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Reference No.: COR-20-133009

February 22, 2021

Mrs. Jennifer Greimann
Mr. Todd Greimann
Mauna Loa Farms, LLC
P.O. Box 439
Mountain View, HI 96771-0439

Dear Mr. & Mrs. Greimann:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-21-000491)**
Applicant- JENNIFER GREIMANN & TODD GREIMANN
Land Owners: JENNIFER GREIMANN & TODD GREIMANN
**Location: Por. of 'Ōla'a New Tract Lots
(por. Land Patent Grant 13550) Puna, Hawai'i Island**
Tax Map Key: (3) 1-8-006:098, Lot 17

Pursuant to state law, Hawai'i Revised Statutes (HRS) Chapter 205, the Hawai'i County Zoning Code Chapter 25, and County of Hawai'i Planning Department Rule 13 - Farm Dwellings, a Planning Director's review has been completed on your request for **one (1) Additional Farm Dwelling**. The application request is **approved** for a Farm Dwelling subject to the following background information, findings, and conditions of approval.

BACKGROUND INFORMATION

1. **Subject Property:** TMK: 1-8-006:098, Lot 17, at 18-1513 Ihope Road, 'Ōla'a New Tract Lots, Puna, Hawai'i Island.
2. **Landowners:** Jennifer Greimann and Todd Greimann (according to online owner and parcel information records of the county Real Property Tax Division).
3. **Lot Size:** 48.62 acres.
4. **State Land Use:** Agricultural (A).

5. **County Zoning:** A-5a (Agricultural 5 acres).

Background information #4 and #5, above, confirms that parcel 98, is classified in State Land Use: Agricultural and its County Zoning classification is A-5a (Agricultural 5-acres). Parcel 98, therefore, is designated for agricultural land use.

6. **Legal Lot of Record.** Research of archived map records of the State of Hawai'i Department of Accounting & General Services (DAGS) Land Survey Division found that parcel 98 is a legal lot of record created or platted in 1905, according to Hawai'i Territory Survey: 'Ōla'a New Tract Lots, Puna, Hawai'i (Registered Map 2298 [March 1905]).

The registered map also confirms that parcel 98 was originally platted with a total lot area of 48.62 acres, a land area that remains unchanged, according to official records of the county Real Property Tax (RPT) Division online parcel information and the Planning Department. Additionally, these factual findings are consistent to meet with Hawai'i County Subdivision Code section (sec.) 23-118 (a) and (c) for pre-existing lot - legal lot of record criteria and determinations.

The 1905 plat map date confirms that parcel 98, is a legal lot of record that was platted and existed before, June 4, 1976; furthermore, since its 1905 platting, the parcel remains in its original lot area and configuration; it has not been subdivided into new lots.

7. **One Existing 1949 First Dwelling.** According to the county RPT building permit (BP) records, the landowner's application information, and the submitted Farm Site Plan, these sources confirm that only one existing residential dwelling is officially permitted on parcel 98.

Status: Residential (non-farm) Single-Family Dwelling. Official county RPT archived Territory of Hawai'i Field Book records confirm that the first dwelling on parcel 98 was constructed in 1949 (BP #7259 [August 26, 1949]) on the original 48.62 acres; in 1947, the county's real property tax assessment began on the total acreage; and, since its 1905 platting, parcel 98 has remained in its original lot area configuration and has not been subdivided into new lots.

In general, the 1905 platting and the other factors noted above, confirm and substantiate that parcel 98, Lot 17 officially existed as a legal lot of record before June 4, 1976. That means this parcel existed before the 1976 state law of farm dwelling standards and commercial agriculture went into effect, from Hawai'i Revised Statutes (HRS) sections (sec.) 205-4.5 (a)(4) and 165-2.

Consistent with and according to state law, sec. 205-4.5 (b), the first dwelling on parcel 98, Lot 17, qualifies as a residential (non-farm) single-family dwelling. The 1905 platting of parcel 98 confirms it existed before the 1976 farm dwelling and commercial agricultural standards became effective; therefore, the status of the first dwelling is permitted and entitled to be a residential (non-farm) single-family dwelling.

