stable Camp Road, approximately 3,500 feet from the subject property. Further, the subject parcel is situated at an elevation where the Department's water system cannot provide adequate pressure.

For your information, we have no objection to the use of a private rainwater catchment system to provide water service for the proposed additional farm dwelling.

Should there be any questions, please contact Mr. Finn McCall of our Water

Mr. Richard E. Alderson, Trustee
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Resources and Planning Branch at 961-8070, extension 255.”

b. Department of Health (DOH) memorandum dated May 27, 2010:

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

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) 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.

Lands formerly used for sugarcane production are now being developed into communities where residential homes, schools and commercial businesses are being constructed. Chemicals associated with the sugarcane industry persist in soil today and may be a threat to public health and the environment. Elevated arsenic levels were discovered in soil at former sugarcane production areas on the islands. The HEER Office has identified former sugarcane production areas for assessment throughout the state and plans to work with property owners to conduct environmental assessments to identify and address elevated soil arsenic levels prior to finalizing development plans for the properties.

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

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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 redevelopments 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 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 licensee 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.

Mr. Richard E. Alderson, Trustee

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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 July 8, 2012 may cause the Director to initiate proceedings to invalidate the AFDA.

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

Sincerely,



BJ LEITHEAD-TODD
Planning Director

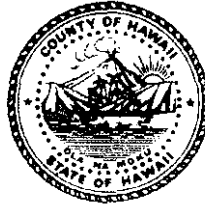
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Enclosures: AFDA document
AFDA document instruction sheet

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

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

West Hawai'i Office
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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

October 26, 2012

Mr. Richard Alderson
P.O. Box 166
Hakalau, Hawai'i 96710

Dear Mr. Alderson:

SUBJECT: Cancellation of Additional Farm Dwelling Agreements
AFDAs: FDA-10-000273, FDA-10-00274, FDA-10-000275
Applicant: Richard E. Alderson, Trustee
Owners: Richard E. Alderson Trust
Tax Map Key: (3) 2-8-011:013

This is in response to your letter received in our office on September 13, 2012 regarding the status of three previously approved Additional Farm Dwelling Agreements for the subject property.

Approvals of AFDAs FDA-10-000273, FDA-10-000274, and FDA-10-000275 were granted on July 8, 2010, and the agreement documents were recorded with the State of Hawai'i Bureau of Conveyances on August 16, 2010 as document numbers 2010-118231, 2010-118232, and 2010-118230, respectively. You indicated in your letter that the living quarters related to these agreements have been vacated and removed. Further, no Building Permits were obtained for the additional farm dwellings prior to the deadline date of July 8, 2012. In light of this information, the Additional Farm Dwelling Agreements are deemed null and void.

Enclosed you will find a "Cancellation of Farm Dwelling Agreement" document for each of the three AFDAs. These documents must be signed and notarized and returned to this office, each with a check for \$30.00 payable to the Bureau of Conveyances for recordation purposes. Please be sure that all of the information in the documents is correct. If any changes need to be made, please do so in black ink and have those changes initialed by the notary.


Mr. Richard Alderson

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Should you have further questions, please feel free to contact Jonathan Holmes of this office at (808) 961-8288 or jholmes@hawaiiicounty.gov.

Sincerely,


BJ LEITHEAD-TODD
Planning Director

JH/KWR:kwr

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Enclosures: Three Cancellation of Additional Farm Dwelling Agreement documents

