

**Planning Department**

2016 JAN 22 <sup>Route Slip</sup> PM 2 11

Route Slip Date

~~PLANNING DEPARTMENT~~  
~~COUNTY OF HAWAII~~

- Director \_\_\_\_\_
- Deputy \_\_\_\_\_
- Pvt. Secretary \_\_\_\_\_

**Long Range Division**

- Manager \_\_\_\_\_
- Planner \_\_\_\_\_

**Administrative Permits**

- Manager \_\_\_\_\_
- Planner \_\_\_\_\_
- Zoning Inspector \_\_\_\_\_
- Zoning Clerk \_\_\_\_\_

**Planning Division**

- Manager \_\_\_\_\_
- Planner \_\_\_\_\_
- Sec. to Commission \_\_\_\_\_

**West Hawaii Office**

- Manager \_\_\_\_\_
- Planner \_\_\_\_\_
- Inspector \_\_\_\_\_

*KONA*

**Drafting Section**

- Draftsman \_\_\_\_\_

**General Administration**

- Personnel Clerk \_\_\_\_\_
- Account Clerk \_\_\_\_\_

- File \_\_\_\_\_
- See Me \_\_\_\_\_
- Circulate \_\_\_\_\_
- Draft Reply \_\_\_\_\_
- Review & Comment \_\_\_\_\_
- Appropriate Action \_\_\_\_\_
- Investigate & Report \_\_\_\_\_
- Recommendation \_\_\_\_\_

Remarks: \_\_\_\_\_

**103210**

THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS:  
STATE OF HAWAII  
BUREAU OF CONVEYANCES  
DOCUMENT NO. Doc A - 58570725  
DATE - TIME January 14, 2016 10:45 AM

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AFTER RECORDATION, RETURN BY MAIL TO:

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

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TITLE OF DOCUMENT:

**ADDITIONAL FARM DWELLING AGREEMENT**

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PARTIES TO DOCUMENT:

**FIRST PARTY: ROBERT J. TRUBELL**

**LEAYNE TRUBELL**

**SECOND PARTY: COUNTY OF HAWAII**

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PROPERTY DESCRIPTION:

**TMK: (3) 7-5-024:077**

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## ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 8<sup>th</sup> day of January, 2016, by and between ROBERT J. TRUBELL, LEAYNE L. TRUBELL hereinafter referred to as the "First Party," whose mailing address is 75-954 Hiona Street, Holualoa, HI 96725 and the COUNTY OF HAWAII, hereinafter referred to as the "Second Party."

WHEREAS,

IT IS HEREBY AGREED that the First Party may construct a second farm dwelling located on the property described by Tax Map Key (3) 7-5-024:077 situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) (the "Property") 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 dwelling 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 of Hawai'i and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, its successors, heirs, personal representatives and assigns, 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 shall impose a fine against the First Party, its successors, heirs, personal representatives and assigns, of not more than \$5,000.00 for violation of any provision under section 205-4.5, Hawaii Revised Statutes. If the First Party fails to remove such violation within six months of such citation and the violation continues to exist, the First Party shall be subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Section 25-2-35 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, Hawaii County Code, as amended.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

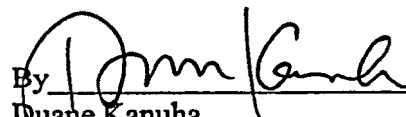
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year  
first above written.

  
\_\_\_\_\_  
ROBERT J. TRUBELL, Legal Owner

  
\_\_\_\_\_  
LEAHYNEE L. TRUBELL, Legal Owner

FIRST PARTY

COUNTY OF HAWAII

By   
\_\_\_\_\_  
Duane Kanuha  
Planning Director

SECOND PARTY

STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

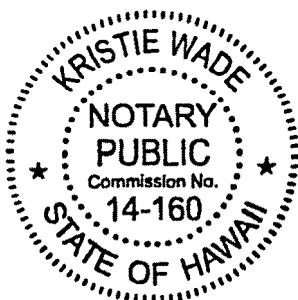
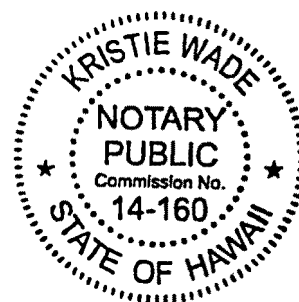
On this 17th day of December, 2015 before me personally appeared ROBERT J. TRUBELL, LEAYNE L. TRUBELL to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

**Kristie Wade**

Kristie Wade  
Notary Public, State of Hawaii

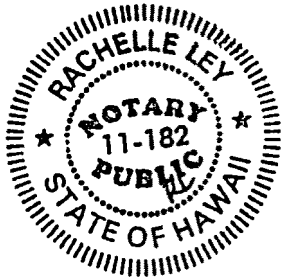
My commission expires: MAY 04 2018


Doc. Date: <u>12/17/15</u> # Pages: <u>6</u>
Notary Name: <u>Kristie Wade 3</u> Circuit
Doc. Description: <u>Additional Farm Dwelling Agreement</u>
<u>Kristie Wade</u> <u>12/17/15</u> Notary Signature Date



STATE OF HAWAI'I )  
 ) SS.  
COUNTY OF HAWAI'I )


On this 8<sup>th</sup> day of January 2016, before me personally appeared Duane Kanuha, to me personally known, who, being by me duly sworn, did say that Duane Kanuha is the Planning Director of the County of Hawai'i, and that the Planning Department of the County of Hawai'i has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawai'i, a government agency, and said Duane Kanuha acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawai'i.

