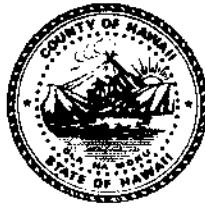


William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawaii Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawaii 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawaii Office
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Phone (808) 961-8288
Fax (808) 961-8742

April 2, 2015

Glen H. Sakai
P.O. Box 16
Kurtistown, HI 96760-0016

Dear Mr. Sakai:

SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT (FDA-15-000374)
Applicant: GLEN H. SAKAI
**Land Owners: GLEN H. SAKAI, KEVIN H. SAKAI, MICHELE M. YAMAMOTO,
EVARIST SHOZO SAKAI & CHITOE SAKAI**
State Land Use: Agricultural
County Zoning: A-10a (Agricultural, Minimum Building Site of Ten Acres)
Land Area: 22.396 acres
**Location: A Portion of Lot 3, 'Ōla'a Reservation Homestead Lots,
Being also a Portion of Grant 4436,
'Ōla'a, Puna, Island of Hawai'i, Hawai'i**
Tax Map Key: (3) 1-7-001:004

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 **one (1) additional farm dwelling** on the subject property and have **approved** your request subject to the following.

BACKGROUND INFORMATION

1. **Subject Property:** 'Ōla'a Homesteads Reservation Lots, Puna, Hawai'i.
2. **Lot Size:** 22.396 Acres.
3. **State Land Use:** Agricultural.
4. **County Zoning:** A-10a (Agricultural, minimum building site of Ten Acres).
5. **Proposed Request:** One Additional Farm Dwelling.

6. **Farm Plan includes the following existing income-producing agricultural activities:**
 - a. **Existing agricultural activities include:**
 - i. Maintenance and harvest of macadamia nut trees; and
 - ii. Maintenance and harvest of assorted flowering plants.
 - b. **Proposed agricultural activities include:**
 - i. Expansion of macadamia and flowers; and
 - ii. Addition of honey production.
 - c. Approximately 10.0 acres are used for existing macadamia nut trees and 20,000 sq. ft. for flowering plants (10,000 sq. ft. of heliconia, 8,000 sq. ft. of red and pink torch ginger & 2,000 sq. ft. of bird of paradise).
7. In addition, you have provided evidence of a General Excise Tax License.
8. **Evidence of Agricultural Income:** Voucher for sale of macadamia nuts from Hawaiian Host and an invoice for flowers from Pacific Floral Exchange.
9. **Rationale for Establishing AFD:** To accommodate applicant so as to allow retired parents to have their own house.

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 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 March 4, 2015.)
 - b. Department of Health (DOH) has provided comments requesting that the applicant supply them

with a completed cesspool information card and regarding soil quality of former sugar cane lands.
(See attached copy of DOH memo dated February 27, 2015.)

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 signature(s) 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.
8. DWS has noted that the subject parcel has a County approved water service at present and another service is available for the additional dwelling.
9. This AFD shall be valid for a period of two (2) years from the date of this approval letter to secure a

Glen H. Sakai
Page 4
April 2, 2015

Building Permit (BP) for the AFD. Failure to secure a BP for this AFD on or before April 2, 2017 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\2015\FDA-15-000374 17001004 Sakai\APVL.docx

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

xc: Chief Sanitarian, DOH
Manager-Chief Engineer, DWS
Administrator, RPT

xc via email: GIS Section (via email)

Glenn Sako, Department of Research and Development (R&D)
glenn.sako@hawaiicounty.gov

Kamran Fujimoto, Natural Resources Conservation Services (NRCS)
kamran.g.fujimoto@hawaii.gov

Jennifer Lopez, Puna Soil and Water Conservation District (SWCD)
jennifer.lopez@hi.nacdnet.net

Rex Jitchaku, Real Property Tax Division (RPT)
rex.jitchaku@hawaiicounty.gov

Stan Sitko, Real Property Tax Division (RPT)
Stan.sitko@hawaiicounty.gov

Keita Jo, Real Property Tax Division (RPT)
kieta.jo@hawaiicounty.gov




DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
 345 KEKUAHUA STREET, SUITE 20 • HILU, HAWAII 96720
 TELEPHONE (808) 981-8630 • FAX (808) 961-8457

March 4, 2015

Please note that separate dwellings shall not share a 5/8-inch meter and that, for parcels receiving water service, the plumbing for separate dwellings shall not be intermixed in any way.

