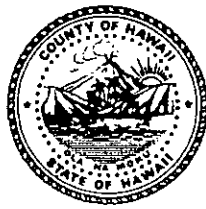


William P. Kenoi
Mayor



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

April 10, 2013

Lori Mikkelson
All Aina Services
P.O. Box 291
Laupāhoehoe, HI 96764

Dear Ms. Mikkelson:

SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-13-000333)
Applicant: CHRISTOPHER IGNACIO and KENDRA IGNACIO
Land Owner: CHRISTOPHER P. IGNACIO and KENDRA IGNACIO
Tax Map Key: (3) 4-3-011:021

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 and have **approved** your request subject to the following.

BACKGROUND INFORMATION

1. Subject Property: 43-2150 Pohakea Mauka Road, Pohakea and por. Pa'auilo Homesteads 2nd, Hamākua, Hawai'i
2. Size: 5.00 acres
3. State Land Use: Agricultural
4. County Zoning: A-5a(Agricultural, minimum building site of five acres)
5. Proposed Request: Additional Farm Dwelling
6. Farm Plan for IGNACIO FARM includes the following existing income-producing agricultural activities:
 - a. Raising 48 chickens;

Ms. Lori Mikkelson
All Aina Services
Page 2
April 10, 2013

- b. Raising 4 wean-off steers;
 - c. Raising 8 geese;
 - d. Raising 3 domestic pigs;
 - e. Maintaining vegetable garden, including cabbage, squash, tomatoes, Swiss chard, and herbs.
7. Estimated time required to operate the farm totals approximately 32.5 hours per week.
8. Rationale for Establishing AFD: The entire property has evolved into a family farm. The entire family, including their extended family is involved with the different aspects of the farm. Kendra's father would like to be able to spend time gardening, eventually retire, and move to the farm permanently.

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 one (1) equivalent unit (EU) of water service to either the proposed additional farm dwelling or to the existing structure following the installation of a 5/8-inch water meter and all associated charges; A second dwelling shall not share the water service; there is no objection to the use of a private rainwater catchment system; and required installation of a backflow prevention assembly (*DWS memo dated February 27, 2013, 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 March 1, 2013, maintained in departmental TMK file*).

DECISION AND CONDITIONS

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

1. Your AFDA has been approved based on existing and proposed agricultural activity as summarized in this letter.
2. The AFD shall be used for farm related purposes and 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.
3. An Additional Farm Dwelling Agreement affidavit shall be notarized and submitted to the Planning Department for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.
4. 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 by the Bureau of Conveyances.**
5. 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.
6. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
7. 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.

Ms. Lori Mikkelson
All Aina Services
Page 4
April 10, 2013

8. The Department of Water Supply (DWS) has determined that a County approved water system can be made available to support the AFD at a cost to the applicant. 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.
9. 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 1, 2015, 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/AK:nci

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Enclosures: AFDA document
AFDA document instruction sheet

xc: Manager-Chief Engineer, DWS
Administrator, RPT
GIS Section (via email)

Additional Farm Dwelling Agreement Instructions

Attached is the Additional Farm Dwelling Agreement form for your approved application. It is important that you follow these instructions in the completion of the form. Failure to complete and submit a properly completed agreement form to the Planning Department for recordation with the Bureau of Conveyances may cause your Additional Farm Dwelling Agreement to be rejected by the Bureau and delay approval of your application for a building permit for the additional farm dwelling. Building permit applications for additional farm dwellings will not be approved by the Planning Department until the AFDA form and the required submittals specified below have been returned to the Planning Department. You may make as many copies of the AFDA document for your records as necessary. A copy of the final recordation page will be available from the Planning Department when received back from the Bureau of Conveyances upon request.

1. All persons in the "First Party" must sign before a Public Notary in the appropriate location on the signature page (Page 5). Photocopies of this page may be made and sent to any persons listed on the page whose notarized signatures are required and then attached to the agreement document along with the original signature page. Facsimiles or FAX copies of signatures will not be accepted.

Note: All signatures must be the same as the typed name. Therefore, if John L. Doe is the name typed the signature must also be John L. Doe. Signing John Doe or Jonathan L. Doe will cause the agreement document to be rejected by the Bureau of Conveyances for recordation purposes.

2. The date on page 2 will be filled in when the agreement is signed by the Planning Director; please leave it blank.
3. Enclose a check or money order in the amount of \$30.00, made payable to the Bureau of Conveyances, for the recordation fee.
4. Return the **original** completed AFDA document with all required signatures and the recordation fee payment to the Planning Department for the Director's signature and submittal to the Bureau of Conveyances for recordation. **"Exhibit A" is part of this agreement document;** please return it with the signed and notarized agreement.

AFTER RECORDATION, RETURN BY MAIL TO:

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

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT (FDA-12-000324)

PARTIES TO DOCUMENT:

FIRST PARTY: CHRISTOPHER P. IGNACIO and KENDRA IGNACIO

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 4-3-011:021

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ___ day of _____, 20___, by and between **CHRISTOPHER P. IGNACIO and KENDRA IGNACIO**, herein called the "First Party," whose mailing address is P.O. Box 317, Paauilo, Hawai'i, 96776, 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) 4-3-011:021, 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, 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:

CHRISTOPHER P. IGNACIO, Landowner

KENDRA IGNACIO, Landowner

SECOND PARTY:

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

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20__ before me
personally appeared **CHRISTOPHER P. IGNACIO and KENDRA IGNACIO**,
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.

Notary Public, State of _____

My commission expires: _____