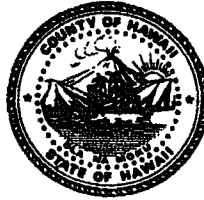


William P. Kenoi  
Mayor



Duane Kanuha  
Director

Joaquin Gamiao-Kunkel  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
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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

March 7, 2016

Ms. Jean M. Sunderland, Trustee, Watkins/Sunderland Family Trust  
P.O. Box 189  
Hawi, HI 96719

Dear Ms. Sunderland:

**SUBJECT: Application: (2) ADDITIONAL FARM DWELLINGS AGREEMENT  
(FDA-16-000392)**  
**Application received January 8, 2016**

**Applicants: Jean M. Sunderland Trustee, Watkins/Sunderland Family Trust**  
**Land Owners: Watkins/Sunderland Family Trust**  
**State Land Use: Agriculture**  
**County Zoning: A-3a**  
**Land Area: 7.518 acres**  
**Location: Approximately 0.4 mile east of Union Mill Road on the South side of Akoni Pule Highway**  
**Tax Map Key: (3) 5-4-003: 017**

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Pursuant to authority conferred to the Planning Director by Chapter 25, Article 5, Division 7, Section 25-5-77 of the Zoning Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for a second farm dwelling on the subject property. Planning has no record of any Additional Farm Dwelling previously approved for the subject site however, your site plan submitted with your application shows (2) unpermitted dwellings, noted as Ag Worker's Cottage with 2 bedroom, office and 2 baths and Ag Worker's Cottage with one bedroom and one bath. Therefore, we are processing this application for (2) Additional Farm Dwellings (AFD) for this site. Your submittals included the following information:

1. Name and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation. Your farm plan included the following proposed income producing agricultural activities:
  - a. Proposed agricultural activities include the following:
    - i. Existing agricultural activities include 6.5 acres of fruit trees (lychee and avocado) citrus, bananas, mango, palms and flowers. Fruits from the orchards are sold at Hawaii Island Retreat, Farmer's Market and Roadside Side sales.

- ii. The proposed labor man-hours are approximately 420 hours per month based on 2 full time employees with one employee living in each of the two proposed Additional Farm Dwellings with the additional time provided by a resident in the Original Farm Dwelling. The total hours are based on 2 full time employees working 40 hours a week each plus 25 hours a week from persons living in the original farm dwelling.
4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) amounts have been submitted for years 2013, 2014 and 2015. Also submitted are Schedule F (Form 1040) for 2012, 2013, 2014 and 2015.
5. Applicant's commitment to the farm plan will be shown in the form of the enclosed Additional Farm Dwelling Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.

**Findings:**

1. In 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 Section 205-4.5, Chapter 205, HRS, **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 by subdivision (SUB 7630) approved on December 26, 2002. 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, GE Tax License (W73184867-01), 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 and the income will be taxed.
4. There are no records for any building permits for the existing structures you depicted on your application site plan as:
  - Workers cottage with 2 bedrooms, 1 office and 2 baths
  - Workers cottage with 1 bedroom and 1 bath
5. In addition, the following agencies have submitted their comments as stated below:
  - a. Department of Water Supply (DWS) (Letter dated January 21, 2016)
    - 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.
    - With the proposed additional dwelling, the installation of a separate 5/8-inch meter would be required in accordance with the Department's regulations.
    - The Department's existing water system facilities cannot support an additional water meter at this time.
    - Extensive improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission and distribution facilities, would be required.

- The Water Department does not object to the proposed application, but all dwellings shall **not** be interconnected in any way.
  - Total average daily water usage through the existing 5/8-inch meter serving the parcel, over the past two (2) years, is approximately 1,200 gallons per day, which is equivalent to approximately three (3) units of water and exceeding the capacity of the 5/8-inch meter.
- b. Real Property Tax Office (RPT): No comments were received
- c. Department of Health (DOH): No comments were received.

