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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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September 4, 2018

Joseph Palmeri and Tanya Palmeri  
13-6280 Kalapana Kapoho Beach Road  
Pahoa, HI 96778-8024

Dear Mr. & Mrs. Palmeri:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT  
(FDA-17-000440)**  
**Applicants: JOSEPH PALMERI & TANYA PALMERI**  
**Land Owners: JOSEPH PALMERI & TANYA PALMERI**  
**State Land Use: Agricultural**  
**County Zoning: A-1a**  
**Land Area: 4.018 acres**  
**Location: Being a Portion of Grant 3954, at Iliililoa, Puna,  
Hawai'i Island, Hawai'i**  
**Tax Map Key: (3) 1-3-003:043, Lot 2**

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This approval letter will replace the approval letter dated July 11, 2018 which had typographical errors.

Pursuant to the Hawai'i County Code - Zoning Code Section (Sec.) 25-5-77, County Planning Department Rule 13 - Farm Dwellings, your application for **one (1) Additional Farm Dwelling** has been reviewed and **approved**, subject to the following.

**BACKGROUND INFORMATION**

1. **Subject Property:** Being A Portion of Grant 3954, at Iliililoa, Puna, Hawai'i Island, Hawai'i and according to County Planning Department records, the subject property is a legal lot of record created after June 4, 1976 by Subdivision No. 4393 approved on November 16, 1979.
2. **Lot Size:** 4.018 acres.
3. **State Land Use:** Agricultural (A).

4. **County Zoning:** A-1a (Agricultural-1 ac.)
5. **Application Request:** One Additional Farm Dwelling (i.e., the proposed second single-family residential dwelling).
6. **Existing Structures:** According to County Real Property Tax records, there is one existing single-family dwelling, legally permitted under County Building Permit B2010-1263H and completed on May 5, 2011.
7. **Farm Plan Summary:** The following existing, active income-producing agricultural activities occurring on this lot:
  - a. **Existing agricultural activities include:**
    - i. Approximately 3.75 acres are fruit trees and macadamia nut trees, 2.0 acres coconut trees, 1.0 acre pineapples and .75 acre vegetable gardens. The stated income from current agricultural activity is \$3,000.
8. **Evidence of Agricultural Activity:** County Real Property Tax (RPT) records confirm that the subject property has land in agricultural usage and therefore agricultural usage assessments have been made. Approximately 4.018 acres is assessed in agricultural usage. In addition, the RPT's Agricultural Assessment Information states a total agricultural value of \$12,572.00. Real property tax assessment by RPT Division is at an agricultural rate.
9. **Rationale for Establishing AFD:** To provide residential housing for the farm manager/supervisor to supervise and direct farm workers.

#### FINDINGS

1. The State law of Hawai'i Revised Statutes (HRS) Chapter 205 regulates the land use of real property classified in the State Land Use Agricultural district. Generally under this law, residential dwellings are not permitted as a matter of right unless the dwelling is a farm dwelling or there is related agricultural activity, according to HRS Sec. 205-4.5 (a)(4). This law states that a **farm dwelling means a single family dwelling located on and used in connection with a farm, or where agricultural activity provides income to the family occupying the dwelling.** (Emphasis added).
2. As referenced above 'Background Information #1', County Subdivision No. 4393 was created in 1979, after June 4, 1976. Consequently, the State law of HRS Sec. 205-4.5(b), requires all dwellings on the subject property to be 'farm dwellings'. For the existing first dwelling, the farm dwelling requirement is satisfied with the Planning Department's 'Farm Dwelling Notice' procedure, according to Planning Department Rule 13-4(a).

3. The Farm Plan, the agreement to use the dwelling for agricultural or farm-related activity on the building site, and the County Real Property Tax assessment record confirm there is income-producing agricultural activity.

### **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 the existing agricultural activity summarized in this letter and represented in the submitted 'Farm Plan Summary'.
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. The enclosed Additional Farm Dwelling Agreement affidavit states that the additional dwelling shall be used for farm-related purposes. The Agreement affidavit shall be signed and notarized by the applicant landowners and submitted to the Planning Department for recordation with the State of Hawai'i - Bureau of Conveyances.
4. HRS Chapter 205 requires the farm or agricultural activity to be conducted on a 'working farm' or a 'farming operation' as defined in HRS Sec. 165-2. HRS Chapter 165 is the 'Hawaii Right to Farm Act'. Generally, Sec. 165-2 defines a 'farming operation' to mean 'a commercial agricultural ... facility or pursuit ... '.

Although the terms commercial agriculture or agricultural or commercial farming is undefined in HRS Chapter 165, the available online general definition of this phrase means the producer [or farmer] is farming to produce a harvest with intent to sell that harvest in the market, that is, for commercial purpose.

Therefore, Sec. 165-2 states statutory definition of a farming operation excluding subsistence farming. Consequently, the farm is required to be a commercial farming operation and the agricultural activity is to provide income, as stated in Sec. 205-4.5 (a)(4), previously explained above.

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 County 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 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 at a mutually agreeable date and time.
8. 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 may cause the Director to initiate proceedings to invalidate the AFD.

For any further questions or concerns, 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).

Sincerely,



MICHAEL YEE  
Planning Director

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Enclosures: AFDA document  
AFDA document instruction sheet

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

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

cc via email: GIS Section w/enclosures