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County of Hawai'i

PLANNING DEPARTMENT

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April 30, 2021

Mr. Keane Iranon
Mrs. Salina M. Iranon
P.O. Box 256
Volcano, HI 96785-0246

Dear Mr. & Mrs. Iranon:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(AFDA) (FDA-21-000492)**

**Applicant-
Land Owners: KEANE IRANON & SALINA M. IRANON
Location: Volcano Farm Lots, Ola'a, Puna, Hawai'i Island
Tax Map Key: (3) 1-9-001: (parcel) 008, Lot 33**

Your above-referenced application request was received and a Planning Director's review has been completed. Pursuant to state law, Hawai'i Revised Statutes (HRS) section (sec.) 205-4.5 (a)(4) & (b); sec. 165-2; the Hawai'i County Zoning Code sec. 25-5-77 (c) – Additional Farm Dwellings (AFD); and, county Planning Department Rule 13 – Farm Dwellings, these standards regulate Farm Dwellings (FDs) and AFDs in Hawai'i County.

Request: Please Withdraw Application for an Additional Farm Dwelling Agreement (AFDA). The application is for one (1) AFDA. This application, however, has been placed on hold. The Iranons are requested to withdraw the AFDA application: because the requested second dwelling can be approved as a first FD with a 'Farm Dwelling Notice' (FDN), an AFDA is not required.

Approved for One Second Dwelling – a First FD with FDN. A Planning Director's review has been completed on the application and found parcel 8 qualifies for a first FD with a FDN, according to the following background information, findings, and determinations. See below, Second Dwelling Determination #11.

BACKGROUND INFORMATION

1. **Subject Property:** TMK: 1-9-001: (parcel) 008, Lot 33 at location address, 19-5849 Mahiai Road, Volcano Farm Lots, Oloa, Puna, Hawai'i Island. Lot size: 31.35 acres.
2. **Legal Lot of Record.** Parcel 8, Lot 33, is a legal lot of record created and platted by Volcano Farm Lots (Grant S-14087) (Territory of Haw. Carton Map 227 [October 1953]). Since its 1953 platting, the parcel's lot area and configuration has remained in its original form and total acreage, 31.35 acres. Therefore, parcel 8 has not been subdivided into new lots.
3. **Landowners:** Keane Iranon and Salina M. Iranon, as disclosed by the landowner-applicants and confirmed by the online parcel information records of the County of Hawai'i Real Property Tax (**RPT**) Division and parcel 14's County of Hawai'i Parcel History (or county Parcel History sheets).
4. **State Land Use:** Agricultural (A).
5. **County Zoning:** A-20a (Agricultural 20 acres).

Background Information #4 and #5, above, confirm that parcel 14 is classified in state and county Agricultural land use.

6. **Application for AFDA.** The Iranons, the landowner-applicants, submitted an application for an AFD Agreement (AFDA), according to Hawaii Revised Statutes (HRS) section (sec.) 205-4.5 (a)(4) and (b), Hawaii County Zoning Code sec. sec. 25-5-77 (c); and, Planning Department Rule 13-4 (c). Parcel 8's Agricultural State Land Use and County Zoning enabled the Iranons to apply for an AFD.

FINDINGS & DETERMINATIONS

7. Parcel 8 is a 1953 legal lot of record and may have the following dwellings in the following order.
 - a. A first dwelling: the existing 1995 first residential nonfarm single-family dwelling.
 - b. A second dwelling: a first Farm dwelling with the FD Notice.
 - c. A third dwelling: a first AFD approved with a recorded AFD Agreement (or AFDA).

First Dwelling

8. **Determination:** According to HRS sec. 205-4.5 (b), for parcel 8, the existing 1995 first dwelling qualifies and is entitled to be classified as a residential non-farm single-family dwelling: therefore, it is not subject to the farm dwelling, agricultural income, and farming operation – commercial ag standards, referenced below in Findings #10.

Additionally, on a building site in county Ag zoning, county Zoning (Z.) Code secs. 25-5-77 (b) and 25-5-72 (a)(10), permits one residential (non-farm) single-family dwelling or one farm dwelling.

