William P. Kenoi

County of Hawai'i

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

PLANNING DEPARTMENT

Duane Kanuha

Director

Bobby Command

Deputy Director

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

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: 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

JOHN W. & COREEN MULKEY

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 Page 4 June 26, 2015

Please feel free to contact Jonathan Holmes of this office at (808) 961-8288 or <u>jonathan.holmes@hawaiicounty.gov</u> 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)

Stan.sitko@hawaiicounty.gov

Keita Jo, Real Property Tax Division (RPT)

kieta.jo@hawaiicounty.gov

DAVID Y, IGE SOVERNOR OF HAWAII

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STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. 80X 916
HILO, HAWAII 96721-0916

MEMORANDUM

June 8, 2015 DATE:

Mr. Duane Kanuha Ţ

Planning Director, County of Hawaii

Newton Inouye 2 FROM:

District Environmental Health Program Chief

Application: ADDITIONAL FARM DWELLING AGREEMENT SUBJECT:

(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

2.0 acres

Land Area:

Land Court Application 1053, As Shown on Map 51 Lot 6502, Crescent (Fern) Acres Subdivision, Location:

Kea'au, Puna, Island of Hawai'l, Hawai'i

Tax Map Key: (3) 1-1-039:185

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

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

developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments Department of Health. The BEWG recommends that state and county planning departments, (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State The same website also features a Healthy Community Design Smart Growth Checklist

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DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAI'I 345 KEKÜANAÓN STREET, SUITE 20 • HILO, HAWAI'I 86720 TELEPHONE (808) 961-8050 • FAX (808) 961-8657

June 5, 2015

Mr. Duane Kanuha, Director Planning Department Ö

PLANTING DEPARTMENT

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Quirino Antonio, Jr., Manager-Chief Engineer FROM: ADDITIONAL FARM DWELLING AGREEMENT APPLICATION (FDA-15-000378) SUBJECT:

APPLICANT - JOHN W. AND COREEN MULKEY TAX MAP KEY 1-1-039:185 We have reviewed the subject application and have the following comments.

within the service limits of the Department's existing water system. The nearest point of adequacy is an existing 6-inch stub-out, located within South Kulani Road, approximately 5,700 feet from the front The subject parcel does not have an existing water service with the Department, as the parcel is not 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,



TS:dfg

... Water, Our Most Precious Resource ... Ka Wai A Käne ...

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

WORD: FDA-15-000378.ni

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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.