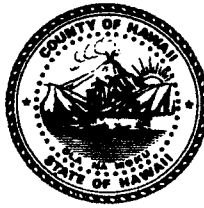


William P. Kenoi
Mayor



Duane Kanuha
Director

Joaquin Gamiao-Kunkel
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

May 26, 2016

Bobby Cox
Maluhia Kai Ranch, LLC
P.O. Box 921
Pepe'ekeo, HI 96783-0921

Dear Mr. Cox:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-16-000396)**
Applicant: BOBBY S. COX dba MALUHIA KAI RANCH, LLC
Land Owner: BOBBY S. COX dba MALUHIA KAI RANCH, LLC
State Land Use: Agricultural
County Zoning: A-20a (Agricultural, Minimum Building Site of Twenty Acres)
Land Area: 22.72 acres
**Location: Lot 83-H, Being a Portion of Grant 1158,
Pepe'ekeo, South Hilo, Island of Hawai'i, Hawai'i**
Tax Map Key: (3) 2-8-008:017

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 83-H, Pepe'ekeo, South Hilo, Island of Hawai'i.
2. **Lot Size:** 22.723 Acres.
3. **State Land Use:** Agricultural (A).
4. **County Zoning:** A-20a (Agricultural, minimum building site of Twenty Acres).

5. **Proposed Request:** One Additional Farm Dwelling.
6. Farm Plan includes the following existing/maturing income-producing agricultural activities:
 - a. **Existing agricultural activities include:**
 - i. 140 Lychee trees;
 - ii. 110 Rambutan trees;
 - iii. 65 Longon trees;
 - iv. Large greenhouse for hydroponic vegetables; and
 - v. Large pasture area for livestock and horses.
7. In addition, you have provided evidence of an active General Excise Tax License.
8. **Evidence of Agricultural Activity:** This is an ongoing and resurrected agricultural endeavor with much of the orchard needing restoration to attain fruit-bearing health.
9. **Rationale for Establishing AFD:** To accommodate farm help and increases security.

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:

Bobby Cox
Maluhia Kai Ranch, LLC
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May 26, 2016

- a. Department of Water Supply (DWS) memo dated April 20, 2016. (*See attached Exhibit A.*)
- b. Department of Health (DOH) memo dated April 27, 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, refurbished 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.
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.

Bobby Cox
Maluhia Kai Ranch, LLC
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May 26, 2016

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 **May 26, 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\2016\FDA-16-000396 28008017 Maluhia Kai\APVL.docx

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

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

Bobby Cox
Maluhia Kai Ranch, LLC
Page 5
May 26, 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.nacdnet.net

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

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
GOVERNOR OF HAWAII



APR 28 PM 3 27

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

PLANNING DEPARTMENT
COUNTY OF HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH

P.O. BOX 518
HILO, HAWAII 96721-0518

MEMORANDUM

DATE: April 27, 2016

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

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

SUBJECT: APPLICATION: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-16-000396)

APPLICANT: BOBBY S. COX dba MALUHIA KAI RANCH, LLC.

LAND OWNER: BOBBY S. COX dba MALUHIA KAI RANCH, LLC.

STATE LAND USE: Agricultural

COUNTY ZONING: A-20z (Agricultural, Minimum Building Site of Twenty Acres)

LAND AREA: 22.72 acres

LOCATION: Lot 83-H, Being a Portion of Grant 1158,
Pepeekeo, South Hilo, Island of Hawaii, Hawaii

TMK: 2-8-008:017

The Department of Health's Safe Drinking Water Branch authority on drinking water quality is based on the definition of a "public water system." Federal and state regulations define a "public water system" as a system that serves 25 or more individuals at least 60 days per year or has at least 15 service connections. All public water systems are regulated by the Department of Health. All public water system owners and operators are required to comply with Hawaii Administrative Rules, Title 11, Chapter 20, titled "Rules Relating to Public Water Systems." For further information concerning public water system approval and requirements, please contact the Safe Drinking Water Branch at (808) 586-4258.

Recommend the subdivision lots be connected to an existing public water system. Concerns on water quality for lead, copper, algae and microbiological and chemical contaminations in private water systems have identified the need for self monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking water purposes since the quality may not meet National Primary Drinking Water Standards for potable drinking water for human consumption. The U.S. Environmental Protection Agency (EPA) defines human

EXHIBIT
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105089



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII
345 KEKOAHOA STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8857

April 20, 2016

2016 APR 21 PM 3 40
PLANNING DEPARTMENT
COUNTY OF HAWAII

TO: Mr. Duane Kanuha, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Additional Farm Dwelling Agreement Application (FDA 16-000396)
Applicant - Bobby S. Cox dba Maluhia Kai Ranch, LLC
Tax Map Key: 2-8-008:017

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

Please be informed there is an existing 1-inch service lateral installed for the subject parcel capable of accommodating one (1) 5/8-inch meter, which is suitable for only one dwelling unit and limited to an average usage 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 Rules and Regulations. However, the Department's existing water system facilities cannot support an additional meter at this time. Extensive improvements would be required, which may include, but not be limited to, source, storage, booster pumps, and transmission facilities.

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 plumbing between both dwellings shall not be interconnected in any way.

Should there be any questions, please contact Mr. Ryan Quitiano of our Water Resources and Planning Branch at 961-8070, extension 256.

Sincerely yours,

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

RQ:dfg

copy - Mr. Bobby S. Cox, Maluhia Kai Ranch, LLC

EXHIBIT
A

104996

... Water, Our Most Precious Resource ... Ka Wai A Kane ...
The Department of Water Supply is an Equal Opportunity provider and employer.

WORD:FDA-16-0007396.ch