9. **One Existing 1995 First Residential (nonfarm) Single-family Dwelling.** This finding confirms that only one existing residential dwelling is located on parcel 8. Completed in 1995, it is the first dwelling, Building Permit (BP) #932373, according to county Real Property Tax (RPT) Division online records. The Iranons, the landowner-applicants, occupy the dwelling.

Finding # 10 discusses the first dwelling's nonfarm status.

10. **The 1995 First Dwelling entitled to Residential Nonfarm Status** consistent with and according to HRS sec. 205-4.5 (b). This state law permits residential nonfarm dwellings on lots existing before June 4, 1976.

The first dwelling is a residential nonfarm dwelling because parcel 8 is a 1953 legal lot of record, according to Background Information #2, above. Parcel 8's 1953 status confirms that it came into legal existence before June 4, 1976. The lot existed, therefore, before the 1976 state law of FD standard became effective.

[FD standards require an evaluation of either an existing farm or ag income; farming operation commercial agriculture, according to HRS sections (secs.) 205-4.5 (a)(4) and 165-2. These state laws preempt the respective Hawaii County Code or rule].

Second Dwelling

11. **The Proposed Second Dwelling qualifies for and will establish the First FD with the FDN.** As a result, the first FD is documented with the completion and signature of the FDN. Z. Code sec. 25-5-77 (b) and Planning Department Rule 13-4 (a).

Third Dwelling

- 12. The Iranon's Application for an AFD Agreement.** The AFDA is not required unless the Iranons would like to build a third house. Based on the earlier determination, the current AFDA application has been placed on hold and the Planning Department requests the Iranons to withdraw the application.

The application is required to be withdrawn since it would result in a third dwelling on parcel 8; and, the application did not present and discuss a request for a third dwelling.

- 13. Two Examples of pre1976 Lots and Approved Dwellings:**

The first example is TMK: 2-8-012: (parcel) 14, Ngo & Nguyen (FDA-19-000470 [approved: February 2, 2021]). Parcel 14 received nonfarm and farm dwelling approval for three dwellings:

- A first dwelling: approved nonfarm single-family dwelling;
- a second dwelling: approved with a first FD Notice; and,
- a third dwelling: approved with a first AFDA.

The second example is TMK: 1-8-006: (parcel) 98 Greimann (FDA-21-000491 [approved: February 21, 2021]). Parcel 98 received nonfarm and FD approval for two dwellings:

- an existing first dwelling: 1949 residential nonfarm single-family dwelling; and,
- a second dwelling: first FD approved with FD Notice.

Instructions for Farm Dwelling Notice (FDN for first FD). Please read, complete, and sign the enclosed copy of the notice. Both landowners should sign the notice. Please mail the completed notice to the Planning Department so that it can be electronically scanned for the department's and the public record.

Please proceed to prepare the required building plans to apply for the county building permit (BP) application process with the Hawaii County Department of Public Works (DPW) Building Division, ph: (808) 961-8331.

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For any further questions or concerns on the matters discussed above, please feel free to contact staff planner, Earl Lucero, ph: (808) 961-8160. Or via email at Earl.Lucero@hawaiicounty.gov.

Sincerely,



ZENDO KERN
Planning Director

EML/NK:tb

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Enclosures: Farm Dwelling Notice

cc (via email): GIS Section (letter w/enclosures)
Lisa Miura, Administrator, Real Property Tax Office (letter only)



County of Hawai'i Planning Department

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FARM DWELLING NOTICE

To: Owners of dwellings on land in State Land Use Agricultural districts.

This is to inform you that Chapter 205, Hawaii Revised Statutes, does not authorize residential dwellings as a permissible use in the State Land Use Agricultural district, unless the dwelling is related to an agricultural activity or is a "farm dwelling."

Farm dwelling is defined in Section 205-4.5(a)(4) as "a single family dwelling located on and used in conjunction 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."

Penalty for violation of Section 205-4.5, Hawaii Revised Statutes, is a fine of not more than \$5,000. If any person who is cited for a violation of the law fails to remove the violation within six months of such citation and the violation continues, such person is subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.

I acknowledge that I have read the above
and have been given a copy.

Witness's Name (please print)

Land Owner's Name (please print)

Signature of Witness

Land Owner's Signature

Date: _____

Tax Map Key: _____

*P:\Forms & References\E-Forms\2014 Updated Forms\First Farm Dwelling Notice.doc
Revised 2/18/14*