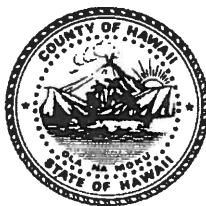


Mitchell D. Roth
Mayor

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

January 24, 2022

John Richards
Makani Ua Ranch
P.O. Box 2650
Kamuela, HI 96743

Dear John Richards:

Additional Farm Dwelling Agreement Application (PL-AFD-2021-000016)

Applicant: John Richards, Makani Ua Ranch
Owner: Kahua Ranch Limited
State Land Use: Agriculture
County Zoning: Agricultural (A-20a)
Land Area: 825.444 acres
TMK: (3) 5-9-001:001

Pursuant to authority conferred to the Planning Director by Chapter 25, Article 5, Division 7, Section 25-5-77 of the Zoning Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for an additional farm dwelling on the subject property. Your submittals included the following information:

1. Name and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation. Your farm plan included the following existing income-producing agricultural activities on the subject property:
 - (a) Proposed agricultural activities:
 1. Livestock Management - Cattle
 - (b) The labor man-hours for the above proposed activities are 5 full time positions = 200 hours per week.
4. In additional support, a State of Hawaii Department of Taxation's General Excise (GE) Tax License has also been presented.

5. The applicant's commitment to the farm plan will be shown in the form of the enclosed Additional Farm Dwelling Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.

Findings:

1. In 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 Section 205-4.5, Chapter 205, HRS, **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.** (emphases added)
2. The subject lot was created by subdivision (SUB-21-002011) approved on April 5, 2021, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, agricultural dedication, 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:
 - (a) Department of Water Supply (Memorandum dated December 13, 2021): Attached as Exhibit 1
 - (b) Department of Health (Memorandum dated December 6, 2021): Attached as Exhibit 2
 - (c) Real Property Tax Office: No Comments Were Received

Decision:

In view of the above, your request to construct 2 additional dwellings as farm dwellings is approved subject to the following conditions:

1. The additional farm dwellings shall only be used to 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 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. The enclosed Additional Farm Dwelling Agreement ("AFDA") must be returned to the Planning Department with the appropriate notarized signatures of all persons comprising the "First Party" to the agreement along with a check made out to the Bureau of Conveyances in the amount of \$41.00 in accordance with the enclosed Additional Farm

Dwelling Agreement Instructions. **The Planning Department will not approve a building permit application for the additional dwellings until the AFDA document with all required attachments has been recorded at the Bureau of Conveyances.**

4. The First Party (owners and their lessees and their successors in interest) shall comply with all other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25, Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and other reviewing agencies/divisions listed on the Building Permit Application.
5. Your Additional Farm Dwelling Agreement has been approved based on your existing activities as presented in your farm plan and summarized previously in this letter. **It is required that the First Party (owners and their lessees and their successors in interest) to the Agreement shall continue to carry out and maintain this farm plan for the life of the additional farm dwelling.** The Second Party (County of Hawai'i Planning Department) to the Agreement may, in its sole discretion, allow time extensions and modifications for good cause shown by the First Party.
6. The First Party (owners and their lessees and their successors in interest) shall allow the Second Party or its representative to inspect the farm from time to time upon reasonable prior notice.
7. **The First Party is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the additional farm dwelling on or before January 25, 2024.** Failure to secure a building permit for this additional farm dwelling on or before January 25, 2024 may cause the Director to initiate proceedings to invalidate the AFDA.
8. 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.
 - 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.

John Richards, Makani Ua Ranch
January 24, 2022
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Should you have any questions, please contact Deanne Bugado of our West Hawai'i office at 323-4770.

Sincerely,

Zendo Kern

Zendo Kern (Jan 27, 2022 13:35 HST)

ZENDO KERN
Planning Director

xc: Chief Sanitarian, DOH
Manager, DWS
Administrator, RPT



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

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

December 13, 2021

COH PLANNING DEPT
DEC 14 2021 PM 2:36
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-2021-000016)
Applicant – John Richards, Makani Ua Ranch
Tax Map Key 5-9-001:001**

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

The subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system.

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 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. John Richards, Makani Ua Ranch

Exhibit 1

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

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



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

MEMORANDUM

DATE: December 6, 2021

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

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Additional Farm Dwelling Agreement Application (PL-AFD-2021-000016)
Applicant: John Richards, Makani Ua Ranch
Owner: Kahua Ranch Limited
SLU: Agriculture
CZ: Agricultureal (A-20a)
Land Area: 825.444 acres
TMK: 5-9-001:001

The Health Department found no environmental health concerns with regulatory implications in the submittals.