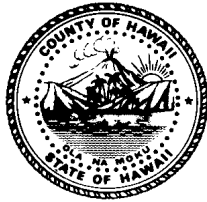


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i

PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

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

September 30, 2022

Mr. Robert Michael Medeiros
2035 'Aina'ola Drive
Hilo, HI 96720

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(PL-AFD-2022-000027)**

Applicant: Robert Michael Medeiros

**Landowner(s): Robert Michael Medeiros
 Kori Ann M. N. Medeiros**

Location: Por. of Waiākea Homesteads, Hilo, HI

Tax Map Key: TMK: (3) 2-4-007:075, Lot 1309-A

Pursuant to State law, Hawai'i Revised Statutes (HRS) section (sec.) 205-4.5 (a)(4), Hawai'i County Code sec. 25-5-77(c) Additional Farm Dwellings, and County of Hawai'i Planning Department Rule 13-4 - Farm Dwellings, a Planning Director's review has been completed on your request for **one (1) Additional Farm Dwelling**. The application request is **approved** subject to the following background information, findings, and conditions of approval.

BACKGROUND INFORMATION

1. **Subject Property:** TMK (3) 2-4-007:075, Lot 1309-A, Subdivision No. (2787), (January 14, 1970), 2035 'Aina'ola Drive, Hilo, Hawai'i 96720.
2. **Lot Size:** 3.3600 acre(s) or 146,362 square feet
3. **County Zoning:** A-3a (Agricultural District, minimum building site of 3 acres).
4. **State Land Use:** Agricultural (A-3a)

The subject parcel is in the State Land Use Agricultural District and its County Zoning classification is in A-3a and is therefore, designated for agricultural land use as defined by the State Land Use law and the County Zoning classification.

FINDINGS

- 1. Building Permits:** Real Property Tax records and information submitted with the applicant's Farm Site Plan confirms that there are two existing dwellings on the subject parcel. The Building Division records indicate that the first dwelling was constructed by permit in 1974, Building Permit No. 55668. The second dwelling was constructed in 1984, Building Permit No. 840611.
- 2. Proposed Request: Additional Farm Dwelling (First Farm Dwelling)** Agricultural State Land Use and County Zoning allows the landowner to apply for an Additional Farm Dwelling (AFD) on this property, pursuant to HRS sec. 205-4.5 (a)(4) or (b) and Hawai'i County Zoning code sec. 25-5-77 (b) or (c), and Hawai'i County Planning Department Rule 13-4 (c).
- 3. Proposed Agricultural Activity:** There is evidence of existing agricultural activity on the subject parcel TMK: (3) 2-4-007:075, and the applicant plans to continually produce and process products from their agricultural farm operations. The applicant intends to expand the crop area for avocados, manilla palms and a palm nursery. The proposed grazing area for cattle is at least 1.35 acres, and the additional koi breeding tanks will be stationed near the existing tanks.
- 4. Evidence of Agricultural Activity:**

 - a. Income Tax Record: General excise tax license.
 - b. Receipts of income received from sale of agricultural products.
- 5. Satisfaction of Statutory Standards:** To substantiate the development of commercial agriculture on the subject parcel, the landowner-applicants have submitted documentation to satisfy the statutory standards of the two state laws germane to evaluating this application:

 - a) HRS, Section 204-4.5 (a)(4) for a 'farm dwelling,' states, in part, "... *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, ...*" [emphasis added]; and
 - b) HRS, Section 165-2 defines "farming operation" to mean "... *a commercial agricultural ...[or whatever type of agriculture is undertaken] facility or pursuit conducted, in whole or in part, ...*" [emphasis added].
- 6. Rationale for Establishing AFD:** The County of Hawai'i Code requires that the applicant submit evidence of the applicant's continual "agricultural activity" on farm plan. H.C.C. §25-5-77(c)(2) It strongly suggests that the applicant should have some present agricultural activity in order to qualify for a second farm dwelling. The subject parcel was created on January 14, 1970, which allows this Additional Farm dwelling request to be the "First Farm Dwelling," a policy implemented on August 12, 2021, by the Planning Director. "*When a building permit is being processed for a dwelling on a lot before June 4, 1976 in the State Land*

Mr. Robert Michael Medeiros
Additional Farm Dwelling Agreement
Approval Letter
PL-AFD-2022-000027
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Use Agricultural District: a) The first dwelling will require the submittal of a Single-Family Dwelling Notice. The Second Dwelling will require the submittal of a First Farm Dwelling Notice. Any Additional dwelling will require the submittal of an Additional Farm Dwelling Agreement application. However, the second dwelling built in 1984 is a permitted 'Ohana Dwelling, (OHD-83-000079), dated April 6, 1984. There are currently two permitted dwellings on the parcel, a Single-Family Dwelling built in 1974 and an 'Ohana built in 1984. (Memo No. 2021-17)

AGENCY COMMENTS

- 1. Real Property Tax (RPT):** No comments received.
- 2. Department of Water Supply (DWS):** DWS comment letter dated September 13, 2022 (attached) Exhibit A
- 3. State of Hawai'i Department of Health (DOH):** DOH comment letter dated September 12, 2022. (attached) Exhibit B

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 AFD 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. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
7. The First Party (as identified in the Additional Farm Dwelling Agreement) shall allow the Second Party or its representatives to inspect the farm upon reasonable prior notice.
8. DWS has noted that the subject parcel does not have an existing water service with the Department. Pursuant to our Rules and Regulations, each dwelling unit shall use a separate 5/8-inch meter, and the plumbing for each separate dwelling shall not be interconnected in any way.
9. 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 **September 21, 2024**, may cause the Director to initiate proceedings to invalidate the AFD.
10. 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.

