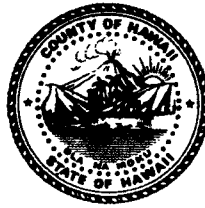


William P. Kenoi
Mayor



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

September 8, 2016

Patrick Niemeyer and Ferol Ann White
P.O. Box 173
Honomū, HI 96728-0173

Dear Mr. Niemeyer & Ms. White:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-16-000404)**
Applicants: PATRICK NIEMEYER AND FEROL ANN WHITE
Land Owners: PATRICK NIEMEYER AND FEROL ANN WHITE
State Land Use: Agricultural
County Zoning: A-20a (Agricultural, Minimum Building Site of Twenty Acres)
Land Area: 8.955 acres
Location: Portion of Lot 9, Lepoloo-Kauniho Homesteads, Being a Portion of Grant 10836, Honomū, South Hilo, Island of Hawai'i, Hawai'i
Tax Map Key: (3) 3-1-002:012

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 9, Lepoloo-Kauniho Homesteads, Being a Portion of Grant 10836, Honomū, South Hilo, Island of Hawai'i, Hawai'i.
2. **Lot Size:** 8.955 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 is a single-family dwelling, which was permitted in 2004.
7. **Building Permits:** There are building permits of record in Real Property Tax Records.
8. **Farm Plan:** Includes the following existing/expanded income-producing agricultural activities:
 - a. **Existing and expanded agricultural activities include:**
 - i. Sheep and poultry on approx. 5 acres to expand to approx. 7 acres;
 - ii. Vegetables on approx. 2,733 sq. ft. to expand to approx. 5,400 sq. ft.;
 - iii. Tropical fruit orchard on 2 acres to expand to 2.5 acres;
 - iv. Coffee and cacao on approx. 2,400 sq. ft.; and
 - v. Tomatoes and hydroponic lettuce in two (2) 960 sq. ft. greenhouses.
9. **Evidence of Agricultural Activity:** This is an ongoing agricultural endeavor as evidenced by agricultural use being recognized by the Real Property Tax office. A copy of a 2015 Schedule F, Form 1040 and a General Excise Tax License have also been presented.
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 prior to June 4, 1976, which, pursuant to HRS 205-4.5(b), allows the first dwelling on the lot to be a single-family 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 26, 2016. (*See attached Exhibit A.*)
 - b. Department of Health (DOH) memo dated July 29, 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.

Patrick Niemeyer and Ferol Ann White
Page 4
September 8, 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 **September 8, 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-16-000404 31002012 Niemeyer-White\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

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

Patrick Niemeyer and Ferol Ann White
Page 5
September 8, 2016

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. KEE
COMMISSIONER OF HEALTH



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

AUG 1 PM 2 07
PLANNING DEPARTMENT
COUNTY OF HAWAII

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

MEMORANDUM

DATE: July 29, 2016

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

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

SUBJECT: Application: FDA-16-000404
Applicants: PATRICK NIEMEYER AND FEROL ANN WHITE
Land Owner: PATRICK NIEMEYER AND FEROL ANN WHITE
State Land Use: Agriculture
County Zoning: A-20a
Land Area: 80955 acres
Location: Portion of Lot 9, Lepofo-Kaunihō Homesteads, Being
A Portion of Grant 10836, Honoumū, South Hilo, Island
Of Hawaii, Hawaii

TMK: 3-1-002-012

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-16-000404.ah

EXHIBIT
B

106792



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

July 26, 2016

2016 JUL 27 PM 2 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
(FDA-16-00404)
Applicant - Patrick Niemeyer and Ferol Ann White
Tax Map Key 3-1-002-012

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. Patrick Niemeyer and Ms. Ferol Ann White

FDA-16-000404.ah

EXHIBIT
B

106792

EXHIBIT
A

106742

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