

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director



Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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County of Hawai'i PLANNING DEPARTMENT

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

October 21, 2021

Frank A. Jordano
Michelle Lee
P.O. Box 627
Holualoa, HI 96725

Dear Mr. Jordano and Ms. Lee:

Additional Farm Dwelling Agreement (PL-AFD-2021-000002)
Applicant(s): FRANK A. JORDANO AND MICHELLE LEE
Owner(s): FRANK A. JORDANO AND MICHELLE LEE
State Land Use: Agricultural
County Zoning: Agricultural (A-5a)
Land Area: 5.005 acres
TMK: (3) 7-5-016:016

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 ("AFD")** on the subject property and have **approved** your request subject to the following.

BACKGROUND INFORMATION

1. **Subject Property:** Lot 13, Kahului 1st and Kahului 2nd, North Kona, Hawai'i.
2. **Lot Size:** 5.005 acres.
3. **State Land Use:** Agricultural (A).
4. **County Zoning:** A-5a (Agricultural, minimum 1 acre lot size).
5. **Proposed Request:** One Additional Farm Dwelling.
6. **Existing Structures:** County records and landowner's application information with submitted site plan confirms that there is one permitted farm dwelling existing on the subject parcel, which was constructed under Building Permit no. B2005-1863K issued on November 4, 2005 and completed on April 15, 2014.
7. **Farm Plan:** Includes the following income-producing agricultural activities.
 - a. **Existing and proposed expanded agricultural activities include:**

- i. Coffee production: According to the farm plan, the agricultural activities include an existing fruit orchard, which is for personal consumption, and a proposed income-producing coffee farm, consisting of 1,450 trees that were recently planted over 2.5 acres of land. The anticipated labor hours per week are estimated to be 34 to 68 hours per week over the course of three years. Per the plan, it is anticipated that the coffee trees will be near full maturity in the third year and will be producing on average 20 lbs. per tree or approximately 30,000 lbs. of picking and processing in one season. Future vendors/markets include bulk sale to local processors and on-line retail. There is currently no plan for future expansion of the planted areas and any increase to the density of plants will occur within the existing planted areas.
 - ii. Dog Breeding: According to the farm plan, the AFD will also support a proposed dog breeding operation, consisting of the breeding and the selling of pure-bred “pet” quality *Coton de Tulear* dogs, to be sold locally in Hawai‘i. For future breeding, three female and two male dogs have been recently acquired with the expectation of each female producing on average one litter of three puppies annually. Per the plan, approximately 20 hours per week are currently spent on dog care and will increase to 30 hours per week once litters arrive. Existing labor consists of the ongoing grooming and routine care of the dogs and there will be additional labor associated with the breeding, including whelping, care of litters, veterinary, record keeping, registration, etc. According to the plan, the dogs will reside in-doors within the lower level of the requested additional farm dwelling, which will be used to facilitate the care, grooming, and kenneling of the dogs.
8. **Evidence of Agricultural Activity**: There is evidence of existing agricultural activity and expenses reported with their application, and evidence of General Excise Tax Licenses for both the coffee farming and dog breeding enterprises.
9. **Rationale for Establishing AFD**: To provide living accommodations for on-site farm workers who will assist with the coffee farming activities associated with the proposed farm plan.

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 subdivision lot was created by subdivision (SUB 7592) approved on September 17, 2002, 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 a plan for income-producing agricultural activity.
4. In addition, the following agencies have submitted their comments as identified below:
 - a. Department of Water Supply (DWS) – Comment letter dated September 9, 2021 (Exhibit 1).
 - b. Department of Health (DOH) – No comments received as of this date.
 - c. Department of Finance – Real Property Tax (RPT) – Comment email dated September 3, 2021 (Exhibit 2).

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. The farming operation shall be commercial in nature and the AFD shall be used for commercial 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.
2. 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.
3. An Additional Farm Dwelling Agreement shall be notarized and submitted to the Planning Department for recordation with the State of Hawai'i, Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes. **The enclosed AFD Agreement must be returned to the Planning Department with the appropriate notarized signature(s), along with a check made payable 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 and recorded by the Bureau of Conveyances.

4. The First Party (owners and their lessees and their successors in interest) shall comply with 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. Comments received from the Department of Water Supply states in part:

"...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.

Further, as the applicant indicates that there is existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed (if one does not already exist) within five (5) feet of the existing meter on private property. The installation of the backflow prevention assembly must be inspected and approved the by Department before commencement/continuation of water service...”

