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**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
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Fax (808) 961-8742

June 27, 2014

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

Dear Ms. Mikkelson:

**SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-13-000340)**  
**Applicant: NICHOLAS FEDAN**  
**Land Owner: OLYMPIC COMMONS, LLC**  
**Tax Map Key: (3) 3-2-003:043**

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We received your original application for two (2) Additional Farm Dwellings dated April 17, 2013. In addition, on May 13, 2013 we received supplemental information which deemed your application complete on September 30, 2013. Subsequently, we received your request to revise your application for one (1) Additional Farm Dwelling via e-mail dated May 1, 2014. 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, your request for **one (1) additional farm dwellings** on the subject property is **approved** subject to the following.

**BACKGROUND INFORMATION**

1. **Subject Property:** 32-1091 Hawai'i Belt Road, Por. Waikaumalo-Maulua Homesteads, N. Hilo, Hawai'i
2. **Lot Size:** 47.12 acres
3. **State Land Use:** Agricultural
4. **County Zoning:** A-5a (Agricultural, minimum building site of five acres)
5. **Proposed Request:** One "As-Built" Additional Farm Dwellings (AFD)

6. Farm Plan for MANOLOA FARMS includes the following existing and proposed income-producing agricultural activities:
  - a. Maintaining and Harvesting sixty (60) Lychee trees; more trees to bear fruit each year;
  - b. Maintenance of seven (7) acres of land with a total of 240 Lychee trees of which only sixty (60) trees are currently bearing fruit, more trees to bear fruit each year;
7. Estimated time required:
  - a. First Farm Dwelling is responsible for mowing the farm for a minimum of eight (8) hours per week.
  - b. First Additional Farm Dwelling is responsible for mowing the farm 8 hours a day 5 days per week for a total of forty hours (40) during the maintenance and harvest periods of the year, as well as pruning and cleaning of the orchard five (5) days a week with a minimum of 4 hours a day for a total of twenty (20) hours a week. As well as being responsible during the pruning and orchard maintenance time of the year for pruning and maintenance 8 hours a day, 5 days per week for a total of forty hours (40). During the harvest season, harvesting requires 8 to 10 hours per day, 4 to 5 days per week to harvest and haul fruit to a broker (who sells to the Farmer's Market) for a total of between thirty six (36) hours and fifty (50) hours per week.
8. Hours to operate the farm total approximately 48 hours per week for regular maintenance. An additional 47 hours per week for 8 weeks during harvest season, and 45 hours per week for 4 months following the harvest season.
9. **Rationale for Establishing AFD:** To accommodate farm workers, as it is currently necessary to hire outside help during the harvest season.

### 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.**

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' inability to provide water service to either the proposed additional farm dwellings or to the existing structure. There is no objection to the use of a private rainwater catchment system, subject to the applicant understanding that DWS cannot provide water service. *(See attached copy of DWS memo dated June 24, 2013.)*
  - b. Department of Health (DOH) has provided comments, including but not limited to information regarding water quality, soil quality, and the use of individual wastewater systems. *(See attached copy of DOH memo dated June 12, 2013.)*

### **DECISION AND CONDITIONS**

In view of the above, your request to construct **One (1) AFD** on the property is **approved** subject to the following conditions:

1. Your AFD has been approved based on existing and proposed agricultural activity as summarized in this letter.
2. Prior to the Planning Director signing and notarizing the AFD Agreement for recordation with the Bureau of Conveyances for the first "as-built" AFD;
  - a. All kitchen components in the second "as-built" dwelling shall be removed and abandoned completely and;
  - b. The second "as-built" dwelling structure shall be brought into compliance with all applicable State and County regulations, including securing applicable building permits, if required, and;
  - c. The applicant shall notify the Planning Department upon completion of kitchen removal and shall schedule a site inspection.

3. 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.
4. An AFD 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.
5. 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 AFD Agreement Instructions. **The Planning Department will not approve a building permit application for the additional dwelling until the AFD Agreement document and all required attachments have been sent for recordation by the Planning Department.**
6. 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.
7. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
8. The First Party (as identified in the AFD Agreement) shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
9. DWS has determined that a County approved water system can not be made available to support the AFD at this time. An AFD 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.
10. This AFD shall be valid for a period of two (2) years from the date of this approval letter to secure a Building Permit (BP) for the AFD. Failure to secure a BP for this AFD on or before June 26, 2016, may cause the Director to initiate proceedings to invalidate the AFD.

Please feel free to contact Jonathan Holmes at (808) 961-8288 or [jholmes@hawaiiicounty.gov](mailto:jholmes@hawaiiicounty.gov) should you have any questions and/or concerns.

Sincerely,



DUANE KANUHA  
Planning Director

JRH/AK:kl

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Enclosures:   AFD Agreement document  
                  AFD Agreement document instruction sheet  
                  DWS and DOH Comment Letters

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