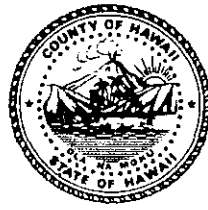


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

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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

May 8, 2013

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

Dear Ms. Mikkelson:

**SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-13-000334)**  
**Applicant: DANIEL KELLY**  
**Land Owner: DANIEL KELLY**  
**Tax Map Key: (3) 3-1-004:035**

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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: 31-623 Kamaee Rd. Opea-Peleau and Kamaee Hmstds. North Hilo, Hawaii, Pepeekeo Plantation.
2. Size: 20.00 acres.
3. State Land Use: Agricultural.
4. County Zoning: A-20a (Agricultural, minimum building site of twenty acres).
5. Proposed Request: Additional Farm Dwelling
6. Farm Plan for KAMAEE FARM includes the following existing and future expansion of income-producing agricultural activities:
  - a. **Ongoing Agricultural Activities:**
    - 1) Taro in gardens and Lo'i;

- 2) Blueberries;
- 3) Bananas;
- 4) Coconuts;
- 5) Maintenance of mixed orchard with lemon, avocado, ulu, orange, papaya, mango, cacao, macadamia nut, mangosteen, lime, rollinia, various sapotes, inga, mulberry, blueberry guava, etc.;
- 6) Maintenance of ornamental plants and starts (in shade house), in addition to plants above, bamboo, aloe, areca palm, torch ginger, job's tears;
- 7) Maintenance of vegetable garden and perennial garden;
- 8) Raising chickens;
- 9) Raising sheep and maintenance;
- 10) Soil amendment projects (biochar, IMO, mulch, and compost) for personal use).

**b. Future Agricultural Activities:**

- 1) Expand cacao, blueberry, and mixed orchard;
  - 2) Expand vegetable garden;
  - 3) Expand goat, sheep, and chicken population including maintenance (i.e. fencing)
  - 4) Aquaponics;
  - 5) IMO (indigenous microorganisms) and vermicomposting/black soldier fly.
7. Current estimated time required to operate the farm totals approximately 110 hours per week. Future estimated time required to operate the farm totals approximately 180 hours per week.
8. Rationale for Establishing AFD: To have a permanent residence located within close proximity to orchards and crops for security 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.

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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, and have no objection as the applicant has indicated that the property is not served by County water and will rely on a private rainwater catchment system (*DWS memo dated April 4, 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 25, 2013, maintained in departmental TMK file*).

#### **DECISION AND CONDITIONS**

In view of the above, your request to construct three (3) **Additional Farm Dwellings** 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 Additional Farm Dwellings 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 dwellings 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 dwellings 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

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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.
8. The Department of Water Supply has determined that a County approved water system is not available to support the Additional Farm Dwellings. 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](mailto:jholmes@hawaiicounty.gov) should you have any further questions and/or concerns.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

AK:nci

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Enclosures: AFDA document  
AFDA document instruction sheet

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