

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 2022, Building Permit No. PW.B2022-001430.
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) 2-9-002:065, and the applicant plans to continually produce and process products from their agricultural farm operations. The applicant intends to market and sell agricultural products from a road side stand on property and at local farmer's markets. The applicant currently has 5 acres of fruit and nut orchards and have already planted over one hundred varieties, e.g. (banana's, papaya's, citrus, breadfruit, avocados, durian, lychee, longan, macadamia, soursop, coconuts, mangos), and 2 acres of confined agricultural animals and beehives.
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, with 5 acres of orchards and 2 acres of confined animals.
 - b) Income Tax Records: Evidence of a State Department of Taxation General Excise Tax License, ID No. (GE-081-358-8480-01) and Schedule Form 1040 Profit or Loss From Farming.
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 a 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) 2-9-002:065. The farming operations currently require approximately 30 to 60 man hours of work per week. Within 12 months orchards will be ready to harvest and agricultural products will be available for sale.

AGENCY COMMENTS

- 1. Department of Water Supply (DWS):** DWS comment letter dated January 11, 2023. (attached)
The subject parcel is served by an existing 5/8-inch meter (Account No. 500-00083) and is adequate for only one (1) dwelling unit each 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.
- 2. State of Hawai‘i Department of Health (DOH):** DOH comment letter dated January 10, 2023. (attached)
The Department of Health, Wastewater Branch reviewed the subject application and has no comments/objection.
- 3. Real Property Tax (RPT):** No comments received.

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 **January 31, 2025**, 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.
 - 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,

Zendo Kern

Zendo Kern (Feb 8, 2023 12:17 HST)

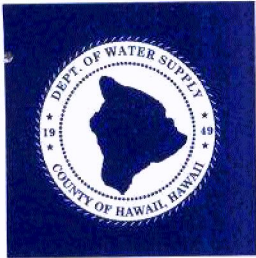
ZENDO KERN
Planning Director

TLN:ta

\\COH01\planning\public\Admin Permits Division\AFDA\2023\PL-AFD-2022-000047 AFDA Apvl Letter Bunnell 1-31-2023.doc

Enclosures: DWS Comment letter dated January 11, 2023
DOH Comment letter dated January 10, 2023
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 HAWAII

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

January 11, 2023

COH PLANNING DEPT
JAN 12 2023 PM2:04

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-2022-000047)**
Applicant – Ryan Bunnell
Tax Map Key 2-9-002:065

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

Please be informed that the subject parcel is served by an existing 5/8-inch meter (Account No. 500-00083) and is adequate for only one (1) dwelling unit each 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/continuation of water service. A copy of the Department's backflow prevention handout will be sent to the applicant to help understand this requirement.

... 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
January 11, 2023

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,

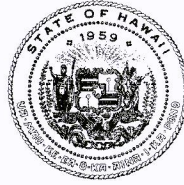
A handwritten signature in black ink, appearing to read 'Keith K. Okamoto'.

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

TS:dfg

copy - Mr. Ryan Bunnell (w/copy of backflow prevention handout)
DWS Cross Connection Section
DWS Customer Service Sections (Hilo and Kona)

DAVID Y. IGE
GOVERNOR OF HAWAII



KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

January 10, 2023

Mr. Zendo Kern, Director
County of Hawaii
Planning Department
Email: planning@hawaiicounty.gov

Dear Mr. Kern:

Subject: Application: Additional Farm Dwelling Agreement | PL-AFD-2022-000047
 Applicant: Ryan Bunnell
 Owner(s): Ryan Bunnell
 Maria Bunnell
Request: One (1) Additional Farm Dwelling Unit
Tax Map Key: (3) 2-9-002:065, Lot 5

The Department of Health (Department), Wastewater Branch reviewed the subject application and has no comments/objection.

Should you have any questions, please contact Mark Tomomitsu at (808) 586-4294.

Sincerely,

SINA PRUDER, P.E., CHIEF
Wastewater Branch