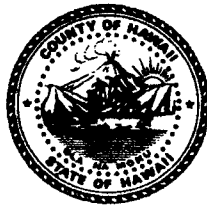


William P. Kenoi  
Mayor



Duane Kanuha  
Director

Bobby Command  
Deputy Director

West Hawai'i Office  
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**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

January 6, 2016

Don Simeon Levi & Katherine A. Pearl-Levi  
Pali Noe Farm  
P.O. Box 293  
Honoka'a, HI 96727-0293

Dear Mr. Levi & Ms. Pearl-Levi:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT  
(FDA-15-000384)**  
**Applicants: DON SIMEON LEVI & KATHERINE A. PEARL-LEVI**  
**Land Owners: DON SIMEON LEVI TRUST & KATHERINE A. PEARL-LEVI  
TRUST**  
**State Land Use: Agricultural**  
**County Zoning: A-5a (Agricultural, Minimum Building Site of Five Acres**  
**Land Area: 7.298 acres**  
**Location: Lot A, "Cody Subdivision," Being a Portion of Lot 4,  
Ka'āpahu Homesteads, Hāmākua, Hawai'i**  
**Tax Map Key: (3) 4-4-011:040**

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 A, "Cody Subdivision," Being a Portion of Lot 4, Ka'āpahu Homesteads, Hamaku, Hawai'i.
- 2. Lot Size:** 7.298 Acres.
- 3. State Land Use:** Agricultural (A).
- 4. County Zoning:** A-5a (Agricultural, minimum building site of Five Acres).

5. **Proposed Request:** Conversion of existing Garage/Workshop into One Additional Farm Dwelling.
6. **Existing Structures/Building Permits:** There are building permits of record in Real Property Tax Records for the existing dwelling and detached garage/workshop.
7. Farm Plan includes the following existing income-producing agricultural activities:
  - a. **Existing agricultural activities include:**
    - i. Approximately 80 coffee trees planted in 2005;
    - ii. Protea flowers;
    - iii. Garden space for pineapples, herbs and vegetables;
    - iv. Citrus, bananas and avocado trees planted in 2000-2001;
    - v. Assorted native hardwood trees (Ko'a, Keaia) planted in 1998-2000; and
    - vi. Livestock including sheep and chickens since 2008.
8. In addition, you have provided evidence of a 1040 Tax Form, Schedule F, Profit or Loss from Farming, and copies of various invoices for sale of agricultural products. There is also evidence of application for Conservation Program through the Hāmākua Soil and Water Conservation District.
9. **Evidence of Agricultural Income:** This is an ongoing agricultural endeavor. The income from the farm is projected to be \$4,500+ dollars.
10. **Rationale for Establishing AFD:** To accommodate existing farm help, your daughter.

### **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 after June 4, 1976, which, pursuant to HRS 205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.

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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 December 2, 2015.*)
  - b. Department of Health (DOH) has provided comments. (*See attached copy of DOH memo dated November 24, 2015.*)

#### **DECISION AND CONDITIONS**

In view of the above, your request to convert an existing garage/workshop into **one (1) Additional Farm Dwelling** on the property is **approved**, subject to the following conditions:

1. Your AFDA has been approved based on existing 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 of the occupant(s) of the AFD 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, 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 \$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,

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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 have a County approved water service at present, however an additional water service is not available for the additional dwelling. They also note the requirement for the landowners to install reduced pressure type backflow prevention assembly on the property.
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 the AFD conversion on or before **January 6, 2018**, may cause the Director to initiate proceedings to invalidate the AFD.

Please feel free to contact Jonathan Holmes of this office at (808) 961-8146 or email [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-15-000384 44011040 Levi\APVL.docx

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

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

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Pali Noe Farm  
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xc via email: GIS Section w/enclosures

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

Kanoe Malani, Natural Resources Conservation Services (NRCS)  
[kanoe.malani@hi.nacdnet.net](mailto:kanoe.malani@hi.nacdnet.net)

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

Rex Jitchaku, Real Property Tax Division (RPT)  
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