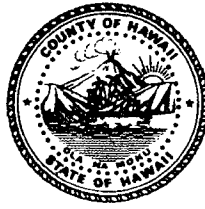


William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

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County of Hawai'i PLANNING DEPARTMENT

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June 26, 2015

John W. and Coreen Mulkey
P.O. Box 721
Kurtistown, HI 96760-0721

Dear Mr. & Ms. Mulkey:

SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT (FDA-15-000378)
Applicants: JOHN W. & COREEN MULKEY
Land Owners: JOHN W. & COREEN MULKEY
State Land Use: Agricultural
County Zoning: A-3a (Agricultural, Minimum Building Site of Three Acres)
Land Area: 2.0 acres
Location: Lot 6502, Crescent (Fern) Acres Subdivision,
Land Court Application 1053, As Shown on Map 51
Kea'au, Puna, Island of Hawai'i, Hawai'i
Tax Map Key: (3) 1-1-039:185

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 6502, Crescent (Fern) Acres Subdivision.
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 proposed income-producing agricultural activities:**
 - a. **Proposed agricultural activities include:**
 - i. Site/soil preparation for plants;
 - ii. Planting of seed;
 - iii. Transplanting seedlings; and
 - iv. Selling at the farmers markets.
 - b. Approximately 2,500 sq. ft. of dracaenas, 2,000 sq. ft. of palms & 600 sq. ft. of orchids.
7. In addition, you have provided evidence of a General Excise Tax License.
8. **Evidence of Agricultural Income:** This is a proposed agricultural endeavor.
9. **Rationale for Establishing AFD:** To accommodate farm help.

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. (See attached copy of DWS memo dated June 5, 2015.)
 - b. Department of Health (DOH) has provided comments. (See attached copy of DOH memo dated June 8, 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 Registrar of the Land Court, State of Hawai'i, 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. 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 does not have a County approved water service at present and water service is not 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 Building Permit (BP) for the AFD. Failure to secure a BP for this AFD on or before June 29, 2017 may cause the Director to initiate proceedings to invalidate the AFD.

John W. & Coreen Mulkey
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June 26, 2015

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-15-000378 11039185 Mulkey\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

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)
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Keita Jo, Real Property Tax Division (RPT)
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Duane Kanuha
June 8, 2015
Page 2 of 2

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