### **DECISION**

Your (2) Additional Farm Dwellings Agreement has been approved based primarily on proposed agricultural activity as summarized previously in this letter. This AFD approval is limited to what is described in the application as the Workers Cottage with one bedroom and one bath, and an Ag Workers Cottage with 2 bedrooms, office and 2 baths and does not apply to any other structure(s) on the subject property. **Although your application is for only one (1) second farm dwelling, this approval is for the two (2) Additional Farm Dwellings as indicated on your site plan, which was submitted with your application. The first Additional Farm Dwelling is the Worker's Cottage with 2 bedroom, office and 2 baths, and the second Additional Farm Dwelling is the Worker's Cottage with one bedroom and one bath.**

In view of the above, the approval to construct (2) **Additional Farm Dwellings** is subject to the following conditions:

### **CONDITIONS OF APPROVAL**

1. The (2) Additional Farm Dwellings shall only be used to 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 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. The enclosed (2) Additional Farm Dwellings Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$31.00 in accordance with the enclosed (2) Additional Farm Dwellings Agreement Instructions.
3. **The Planning Department will not approve any building permit application for the 2 Additional Farm Dwellings until the AFDA document and all required attachments have been recorded at the Bureau of Conveyances.**
4. The First Party shall comply with all other applicable rules, regulations, and requirements of the Planning Department including but not limited to the Zoning Code, Chapter 25, Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.
5. **No building permit shall be issued that was based on these (2) Additional Farm Dwelling Approvals until all existing buildings used as unpermitted dwellings on this site have been either (1) converted from an unpermitted dwelling use to an appropriate farm use, or (2) removed from the site or (3) approved as an (2) Additional Farm Dwellings.**
6. If you intend to seek additional approval(s) for any other unpermitted Dwellings on the subject site, you will need to advise the Planning Department within 3 months, of the date of this letter, of your

intention on how you are going to resolve the issue of unpermitted dwelling units located on your site as described in condition #5 above.

7. All dwellings on the subject site, whether permitted or not, shall **NOT** share the one (1) existing water meter that services the property; and the water system plumbing between these dwellings, whether permitted or not, shall **NOT** be interconnected or shared in any way.
8. Prior to submitting for a building permit for each approved Additional Farm Dwelling, the owner shall provide documentation to the Planning Department of how potable water shall be provided to that Additional Farm Dwelling either with (a) Department of Water Supply separate individual meter each or (b) a water catchment and/or water storage system for both domestic water and for fire protection. (The same documentation will be required for all future requests for Additional Farm Dwellings). See recommendations for water catchment below.
9. It is recognized that the First Party (owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) year of approval of the building permit for the (2) Additional Farm Dwellings. The Second Party (County of Hawaii Planning Department) of the Agreement may allow time extensions and modifications for good cause shown by the First Party.
10. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
11. The (2) Additional Farm Dwelling Agreement shall be valid for a period of two (2) years from the date of this approval letter to secure a building permits for the (2) Additional Farm Dwellings. Failure to secure building permits for the (2) Additional Farm Dwellings on or before March 6, 2018, may cause the Director to initiate proceedings to invalidate the AFDA.
12. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - a. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
  - b. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  - c. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
  - d. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
13. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

In reference to the Department of Water Supply's comment, we suggest the following:

1. 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.
2. 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 firefighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection

**Jean M. Sunderland Trustee, Watkins/Sunderland Family Trust**

Two (2) Additional Farm Dwellings (FDA-16-000392)

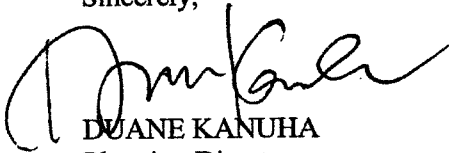
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devices and the location of the water storage unit on the property, should meet with the approval of the Hawaii County Fire Department.

If you have any questions please call Terry Dunlap of our West Hawaii Office at 323-4770.

Sincerely,



DUANE KANUHA  
Planning Director

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xc: Chief Sanitarian, DOH  
Manager, DWS  
Administrator, RPT  
Planning Department – Kona