5. Your Additional Farm Dwelling Agreement has been approved based on your proposed activities as presented in your farm plan and summarized previously in this letter. **It is required that the First Party (owners and their lessees and their successors in interest) to the Agreement shall continue to carry out and maintain this farm plan for the life of the additional farm dwelling. It is recognized that the First Party (property owners and lessees) to the Agreement shall have implemented at least 75% of the proposed farm plan within three (3) year of approval of the building permit for the additional farm dwelling. “Implementing” includes the planting and ground-rooted establishment of the proposed trees in a healthy, growing state.** The Second Party (County of Hawai‘i Planning Department) to the Agreement may, in its sole discretion, allow time extensions and modifications for good cause shown by the First Party.
6. The First Party (owners and their lessees and their successors in interest) shall allow the Second Party or its representative to inspect the farm from time to time upon reasonable prior notice.
7. The decision to approve this AFD shall be valid for a period of two (2) years from the date of this approval letter. **Therefore, the First Party is required to secure a building permit from the Department of Public Works, Building Division, for the AFD on or before October 21, 2023.** Failure to secure a BP for this AFD on or before **October 21, 2023**, may cause the Director to initiate proceedings to invalidate the AFD.
8. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
9. 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.

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Michelle Lee
October 21, 2021
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- 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, we suggest the following:

1. Any dwelling not serviced by a County water system should be provided with and maintain a private potable rain-water catchment system with a minimum capacity of 6,000 gallons for domestic consumption or potable uses. This catchment system should 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.
2. Any farm dwelling should be provided with and maintain a private water supply system with an additional minimum storage capacity of 3,000 gallons for fire-fighting and other emergency purposes. The emergency water supply system, including the necessary compatible connection devices and the location of the water storage unit on the property, should meet with the approval of the Hawai'i County Fire Department.

Please feel free to contact the Planning Department at (808) 323-4770 or email planning@hawaiicounty.gov, should you have any further questions and/or concerns.

Sincerely,

Zendo Kern

Zendo Kern (Oct 26, 2021 12:24 HST)

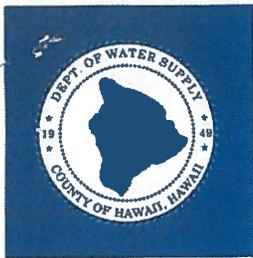
ZENDO KERN
Planning Director

MH:mh

\\coh141v\planning\Staff\Marie\Ag\AFDA\750160160000 Jordano\AFDA Decision Ltr 750160160000 Jordano.doc

Enclosures: Exhibits 1 & 2
AFDA document
AFDA document instruction sheet

cc w/Exhibits: Chief Sanitarian, State DOH
Manager-Chief Engineer, County DWS
Lisa Miura, Administrator, County RPT (via email: Lisa.Miura@hawaiicounty.gov)
George Bennett, Bennett Builders LLC (via email: benbldr@gmail.com)
GIS Section



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAI'I

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

September 9, 2021

COH PLANNING DEPT
SEP 10 2021 PM 2:56
REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager–Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement (FDA 21-000002)**
Applicant – Frank A. Jordano and Michelle Lee
Tax Map Key 7-5-016:016

We have reviewed the subject application and have the following comments.

Please be informed that the subject parcel is served by an existing 5/8-inch meter (Account No. 880-91030) located on Kamila Place 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.

Further, as the applicant indicates that there is existing and proposed agricultural activity within the subject parcel, a reduced pressure type backflow prevention assembly must be installed (if one does not already exist) within five (5) feet of the existing meter on private property. The installation of the backflow prevention assembly must be inspected and approved by the Department before commencement/continuation of water service. A copy of the Department's backflow prevention handout is attached to help the applicant understand this requirement.

Exhibit 1

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

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

Mr. Zendo Kern, Director
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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. Frank A. Jordano and Ms. Michelle Lee (w/copy of the backflow prevention handout)
DWS Cross-Connection Section
DWS Customer Service (Hilo and Kona)

Hong, Marie

From: Miura, Lisa
Sent: Friday, September 3, 2021 2:39 PM
To: Hong, Marie
Cc: Jo, Keita
Subject: FW: REQUEST FOR AGENCY COMMENTS - AFDA Application PL-AFD-2021-000002 / Jordano / TMK 7-5-016:016
Attachments: 9_1_21 Memo to Agencies.pdf; Jordano AFDA Application.pdf; Jordano AFDA Site Plan.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

RPT Comments:

Hi Marie,

1/24/2020 – Jordano/Lee purchased property from Ledson for \$2.7 million

6/15/2020 – Jordano/Lee filed the homeowner exemption application

No agricultural use app on file with RPT, however, they benefit more from being only in the homeowner program.

2020 imagery does reflect coffee trees being recently planted, however, RPT does not have access to more updated imagery.

While it seems odd that a farm dwelling to help with coffee production would need its own pool, I do not believe RPT has any direct concerns.

Thank you!
Lisa Miura

Exhibit 2