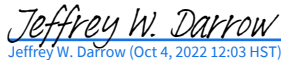
Mr. Robert Michael Medeiros
Additional Farm Dwelling Agreement
Approval Letter
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September 30, 2022
Page 5

- 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.

Please feel free to contact Terri Napeahi of this office at (808) 961-8288, ext. 8160, or via email terri.napeahi@hawaiicounty.gov, should you have any questions and/or concerns.

Sincerely,


Jeffrey W. Darrow (Oct 4, 2022 12:03 HST)

JEFFREY W. DARROW
Deputy Planning Director

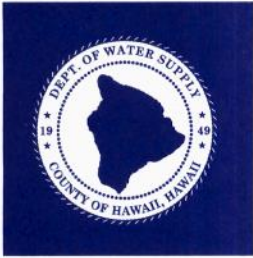
TLN:tn

\\COH01\planning\public\Admin Permits Division\AFDA\2022\PL-AFD-2022-000027 AFD Approval ltr Medeiros.doc

Enclosures: DOH Comment letter dated September 12, 2022
DWS Comment letter dated September 9, 2022
AFDA Document
AFDA Instruction sheet

cc w/Encl: Chief Sanitarian, DOH
cc w/Encl: Manager-Chief Engineer, DWS

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



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, 2022

COH PLANNING DEPT
SEP 13 2022 AM 8:46
REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement Application (2022-000027)**
Applicant – Robert Michael Medeiros
Tax Map Key 2-4-007:075

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

Please be informed that the applicants documents, submitted with the subject application, show an existing Additional Farm Dwelling which does not have an existing water service with the Department. Pursuant to our Rules and Regulations, each dwelling unit shall use a separate 5/8-inch meter, and the plumbing for each separate dwelling shall not be interconnected in any way.

The subject parcel is currently served by a 5/8-inch meter (Account 1864-65890), which is adequate for only one dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling along with an existing dwelling, the installation of separate 5/8-inch meters will be required for each dwelling. Water can be made available from the Department's existing 4-inch waterline within Ainaola Drive, fronting the subject parcel.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting the following conditions:

- 1. Installation of a 1½-inch service lateral to service two (2) 5/8-inch meters, which shall be restricted to a maximum daily flow of 400 gallons each.**
2. Submit construction plans, prepared by a professional engineer licensed in the State of Hawai'i, for review and approval.
- 3. Remittance of the following charges, which are subject to change, to our Customer Service Section:**

FACILITIES CHARGE (FC):

2 additional units of water @ \$6,095.00/unit	\$12,190.00
Total (Subject to Change)	\$12,190.00

... 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
Page 2
September 9, 2022

These are due and payable upon completion of the installation of the required water system improvements and prior to water service being granted.

Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at (808) 961-8070, extension 255.

Sincerely yours,



Keith K. Okamoto, P.E.
Manager-Chief Engineer

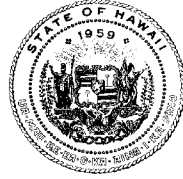
TS:dfg

copy – Mr. Robert Michael Medeiros
DWS Customer Service (Hilo)

Mori, Ashley

From: Honda, Eric T. <Eric.Honda@doh.hawaii.gov>
Sent: Monday, September 12, 2022 2:17 PM
To: Planning Internet Mail
Subject: PL-AFD-2022-000027
Attachments: PL-AFD-2022-000027 TMK2-4-007--075.doc

Eric Honda
District Environmental Health Program Chief
Hawaii District Health Office
(808) 933-0917
Eric.honda@doh.hawaii.gov



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

MEMORANDUM

DATE: September 12, 2022

TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Application: Additional Farm Dwelling Agreement- PL-AFD-2022-000027
Applicant: Robert Michael Medeiros
Owner: Robert Michael Medeiros
Request: One (1) Additional Farm Dwelling Unit
TMK: 2-4-007:075-0000

The applicant would need to meet the requirements of our Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawaii for fugitive dust control. If there is need to discuss these requirements, please contact our Clean Air Branch staff at Ph. 933-0401.

Construction activities must comply with the provisions of Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control."

1. The contractor must obtain a noise permit if the noise levels from the construction activities are expected to exceed the allowable levels of the rules.
2. Construction equipment and on-site vehicles requiring an exhaust of gas or air must be equipped with mufflers.
3. The contractor must comply with the requirements pertaining to construction activities as specified in the rules and the conditions issued with the permit.

