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## County of Hawai'i

### PLANNING DEPARTMENT

East Hawai'i Office  
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August 11, 2017

Svetlana Kramarenko and Daniil Kramarenko  
HC2 BOX 5740  
Keaau, HI 96749

Gregory Barulich and Rebecca Barulich  
BGB Properties, Inc.  
6031 Milton Circle  
Huntington Beach, CA 92647-2836

Dear Property Owners:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT  
(FDA-17-000421)**  
**Applicant: SVETLANA KRAMARENKO & DANIIL KRAMARENKO**  
**Land Owner: BGB PROPERTIES, INC.  
MR. & MRS. GREGORY & REBECCA BARULICH**  
**State Land Use: Agricultural**  
**County Zoning: A-1a**  
**Land Area: 2.0 acres**  
**Location: Lot 62, Orchidland Estates Subdivision,  
LD. CT. APP. 1053 (Map 53)  
Keaau, Puna, Island of Hawai'i**  
**Tax Map Key: (3) 1-6-008:275, Lot 62**

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Pursuant to the authority conferred by Hawaii County Code - Zoning Code section 25-5-77, Planning Department Rule 13 - Farm Dwellings, and state law, Hawaii Revised Statutes (HRS) Sec. 204-4.5(a)(4), a Planning Director's review has been completed of your request for only **one (1) additional single-family farm dwelling** on the subject property and **the request is approved subject to the following:**

### **BACKGROUND INFORMATION**

1. **Fee landowner:** BGB PROPERTIES, INC. - GREGORY BARULICH, Pres., and REBECCA BARULICH, V.P.; and resident owners - SEVETLANA KRAMARENKO and DANIIL KRAMARENKO, Agreement of Sale on Fee - Tenants by the Entirety.

2. **Subject Property:** Lot 62, Orchidland Estates Subdivision, LD. CT. APP. 1053 (Map 53), at 16-1891 37<sup>th</sup> Avenue, Keaau, Puna, Island of Hawai'i, State of Hawai'i.
3. **Lot Size:** 2.00 Acres.
4. **State Land Use:** Agricultural (A).
5. **County Zoning:** Agricultural - 1 acre (A-1a).
6. **Request Considered for only:** One (1) Additional Single-Family Farm Dwelling (AFD).
7. **Building Permit for Existing First Dwelling & Other Structures:** County Real Property Tax Division records confirm there is a building and plumbing permits of record for the first single-family dwelling, accessory water tank (#1), and the existing cesspool. These improvements were permitted in 1983 and completed in 1985.  
  
Private Potable Water System. The permitted water tank structure is evidence that substantiates the privately owned and operated water system providing water to the approved first dwelling building site, in accordance with county Zoning Code Sec. 25-4-2(a)(1), conditions for construction of buildings designed for human occupancy. Therefore, at present, the subject parcel does not receive potable water service from the county standard water system of the Department of Water Supply.
8. **Farm Plan. Existing Active Agricultural Activity:** 5000 square feet of live potted orchids, as stated in the submitted Farm Plan Summary; and depicted on the submitted site plan, showing two existing greenhouse structures for orchids.
9. **Submitted Evidence of Agricultural Activity:**
  - a. State of Hawaii GE Tax License Hawaii Tax I.D. No. W60358172-01 for Hawaii Orchids Wholesale, LLC.
  - b. Federal Schedule C (Form 1040) 2015: Profit or Loss from Business (sole proprietorship) of Svetlana & Daniil Kramarenko reports income, expenses, net profit, vehicle business expenses, and other expenses (e.g., fertilizers, chemicals, pot soil, shipping expense, telephone expense, drop-off shipping expense, and website expense) to the U.S. Department of the Treasury - Internal Revenue Service (IRS).
10. **Rationale for Establishing AFD:** To accommodate two farm workers.

