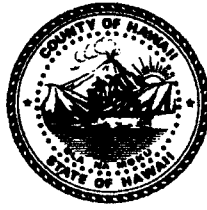


William P. Kenoi
Mayor



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

February 10, 2016

Bruce & Deborah Aguilar Russell
368 Luakaha Street
Hilo, HI 96720-7702

Dear Mr. & Ms. Russell:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-15-000390)**
Applicants: BRUCE RUSSELL & DEBORAH AGUILAR RUSSELL
Land Owners: BRUCE RUSSELL & DEBORAH AGUILAR RUSSELL
State Land Use: Agricultural
**County Zoning: A-3a (Agricultural, Minimum Building Site of Three
Acres)**
Land Area: 3.717 acres
**Location: Parcel 4, Wainaku, Being a Portion of Grant 901, South
Hilo, Island of Hawai'i, Hawai'i**
Tax Map Key: (3) 2-6-013:006

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:** Parcel 4, Wainaku, South Hilo, Island of Hawai'i.
2. **Lot Size:** 3.717 Acres.
3. **State Land Use:** Agricultural (A).
4. **County Zoning:** A-3a (Agricultural, minimum building site of Three Acre).

5. **Proposed Request:** One Additional Farm Dwelling.
6. **Existing Structures:** There are three structures on the subject property, a single-family dwelling, an authorized Ohana Dwelling and a storage building which will be converted to the AFD. The Ohana Dwelling was approved on May 17, 1989.
7. **Building Permits/Complaint:** There are building permits of record in Real Property Tax Records.
8. Farm Plan includes the following existing/maturing income-producing agricultural activities:
 - a. **Existing agricultural activities include:**
 - i. 100 Cacao trees;
 - ii. 70 Lychee trees;
 - iii. 8 groupings of Banana trees; and
 - iv. 16 assorted Abiu, Avocado and Citrus trees.
9. In addition, you have provided evidence of an active General Excise Tax License.
10. **Evidence of Agricultural Activity:** This is an ongoing agricultural endeavor with much of the orchard just now coming to fruit-bearing age.
11. **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 after June 4, 1976, which, pursuant to HRS 205-4.5(b), requires the first dwelling on the lot to be a farm 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 is income-producing agricultural activity.

4. In addition, the following agencies have submitted their comments as identified below:
 - a. Department of Water Supply (DWS) memo dated January 7, 2016. (*See attached Exhibit A.*)
 - b. Department of Health (DOH) memo dated January 26, 2016. (*See attached Exhibit B.*)

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 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 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, 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.

Bruce & Deborah Aguilar Russell

Page 4

February 10, 2016

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.
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 **February 10, 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 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-15-000390 26013006 Russell\APVL.docx

Enclosures: AFDA document
AFDA document instruction sheet
Exhibits A & B

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

Bruce & Deborah Aguilar Russell
Page 5
February 10, 2016

xc via email: GIS Section w/enclosures

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

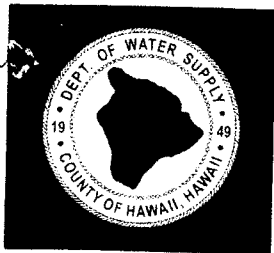
Kamran Fujimoto, Natural Resources Conservation Services (NRCS)
kamran.fujimoto@hi.nacdn.net

Jennifer Lopez, Puna Soil and Water Conservation District (SWCD)
jennifer.lopez@hi.nacdn.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



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

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

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

January 7, 2016

TO: Mr. Duane Kanuha, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement Application**
(FDA-15-000390)
Applicant – Bruce Russell and Deborah Aguilar Russell
Tax Map Key 2-6-013:006

2016 JAN 8 pm 2 12
PLANNING DEPARTMENT
COUNTY OF HAWAII

We have reviewed the subject application and have the following comments and conditions.

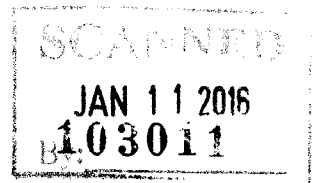
An existing 5/8-inch meter services this property and is adequate for only one (1) dwelling unit at an average of 400 gallons per day. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's regulations.

Please be informed that the subject parcel does not front upon a Department of Water Supply waterline and is, therefore, considered to be out-of-bounds. Parcels that are out-of-bounds are limited to just one (1) unit of water. One (1) unit of water allows for an average daily usage of 400 gallons served through a 5/8-inch meter and is suitable for one (1) single-family dwelling.

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 the application be approved, both dwellings shall not share the existing meter, and the water system plumbing between the two dwellings shall not be interconnected in any way.

Further, as the applicant indicates that there is existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed (if one does not already exist) within five (5) feet of the existing meter on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department before commencement of water service. A copy of the Department's backflow prevention handout is attached to help the applicant understand this requirement.

EXHIBIT



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

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

Mr. Duane Kanuha, Director
Page 2
January 7, 2016

Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'k. okamoto', written in a cursive style.

Keith K. Okamoto, P.E.
Manager-Chief Engineer

TS:dfg

copy – Mr. Bruce and Ms. Deborah Aguilar Russell (w/copy of Backflow Prevention Handout)
DWS Customer Service Section (Hilo)
DWS Cross Connection Section



2016 JAN 29 AM 11:15
VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

PLANNING DEPARTMENT
COUNTY OF HAWAII

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

MEMORANDUM

DATE: January 26, 2016

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

FROM: Eric Honda *EH*
District Environmental Health Program Chief

SUBJECT: Application: ADDITIONAL FARM SWELLING AGREEMENT
(FDA-15-000390)
Applicants: BRUCE RUSSELL & DEBORAH AGUILAR RUSSELL
Land Owners: BRUCE RUSSELL & DEBORAH AGUILAR RUSSELL
State Land Use: Agricultural
County Zoning: A-3a (Agricultural, Minimum Building Site of Three
Acres)
Land Area: 30717 acres
Location: Parcel 4, Wainaku, Being a Portion of Grant 901, South
Hilo, Island of Hawaii, Hawaii
TMK: (3)2-6-013:006

The Health Department found no environmental health concerns with regulatory implications in the submittals.

WORD:FDA-15-000390.eh

EXHIBIT
B

JAN 28 2016
103335