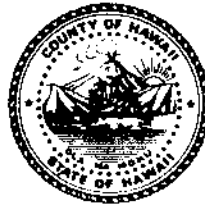


William P. Kenoi
Mayor



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

November 21, 2014

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

Dear Ms. Mikkelsen:

SUBJECT:

Application:	ADDITIONAL FARM DWELLING AGREEMENT (FDA-14-000368)
Applicants:	DAVID F. WATERS and NORA B. WATERS
Land Owners:	DAVID F. WATERS and NORA B. WATERS
State Land Use:	Agricultural
County Zoning:	A-3a (Agricultural, Minimum Building Site of Three Acres)
Land Area:	3.0 acres
Location:	Lot 1615-B, Being a Portion of Lot 1615, Waiākea Homesteads, Second Series, Being Also a Portion of Grant 11,690 Waiākea, South Hilo, Island of Hawai'i, Hawai'i
Tax Map Key:	(3) 2-4-007:146

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:** Waiākea Homesteads, Waiākea, South Hilo, Hawai'i.
2. **Lot Size:** 3.0 Acres.
3. **State Land Use:** Agricultural.
4. **County Zoning:** A-3a (Agricultural, minimum building site of Three Acres).

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 Honey products;
 - ii. Maintenance and harvest of Palm seeds;
 - iii. Maintenance of Nigerian dwarf goat herd;
 - iv. Chicken egg production; and
 - v. Other assorted Lotus, orchids and other ornamentals and hardwood trees.
 - b. **Proposed agricultural activities include:**
 - i. Addition of coffee trees;
 - ii. Addition of vanilla orchids; and
 - iii. Addition of acai palms for fruit juice.
7. **Land area utilized:** Approximately 2 acres is used for the existing and proposed agricultural activities.
8. **Estimated Time Required:** The honey production activity requires a minimum of five (5) hours per week. The palm seed activity requires eighteen (18) 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 after June 4, 1976, which, pursuant to HRS 205-4.5(b), requires the first dwelling on the lot 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 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 October 9, 2014.)*
- b. Department of Health (DOH) has provided comments regarding soil quality of former sugarcane lands. *(See attached copy of DOH memo dated October 15, 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) 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.

Lori Mikkelson
All Aina Services
Page 4
November 21, 2014

8. DWS has determined that a County approved water system is not presently 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 November 21, 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 jonathan.holmes@hawaiicounty.gov should you have any further questions and/or concerns.

Sincerely,



DUANE KANUHA
Planning Director

JRH:nci

\\COH33\planning\public\Admin Permits Division\AFDA\2014\FDA-14-000368 24007146 Waters\APVL.doc

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

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

xc w/encls: David C. & Nora B. Waters
2880 Ainaola Drive
Hilo, HI 96720

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 \$31.00, 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-14-000368)

PARTIES TO DOCUMENT:

FIRST PARTY: DAVID F. WATERS and NORA B. WATERS

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 2-4-007:146

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 20____, by and between **DAVID F. WATERS and NORA B. WATERS**, herein called the "First Party," whose mailing address is 2880 Ainaola Drive, Hilo, HI 96720 and the **COUNTY OF HAWAII**, 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) 2-4-007:146, situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) 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, Hawai'i 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 Hawai'i 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:

DAVID F. WATERS, Landowner

NORA B. WATERS, Landowner

SECOND PARTY:

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

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this _____ day of _____, 20__ before me personally appeared **DAVID F. WATERS and NORA B. WATERS**, 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: _____

NEIL ASERCHOMBE
CHIEF



PLANNING DEPARTMENT
COUNTY OF HAWAII

2014 OCT 16 AM 03:02

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 915
HONOLULU, HAWAII 96821-0915

MEMORANDUM

DATE: October 15, 2014
TO: Duane Kanuha
Planning Director, County of Hawaii
FROM: *Neil Asarchombe* Newton Inouye
District Environmental Health Program Chief
SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-14-00368)
Applicants: David F. Waters and Nora B. Waters
Land Owners: David F. Waters and Nora B. Waters
State Land Use: Agricultural
County Zoning: A-3a (Agricultural); Minimum Building Site of Three Acres
Land Area: 3.0 Acres
Location: Lot 1615-B, Being a Portion of Lot 1613, Waialae Homesteads
Waialae, South Hilo, Island of Hawaii, Hawaii
1MK: (3)2-4-007146

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.

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 HPER 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.

We recommend that you review all of the Standard Comments on our website <http://hawaii.gov/health/environmental-erp-planning/land-use-land-use.html>. Any comments specifically applicable to this project should be adhered to.

094806



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
345 KEELANAGA STREET, SUITE 20 • HILG HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

October 9, 2014

PLANNING DEPARTMENT
COUNTY OF HAWAII
2014 OCT 10 PM 2:41

TO: Mr. Duane Kanuha, Director
Planning Department
FROM: Quirino Antonio, Jr., Manager - Chief Engineer
SUBJECT: ADDITIONAL FARM DWELLING AGREEMENT APPLICATION
(FDA-14-00368)
APPLICANT - DAVID F. WATERS AND NORA B. WATERS
TAX MAP KEY 2-4-007146

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

The subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system. The nearest point of adequacy is an existing 8-inch waterline, located within Ananala Drive, approximately 6,070 feet from the front of the subject parcel.

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 there be any questions, please contact Mr. Troy Samuels, our Water Resources and Planning Branch at 961-8070, extension 235.

Sincerely yours,

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

TN:dif

094724

Water, Our Most Precious Resource... Ka Wai A Kone...
The Department of Water Supply is an Equal Opportunity provider for all persons.

•
Duane Kanaka
October 15, 2014
Page 2 of 2

The same website also features a Healthy Community Design Smart Growth Check List (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 redevelopment projects. We also ask you to share this list with others to increase community awareness on healthy community design.

WORD: FDA 14-000568.cs

