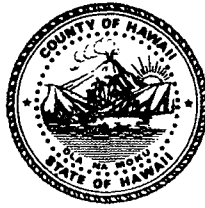


William P. Kenoi  
Mayor



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

May 4, 2015

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

Dear Ms. Mikkelson:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT (FDA-15-000375)**  
**Applicant: LORI MIKKELSON, ALL AINA SERVICES**  
**Land Owners: JOHN HOBART HURSEY, JR. & DEBRA LYNN HURSEY**  
**State Land Use: Agricultural**  
**County Zoning: A-3a (Agricultural, Minimum Building Site of Three Acres**  
**Land Area: 6.612 acres**  
**Location: Lot 48 & Lot 49, Fern Forest Vacation Estates Subdivision,**  
**Land Court Application 1053, As Shown on Map 52**  
**Kea'au, Puna, Island of Hawai'i, Hawai'i**  
**Tax Map Key: (3) 1-1-023:070 & 071**

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:** Fern Forest Vacation Estates Subdivision Kea'au, Puna, Hawai'i.
2. **Lot Size:** 6.612 Acres.
3. **State Land Use:** Agricultural.
4. **County Zoning:** A-3a (Agricultural, minimum building site of 3-acres).
5. **Proposed Request:** One Additional Farm Dwelling.

6. **Farm Plan includes the following proposed income-producing agricultural activities:**
  - a. **Proposed agricultural activities include:**
    - i. The farm will utilize Korean Natural Farming methods with indigenous microorganisms.
    - ii. The main focus of the farm plan is raising pigs, focusing on the organic market. The applicants will grow sugar cane, sugar cane seed, peanuts and pigeon peas as pig feed. They will start off with 10 sows, 160 piglets, and 40 finish pigs. A 6,500 sq. ft. piggery will be constructed; and
    - iii. Another part of the farm plan is to construct a 10,400 sq. ft. greenhouse to grow marketable vegetables and provide a dry area for composting.
  - b. Approximately 4.25 acres are to be used for these farming activities
7. In addition, you have provided evidence of a General Excise Tax License (W 30586566-02).
8. **Rationale for Establishing AFD:** To accommodate the applicants and farm worker(s).

### **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 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 indicating that the lots are not within the departments existing service limits. (See *attached copy of DWS memo dated March 31, 2015.*)
  - b. Department of Health (DOH) has provided comments noting that the use of individual wastewater systems is allowed. (See *attached copy of DOH memo dated March 24, 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 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 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 signature(s) 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. As the main activity is to establish a piggery, the applicant shall also obtain any other approvals from the DOH as may be required with regards to potential wastewater and sanitation issues.
8. 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.
9. DWS has noted that the subject parcel does not have a County approved water service at present and none is available for the additional dwelling.
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 April 29, 2017, may cause the Director to initiate proceedings to invalidate the AFD.

Lori Mikkelson  
All Aina Services  
Page 4  
May 4, 2015

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

\\COH33\planning\public\Admin Permits Division\AFDA\2015\FDA-15-000375 11023070 & 071 Hursey\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)

Keita Jo, Real Property Tax Division (RPT), via email  
[keita.jo@hawaiicounty.gov](mailto:keita.jo@hawaiicounty.gov)

Rex Jitchaku, Real Property Tax Division (RPT), via email  
[rex.jitchaku@hawaiicounty.gov](mailto:rex.jitchaku@hawaiicounty.gov)

Stan Sitko, Real Property Tax Division (RPT), via email  
[stan.sitko@hawaiicounty.gov](mailto:stan.sitko@hawaiicounty.gov)

Glenn Sako, Department of Research and Development (R&D), via email  
[glenn.sako@hawaiicounty.gov](mailto:glenn.sako@hawaiicounty.gov)

Jennifer Lopez, Natural Resources Conservation Services (NRCS), via email  
[jennifer.lopez@hi.nacdnet.net](mailto:jennifer.lopez@hi.nacdnet.net)

John Hobart, Jr. & Debra Lynn Hursey  
84 Pukihae Street, Apt. 1006  
Hilo, HI 96720-2496

DAVID Y. IGE  
GOVERNOR OF HAWAII



PLANNING DEPARTMENT  
COUNTY OF HAWAII

VIRGINIA PRESSLER, M.D.  
DIRECTOR OF HEALTH

MAR 25 AM 8:56

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

MEMORANDUM

DATE: March 24, 2015

TO: Mr. Duane Kanuha  
Planning Director, County of Hawaii

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

SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT  
(FDA-15-000375)  
Applicant: LORI MIKKELSON, ALL AINA SERVICES  
Land Owner: JOHN H., JR. & DEBRA L. HURSEY  
State Land Use: Agricultural  
County Zoning: A-3a (Agricultural, Minimum Building Site of Three Acres  
Land Area: 6.612 acres  
Location: Lot 48 & Lot 49, Fern Forest Estates Subdivision,  
Land Court Application 1053, As shown on Map 52  
Kea'au, Puna, Island of Hawai'i, Hawai'i  
Tax Map Key: 1-1-023:070 & 071

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.

WORD: FDA-15-000375.ni

097813



**DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII**

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

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

March 31, 2015

PLANNING DEPARTMENT  
COUNTY OF HAWAII  
2015 APR - 1 PM 2:34

TO: Mr. Duane Kanuha, Director  
Planning Department

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

SUBJECT: **ADDITIONAL FARM DWELLING AGREEMENT APPLICATION  
(FDA-15-000375)  
APPLICANT - LORI MIKKELSON, ALL AINA SERVICES  
TAX MAP KEY 1-1-023:070 AND 071**

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.

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

*... Water, Our Most Precious Resource ... Ka Wai A Kane ...*

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

097952

## 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 **\$26.00**, 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.

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AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawai'i Planning Department  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

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TITLE OF DOCUMENT:

**ADDITIONAL FARM DWELLING AGREEMENT (FDA-15-000375)**

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PARTIES TO DOCUMENT:

**FIRST PARTY: JOHN HOBART HURSEY, JR. & DEBRA LYNN HURSEY**

**SECOND PARTY: COUNTY OF HAWAI'I**

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PROPERTY DESCRIPTION:

**TMK: (3) 1-1-023:070 & 071**

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ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between **JOHN HOBART HURSEY, JR. & DEBRA LYNN HURSEY**, herein called the "First Party," whose mailing address is 84 Pukihae Street, Apt. 1006, Hilo, HI 96720-2496 and the **COUNTY OF HAWAI'I**, 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 Certificate of Title No. 1089230 &, Tax Map Key (3) 1-1-023:070 & 071, 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:

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**JOHN HOBART HURSEY, JR.,** Landowner

---

**DEBRA LYNN HURSEY,** 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 **JOHN HOBART HURSEY, JR. & DEBRA LYNN HURSEY**, 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 Hawaii

My commission expires: \_\_\_\_\_