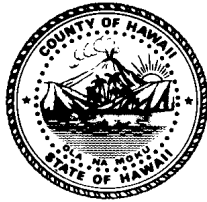


Mitchell D. Roth
Mayor

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

December 9, 2022

Mr. Kelly R. Jarneski
219 'Ākōlea Road
Hilo, Hawai'i 96720

SUBJECT: Application: AMENDED ADDITIONAL FARM DWELLING AGREEMENT (PL-AFD-2022-000038)

Applicant: Kelly R. Jarneski

Landowner(s): Jarneski, Kelly R/Joanne M. K. Trust

Location: Por. Ponahawai – Kaūmana Homesteads, S. Hilo, Hawai'i

Tax Map Key: (3) 2-5-047:013-0000, Lot 20-I

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

- Subject Property:** TMK: (3) 2-5-047:013, Lot 20-I, Subdivision No., (SUB-04-000160) (March 19, 2007), 219 Ākōlea Rd, Hilo, Hawai'i 96720.
- Lot Size:** 21.7230 acre(s) or 946,254 square feet.
- County Zoning:** A-20a (Agricultural District, minimum building site 20 acres).
- State Land Use:** Agricultural (A).

The subject parcel is in the State Land Use Agricultural District and its County Zoning classification is in A-20a 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 the information submitted with the applicant's Farm Site Plan confirms one farm dwelling exists on the subject parcel. Building Division records indicate that this "First Farm Dwelling" was constructed by permit in 2001, Building Permit No. 010311.
2. **Proposed Request: Additional Farm Dwelling (Second 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) 2-5-047:013, and the applicant plans to continually produce and process products from their agricultural farm operations, and intend to market and sell in various local and national markets. The property currently hosts several agricultural activities including (47) lychee trees planted within two acres, (6) avocado trees in approximately 5,000 square feet and an additional 5,000 square feet of citrus fruit trees. The property is fenced on the perimeter of entire parcel, with multiple cattle pastoral paddocks occupied with 10 cows. The owner raises 100 chickens and installed eight 8' x 30' water tanks containing koi and tilapia. The water tanks hold over (200) one-year-old koi, (2,000) koi fry, (20) full grown tilapia and (300) adolescent tilapia. Although the owner/applicant has not generated any income in the past, they are ready to harvest and anticipate an income of \$21,000.00 by the end of 2024.
4. **Evidence of Agricultural Activity:**
 - a) Real Property Tax: (RPT) 2022 records show that the property is currently assessed for any agricultural use on the property. The property class is agricultural.
 - b) Income Tax Records: Evidence of a State Department of Taxation General Excise Tax License, ID No. (GE-035-722-4448-03).
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 applicant has provided the necessary documents to prove there is existing and continual agricultural activity on parcel TMK: (3) 2-5-047:013. The farming operations currently require approximately 30 hours of work per week. They anticipate an increase of 45-50 labor hours per week after harvesting and processing agricultural products for sale. The agricultural activities were used primarily for personal consumption, but since then the owners crops, chickens, cattle and fish have flourished increasing farm operation productivity. The owner needs the additional help to maintain and manage his farm operations.

AGENCY COMMENTS

1. **Real Property Tax (RPT):** RPT comment letter dated October 18, 2022. (attached)
2. **Department of Water Supply (DWS):** DWS comment letter dated November 1, 2022. (attached)
The subject parcel is currently served by a 5/8-inch meter (Account 440-22740), which is adequate for only one (1) dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department's existing 6-inch waterline within 'Ākōlea Road, fronting the subject parcel. Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting conditions stated in the attached DWS memo.
3. **State of Hawai'i Department of Health (DOH):** DOH comment letter dated October 14, 2022. (attached)

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. 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. 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 **December 13, 2024**, may cause the Director to initiate proceedings to invalidate the AFD.
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.

