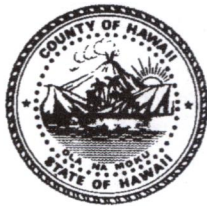


Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
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

October 16, 2017

James E. & Francisca M. Diaz
P.O. Box 933
Pepe'ekeo, HI 96783-0933

Dear Mr. & Ms. Diaz:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-17-000433)**
Applicants: JAMES E. & FRANCISCA M. DIAZ
**Land Owners: JAMES E. & FRANCISCA M. DIAZ, JANNELL FRANCINE
DIAZ-HORSLEY**
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 9.11 acres
**Location: Being A Portion of Grant 194, Kahua, South Hilo, Island
of Hawai'i, Hawai'i**
Tax Map Key: (3) 2-8-008:086

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:** Being A Portion of Grant 194, Kahua, South Hilo, Island of Hawai'i, Hawai'i.
2. **Lot Size:** 9.11 Acres.
3. **State Land Use:** Agricultural (A).
4. **County Zoning:** A-20a.

5. **Proposed Request:** One Additional Farm Dwelling.
6. **Existing Structures:** There is a single-family dwelling in progress, which was permitted in 2015.
7. **Building Permits:** There is a building permit of record in Real Property Tax Records.
8. **Farm Plan:** Includes the following existing and expanded income-producing agricultural activities.
 - a. **Existing agricultural activities include:**
 - i. There are approximately 3 acres of fruit trees that are several years from production maturity;
 - ii. Sweet potato on approximately $\frac{1}{4}$ acre;
 - iii. Taro on approximately $\frac{1}{4}$ acre;
 - b. **Expanded agricultural activities include:**
 - i. Addition of approximately one more acre of fruit trees;
 - ii. Addition of approximately $\frac{1}{4}$ acre of sweet potato;
 - iii. Addition of approximately $\frac{3}{4}$ acre of taro;
 - iv. Addition of chickens on approximately $\frac{1}{2}$ acre; and
 - v. Addition of goats on approximately 1 acre.
9. **Evidence of Agricultural Activity:** The property is being taxed at an agricultural rate by the Real Property Tax Division.
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 August 24, 2017. (***See attached Exhibit A***)
 - b. Department of Health (DOH) memo dated August 25, 2017. (***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:

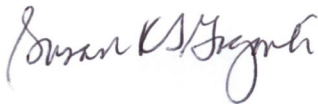
1. Your AFDA has been approved based on existing and expanded agricultural activity as summarized in this letter.
2. The AFD shall be used for farm-related purposes and provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged 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 farming enterprise shall be commercial in nature and up to seventy-five percent (75%) of your proposed farm plan shall be implemented within three (3) years from the AFDA approval date. The Planning Department shall be allowed to inspect the farm upon reasonable prior notice.
5. 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 **\$41.00** 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.

6. 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.
7. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
8. 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.
9. DWS has noted that the subject parcel does not have a County approved water service at present, and an additional water service is not available for the additional dwelling.
10. 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 **October 16, 2019**, 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,



 MICHAEL YEE
Planning Director

JRH:nci

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James E. & Francisca M. Diaz
Page 5
October 16, 2017

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

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

cc via email: GIS Section w/enclosures

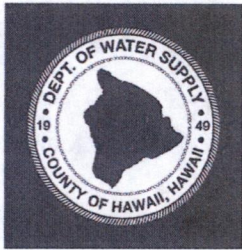
Glenn Sako, Department of Research and Development (R&D)
glenn.sako@hawaiicounty.gov

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

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



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 24, 2017

TO: Mr. Michael Yee, Director
Planning Department

FROM: Keith K. Okamoto, Manager–Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement**
(FDA 17-000433)
Applicant – James E. and Francisca M. Diaz
Tax Map Key 2-8-008:086

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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. James E. and Ms. Francisca M. Diaz
DWS Customer Service (Hilo)

EXHIBIT
A

113626

... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

The Department of Water Supply is an Equal Opportunity provider and employer.



