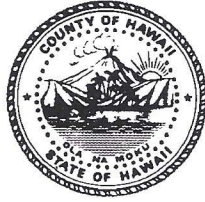


Harry Kim
Mayor

Wil Okabe
Managing 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

Michael Yee
Director

Duane Kanuha
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

July 2, 2019

Justin C. Johns
Lisa E. Johns
P.O. Box 425
Hawi, HI 96719-0425

Dear Mr. and Ms. Johns:

Additional Farm Dwelling Agreement (FDA-19-000464)
Applicant(s): Justin C. Johns
Lisa E. Johns
Owner(s): Justin C. Johns
Lisa E. Johns
State Land Use: Agricultural
County Zoning: Agricultural (A-20a)
Land Area: 3.450 acres
TMK: (3) 5-5-008:016 (COR-19-124464)

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 Pahoia to Kahei, North Kohala Island of Hawai'i, Hawai'i.
2. **Lot Size:** 3.450 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, which was permitted in 2013.
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 and expanded agricultural activities include:**
 - i. There is approximately 5,500 square feet of avocado trees, papaya's, flowers and herbs with a proposed expansion to 3.45 acres. In addition the proposed farm plan includes the raising of 10 -15 head of goats, to be sold at maturity at 24 months, and the raising of 15 chickens for organic egg production.
9. **Evidence of Agricultural Activity:** There is evidence of agricultural income and expenses reported on their profit and loss statement submitted to the State Department of Taxation.
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 by subdivision (SUB 7404) approved on May 2, 2001, 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 May 9, 2019.
 - b. Department of Health (DOH) email dated May 16, 2019.

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 **July 2, 2021**, may cause the Director to initiate proceedings to invalidate the AFD.

11. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.


In reference to the Department of Water Supply's comment, and in addition to the use the existing well, we suggest the following:

- a. "Any existing and/or future dwellings not serviced by County water system constructed on the property shall have a minimum 6,000 gallon water storage facility for domestic consumption for water catchment. This catchment system shall adhere to the Department of Public Works, Building Division's "Guidelines for owners of Rain Catchment Water Systems" as well as the State Department of Health requirements related to water testing and water purifying devices.
- b. Provide a water supply system sufficient for fire fighting consisting of a minimum 3,000 gallons of water per existing and/or proposed future dwelling on the property meeting with the approval of the Hawaii County Fire Department. If dwellings are more than 50 feet apart, 4,000 gallons of water per dwelling will be required".

Justin C. Johns
Lisa E. Johns
July 2, 2019
Page 5

Please feel free to contact Rosalind Newlon of this office at (808) 323-4770 or email rosalind.newlon@hawaiiicounty.gov should you have any further questions and/or concerns.

Sincerely,



MICHAEL YEE
Planning Director

RJN:rjn
C:\Users\rnewlon\Desktop\Newlon\AFDA Approval\AFDAap-5-5-008-016 Johns.doc

Enclosures: AFDA document
AFDA document instruction sheet

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

Justin C. Johns
Lisa E. Johns
July 2, 2019
Page 6

cc via email: GIS Section w/enclosures

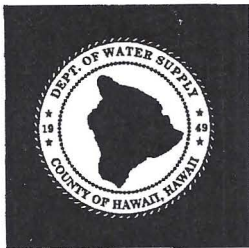
Glenn Sako, Department of Research and Development (R&D)
glenn.sako@hawaiicounty.gov

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

Lisa Miura, Real Property Tax Division (RPT)
Lisa.Miura@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

May 9, 2019

TO: Mr. Michael Yee, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement Application**
(FDA-19-000464)
Applicants – Justin C. Johns and Lisa E. Johns
Tax Map Key 5-5-008:016

2019 MAY 10 pm 2 07
PLANNING DEPARTMENT
COUNTY OF HAWAII

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.

Please be informed that a reduced pressure type backflow prevention assembly was previously installed and approved by the Department.

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

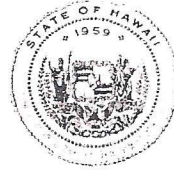
TS:dfg

copy – Justin C. Johns and Lisa E. Johns
DWS Customer Service Sections (Hilo and Waimea)

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

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

125266



2019 MAY 16 PM 3:05

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

MEMORANDUM

DATE: May 16, 2019

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

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Additional Farm Dwelling Application (FDA-19-000464)
Applicant: Justin C. Johns & Lisa E. Johns
Owner: Justin C. Johns & Lisa E. Johns
State Land Use: Agricultural
County Zoning: Agricultural (A-20a)
Land Area: 3.45 acres
TMK: (3) 5-5-008:016 (COR-19-124464)

Egg farm operations fall under regulatory jurisdiction of the United States Department of Agriculture (USDA), 50,000 or more hens; the US Food and Drug Administration (FDA), 3,000-50,000 hens; or the Hawaii State Department of Health (DOH), less than 3,000 hens. If the operation falls under the purview of DOH, egg handling areas and procedures would need to meet the requirements of Chapter 50, Food Safety Code. The applicant may call the DOH Sanitation Office at Ph. 322-1507 for more information.

Lands formerly used for sugarcane production are now being developed into communities where residential homes, schools and commercial businesses are being constructed. Chemicals associated with the sugarcane industry persist in soil today and may be a threat to public health and the environment. Elevated arsenic levels were discovered in soil at former sugarcane production areas on the islands. The HEER Office has identified former sugarcane production areas for assessment throughout the state and plans to work with property owners to conduct environmental assessments to identify and address elevated soil arsenic levels prior to finalizing development plans for the properties.

We recommend that you review all of the Standard Comments on our website:
<http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.



Michael Yee
May 16, 2019
Page 2 of 2

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.