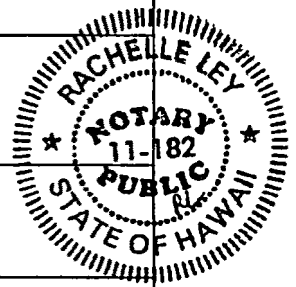


  
\_\_\_\_\_  
Rachelle Ley

Notary Public, State of Hawai'i  
Third Judicial Circuit

My Commission Expires: June 12, 2019

Document Date:	<u>JAN 8 2016</u>	No. of Pages:	<u>10 w/ Exhibit A</u>
Notary Name:	<u>Rachelle Ley</u>		<u>Third Judicial Circuit</u>
Doc. Description:	<u>Additional Farm Dwelling Agreement</u>		
	<u>Tax Map Key (3) 7-5-024:077</u>		
 Notary Signature		<u>JAN 8 2016</u>	Date



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

December 10, 2015

Robert J. & Leayne L. Trubell  
75-954 Hiona Street  
Holualoa, Hi 96725

Dear Robert & Leayne Trubell:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT (FDA-15- 000387)**  
**Applicants: Robert J. Trubell & Leayne L. Trubell**  
**Land Owners: Robert J. Trubell & Leayne L. Trubell**  
**State Land Use: Agriculture**  
**County Zoning: A-3a**  
**Land Area: 3.003 acres**  
**Location: Hiona Street Makai of Mamalahoa Highway, North Kona, Hawaii**  
**Tax Map Key: (3) 7-5-024: 077**

Pursuant to authority conferred to the Planning Director by Chapter 25 (Zoning), Article 5, Division 7, Section 25-5-77 of the Hawaii 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: Sub-5794 (Revised) August 29, 1989 Keopu 3<sup>rd</sup> North Kona
2. Lot Size: 3.003 Acres
3. State Land Use: Agriculture
4. County Zoning: A-3a
5. Proposed Request: One Additional Farm Dwelling
6. Farm Plan includes the following existing agricultural activities:
  - a. Existing agricultural activities include:
    - i. Crop type: trees – Prima Vera-----10,890 sq.ft. (1/4 acre)
    - ii. Crop type: trees – Spanish Cedar-----10,890 sq.ft. (1/4 acre)
    - iii. Crop type: trees – Cocobolo-----10,890 sq.ft. (1/4 acre)



iv. Crop type: trees -- Pheasant Wood-----10,890 sq.ft. (1/4 acre)

v. Crop type: trees -- Miscellaneous other trees-----65,340 sq.ft. (1.5 acres)

7. In addition, you have provided evidence of a General Excise Tax License.

8. Evidence of Agricultural Income: This tree farm is not ready for harvest at this time as the trees are too young. The owner anticipates harvesting some larger trees in 3 to 4 years and other trees as they mature. Estimates for future values:

Prima Vera-----future income when mature \$2,000 per tree  
Spanish Cedar-----future income when mature \$3,200 per tree  
Cocobolo-----future income when mature \$ 5,000 per tree  
Pheasant Wood-----future income when mature \$1,000 per tree

9. Rational for Establishing AFD: To accommodate farm help.

#### FINDINGS

- 1 Chapter 205, Hawaii 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 requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan and the agreement to use the additional dwelling for agricultural or farm-related activity on the building site demonstrate that there will be income-producing agricultural activity in the future.
4. In addition, the following agencies have submitted their comments as identified below:
  - a. Department of Water Supply (DWS): Memo dated 11/23/15 refers to memo dated 04/12/15 still stands for this application (TMK: 7-5-024:077). No additional water meter is available at this time. See attached memo(s) from the Department of Water Supply.
  - b. Department of Health (DOH): DOH recommends that the applicant review all of the Standard Comments on their website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

The same 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. Recommend that parties apply the healthy built environment principles in the Checklist.

### 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 agriculture 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 Hawaii, 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.
5. All other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Hawaii 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 no additional water meter is available at this time. Planning suggests the following:
  - a. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 6,000 gallons for domestic consumption or potable uses. This catchment system should adhere to the Department of Public Works, Building Division's "Guidelines for Owners of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.
  - b. Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire-fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department.

Robert & Leayne Trubell  
Additional Farm Dwelling (FDA-15-000387)  
Page 4  
December 10, 2015

9. This AFD shall be valid for a period of two 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 December 09, 2017 may cause the Director to initiate proceedings to invalidate the AFD.

Please feel free to contact Terry Dunlap of this office at (808) 323-4770 or [terry.dunlap@hawaiicounty.gov](mailto:terry.dunlap@hawaiicounty.gov) should you have any further questions and/or concerns.

Sincerely,



DUANE KANUIHA  
Planning Director

TKD: tkd  
\\coh22\Planning\Staff\Terry\REVIEWS\TMK 7-5-024-077 Trubell\AFD Trubell\TMK 3-7-5-024-077.doc

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

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

XC via email  
W/enol: GIS Section