

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

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

July 15, 2013

Frederic G. Chautico
PO Box 241
Pa'auilo, HI 96776

Dear Mr. Chautico:

SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-13-000339)
Applicant: FREDERIC G. CHUATICO
Land Owner: FREDERIC G. CHAUTICO
Tax Map Key: (3) 4-3-015:004

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: 43-2074 Pa'auilo Mauka Rd., Pa'auilo Homesteads 2nd, Hamākua, Hawai'i.
2. Size: 5.405 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 HAMAKUA ORCHID includes propagation and hybridization of approximately 2,500 orchids within a 66'x26' greenhouse.
7. Estimated time required to operate the farm totals approximately 5 hours per day Monday through Friday (25 hours per week).

Mr. Frederic G. Chuatico

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8. Rationale for Establishing AFD: Change existing garage to add kitchen facilities for nursery employees, as well as, partitioning off a portion of the building for plant propagation.

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 property 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' existing water system facilities not being able to support an additional water meter at this time. DWS also states that both dwelling shall not share the existing water meter. DWS also has no objection to the use of a private rainwater catchment system to serve the dwelling (*see attached copy of DWS memo dated June 19, 2013*).
 - b. Department of Health (DOH) has provided comments, including but not limited to information regarding water quality, and the use of individual wastewater systems (*see attached copy of DOH memo dated June 3, 2013*).

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 agricultural activity as summarized in this letter.

Mr. Frederic G. Chuatico

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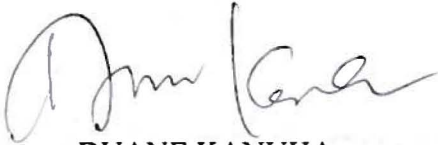
July 15, 2013

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 \$31.00 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.
8. The Department of Water Supply (DWS) has determined that a County approved water system can not be made 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.
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 July 15, 2015, may cause the Director to initiate proceedings to invalidate the AFDA.

Mr. Frederic G. Chuatico
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July 15, 2013

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,



DUANE KANUHA
Planning Director

JRH/AK:nci

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Enclosures: AFDA document
AFDA document instruction sheet
DWS and DOH Comment Letters

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

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-13-000339)

PARTIES TO DOCUMENT:

FIRST PARTY: FREDERIC G. CHAUTICO

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 4-3-015:004

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ___ day of _____, 20___, by and between **FREDERIC G. CHAUTICO**, herein called the "First Party," whose mailing address is P.O. Box 241, 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) 4-3-015:004, 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:

FREDERIC G. CHAUTICO, Landowner

SECOND PARTY:

DUANE KANUHA, Planning Director
County of Hawai'i Planning Department

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 4). Photocopies of pages 4 and 5 may be made and sent to any person(s) listed 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. Enclose a check or money order in the amount of \$31.00, made out to the Bureau of Conveyance for the recordation fee.
3. 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.



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

June 19, 2013

2013 JUN 21 AM 6:09
PLANNING DEPARTMENT
COUNTY OF HAWAII

TO: Duane Kanuha, Director
Planning Department

FROM: Quirino Antonio, Jr., Manager-Chief Engineer

SUBJECT: **ADDITIONAL FARM DWELLING AGREEMENT
APPLICATION (FDA 13-000339)
APPLICANT – FREDERIC G. CHUATIUCO
TAX MAP KEY 4-3-015:004**

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

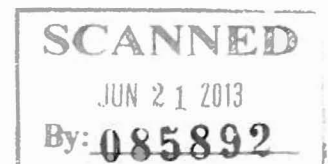
An existing 5/8-inch meter services this property and is adequate for only one dwelling unit at an average of 400 gallons per day. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's regulations. However, the Department's existing water system facilities cannot support an additional water meter at this time. Extensive improvements and additions, which may include source, storage, booster pumps, transmission, and distribution facilities, must be constructed. Currently, sufficient funding is not available from the Department for such improvements and no time schedule is set.

We have no objection to the proposed application, subject to the applicant understanding that we cannot provide service to the proposed additional farm dwelling. Further, should the application be approved, both dwellings shall not share the existing meter. Although the applicant has not indicated how the proposed additional dwelling will obtain water, we have no objection to the use of a private rainwater catchment system to serve the dwelling; however, the plumbing between the existing system now served by the Department and the private catchment system shall not be interconnected.

Should there be any questions, please contact Mr. Lawrence Beck of our Water Resources and Planning Branch at 961-8070, extension 260.

Sincerely yours,


Quirino Antonio, Jr., P.E.
Manager-Chief Engineer



LB:dfg

...Water, Our Most Precious Resource... Ka Wai A Kāne...

The Department of Water Supply is an Equal Opportunity provider and employer.



2013 JUN -4 AM 8:33

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: June 3, 2013

TO: Duane Kanuha
Planning Director, County of Hawaii

FROM: Newton Inouye *ni*
District Environmental Health Program Chief

SUBJECT: Application: Additional Farm Dwelling Agreement
(FDA -13-000339)
Applicant: FREDERIC G. CHUATIUCO
Land Owner: FREDERIC G. CHUATIUCO
State Land Use: Agricultural
County Zoning: A-5a (Agricultural, Minimum Building Site of Five
Acres)
Land Area: 5.405 Acres
Tax map key: (3) 4-3-015:004, Paauilo Homesteads 2nd, Hamakua
Hawai'i

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.

Wastewater Branch has no objections to the proposed project. However, as we have no information on existing wastewater systems, we are unable to provide comments. Please have your engineer or contractor submit a completed cesspool information card identifying the location of all wastewater systems and their relationship to existing and/or proposed property lines.

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.

085588

BJ Leithead Todd
June 3, 2013
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We recommend that you review all of the Standard Comments on our website:
<http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

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.