

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 22, 2014

James F. Heidelberg
Elizabeth L. Crosson
64-856 U'ikeoni St.
Kamuela, HI 96743

Dear Mr. Heidelberg and Ms. Crosson:

SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-14-000358)
Applicants: JAMES F. HEIDELBERG and ELIZABETH L. CROSSON
Land Owners: JAMES F. HEIDELBERG and ELIZABETH L. CROSSON
State Land Use: Agricultural
County Zoning: A-1a (Agricultural, Minimum Building Site of One Acre)
Land Area: 1.1584 Acres
Tax Map Key: (3) 6-4-029:054, Waimea Vacationland Subd – Unit 1 & Puukapu Acres – Unit 1, F.P. 1418, Por. GR 84557, Waimea, South Kohala, Hawai'i

We have received your application for Additional Farm Dwellings along with supplemental information for review, which was deemed complete as of May 7, 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, we have reviewed your request for **one (1) additional farm dwelling** on the subject property and have **approved** your request subject to the following.

BACKGROUND INFORMATION

1. **Subject Property:** Waimea Vacationland Subd – Unit 1 & Puukapu, Waimea, South Kohala, Hawai'i.
2. **Lot Size:** 1.1584 Acres.
3. **State Land Use:** Agricultural.

4. **County Zoning:** A-1a (Agricultural, minimum building site of One Acre).
5. **Proposed Request:** One Additional Farm Dwelling.
6. **Farm Plan includes the following existing and proposed income-producing agricultural activities:**
 - a. **Existing agricultural activities include:**
 - i. Maintenance and harvest of assorted fruit trees;
 - b. **Proposed agricultural activities include:**
 - i. Addition of assorted fruit trees;
 - ii. Addition of chickens for eggs and manure;
 - iii. Growing of herbs (chili peppers, basil, rosemary, lemongrass, green onion, parsley, mint, marjoram, and thyme) and vegetables;
 - iv. Growing of sweet potatoes.
 - c. Approximately $\frac{1}{4}$ of an acre to be used for existing and proposed agricultural activity.
7. In addition, you have provided a General Excise Tax License.
8. **Estimated Time Required:** The farm activity will require a minimum of twenty (20) hours per week.
9. **Rationale for Establishing AFD:** To accommodate a farm hand.

FINDINGS

1. 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 HRS Chapter 205-4.5 **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 or will be 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. (*See attached copy of DWS memo dated June 13, 2014.*)
 - b. Department of Health (DOH) has provided comments regarding soil quality of former sugarcane lands. (*See attached copy of DOH memo dated June 12, 2014.*)

DECISION AND CONDITIONS

In view of the above, your request to construct **one (1) 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 additional 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 sent for recordation by the Planning Department.

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)

James Heidelberg
Elizabeth Crosson
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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. DWS has determined that a County approved water system can be made available to support the AFD.
9. 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 July 18, 2016 may cause the Director to initiate proceedings to invalidate the AFD.

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

P:\Admin Permits Division\AFDA\2014\64029054 Heidelberg FDA-14-000359\Apv\Heidelberg64029054Apv1.doc

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

xc: Manager-Chief Engineer, DWS
Administrator, RPT
GIS Section (via email)
Amy (via email at drafting@colecustomdrafting.com)

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-14-000358)

PARTIES TO DOCUMENT:

FIRST PARTY: JAMES F. HEIDELBERG and ELIZABETH L. CROSSON

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 6-4-029:054

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 20____, by and between **JAMES F. HEIDELBERG and ELIZABETH L. CROSSON**, herein called the "First Party," whose mailing address is 64-856 U`ikeoni Street, Kamuela, HI 96743 and the **COUNTY OF HAWAI'I**, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a second and third farm dwelling located on the property described by Tax Map Key (3) 6-4-029:054, situated within the State Land Use Agricultural district and zoned Agricultural (A-1a) 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 dwellings 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:

JAMES F. HEIDELBERG, Landowner

ELIZABETH L. CROSSON, Landowner

SECOND PARTY:

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

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20__ before me
personally appeared **JAMES F. HEIDELBERG and ELIZABETH L.
CROSSON**, 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: _____

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.

NEIL ABERCROMBIE
GOVERNOR



LINDA ROSEN, M.D., M.P.H.
DIRECTOR OF HEALTH
PLANNING
2014 JUN 13 PM 4:35

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

MEMORANDUM

DATE: June 12, 2014

TO: Duane Kanuha
Planning Director, County of Hawaii

FROM: Newton Inouye
District Environmental Health Program Chief

SUBJECT: Application: Additional Farm Dwelling Agreement
(FDA-14-000358)
Applicant: JAMES F. HEIDELBERG and
ELIZABETH L. CROSSON
Land Owner: RICHARD E. JASON
State Land Use: Agricultural
County Zoning: A-1a(Agricultural, Minimum building Site of
One Acre)
Land Area: 1.1584 acres
TMK: (3) 6-4-029:054 Waimea Vacationland Subd-Unit 1
& Puukapu Acres-Unit 1, F.P. 1418, Por GR 8457,
Puukapu, Waimea, South Kohala, Hawai'i

The Health Department found no environmental health concerns with regulatory implications in the submittals.

092351



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KĒKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

2014 JUN 13 PM 4:36
PLANNING DEPARTMENT
COUNTY OF HAWAII

June 13, 2014

TO: Mr. Duane Kanuha, Director
Planning Department

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

SUBJECT: **ADDITIONAL FARM DWELLING AGREEMENT APPLICATION
(FDA-14-000358)
APPLICANT – JAMES F. HEIDELBERG AND ELIZABETH L. CROSSON
TAX MAP KEY: 6-4-029:054**

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, but not be limited to, source, storage, booster pumps, transmission, and distribution facilities, would be required. Currently, sufficient funding is not available from the Department for such improvements and no time schedule is set.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed additional farm dwelling. Should the application be approved, both dwellings shall not share the existing meter, and the water system plumbing between the two dwellings shall not be interconnected in any way.

Further, as the applicant indicates that there is existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed (if one does not already exist) within five (5) feet of the existing meter on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department before commencement of water service. A copy of the Department's backflow prevention handout is attached to help the applicant understand this requirement.

092291

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

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

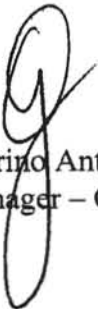
Mr. Duane Kanuha, Director

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Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,



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

TS:sco

copy – (w/enc.) James F. Heidelberg and Elizabeth L. Crosson
(w/o enc.) DWS Customer Service Section (Hilo and Waimea)
(w/o enc.) DWS Cross Connection Section