

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  
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## County of Hawai'i

### PLANNING DEPARTMENT

East Hawai'i Office  
101 Puuahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

January 30, 2015

Jennifer Ann Dutra  
P.O. Box 711484  
Mt. View, HI 96771

Dear Ms. Dutra:

**SUBJECT:**   **Application:**    **ADDITIONAL FARM DWELLING AGREEMENT (FDA-14-000372)**  
              **Applicant:**     **JENNIFER ANN DUTRA**  
              **Land Owner:**   **JENNIFER ANN DUTRA**  
              **State Land Use:** **Agricultural**  
              **County Zoning:** **A-3a (Agricultural, Minimum Building Site of Three Acres)**  
              **Land Area:**     **2.0 acres**  
              **Location:**     **Lot 7492, Crescent Acres (Fern Acres) Subdivision,**  
                                  **Kea'au, Puna, Island of Hawai'i, Hawai'i**  
                                  **Land Court Application 1053, Map 51**  
              **Tax Map Key:**   **(3) 1-1-038:015**

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:** Lot 7492 of the Fern Acres Subdivision, Land Court Application 1053, Map 51, Kea'au, Puna, Hawai'i.
2. **Lot Size:** 2.0 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. Approximately 200 plumeria plants were grown on our Fern Acres property in pots. These were transplanted into the ground on the Kona property in 2008.
- ii. Today there are over 240 plumeria trees from which cuttings, seeds and flowers are harvested. The cuttings and seeds are inspected, packaged and flown to California to be propagated for sale at mainland farmers markets.
- iii. Our Fern Acres property has been the base camp for the Big Island farming operations since 2006. All farm equipment, fertilizers, herbicides, pesticides and farm vehicles have been stored at our main house on our Fern Acres lot.

**b. Proposed agricultural activities include:**

- i. It has always been our goal to expand our plumeria selling to Hawai'i; not only at farmers markets, but online direct from Hawai'i. Our trees are now mature and are capable of producing thousands of cuttings and flowers annually.
- ii. It is our plan to have greenhouses with benches installed in the spring of 2015 on the Fern Acres property.

**c. Land area of farm operation:**

Approximately 1 acre is to be used for existing and proposed agricultural activity.

**d. Projected Income:**

- i. Income from shipping plumeria to California and selling at farmers markets has generated on average \$10,000 annually.
- ii. The proposed agricultural activity will allow for our income to increase in California from \$20,000 per year and in Hawai'i from \$20,000 per year.

**7. In addition, you have provided evidence of a General Excise Tax License and a California Business License to Sell Nursery Stock.**

**8. Man-hours for farm activities:**

- a. Estimation of number of man-hours per week/month for ongoing and proposed agricultural activity:**
- i. Maintenance of our South Kona farm requires one worker working 8-16 hours per month.
  - ii. The increase in production in Hawai'i will require additional man-hours estimated to be one to two workers, working 16 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 January 15, 2015.*)
  - b. Department of Health (DOH) has provided comments regarding soil quality of former sugarcane lands. (*See attached copy of DOH memo dated December 30, 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 signed, notarized and submitted to the Planning Department for recordation with the Registrar of the Land Court, 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 \$26.00 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.
8. DWS has determined that a County approved water system cannot 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 **January 28, 2017** may cause the Director to initiate proceedings to invalidate the AFD. A time extension to this requirement may be granted by the Planning Director upon timely request and for reasonable cause.

Please feel free to contact Jonathan Holmes of this office at (808) 961-8288 or [jonathan.holmes@hawaiicounty.gov](mailto:jonathan.holmes@hawaiicounty.gov) should you have any further questions and/or concerns.

Sincerely,



DUANE KANUHA  
Planning Director

JRH:nci

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Jennifer Ann Dutra  
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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)

Glen Sako, Department of Research and Development (R&D), via email

Kamran Fujimoto, Natural Resources Conservation Services, via email  
[kamran.g.fujimoto@hawaii.gov](mailto:kamran.g.fujimoto@hawaii.gov)



KEITH YAMAMOTO  
ACTING DIRECTOR OF HEALTH

2014 DEC 30 9:58

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 614  
HONOLULU, HAWAII 96721-0614

MEMORANDUM

DATE: December 30, 2014

TO: Duane Kanuha  
Planning Director, County of Hawaii

FROM: Kawon Inouye  
District Environmental Health Program Chief

SUBJECT: Application: Additional Farm Dwelling Agreement (FDA-14-000372)  
Applicant: JENNIFER ANN DUTRA  
Land Owner: JENNIFER ANN DUTRA  
State Land Use: Agricultural  
County Zoning: A-1a (Agricultural, Minimum Building Site of Three Acres)  
Land Area: 2.0 acres  
Location: Lot 7492, Crescent Acres (Fern Acres) Subdivision, Keolu Puna, Island of Hawaii, Hawaii  
Land Court Application 1053, Map 51  
TMK: 13-1-038-015

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.

RECORD: FDA-14-000372 eh.

096121



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII  
145 KIKULANI AVE., SUITE 20 • HONOLULU, HAWAII 96720  
TELEPHONE: 955-9611 • FAX: 955-8657

January 15, 2015

TO: Mr. Duane Kanuha, Director  
Planning Department

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

SUBJECT: ADDITIONAL FARM DWELLING AGREEMENT APPLICATION  
(FDA-14-000372)  
APPLICANT - JENNIFER ANN DUTRA  
TAX MAP KEY 13-1-038-015

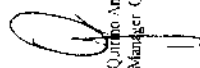
We have reviewed the subject application and have the following comments:

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 12-inch waterline, located at the intersection of Volcano Road and South Pezala Road, approximately 12,230 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 Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,

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

TS:dfg

096402

Water: Our Most Precious Resource ... Ka Hui A Kama  
The Department of Water Supply is a Division of the Department of Public Works

DAVID Y. ICE  
GOVERNOR OF HAWAII



KEITH YAMAMOTO  
ASST. DIR. OF HEALTH  
PLANNING

DEC 31 2014 9:58

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 916  
HONOLULU, HAWAII 96821-0916

MEMORANDUM

DATE: December 30, 2014

TO: Duane Kaunha  
Planning Director, County of Hawaii

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

SUBJECT: FINAL PLAT MAP  
SUBDIVIDERS: YAMASHIRO, Chase-Justin M., et al.  
Proposed Subdivision of Lot 2-A-1,  
Being Portions of Grant 4265 & Grant 5048,  
Into Lots 2-A-1A and 2-A-1B,  
Ola'a, Puna, Island of Hawaii  
[MK: 1-7-008.004 (SUB 14-001406)]

This office has no additional comments to those made previously. Reference is made to October 01, 2014 letter to the Planning Director

WORD: SUB 14-001406 eh