Mr. Kelly R. Jarneski

December 9, 2022

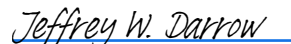
Page 5

- 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 L. 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 (Dec 15, 2022 06:03 HST)

JEFFREY W. DARROW
Deputy Planning Director

TLN:ta

\\COH01\planning\public\Admin Permits Division\AFDA\2022\PL-AFD-2022-000038 AFDA Apvl Letter Jarneski revised 12-9-2022.doc

Enclosures: RPT Comment letter dated October 18, 2022
DWS Comment letter dated November 1, 2022
DOH Comment letter dated October 14, 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)

Harry Kim
Mayor



Deanna S. Sako
Finance Director

COH PLANNING DEPT
OCT 24 2022 AM 7:57
REC'D HAND DELIVERED

County of Hawai'i

DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Aupuni Center • 101 Pauahi Street • Suite No. 4 • Hilo, Hawai'i 96720-4679 • Fax (808) 961-8415
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880

Date: 10/18/22

Tax Map Key: 2-5-047-013-0000

To: Planning Director

From: Real Property Tax Office

Subj: Request for Comments and/or Review

Comments from the Appraisal Section:

- Property is receiving agricultural use value
- Property is dedicated to agricultural use
- Possible rollback taxes
- There are no comments at this time

Remarks: _____

Appraiser to Contact: Kai'lea Cann

Phone: 808-961-8124

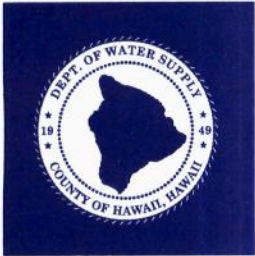
Comments from the collection section:

- Status of real property taxes:
- Current
- Delinquent / Amounts \$ _____
Amount includes tax, penalty & interest up to _____

Remarks: _____

Collection personnel to contact: Chelsea Baldado

Phone: (808) 961-8204



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

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

November 1, 2022

COH PLANNING DEPT
NOV 2 2022 PM 2:27
REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement (PL-AFD-2022-000038)**
Applicant – Kelly R. Jarneski
Tax Map Key 2-5-047:013

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter (Account 440-22740), which is adequate for only one (1) dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department's existing 6-inch waterline within Akolea Road, 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 by the Department of Water Supply, of a 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily-flow of 400 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2nd service to the parcel \$6,095.00

SERVICE LATERAL INSTALLATION CHARGE:

Install one (1) one meter on Akolea Road, a County Road \$3,000.00

Total (Subject to Change) \$9,095.00

... 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
November 1, 2022

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,

A handwritten signature in black ink, appearing to read "Okamoto".

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

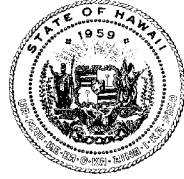
TS:dfg

copy – DWS Customer Service (Hilo)
Kelly R. Jarneski

DeVera, Ashley

From: Honda, Eric T. <Eric.Honda@doh.hawaii.gov>
Sent: Friday, October 14, 2022 3:28 PM
To: Planning Internet Mail
Subject: PL-AFD-2022-000038
Attachments: PL-AFD-2022-000038 TMK2-5-047--013.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: October 14, 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-2022-000038
Applicant: Kelly R. Jarneski
Owner: Jarneski, Kelly R/Joanne M.K. Trust
Request: One Additional Farm Dwelling Unit
TMK: 2-5-047:013

The Wastewater Branch has no objection with the request to construct an additional farm dwelling for the subject property. The wastewater system for the additional farm dwelling shall comply with Chapter 11-62, Hawaii Administrative Rules.

Please contact Mark Tomomitsu at (808) 586-4294 for questions.

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.
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-2022-000038)

PARTIES TO DOCUMENT:

FIRST PARTY: KELLY R. JARNESKI and JOANNE M. K. JARNESKI REVOCABLE TRUST

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

LOT 20-I, PONAHAHAWAI-KAŪMANA
HOMESTEADS, SOUTH HILO, HAWAI'I,
Hawai'i Island

TMK: (3) 2-5-047:013-0000

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 2022, by and between **KELLY R. JARNESKI and JOANNE M. K. JARNESKI REVOCABLE TRUST**, herein called the “First Party,” whose mailing address is, 219 ‘Ākōlea Road, Hilo, Hawai‘i 96720; 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 farm dwelling; and, in chronological and numerical order, the second farm dwelling is also the second single-family dwelling) located on the real property of LOT 20-I. The property, LOT 20-I, is described as a portion of PONAHAHAWAI-KAŪMANA HOMESTEADS, SOUTH HILO, HAWAI‘I, Island of Hawai‘i, containing 21.723 acres or 946,254 square feet, being **Tax Map Key (3) 2-5-047:013**, situated in the State Land Use Agriculture District and zoned A-20a, 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 dwelling 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 20-I.