### **FINDINGS**

11. The State Land Use Agricultural law of HRS Chapter 205, 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 and used in HRS Sec. 205-4.5 (a)(4), 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).
12. **The subject TMK: 1-6-008: 275, Lot 62 was created before June 4, 1976** by county Subdivision No. 1302 (approved November 24, 1958); and therefore, pursuant to HRS 205-4.5(b), a farming-related purpose is not required to establish the first single-family dwelling on this parcel.
13. The Farm Plan Summary, the accompanying site plan, and the agreement to use the dwelling for agricultural or farm-related activity on the building site document efforts **to comply with the commercial farm purpose of a working farm or a farm operation**, as defined in the state law of HRS sec. 165-2. (**See Exhibit A – Site Plan**).
14. **There are two Duplex Dwellings on TMK: 1-6-008: 275.** By admission, the Kramarenkos informed that there are two dwelling units which contain bedrooms and two separate kitchens together constituting an as-built unpermitted duplex dwelling. Additionally, the Kramarenkos further acknowledged on their part, that the application for an additional farm dwelling can only be for one additional farm dwelling, as required by Hawaii State law and the County of Hawaii Planning Department Rules and Regulations.

### **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. Hawaii state law requires a farm dwelling or an additional farm dwelling to be a *single-family dwelling, only*; therefore, approval of an additional farm dwelling, can only be issued for *one additional single-family farm dwelling*, according to HRS Sec. 205-4.5(a)(4) and the relevant county rules of Zoning Code Secs. 25-1-5(b), 25-5-77(b) and Planning Department Rule 13-3(b).

Approval of an additional single-family farm dwelling does not include and is not permitted for duplex dwellings.

4. 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.
5. **The farming enterprise is required to be a 'working farm' or a 'farming operation,'** defined in state law by HRS Sec. 165-2, the Hawaii Right to Farm Act: A 'working farm' or a 'farming operation' means, generally, a *commercial* agricultural, silvicultural or aquacultural facility or pursuit, conducted in whole or in part; it also includes activities involving livestock, poultry, apiary, plant and animal production for nonfood uses, and the planting, cultivating, harvesting, and processing of crops, and the other commercial farming activities, described in Sec. 165-2. (Emphasis added).
6. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional single-family 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 **\$41.00** in accordance with the enclosed AFDA Instructions.
7. **The Planning Department will not approve a building permit application for the additional single-family farm dwelling until the AFDA document and all required attachments have been sent for recordation by the Planning Department.**
8. **Building Permit Requirements, County Code Standards, & State Law.** All other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Hawai'i County Code - Zoning Chapter 25), 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.
9. **Removal of One Kitchen from Duplex Bedroom Unit.** Approval of the additional farm dwelling with one kitchen requires the removal of one kitchen unit from one of the unpermitted as-built duplex dwelling units. Upon removal and decommissioning of the one

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as-built kitchen, the applicant shall contact the Planning Department – Enforcement Section (Hilo Office) for an on-site inspection to verify and document the removal of the unpermitted as-built duplex kitchen.


The as-built building permit application's as-built construction drawings shall only depict one remaining as-built duplex which shall be designated as the approved additional farm dwelling with only one kitchen. A revised plan for this designated additional farm dwelling shall be submitted to Planning Department.

10. The First Party (as identified above and in the Additional Farm Dwelling Agreement) shall allow the Second Party or its representative to inspect the farm site upon a mutually agreeable reasonable prior notice.
11. Pursuant to county Zoning Code Sec. 25-2-7, the AFD shall be valid for a period of two (2) years from the date of this approval letter. A Building Permit (BP) to construct the AFD must be obtained within the two year period. Failure to secure a BP for this AFD on or before **August 11, 2019**, may cause the Director to initiate proceedings to invalidate the AFD approval.

Please feel free to contact Earl Lucero of this office at (808) 961-8160 or email [Earl.Lucero@hawaiicounty.gov](mailto:Earl.Lucero@hawaiicounty.gov), should you have any further questions or concerns.

Sincerely,



 MICHAEL YEE  
Planning Director

EML:nci  
\\COH33\planning\public\Admin Permits Division\AFDA\2017\FDA-17-000421 16008275 Kramarenko\APVL.docx

Enclosures: AFDA document  
AFDA document instruction sheet  
Exhibit A

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

Svetlana & Daniil Kramarenko  
Gregory & Rebecca Barulich, BGB Properties, Inc.  
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cc via email: GIS Section w/enclosures

Clinton Mercado, Planning Inspector

Glenn Sako, Department of Research and Development (R&D)  
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Kamran Fujimoto, Natural Resources Conservation Services (NRCS)  
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