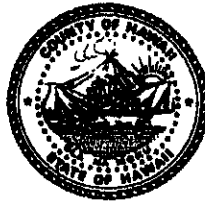


William P. Kenoi
Mayor



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 25, 2016

Craig Fuller
P.O. Box 1298
Kealahou, HI 96750

Dear Mr. Fuller:

Additional Farm Dwelling Agreement (FDA-16-000398)

Applicant(s): Craig Fuller
Owner(s): Craig E. Fuller
Melani A. Fuller
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 5.000 acres
TMK: (3) 8-8-003:012 (COR-16-104587)

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 an additional farm dwelling on the subject property. 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 ongoing and proposed income producing agricultural activities:
 - a. Ongoing agricultural activities include: maintain and harvest a current area of 2 acres comprised of 0.5 acres of citrus trees; 1.0 acres of avocado trees; and 0.5 acres of nursery plants, and proposed agricultural activities increasing to a total area of 4.0 acres, including 1.0 acres of citrus trees; 1.5 acres of avocado trees; and 1.5 acres of nursery plants, to be harvested and maintained.
 - b. The ongoing labor man-hours are approximately 16 hours per week to maintain, harvest and distribute. The additional labor man-hours would be 20 hours per week for a total of 36 hours per week to maintain, harvest and distribute.

4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.
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 4334) approved on July 9, 1979. 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 (W01595964-02), 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. 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 May 6, 2016).
 - b. Real Property Tax Office (RPT):
No comments were received.
 - b. Department of Health (DOH): (See attached copy of DWS memo dated May 2, 2016).

Decision:

In view of the above, your request to construct a **second farm dwelling** is subject to the following conditions:

1. The additional farm dwelling 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 Additional Farm Dwelling 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 Additional Farm Dwelling Agreement 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 recorded at the Bureau of Conveyances.

3. The First Party shall adhere to 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.
4. Your Additional Farm Dwelling Agreement has been approved based primarily on ongoing and proposed agricultural activity as summarized previously in this letter. 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 additional farm dwelling. 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.
5. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
6. This 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 permit for the additional farm dwelling. Failure to secure a building permit for this additional farm dwelling on or before May 25, 2018 may cause the Director to initiate proceedings to invalidate the AFDA.
7. 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).

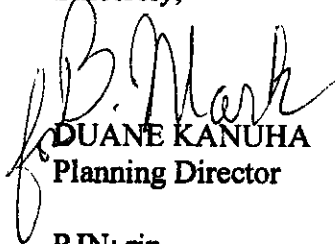
Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

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 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.

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

Sincerely,

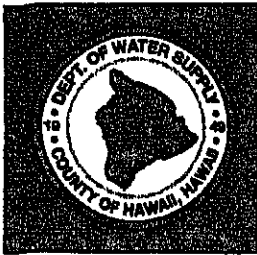


DUANE KANUHA
Planning Director

RJN: rjn

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



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

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

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

May 6, 2016

TO: Mr. Duane Kanuha, Director
Planning Department

FROM: Keith K. Okamoto, Manager–Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement**
(FDA 16-000398)
Applicant – Craig Fuller
Tax Map Key 8-8-003:012

2016 MAY 6 pm 4 59
PLANNING DEPARTMENT
COUNTY OF HAWAII

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

The subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system.

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

Sincerely yours,

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

TS:dfg

copy – Mr. Craig E. Fuller and Ms. Melanie A. Fuller

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105218



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

MEMORANDUM

DATE: May 2, 2016

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

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

SUBJECT: Additional Farm Dwelling Agreement (FDA-16-000398)

Applicant:	Craig Fuller
Owner:	Craig Fuller
	Melaine A. Fuller
State Land Use:	Agricultural
County Zoning:	Agricultural (A-5a)
Land Area:	5.000 acres
TMK:	8-8-003:012 (COR-16-104587)

We recommend that you review all of the Standard Comments on our 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. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopment projects. We also ask you to share this list with others to increase community awareness on healthy community design.

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Additional Farm Dwelling Agreement Instructions

Attached is the Additional Farm Dwelling Agreement form for your approved application. It is important that you follow these instructions in the completion of the form. Failure to complete and submit a properly completed agreement form to the Planning Department for recordation with the Bureau of Conveyances may cause your Additional Farm Dwelling Agreement to be rejected by the Bureau and delay approval of your application for a building permit for the additional farm dwelling. Building permit applications for additional farm dwellings will not be approved by the Planning Department until the AFDA form and the required submittals specified below have been returned to the Planning Department. You may make as many copies of the AFDA document for your records as necessary. A copy of the final recordation page will be available from the Planning Department when received back from the Bureau of Conveyances upon request.

1. All persons in the "First Party" must sign before a Public Notary in the appropriate location on the signature page (Page 5). Photocopies of this page may be made and sent to any persons listed on the page whose notarized signatures are required and then attached to the agreement document along with the original signature page. Facsimiles or FAX copies of signatures will not be accepted.

Note: All signatures must be the same as the typed name. Therefore, if John L. Doe is the name typed the signature must also be John L. Doe. Signing John Doe or Jonathan L. Doe will cause the agreement document to be rejected by the Bureau of Conveyances for recordation purposes.

Please have your notary print their name underneath their signature line.

2. Enclose a check or money order in the amount of \$31.00, made out to the Bureau of Conveyance, for the Bureau of Conveyance recordation fee.
3. Return the **original** completed AFDA document with all required signatures and the recordation fee payment to the Planning Department for the Director's signature and submittal to the Bureau of Conveyances for recordation.

AFTER RECORDATION, RETURN BY MAIL TO:

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

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

**FIRST PARTY: CRAIG E. FULLER
 MELANI A. FULLER**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 8-8-003:012

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 2016 by and between CRAIG E. FULLER AND MELANI A. FULLER, hereinafter referred to as the "First Party," whose mailing address is P.O. Box 1298, Kealahakua, Hawaii, 96750, 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) 8-8-003:012 situated within the State Land Use Agricultural district and zoned Agricultural (A-5a) (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.

Craig E. Fuller, Legal Owner

FIRST PARTY

Melani A. Fuller, Legal Owner

FIRST PARTY

COUNTY OF HAWAII

By _____
Duane Kanuha, Planning Director

SECOND PARTY

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 2016 before me personally
appeared CRAIG E. FULLER AND MELANI A. FULLER 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.

Notary Public, State of _____

My commission expires: _____

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this ____ day of _____, 20____, before me personally appeared Duane Kanuha to me personally known, who, being by me duly sworn, did say that he 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:	_____	No. of Pages:	_____
Notary Name:	Rachelle Ley	Third Judicial Circuit	
Doc. Description:	_____ _____ _____		
Notary Signature	Date		