

Planning Department

Route Slip

PLANNING DEPARTMENT
COUNTY OF HAWAII

Route Slip Date: _____

[Director 2013 JUN 14 AM 9:17 _____

[Deputy _____

[Pvt. Secretary _____

Long Range Division

[Manager _____

[Planner _____

Administrative Permits

[Manager _____

[Planner _____

[Zoning Inspector _____

[Zoning Clerk _____

Planning Division

[Manager _____

[Planner _____

[Sec. to Commission _____

West Hawaii Office

[Manager _____

[Planner _____

[Inspector _____

Drafting Section

[Draftsman _____

General Administration

[Personnel Clerk _____

[Account Clerk _____

[File _____

[See Me _____

[Circulate _____

[Draft Reply _____

[Review & Comment _____

[Appropriate Action _____

[Investigate & Report _____

[Recommendation _____

Remarks: _____

085778

No Agm



STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

July 23, 2012 8:02 AM
Doc No(s) A-45870455



1 1/1 KEO
B-32096463

/s/ NICKI ANN THOMPSON
REGISTRAR

KE

AFTER RECORDATION, RETURN BY MAIL TO:

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

gms

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT (FDA-12-000323)

PARTIES TO DOCUMENT:

**FIRST PARTY: GARY BARR and JANICE REDDICK, TRUSTEES OF THE
GARY BARR/JANICE REDDICK TRUST**

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 2-6-011:030

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 14 day of June, 2012, by and between **GARY BARR and JANICE REDDICK, TRUSTEES OF THE GARY BARR/JANICE REDDICK TRUST**, herein called the "First Party," whose mailing address is 2820 Kaiwiki Road, Hilo, Hawai'i, 96720, and the **COUNTY OF HAWAI'I**, 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) 2-6-011:030, 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.

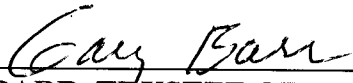
IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

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, Hawai'i 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, Hawai'i County Code, as amended.

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

FIRST PARTY:

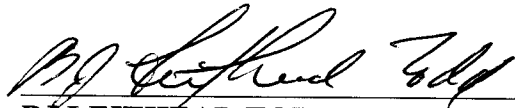


**GARY BARR, TRUSTEE OF THE
GARY BARR/JANICE REDDICK TRUST, Landowner**



**JANICE REDDICK, TRUSTEE OF THE
GARY BARR/JANICE REDDICK TRUST, Landowner**

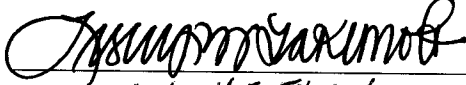
SECOND PARTY:

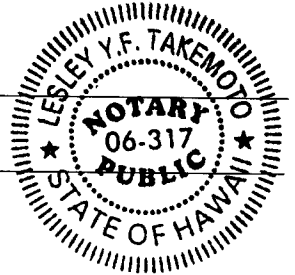


**BJ LEITHEAD TODD, Planning Director
County of Hawai'i Planning Department**

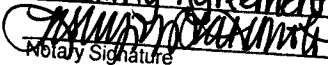
STATE OF Hawaii)
) SS.
COUNTY OF Hawaii)

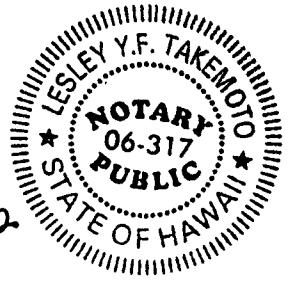
On this 14th day of June, 2012 before me personally appeared **GARY BARR and JANICE REDDICK, TRUSTEES OF THE GARY BARR/JANICE REDDICK TRUST**, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.


Lesley Y.F. Takemoto
Notary Public, State of Hawaii



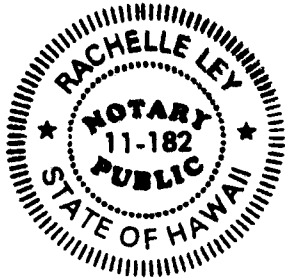
My commission expires: June 04, 2014

Doc. Date: undated @ time of notary # Pages: 9
Name: Lesley Y.F. Takemoto Third Circuit
Doc. Description: Additional Farm Dwelling Agreement

Notary Signature 06/14/2012 Date
NOTARY CERTIFICATION



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

On this 16th day of July, 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.