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

2017 AUG 28 AM 9 42
PLANNING DEPARTMENT
COUNTY OF HAWAII

MEMORANDUM

DATE: August 25, 2017

TO: Mr. Michael Yee
Planning Director, County of Hawaii

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

SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
FDA-17-000433
Applicants: JAMES E. & FRANCISCA M. DIAZ
LandOwners: JAMES E. & FRANCISCA M. DIAZ, JANNELL FRANCINE
DIAZ-HORSLEY
TMK: 2-8-008:086

Public Water Systems: 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 system owners and operators are required to comply with Hawaii Administrative Rules, Chapter 11-20 (HAR 11-20), and titled "Rules Relating to Public Water Systems". All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20. 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 purposes since the quality may not meet potable water standards. All new public water systems are required to demonstrate and meet minimum capacity requirements prior to their establishment, per HAR 11-20-29.5, titled "Capacity Demonstration and Evaluation." This requirement involves demonstration that the system will have satisfactory technical, managerial and financial capacity to enable the system to comply with safe drinking water standards and requirements.

Projects that propose development of new sources of potable water serving or proposed to serve a public water system must comply with the terms of HAR 11-20-29. This section requires that

EXHIBIT

B

113642

EL
Michael Yee
August 25, 2017
Page 2 of 3

all new public water system sources be approved by the Director of Health (Director) prior to its use. Such approval is based primarily upon the submission of a satisfactory engineering report which addresses the requirements specified in HAR 11-20-29.

The engineering report must identify all potential sources of contamination and evaluate alternative control measures which could be implemented to reduce or eliminate the potential for contamination, including treatment of the water source. In addition, water quality analyses for all regulated contaminants, performed by a laboratory certified by the State Laboratories Division of the State of Hawaii, must be submitted as part of the report to demonstrate compliance with all drinking water standards. Additional parameters may be required by the Director for this submittal or additional tests required upon his or her review of the information submitted.

All sources of public water system sources must undergo a source water assessment which will delineate a source water protection area. This process is preliminary to the creation of a source water protection plan for that source and activities which will take place to protect the source of drinking water.

Projects proposing to develop new public water systems or proposing substantial modifications to existing public water systems must receive construction plans approval by the Director prior to construction of the proposed system or modification in accordance with HAR 11-20-30, titled "New and Modified Public Water Systems". These projects include treatment, storage and distribution systems of public water systems. The approval authority for projects owned and operated by a County Board or Department of Water or Water Supply has been delegated to them.

All public water systems must be operated by certified distribution system and water treatment plant operators as defined by HAR 11-25 titled, "Rules Pertaining to Certification of Public Water System Operators".

All projects which propose the use of dual water systems or the use of a non-potable water system in proximity to an existing potable water system to meet irrigation or other needs must be carefully design and operate these systems to prevent the cross-connection of these systems and prevent the possibility of backflow of water from the non-potable system to the potable system. The two (2) systems must be clearly labeled and physically separated by air gaps or reduced pressure principle backflow prevention devices to avoid contaminating the potable water supply. In addition backflow devices must be tested periodically to assure their proper operation. Further, all non-potable spigots and irrigated areas should be clearly labeled with warning signs to prevent the inadvertent consumption on non-potable water. Compliance with HAR Chapter 11-21, titled Cross-Connection and Backflow Control is also required.

All projects which propose the establishment of a potentially contaminating activity (as identified in the Hawai'i Source Water Assessment Plan) within the source water protection area of an existing source of water for a public water supply should address this potential and activities that will be implemented to prevent or reduce the potential for contamination of the drinking water source.

Michael Yee
August 25, 2017
Page 3 of 3

For further information concerning the application of capacity, new source approval, operator certification, source water assessment, backflow/cross-connection prevention or other public water system programs, please contact the SDWB at 586-4258.

Wastewater Branch is unable to make comments to the proposed project at this time. Before we can offer any comments, the applicant needs to address the following: The amount of wastewater to be generated by the project and the location of all existing wastewater systems.