Should there be any questions on this matter, please contact the Department of Health at 933-0917.

The Wastewater Branch has no comments for this application.

EXHIBIT B

Additional Farm Dwelling Agreement Instructions

Attached is the Additional Farm Dwelling Agreement form for your approved application. It is important that you follow these instructions in the completion of the form. Failure to complete and submit a properly completed agreement form to the Planning Department for recordation with the Bureau of Conveyances may cause your Additional Farm Dwelling Agreement to be rejected by the Bureau and delay approval of your application for a building permit for the additional farm dwelling. Building permit applications for additional farm dwellings will not be approved by the Planning Department until the AFDA form and the required submittals specified below have been returned to the Planning Department. You may make as many copies of the AFDA document for your records as necessary. A copy of the final recordation page will be available from the Planning Department when received back from the Bureau of Conveyances upon request.

1. All persons in the "First Party" must sign before a Public Notary in the appropriate location on the signature page (Page 5). Photocopies of this page may be made and sent to any persons listed on the page whose notarized signatures are required and then attached to the agreement document along with the original signature page. Facsimiles or FAX copies of signatures will not be accepted.

Note: All signatures must be the same as the typed name. Therefore, if John L. Doe is the name typed the signature must also be John L. Doe. Signing John Doe or Jonathan L. Doe will cause the agreement document to be rejected by the Bureau of Conveyances for recordation purposes.

2. The date on page 2 will be filled in when the agreement is signed by the Planning Director; please leave it blank.
3. Enclose a check or money order in the amount of **\$41.00**, made payable to the Bureau of Conveyances, for the recordation fee. (One payment needed. Please designate who will submit)
4. Return the **original** completed AFDA document with all required signatures and the recordation fee payment to the Planning Department for the Director's signature and submittal to the Bureau of Conveyances for recordation.

AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT (PL-AFD-2022-000027)

PARTIES TO DOCUMENT:

**FIRST PARTY: ROBERT MICHAEL MEDEIROS
 KORI ANN M. N. MEDEIROS**

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

LOT 1309-A, POR. OF WAIĀKEA,
HOMESTEADS HILO, HAWAI'I, (WAIĀKEA
MILL CO.) Hawai'i Island

TMK: (3) 2-4-007:075

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 2022, by and between **ROBERT MICHAEL MEDEIROS** and **KORI ANN M. N. MEDEIROS**, herein called the “First Party,” whose mailing address is 2035 ‘Aina‘ola Drive, Hilo, Hawai‘i and, the **COUNTY OF HAWAI‘I**, herein called the “Second Party.”

IT IS HEREBY AGREED that the First Party may construct one additional farm dwelling (note: the additional farm dwelling of this agreement is the approved second additional farm dwelling; and, in chronological and numerical order, the second additional farm dwelling is also the second single-family dwelling) located on the real property of LOT 1309-A. The property LOT 1309-A is described as a portion of POR. OF WAIĀKEA HOMESTEADS, HILO HI containing 3.3600 ACRES or 146,362 SQUARE FEET OF LOT 1309-A **Tax Map Key (3) 2-4-007:075**, situated in the State Land Use AGRICULTURAL District and zoned A-3a by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party FEE OWNER is the legal owner of the property described above.

IT IS HEREBY FURTHER AGREED that this approval to construct one additional farm dwelling is given subject to the following conditions:

1. The additional farm dwellings shall be used to provide shelter to person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity are allowed to reside in the 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. This agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit: “A”.

IT IS HEREBY FURTHER AGREED that this agreement shall run with the land and apply to a lessee or tenant of the lot or of any portion of LOT 1309-A.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws, rules, and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED, for the property, LOT 1309-A, situated within the State Land Use AGRICULTURAL district, any land use and zoning violations that is determined by the Second Party to be caused by the First Party, a LESSEE or a TENANT, the Second Party may impose fines in violation of Hawai'i Revised Statutes section 205-4.5. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for a first violation; for any additional violation, there shall be a fine of not more than \$5,000. The Second Party may also impose fines for any violation of Hawai'i County Code Chapter 25, as amended, according to the procedures and fine schedule of Hawai'i County Code – Zoning Code sections 25-2-30 through -2-36.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement to be in conformity with Hawai'i Revised Statutes sections 205-2 and 205-4.5, consistent with the permitted uses of the State Land Use Agricultural district. This Agreement also conforms to Hawai'i County Code Chapter 25, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

FIRST PARTY:

ROBERT MICHAEL MEDEIROS, Landowner

KORI ANN M. N. MEDEIROS, Landowner

SECOND PARTY:

JEFFREY W. DARROW, Deputy Planning Director
County of Hawai'i Planning Department

STATE OF HAWAI'I)
) SS.
COUNTY OF HAWAI'I)

On this _____ day of _____, 2022 before me personally appeared ROBERT MICHAEL MEDEIROS and KORI ANN M. N. MEDEIROS, to me known to be the person described herein and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Notary Public, State of Hawai'i

My commission expires: _____