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 20-I, 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 25-2-36.

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:

**KELLY R. JARNESKI and JOANNE M. K. JARNESKI
REVOCABLE TRUST, Landowner(s)**

SECOND PARTY:

**JEFFREY 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 KELLY R. JARNESKI and JOANNE M. K. JARNESKI REVOCABLE TRUST, 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.

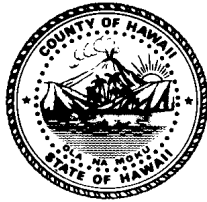
Notary Public, State of Hawai'i

My commission expires: _____

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

November 28, 2022

Mr. Kelly R. Jarneski
219 'Ākōlea Road
Hilo, Hawai'i 96720

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(PL-AFD-2022-000038)**
Applicant: Kelly R. Jarneski
Landowner(s): Jarneski, Kelly R/Joanne M. K. Trust
Location: Por. Ponahawai – Kaūmana Homesteads, S. Hilo, Hawai'i
Tax Map Key: (3) 2-5-047:013-0000, Lot 20-I

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) 2-5-047:013, Lot 20-I, Subdivision No., (SUB-04-000160) (March 19, 2007), 219 Ākōlea Rd, Hilo, Hawai'i 96720.
2. **Lot Size:** 21.7230 acre(s) or 946,254 square feet.
3. **County Zoning:** A-20a (Agricultural District, minimum building site 20 acres).
4. **State Land Use:** Agricultural (A).

The subject parcel is in the State Land Use Agricultural District and its County Zoning classification is in A-20a 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 the information submitted with the applicant's Farm Site Plan confirms one farm dwelling exists on the subject parcel. Building Division records indicate that this "First Farm Dwelling" was constructed by permit in 2001, Building Permit No. 010311.
2. **Proposed Request: Additional Farm Dwelling (Second 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) 2-5-047:013, and the applicant plans to continually produce and process products from their agricultural farm operations, and intend to market and sell in various local and national markets. The property currently hosts several agricultural activities including (47) lychee trees planted within two acres, (6) avocado trees in approximately 5,000 square feet and an additional 5,000 square feet of citrus fruit trees. The property is fenced on the perimeter of entire parcel, with multiple cattle pastoral paddocks occupied with 10 cows. The owner raises 100 chickens and installed eight 8' x 30' water tanks containing koi and tilapia. The water tanks hold over (200) one-year-old koi, (2,000) koi fry, (20) full grown tilapia and (300) adolescent tilapia. Although the owner/applicant has not generated any income in the past, they are ready to harvest and anticipate an income of \$21,000.00 by the end of 2024.
4. **Evidence of Agricultural Activity:**
 - a) Real Property Tax: (RPT) 2022 records show that the property is currently assessed for any agricultural use on the property. The property class is agricultural.
 - b) Income Tax Records: Evidence of a State Department of Taxation General Excise Tax License, ID No. (GE-035-722-4448-03).
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].

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AGENCY COMMENTS

1. **Real Property Tax (RPT):** RPT comment letter dated October 18, 2022. (attached)
2. **Department of Water Supply (DWS):** DWS comment letter dated November 1, 2022. (attached)
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3. **State of Hawai'i Department of Health (DOH):** DOH comment letter dated October 14, 2022. (attached)

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. 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 a County approved water service at present, and an additional water service is not available for the additional dwelling.
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 **December 13, 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. Kelly R. Jarneski

November 28, 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 L. 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

Jeffrey W. Darrow (Dec 5, 2022 16:06 HST)

JEFFREY W. DARROW

Deputy Planning Director

TLN:ta

\\COH01\planning\public\Admin Permits Division\AFDA\2022\PL-AFD-2022-000038 AFDA Apvl Letter Jarneski 11-10-2022.doc

Enclosures: RPT Comment letter dated October 18, 2022
DWS Comment letter dated November 1, 2022
DOH Comment letter dated October 14, 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)

Harry Kim
Mayor



Deanna S. Sako
Finance Director

COH PLANNING DEPT
OCT 24 2022 AM 7:57
REC'D HAND DELIVERED

County of Hawai'i

DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Aupuni Center • 101 Pauahi Street • Suite No. 4 • Hilo, Hawai'i 96720-4679 • Fax (808) 961-8415
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880

