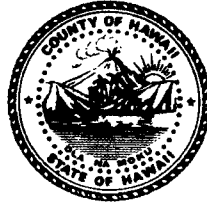


Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

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

County of Hawai'i

PLANNING DEPARTMENT

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

October 17, 2017

Daniel B. & Martha E. Banks
P.O. Box 311
Hakalau, HI 96710-0311

Dear Mr. & Ms. Banks:

**SUBJECT: Application: ADDITIONAL FARM DWELLING AGREEMENT
(FDA-17-000432)**
Applicants: DANIEL B. & MARTHA E. BANKS
**Land Owners: DANIEL B. & MARTHA E. BANKS, TRUSTEES OF THE
DANIEL B. & MARTHA E. BANKS TRUST**
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 8.088 acres
**Location: Being A Portion of Grant 1874, Wailea, South Hilo,
Island of Hawai'i, Hawai'i**
Tax Map Key: (3) 2-9-003:059

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** on the subject property and have **approved** your request subject to the following.

BACKGROUND INFORMATION

1. **Subject Property:** A Portion of Grant 1874, Wailea, South Hilo, Island of Hawai'i, Hawai'i.
2. **Lot Size:** 8.088 Acres.
3. **State Land Use:** Agricultural (A).
4. **County Zoning:** A-20a.
5. **Proposed Request:** One Additional Farm Dwelling.

6. **Existing Structures:** There is a single-family dwelling which was permitted in 2006.
7. **Building Permits:** There is a building permit of record in Real Property Tax Records.
8. **Farm Plan:** Includes the following existing income -producing agricultural activities.
 - a. **Existing agricultural activities include:**
 - i. Presently there are approximately 6.00 acres of paddocks for 3 cows, 2 steer and 10 sheep;
 - ii. There are a number of chickens for eggs, food and, in portable cages for moving around the farm to help create a viable and sustainable soil environment for pasture grasses;
 - iii. Almost a half-acre for 15 avocado, 31 coconut 7 citrus, 3 lychee, 3 apple trees, a pineapple patch, and 2 large clumps of apple bananas are also in production.
9. **Evidence of Agricultural Activity:** Receipt from the purchase of a Toro Cub Cadet riding mower have been included. Evidence of General Excise & Use Tax License and Tax Returns were submitted. Form 1040, Schedule F was also included. The trade name "Kokopele Farm" was shown to have been registered with the Department of Commerce and Consumer Affair. The property also is taxed at an agricultural rate by the Real Property Tax department.
10. **Rationale for Establishing AFD:** To accommodate a farm worker/manager for the retired farm owners. An additional farm dwelling is needed to house a person (or couple) to assist the applicants. There are now cattle and sheep (divided into paddocks) and maturing trees that need tending. The apple banana patches; coconuts; avocados; and citrus have matured and are coming into full production. Over the past 6+ years, the farm is now giving the rewards of the applicants' dedicated efforts.

Additional help is now needed to sustain, tend, prune, fertilize, harvest, and market the farm goods. The additional farm dwelling will house farm labor assistance that will allow us to maintain and sustain our working farm, as we age (now we are almost 68 and 63 years old).

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 subject lot was created prior to June 4, 1976, which, pursuant to HRS 205-4.5(b), allows the first dwelling on the lot to be a single-family 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 income-producing agricultural activity.
4. In addition, the following agencies have submitted their comments as identified below:
 - a. Department of Water Supply (DWS) memo dated August 24, 2017. (**See attached Exhibit A**)
 - b. Department of Health (DOH) memo dated August 16, 2017. (**See 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 AFDA has been approved based on existing and exploratory 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

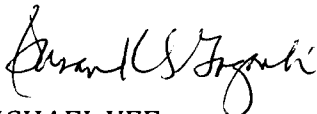
payable to the Bureau of Conveyances in the amount of **\$41.00** in accordance with the enclosed AFDA Instructions.

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.

6. 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 shall be adhered to.
7. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
8. The First Party (as identified in the Additional Farm Dwelling Agreement) shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
9. DWS has noted that the subject parcel does have an existing County approved water service at present, but an additional water service is not available for the additional dwelling. They also inform that, 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 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.
10. 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 **October 17, 2019**, may cause the Director to initiate proceedings to invalidate the AFD.

Please feel free to contact Jonathan Holmes of this office at (808) 961-8146 or email jonathan.holmes@hawaiicounty.gov should you have any further questions and/or concerns.

Sincerely,



MICHAEL YEE
Planning Director

JRH:nci

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Daniel B. & Martha E. Banks
Page 5
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Enclosures: AFDA document
AFDA document instruction sheet
Exhibits A & B

cc: Chief Sanitarian, DOH
Manager-Chief Engineer, DWS

cc via email: GIS Section w/enclosures

Glenn Sako, Department of Research and Development (R&D)
glenn.sako@hawaiiicounty.gov

Kamran Fujimoto, Natural Resources Conservation Services (NRCS)
kamran.fujimoto@hi.nacdnet.net

Jennifer Lopez, Puna Soil and Water Conservation District (SWCD)
jennifer.lopez@hi.nacdnet.net

Stan Sitko, Real Property Tax Division (RPT)
Stan.sitko@hawaiiicounty.gov

Keita Jo, Real Property Tax Division (RPT)
kieta.jo@hawaiiicounty.gov



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

August 24, 2017

TO: Mr. Michael Yee, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Additional Farm Dwelling Agreement Application**
(FDA-17-000432)
Applicant – Daniel B. and Martha E. Banks
Tax Map Key 2-9-003:059

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PLANNING DEPARTMENT
COUNTY OF HAWAII

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

Please be informed that an existing 5/8-inch meter (Account No. 500-01644) services this property 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 of water service. A copy of the Department's backflow prevention handout will be sent to the applicant to understand this requirement.

EXHIBIT
A

113624

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

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

Mr. Michael Yee, Director
Page 2
August 24, 2017

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

Sincerely yours,

A handwritten signature in black ink, appearing to read "k. okamoto". The signature is stylized and cursive.

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

TS:dfg

copy – Mr. Daniel B. and Ms. Martha E. Banks (w/copy of backflow prevention handout)
DWS Customer Service Section (Hilo)

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

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

2017 AUG 17 AM 9 32
PLANNING DEPARTMENT
COUNTY OF HAWAII

MEMORANDUM

DATE: August 16, 2017

TO: Mr. Michael Yee
Planning Director, County of Hawaii

FROM: Eric Honda *EH*
District Environmental Health Program Chief

SUBJECT: Application: ADDITIONAL FARM SWELLING AGREEMENT
FDA-17-000432
Applicants: DANIEL B. & MARTHA E. BANKS
LandOwner: DANIEL B. & MARTHA E. BANKS
SLU: Agricultural
CZ: A-20a
Land Area: 8.088 acres
Location: Being A Portion of Grant 1874, Wailea, South Hilo,
Island of Hawaii, Hawaii
TMK: 2-9-003:059

The existing individual wastewater system can continue to serve the existing dwelling. However, wastewater generated from any additional dwelling unit/building must meet the wastewater rules in effect at the time of building permit application.

EXHIBIT
B

113487