

**Harry Kim**  
Mayor



**Christopher J. Yuen**  
Director

**Brad Kurokawa, ASLA**  
**LEED® AP**  
Deputy Director

**County of Hawaii**  
**PLANNING DEPARTMENT**

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224  
(808) 961-8288 • FAX (808) 961-8742

January 30, 2008

Rodney Kawamura, P.E. & L.P.L.S.  
Hilo Engineering, Inc.  
484 Kalanikoa Street  
Hilo, HI 96720

Dear Mr. Kawamura:

**PRE-EXISTING LOTS OF RECORD DETERMINATION**

**Kukuiwaiuhia, Apuakohau, Halelua, Napapaa, Halawa and Aamakao, North Kohala, Hawai'i**  
**TMK: 5-2-004:003; 5-3-002:001 and 5-3-003:002**

This acknowledges receipt of your request of September 20, 2007, regarding the determination of pre-existing lots within the subject TMK parcels. We apologize for the length of time for this determination.

We have determined that the various Grants, Land Commission Awards, Land Court Applications, etc., represent a total of **8** lots of record, rather than the **13** delineated in your documentation.

Regardless of previous pre-existing lot determination criteria, as a rule, we do not recognize flume, ditch or non-government road rights-of-way as subdividing property. These are clearly in the nature of easements rather than fee ownership. Further, forest reserve (F.R.) lines do not subdivide property.

Following the lot numbering given in your lot count for determination, dated September 20, 2007, our conclusions are as follows (**lots claimed in your documentation which we do not accept are shown in bold**):

TMK 5-2-004:003

Lot 1 & 2, Portions of Kam IV Deed, SUB-2907

**Lot 3, F.R. line does not subdivide lot**

TMK 5-3-002:001

Lot 4, Grant 2359

**Lot 5, F.R. line does not subdivide lot**

Lot 6, Grant 733

Lot 7, Portion Grant 781

**Lot 8, F.R. line does not subdivide lot**

Lot 9, Portion Grant 2001

Lot 10, Portion Land Commission Award 10474

**Lot 11, F.R. line does not subdivide lot**

TMK 5-3-003:002

Lot 12, Grant 1551

**Lot 13, Ditch right-of-way does not subdivide lot.**

We understand that after receiving this pre-existing lot determination, you may submit an application to consolidate and resubdivide these properties. We will require proof of title for any lots being consolidated and resubdivided, such as a title report, to avoid the problems that will occur if lots with bad title are consolidated into other properties.

If consolidation and resubdivision is not the intent, you may want to have a modern metes and bounds survey conducted for a more accurate and current land area determination and that a map reflecting this information may be submitted to this department for certification.

If you should not confer with our findings, you are advised that, in accordance with Section 23-5 of the Hawai'i County Code, Section 6-10.2 of the Hawai'i County Charter, and Rule 8 of the Board of Appeals, you may appeal the director's decision as follows:

- (a) An appeal shall be in writing, in the form prescribed by the board of appeals and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. A filing fee of \$250 shall accompany any such appeal. The person appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the board of appeals with the proof of service.
- (b) The appellant and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the board of appeals.

According to Section 23-5, Hawai'i County Code, the board of appeals may affirm the decision of the director, or it may reverse or modify the decision or remand the decision with appropriate instructions if based upon the preponderance of evidence the board finds that the decision is:

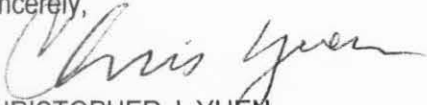
- (a) In violation of this chapter or other applicable law; or
- (b) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (c) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

In view of the above, we have enclosed COUNTY OF HAWAII BOARD OF APPEALS GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR.

Rodney Kawamura, P.E. & L.P.L.S.  
Hilo Engineering, Inc.  
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Should you have any questions, please feel free to contact Jonathan Holmes of this department.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

JRH:lnm

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Enc.: County of Hawaii Board of Appeals General Petition for Appeal of Decisions by Planning Director

xc: Tax Maps and Records Supervisor I  
Real Property Tax Division-Kona  
Manager-DWS  
Director, DPW  
Planning Dept.-Kona  
Pre-Existing Subdivision No. 12