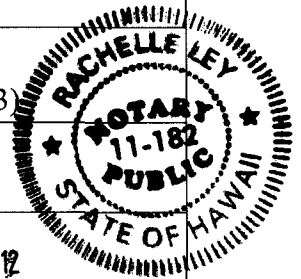


Rachelle Ley
Rachelle Ley

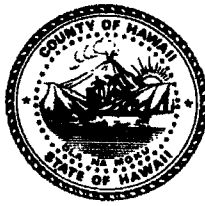
Notary Public, State of Hawai'i
Third Judicial Circuit

My Commission Expires: June 12, 2015

Document Date:	<u>June 14, 2012</u>	No. of Pages:	<u>10 (Including Exhibit A)</u>
Notary Name:	<u>Rachelle Ley</u>		<u>Third Judicial Circuit</u>
Doc. Description:	<u>Additional Farm Dwelling Agreement (FDA-12-000323)</u>		
	<u>Tax Map Key: (3) 2-6-011:030</u>		
<i>Rachelle Ley</i> Notary Signature		<u>JUL 16 2012</u>	Date



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

May 31, 2012

Mr. Gary Barr
Ms. Janice Reddick
2820 Kaiwiki Road
Hilo, Hawai'i 96720

Dear Mr. Barr and Ms. Reddick:

SUBJECT: Additional Farm Dwelling Agreement (FDA-12-000323)
Applicant: GARY BARR and JANICE REDDICK
Land Owner: GARY BARR/JANICE REDDICK TRUST
State Land Use: Agricultural
County Zoning: A-10a (Agricultural, minimum building site of ten acres)
Land Area: 10.30 acres
Tax Map Key: (3) 2-6-011:030, Kaiwiki Homesteads 2nd, South Hilo

Pursuant to authority conferred to the Planning Director by Chapter 25 (Zoning), Article 5, Division 7, Section 25-5-77 of the Hawai'i County 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 existing and proposed income-producing agricultural activities:
 - a. Existing agricultural activities include the following:
 - i. Macadamia nut orchard on 1/5 acres being returned to production after years of inattention;
 - ii. Cultivation of 500 tea plants on approximately three acres.

EXHIBIT
A

Mr. Gary Barr
Ms. Janice Reddick
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May 31, 2012

- b. Proposed agricultural activities include the following:
 - i. Increasing tea production to about 10,000 plants;
 - ii. Production of nutrient supplements to support the agricultural activities from composting, vermicomposting, and "natural farming" inputs;
 - iii. Macadamia nut production is expected to return revenue of \$3,000 annually, and tea production is expected to return revenue of \$60,000 annually;
 - iv. Estimated time required to maintain the macadamia orchard and cultivate tea crops is expected to range from a minimum of approximately 40 hours per week to a maximum of approximately 80 hours per week, fluctuating on a seasonal basis.
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.** (emphasis added)
2. The subject lot was created after June 4, 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 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 identified below:
 - a. Department of Water Supply (DWS) has provided comments, including but not limited to DWS inability to provide water service to the proposed additional farm

Mr. Gary Barr
Ms. Janice Reddick
Page 3
May 31, 2012

dwelling (*DWS memo dated May 21, 2012, maintained in departmental TMK file*).

- b. Department of Health (DOH) has provided comments, including but not limited to information regarding water quality, and the use of individual wastewater systems (*DOH memo dated May 16, 2012, maintained in departmental TMK file*).

Decision:

In view of the above, your request to construct an **Additional Farm Dwelling** on the property is **approved** subject to the following conditions:

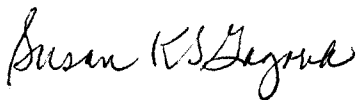
1. The AFD shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.
2. The agreement shall run with the land and 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 Hawai'i County Code, Chapter 25, Zoning), 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 existing and proposed agricultural activity as summarized previously in this letter.
6. The First Party (as identified in the Additional Farm Dwelling Agreement) shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.

Mr. Gary Barr
Ms. Janice Reddick
Page 4
May 31, 2012

7. The Department of Water Supply has determined that a County approved water system is not available to support the AFD. An Additional Farm Dwelling that is not served by an approved water system may be permitted to use a water catchment system in an area that receives an annual rainfall of at least eighty (80) inches of rain per year. A minimum 9,000 gallon water catchment system for domestic consumption and fire fighting purposes shall be required for the AFD.
8. 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 May 31, 2014, may cause the Director to initiate proceedings to invalidate the AFDA.

Please feel free to contact Jonathan Holmes of this office at (808) 961-8288 or jholmes@hawaiicounty.gov should you have any further questions and/or concerns.

Sincerely,


BJ LEITHEAD TODD
Planning Director

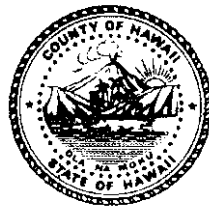
JRH/KWR:kwr

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Enclosures: AFDA document
AFDA document instruction sheet

xc: Manager-Chief Engineer, DWS
Mr. Mike McCall, RPT
GIS Section (via email)

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
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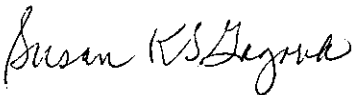
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Sincerely,


BJ LEITHEAD TODD
Planning Director

JRH/KWR:kwr

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Enclosures: AFDA document
AFDA document instruction sheet

xc: Manager-Chief Engineer, DWS
Mr. Mike McCall, RPT
GIS Section (via email)