Post-1976 Status. In addition, the Planning Department's reading of sec. 205-4.5 (b) concludes that legal lots of record classified in State Land Use Agricultural, that exist on *and after June 4, 1976*, are required to comply with the farm dwelling standards of sec. 205-4.5 (a)(4), Zoning Code sec. 25-5-77 (c), and Planning Department Rule 13-4 (c).

And pursuant to county Zoning Code sec. 25-5-77 (b), it permits one residential (non-farm) single-family dwelling or one farm dwelling on any building site in the county Agricultural zoning district.

The Proposed Second Dwelling: is a First Farm Dwelling and requires a (first) Farm Dwelling Notice, only. Since parcel 98 is determined to be a pre-1976 legal lot of record and the existing 1949 first dwelling qualifies as a residential non-farm dwelling, therefore, for parcel 98, the proposed second dwelling qualifies as the first farm dwelling, consistent with and pursuant to Zoning Code sec. 25-5-77 (b) and Planning Department Rule 13-4 (a).

As a result, the application for an Additional Farm Dwelling Agreement is not required for the Greimann's proposed second dwelling – First Farm Dwelling. Pursuant to Rule 13-4 (a)(1), the first Farm Dwelling will only require the completion and signature of the Farm Dwelling Notice (revised 2/18/14).

Note: an example of a pre-1976 ag lot that resulted with three approved dwellings:

- a first dwelling - residential non-farm single-family dwelling;
- a second dwelling - approved with a first farm dwelling notice; and,
- a third dwelling - approved with a first AFDA –

was issued and completed for TMK: 2-8-012: parcel 14 Ngo & Nguyen (FDA-19-000470) (February 2, 2021).

Application for an Additional Farm Dwelling Agreement (AFDA): future third Dwelling? Since the proposed second dwelling for parcel 98 is permitted as a First Farm Dwelling with a Farm Dwelling Notice, the submitted AFDA application for a second dwelling is deferred. The current, or a future landowner, may use the deferred AFDA application for the basis of an updated application for a proposed third dwelling – AFDA.

The submitted AFDA application is deferred since it would result in a third dwelling on parcel 98; and, the application did not present and discuss a request for a third dwelling.

First Farm Dwelling and Farming Standards. 'Commercial Agricultural Pursuit.'

Although the second dwelling – First Farm Dwelling approved for parcel 98 is approved with the Farm Dwelling Notice procedure, it is subject to and is required to satisfy the statutory standards of the two state laws germane to farm dwelling lots located in the State Land Use Agricultural district:

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HRS sec. 204-4.5 (a)(4) defines

- a 'farm dwelling,' " ... [to] mean[] a single-family dwelling located on and used in connection with a farm, ... ,
- or where agricultural activity provides income to the family occupying the [farm] dwelling, ... ';

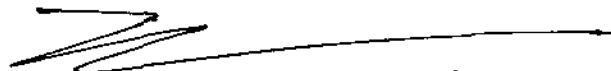
This statutory standard is recited in the Farm Dwelling Notice.

Secondly, the state law of sec. 165-2 defines

- "farming operation" to mean ' ... a commercial agricultural ... [for whatever type of agriculture is undertaken] facility or pursuit conducted, in whole or in part,' (Emphasis added).
- **Farm Dwelling (FD) Notice Runs with the Land.** The FD Notice is a privilege granted pursuant to county Zoning Code Chapter 25; and therefore, it shall run with the land and apply to all persons who may, now or in the future, use or occupy the Farm Dwelling. Zoning Code sec. 25-2-10.
- **Requirement of Commercial Agriculture & Working Farm or Farm Operation.** The farming operation shall be commercial in nature and the Farm Dwelling 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, parcel 98. Family members who are not engaged in agricultural or farm-related activities may reside in the Farm Dwelling. HRS sec. 165-2 and sec. 205-4.5 (a)(4); Planning Department Rule 13-8 (d)(1)

Should any further questions or concerns arise, please feel free to contact staff planner, Earl Lucero, at (808) 961-8160, or via email at Earl.Lucero@hawaiicounty.gov .

Sincerely,



ZENDO KERN
Planning Director

EML:jaa

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cc (via email): Gilbert Bailado, GIS Section
Lisa Miura, Administrator, Real Property Tax Office