

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

July 5, 2016

Burwood David Turpin & Teri Sue Fritz
P.O. Box 492663
Kea'au, HI 96749-2663

Dear Mr. Turpin & Ms. Fritz:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-16-000399)**
Applicants: BURWOOD DAVID TURPIN & TERI SUE FRITZ
Land Owners: BURWOOD DAVID TURPIN & TERI SUE FRITZ
State Land Use: Agricultural
County Zoning: A-20a (Agricultural, Minimum Building Site of Twenty Acres)
Land Area: 10.558 acres
Location: Lot 86-A-1, Kea'au Tract, Being a Portion of Royal Patent 7223, Land Commission Award 8559-B, Apana 16, Kea'au, Puna, Island of Hawai'i, Hawai'i
Tax Map Key: (3) 1-7-017:144

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 86-A-1, Kea'au Tract, Kea'au, Puna, Island of Hawai'i, Hawai'i
2. **Lot Size:** 10.558 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. **Existing Structures:** There are three structures on the subject property, a single-family dwelling, a greenhouse and an agricultural storage building.
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 activity includes:**
 - i. 1.00 acre of Coffee trees; and
 - ii. Greenhouse crops.
 - b. **Expanded agricultural activities include:**
 - i. Additional 1.00 to 2.00 acres of Coffee trees (2 to 3 acres total);
 - ii. Greenhouse crops; and
 - ii. 800 sq. ft. Aquaponics system.
9. **Evidence of Agricultural Activity:** This is an ongoing agricultural endeavor with much of the coffee orchard just now coming to cherry-bearing age.
10. **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 May 31, 2016. (*See attached Exhibit A.*)
 - b. Department of Health (DOH) memo dated May 19, 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.

Burwood David Turpin & Teri Sue Fritz
Page 4
July 5, 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 **July 5, 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-16-000399 17017144 TurpinFritz\APVL.docx

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

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

Burwood David Turpin & Teri Sue Fritz
Page 5
July 5, 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

Stan Sitko, Real Property Tax Division (RPT)
Stan.sitko@hawaiicounty.gov

Keita Jo, Real Property Tax Division (RPT)
kieta.jo@hawaiicounty.gov

DAVID Y. KGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

MAY 19 4 08 PM
PLANNING DEPARTMENT
COUNTY OF HAWAII

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

MEMORANDUM

DATE: May 19, 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-16-000399)

APPLICANTS: BURWOOD DAVID TURPIN & TERI SUE FRITZ

LAND OWNERS: BURWOOD DAVID TURPIN & TERI SUE FRITZ

COUNTY ZONING: A-20a (Agricultural, Minimal Building Site of Twenty Acres)

LAND AREA: 10.558 acres

LOCATION: Lot 86-A-1, Keauu Tract, Being a Portion of Royal Patent 7223, Land Commission Award 8559-B, Apana 16, Keauu, Puna, Island of Hawaii, Hawaii

TMK: 1-7-017:144

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
B

105452



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

May 31, 2016

2016 JUN 2 PM 12 10
PLANNING DEPARTMENT
COUNTY OF HAWAII

TO: Mr. Duane Kanuha, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: Additional Farm Dwelling Agreement
(FDA-16-000399)
Applicant - Burwood David Turpin and Teri Sue Fritz
Tax Map Key 1-7-017:144

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

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

TS:dfg

copy - Mr. Burwood David Turpin and Ms. Teri Sue Fritz

EXHIBIT
A

105698

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

-Storm water associated with construction activities for land disturbances of one (1) acre or more. Land disturbance includes, but is not limited to, clearing, grading, grubbing, excavation, demolition, uprooting of vegetation, equipment staging, and storage areas.

-Storm water associated with industrial activities for facilities with Standard Industrial Classification Codes regulated in 40 CFR 122.26(b)(14)(i) through (ix) and (xi).

-Storm water and certain non-storm water from a small Municipal Separate Storm Sewer System.

-Discharges of water pollutants into State surface waters. Examples of these discharges include, but are not limited to, cooling water, hydrotesting waters, dewatering effluent, and process wastewater.

-Discharges from the application of pesticides (including pesticides, herbicides, fungicides, rodenticides, and various other substances to control pest) to State waters.

An application for an NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge or start of construction activities. To request and NPDES individual permit, you must complete and submit the NPDES individual permit application. This application is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermi/>.