Date: 10/18/22

Tax Map Key: 2-5-047-013-0000

To: Planning Director

From: Real Property Tax Office

Subj: Request for Comments and/or Review

Comments from the Appraisal Section:

- Property is receiving agricultural use value
- Property is dedicated to agricultural use
- Possible rollback taxes
- There are no comments at this time

Remarks: _____

Appraiser to Contact: Kai'lea Cann

Phone: 808-961-8124

Comments from the collection section:

- Status of real property taxes:
- Current
- Delinquent / Amounts \$ _____
Amount includes tax, penalty & interest up to _____

Remarks: _____

Collection personnel to contact: Chelsea Baldado

Phone: (808) 961-8204



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

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

November 1, 2022

COH PLANNING DEPT
NOV 2 2022 PM 2:27
REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement (PL-AFD-2022-000038)**
Applicant – Kelly R. Jarneski
Tax Map Key 2-5-047:013

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

Please be informed that the subject parcel is currently served by a 5/8-inch meter (Account 440-22740), which is adequate for only one (1) dwelling at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter will be required. Water can be made available from the Department's existing 6-inch waterline within Akolea Road, 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 by the Department of Water Supply, of a 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily-flow of 400 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

FACILITIES CHARGE (FC):

2nd service to the parcel \$6,095.00

SERVICE LATERAL INSTALLATION CHARGE:

Install one (1) one meter on Akolea Road, a County Road \$3,000.00

Total (Subject to Change) \$9,095.00

... 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
November 1, 2022

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,

A handwritten signature in black ink, appearing to read 'K. Okamoto', written in a cursive style.

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

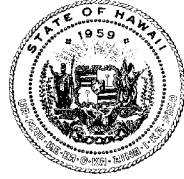
TS:dfg

copy – DWS Customer Service (Hilo)
Kelly R. Jarneski

DeVera, Ashley

From: Honda, Eric T. <Eric.Honda@doh.hawaii.gov>
Sent: Friday, October 14, 2022 3:28 PM
To: Planning Internet Mail
Subject: PL-AFD-2022-000038
Attachments: PL-AFD-2022-000038 TMK2-5-047--013.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: October 14, 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-2022-000038
Applicant: Kelly R. Jarneski
Owner: Jarneski, Kelly R/Joanne M.K. Trust
Request: One Additional Farm Dwelling Unit
TMK: 2-5-047:013

The Wastewater Branch has no objection with the request to construct an additional farm dwelling for the subject property. The wastewater system for the additional farm dwelling shall comply with Chapter 11-62, Hawaii Administrative Rules.

Please contact Mark Tomomitsu at (808) 586-4294 for questions.

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.
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-2022-000038)

PARTIES TO DOCUMENT:

FIRST PARTY: KELLY R. JARNESKI and JOANNE M. K. JARNESKI REVOCABLE TRUST

SECOND PARTY: COUNTY OF HAWAI'I

PROPERTY DESCRIPTION:

LOT 20-I, PONAHAHAWAI-KAŪMANA
HOMESTEADS, SOUTH HILO, HAWAI'I,
Hawai'i Island

TMK: (3) 2-5-047:013-0000

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, 2022, by and between **KELLY R. JARNESKI and JOANNE M. K. JARNESKI REVOCABLE TRUST**, herein called the “First Party,” whose mailing address is, 219 ‘Ākōlea Road, Hilo, Hawai‘i 96720; 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 farm dwelling; and, in chronological and numerical order, the second farm dwelling is also the second single-family dwelling) located on the real property of LOT 20-I. The property, LOT 20-I, is described as a portion of PONAHAHAWAI-KAŪMANA HOMESTEADS, SOUTH HILO, HAWAI‘I, Island of Hawai‘i, containing 21.723 acres or 946,254 square feet, being **Tax Map Key (3) 2-5-047:013**, situated in the State Land Use Agriculture District and zoned A-20a, 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 dwelling 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 20-I.

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 20-I, 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 25-2-36.

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:

**KELLY R. JARNESKI and JOANNE M. K. JARNESKI
REVOCABLE TRUST, Landowner(s)**

SECOND PARTY:

**JEFFREY 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 KELLY R. JARNESKI and JOANNE M. K. JARNESKI REVOCABLE TRUST, 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: _____