Should there be any questions, please contact Mr. Troy Sumita of our Water Resources and Planning Branch at 96-8076, extension 255.

Sincerely yours,


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

LS:dlg

copy - Mr. Glen H. Saka; (w/ copy of the backflow prevention bandout)
 DWS Customer Service Section (Hilo)

PLANNING DEPARTMENT
 2015 03 04 11 01 AM

TO: Mr. Duane Kanuha, Director
 Planning Department

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

SUBJECT: ADDITIONAL FARM DWELLING AGREEMENT APPLICATION (FDA-15-0000254)
 APPLICANT - GLEN H. SAKA
 TAX MAP KEY 1-7-0011004

This memorandum shall correct the memorandum dated February 24, 2014.

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter, which is adequate for only one dwelling at an average daily usage of 400 gallons. However, a second service lateral adequate for a 5/8-inch meter designated to the subject parcel was previously installed.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting the following conditions:

1. Remittance of the following charges, which are subject to change, in our Customer Service Section:

DROP-IN METER CHARGE:	
Install 5/8-inch meter	\$75.00
Total (Subject to Change)	\$75.00

2. Further, as the applicant indicates that there is an existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed within five (5) feet of the existing (if one does not already exist) and new meter on private property. The installers 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 bandout will be sent to the applicant to help them understand this requirement.

097311

Water, Our Most Precious Resource... Aloha! We Care!
 The Department of Water Supply is an Equal Opportunity provider and employer.

Duane Kaniha
February 27, 2015
Page 2 of 2

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

The State 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 redevelopment projects. We also ask you to share this list with others to increase community awareness on healthy community design.

DAVID Y. GEE
DIRECTOR



VIRGINIA PRESSLER, M.D.
DIRECTOR

11:00:00

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 516
HONOLULU, HAWAII 96821-0516

MEMORANDUM

DATE: February 27, 2015
TO: Mr. Duane Kaniha
Planning Director, County of Hawaii
FROM: Newton Inouye
District Environmental Health Program Chief
SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT (FDA-15-000374)
Applicant: GLEN H. SAKAI
Land Owner: GLEN H. SAKAI
State Land Use: Agricultural
County Zoning: A-10a (Agricultural, Minimum Building Site of Twenty Acres)
Land Area: 22.396 acres
Location: A Portion of Lot 2, Oa'a Reservation Homestead Lots,
Being also a Portion of Grant 4436,
Oa'a, Pana, Island of Hawaii, Hawaii
Tax Map Key: (3) 1-2-001004

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 cess-pool 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.

HWWD 17A-15-00374.m

097289

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-15-000374)

PARTIES TO DOCUMENT:

**FIRST PARTY: GLEN H. SAKAI, KEVIN H. SAKAI, MICHELE M. YAMAMOTO,
EVARIST SHOZO SAKAI & CHITOE SAKAI**

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

TMK: (3) 1-7-001:004

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 2015, by and between **GLEN H. SAKAI, KEVIN H. SAKAI, MICHELE M. YAMAMOTO, EVARIST SHOZO SAKAI & CHITOE SAKAI**, herein called the "First Party," whose mailing address is P.O. Box 16, Kurtistown, HI 96760-0016 and the **COUNTY OF HAWAII**, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct an additional farm dwelling located on the property described by Tax Map Key (3) 1-7-001:004, situated within the State Land Use Agricultural district and zoned Agricultural (A-10a) 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:

GLEN H. SAKAI, Landowner

KEVIN H. SAKAI, Landowner

MICHELE M. YAMAMOTO, Landowner

EVARIST SHOZO SAKAI, Landowner

CHITOE SAKAI, Landowner

SECOND PARTY:

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

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 2015 before me personally appeared **GLEN H. SAKAI, KEVIN H. SAKAI, MICHELE M. YAMAMOTO, EVARIST SHOZO SAKAI & CHITOE SAKAI**, 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 Hawai'i

My commission expires: _____