

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

August 31, 2012

Mr. Orrin K. Icari and
Ms. Nadine T. Icari
198 South Wilder Road
Hilo, Hawai'i 96720

Dear Mr. and Ms. Icari:

SUBJECT: Additional Farm Dwelling Agreement (FDA-12-000325)
Applicant: ORRIN K. ICARI and NADINE T. ICARI
Land Owner: ORRIN K. ICARI and NADINE T. ICARI
State Land Use: Agricultural
County Zoning: A-10a (Agricultural, minimum building site of ten acres)
Land Area: 1.000 acre
Tax Map Key: (3) 2-5-045:009, Kukuau 2nd, South Hilo, Hawai'i

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 proposed income-producing agricultural activities:
 - a. Ongoing agricultural activities for the BLACK GOLD FARMS, LLC include the following:
 - i. Raising approximately 100 chickens and three (3) pigs, including:
 1. Feeding and watering animals;
 2. Maintaining yards and pens;

Mr. Orrin K. Icari and
Ms. Nadine T. Icari
August 31, 2012

3. Obtaining and preparing feed for pigs;
 4. Building and maintaining shelters;
 5. Caring for birds;
 6. Rotating and shipping stock.
 - ii. Approximately ten to fifteen (10-15) hours per week are required for ongoing existing agricultural activities, with an additional three-week period of specific work activities.
 - b. Proposed agricultural activities include the following:
 - i. Increasing sales and stocks of chickens and pigs.
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 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 as identified below:
 - a. Department of Water Supply (DWS) has provided comments, including but not limited to DWS ability to provide water service to the proposed additional farm dwelling and related charges (*DWS memo dated June 29, 2012, maintained in departmental TMK file*).

Mr. Orrin K. Icari and
Ms. Nadine T. Icari
August 31, 2012

- b. Department of Health (DOH) has provided comments, including but not limited to information regarding individual wastewater systems and the possibility of toxins being present in the environment (*DOH memo dated June 12, 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 signature(s) 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 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.
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

Mr. Orrin K. Icari and
Ms. Nadine T. Icari
August 31, 2012

for this additional farm dwelling on or before August 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

P:\Admin Permits Division\AFDA\2012\Apv\Icari25045009Aprvl.doc

Enclosures: AFDA document
AFDA document instruction sheet
First Farm Dwelling Notice

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