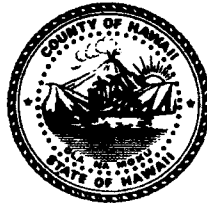


William P. Kenoi  
Mayor



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

August 23, 2016

Dirk Von Guenther, Trustee  
Dirk Von Guenther Trust  
3008 Kaūmana Drive  
Hilo, HI 96720-1314

Dear Mr. Von Guenther:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT  
(FDA-16-000402)**  
**Applicant: DIRK VON GUENTHER, TRUSTEE**  
**Land Owner: DIRK VON GUENTHER, TRUST**  
**State Land Use: Agricultural**  
**County Zoning: A-10a (Agricultural, Minimum Building Site of Ten Acres)**  
**Land Area: 10.0094 acres**  
**Location: Portion of Lot 2, Unit 1, Hua Nani Agricultural CPR, Kaūmana Homesteads, Being a Portion of Grant 4136, South Hilo, Island of Hawai'i, Hawai'i**  
**Tax Map Key: (3) 2-5-002:026**

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:** Portion of Lot 2, Unit 1, Hua Nani Agricultural CPR, Kaūmana Homesteads, Being a Portion of Grant 4136, South Hilo, Island of Hawai'i, Hawai'i.
2. **Lot Size:** 10.0094 Acres.
3. **State Land Use:** Agricultural (A).

4. **County Zoning:** A-10a (Agricultural, minimum building site of Ten Acres).
5. **Proposed Request:** One Additional Farm Dwelling.
6. **CPR:** The subject Parcel 026, was Condominiumized into 2 Units in 1993. There is a permitted dwelling on Unit 1 and this FDA is also to be located on Unit 1. There is no dwelling unit on Unit 2 at this time.
7. **Existing Structures:** There is a single-family dwelling, which was permitted in 1996 for Unit 1 and it has been finalized. There was also a building permit for a dwelling issued for Unit 2, however, that dwelling appears to have not been built.
8. **Building Permits:** There are building permits of record in Real Property Tax Records, #960991 for Unit 1 and #951069 for Unit 2.
9. **Other Permits:** There is an approved Ohana Dwelling Unit (Planning) Permit for Parcel 026 (OHD 91-0439) approved on May 13, 1992. This Planning permit is still available for use on this property.
10. Farm Plan includes the following existing/expanded income-producing agricultural activities:
  - a. **Agricultural activities include:**
    - i. Existing and increased, Over 50 Fruit Trees in a one-acre orchard;
    - ii. Existing and increased, a vegetable area comprised of one-third of an acre with 36 individual concrete raised-bed planters (5' X 9') in an English-style garden. These planters will produce all the non-hydroponic vegetables to be sold to the public from a road-side stand;
    - iii. Future, a fish pond and a Loi (taro patch) on a half-acre of land;
    - iv. Future, an acre of pasture for sheep and/or cattle; and
    - v. Existing, a hen house for eggs.
11. In addition, you have provided evidence of an active General Excise Tax License and approved agricultural dedication from RPT.

12. **Evidence of Agricultural Activity:** This is an ongoing agricultural endeavor with expansion into the fish pond and loi.
13. **Ag. Based Commercial Certification:** The applicant has submitted an application to have the agricultural activity on Unit 1 certified to allow this property to be used as an Ag. Based Commercial operation.
14. **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 July 15, 2016. (*See attached Exhibit A.*)
  - b. Department of Health (DOH) memo dated July 13, 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 and expanded 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.
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 **August 23, 2018** may cause the Director to initiate proceedings to invalidate the AFD.

Dirk Von Guenther, Trustee  
Dirk Von Guenther Trust  
Page 5  
August 23, 2016

Please feel free to contact Jonathan Holmes of this office at (808) 961-8146 or email [jonathan.holmes@hawaiicounty.gov](mailto: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-16-000402 25002026 Von Guenther\APVL.docx

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

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

xc via email: GIS Section w/enclosures

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

Kamran Fujimoto, Natural Resources Conservation Services (NRCS)  
[kamran.fujimoto@hi.nacdnet.net](mailto:kamran.fujimoto@hi.nacdnet.net)

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

Stan Sitko, Real Property Tax Division (RPT)  
[Stan.sitko@hawaiicounty.gov](mailto:Stan.sitko@hawaiicounty.gov)

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

Mr. Duane Kanuha, Director  
Page 2  
July 15, 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,

*KEG*

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

TS:dif

copy - Mr. Dirk Von Guenther (w/copy of backflow prevention handout)  
DWS Customer Service Section (Hilo)  
DWS Cross Connection Section



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII  
345 KUKUNAO'A STREET, SUITE 20 • HILO, HAWAII 96720  
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

July 15, 2016

2016 JUL 18 PM 3 16  
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-16-000402)  
Applicant - Dirk Von Guenther, Trustee  
Tax Map Key 2-5-002:026

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. However, 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. Currently, sufficient funding is not available from the Department for such improvements and no time schedule is set.

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, all dwellings shall not share the existing meter, and the water system plumbing between any dwellings shall not be interconnected in any way.

Further, as the applicant indicates that there is an existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed within five (5) feet of the existing (if one does not already exist) 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 will be sent to the applicant to help them understand this requirement.

EXHIBIT  
A

106568

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

DAVID Y. IGE  
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.  
DIRECTOR OF HEALTH

JUL 14 PM 2 14  
PLANNING DEPARTMENT  
COUNTY OF HAWAII  
STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 916  
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: July 13, 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-16-000402)  
Applicant: DIRK VON GUENTHNER, TRUSTEE  
Owner: DIRK VON GUENTHNER, TRUST  
State Land Use: Agricultural  
County Zoning: A-10a  
Land Area: 10.0094 acres  
Location: Portion of lot 2, unit 1, Hua Nani Agricultural CPR,  
Kaunama Homesteads, Being a Portion of Grant 4136  
South Hilo, Island of Hawaii, Hawaii

TMK: 2-5-002-026

The use of individual wastewater systems is allowed. The type and number of individual wastewater systems to be used will be determined by the wastewater rules in effect at the time of building permit application.

FDA-16-000402.ch

EXHIBIT  
B

106468