A Notice of Intent (NOI) for coverage under a specific NPDES general permit must be submitted at least 30 calendar days before the commencement of the discharge or start of construction activities. To request NPDES general permit coverage, you must complete and submit the NOI. The NOI is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermi/>.

Please see HAR, Chapter 11-55 for more information on the NPDES individual permit and NPDES general permits. The specific NPDES general permits located in HAR, Chapter 11-55, Appendices B through M. HAR, Chapter 11-55 and HAR, Chapter 11-55, Appendices B through M are available on the CWB website at: <http://health.hawaii.gov/cwb/>.

- According to State law, all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards.

Monitoring

- Effluent discharge and/or receiving water monitoring may be required as conditions of Section 401 Water Quality Certifications and NPDES General and

PROJECT	DATE
NOI	5/19/2016
PERMIT	
RECEIVED	
STAMP	
DATE	
TIME	
BY	
FOR	
REMARKS	

Duane Kanuha
May 19, 2016
Page 2 of 4

consumption to include drinking, bathing, showering, cooking, dishwashing, maintaining oral hygiene and includes hand washing.

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of the subject document on May 17, 2016. The CWB has reviewed the limited information contained in the subject document and offers the following comments:

Permit Issuance

- Any project and its potential impacts to State waters must meet the State's:
 - 1) Antidegradation policy, which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected;
 - 2) Designated uses, as determined by the classification of the receiving State waters; and
 - 3) Water quality criteria [Hawaii Administrative Rules (HAR), Chapter 11-54],

- A Section 401 Water quality Certification (WQC) is required if your project/activity:

- Requires a federal permit, license, certificate, approval, registration, or Statutory exemption; and
- May result in a discharge into State waters. The term "discharge" is defined in Clean Water Act, Subsections 502(16), 502(12), and 502(6). Examples of "discharge" include, but are not limited to, allowing the following pollutants to enter State waters from the surface or in-water: solid waste, rock/sand/dirt, heat, sewage, construction debris, any underwater work, chemicals, fugitive dust/spray/paint, agricultural wastes, biological materials, industrial wastes, concrete/sealant/epoxy, and washing/cleaning effluent.

Determine if your project/activity requires a federal permit, license, certificate, approval, registration, or statutory exemption by contacting the appropriate federal agencies (e.g. Department of the Army (DA), U.S. Army Corps of Engineers (COE), Pacific Ocean Division Honolulu District Office (POH) Tel: 808-835-4303; U.S. Environmental Protection Agency Tel: 415-947-8021; Federal Energy Regulatory Commission Tel: 866-208-3372; U.S. Coast Guard Office of Bridge Programs Tel: 202-372-1511).

To request a Section 401 WQC, you must complete and submit the Section 401 WQC application. This application is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermi/>.

Please see HAR, chapter 11-54 for the State's Water Quality Standards and for more information on the Section 401 WQC. HAR, Chapter 11-54 is available on the CWB website at: <http://health.hawaii.gov/cwb/>.

- National Pollutant Discharge Elimination System (NPDES) permit coverage is required for:

Individual permits.

Enforcement

- Noncompliance with water quality requirements contained in HAR, Chapter 11-54 and/or permitting requirements specified in HAR, Chapter 11-55 may be subject to penalties of \$25,000 per day per violation.
- Violations of Hawaii Revised Statutes 342D and 342E may elicit administrative, civil and criminal penalties for such violations.

Polluted Runoff Control

- Manage projects identified in watershed-based plans that reduce polluted runoff and educate the public about nonpoint source pollution. Projects are selected through an annual request for proposals. Funding is provided by the EPA through the Clean Water Act. For more information on projects and funding opportunities, please visit: www.hawaii.gov/doh/pollutedrunoffcontrol.

If you have any questions, please contact Ms. Joanne Seto, Supervisor of the Engineering Section, CWB, at (808) 586-4309.

Lands formerly used for sugarcane production are now being developed into communities where residential homes, schools and commercial businesses are being constructed. Chemicals associated with the sugarcane industry persist in soil today and may be a threat to public health and the environment. Elevated arsenic levels were discovered in soil at former sugarcane production areas on the islands. The HEER Office has identified former sugarcane production areas for assessment throughout the state and plans to work with property owners to conduct environmental assessments to identify and address elevated soil arsenic levels prior to finalizing development plans for the properties.

Wastewater Branch found no wastewater/environmental health concerns with regulatory implications in the subinitial.

We recommend that you review all of the Standard Comments on our website: <http://hawaii.gov/health/environmental/ery-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.