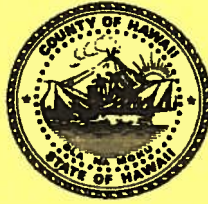


William P. Kenoi
Mayor



Duane Kanuha
Director

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July 23, 2015

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
P.O. Box 686
Hilo, HI 96721-0686

Dear Mr. Lim:

Request for tolling of time for completion of Hokulia Phase 1 Shoreline Park
As required by Condition No. 4 of SMA Use Permit No. 401 (SMA No. 401)
Applicant: 1250 Oceanside, LLC
TMK: 7-9-012:003;8-1-004:003, Hokukano 1st thru Onouli, N & S Kona, Hawaii

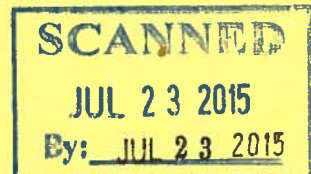
This letter will respond to your March 16, 2015 letter described above, for which we have had discussions to clarify the scope of the request. We thank you for your patience and understanding.

Special Management Area Use Permit No. 401 (SMA No. 401) was issued by the Planning Commission on May 5, 2000, to development the shoreline park and related uses and improvements. The shoreline park, according to findings of the approval, comprised a total of 140 acres and was to be implemented according to the following schedule:

<u>Timing of Improvements</u>	<u>General Location</u>	<u>Timing</u>
Phase 1 - Park improvements	Nenu to Kainaliu	5 years
Phase 2 - Park improvements	Nenu to Pu'u Ohau	3 years
Phase 3 - Park improvements	Pu'u Ohau to Nawawa	3 years
Phase 4 - Park improvements	Nawawa to Kalukalu	2 years
Phase 5 - Park improvements	Kalukalu to Keawekeheka	2 years

Condition No. 4 of SMA No. 401 specifies that:

"An area comprising twenty-five percent (25 %) of the total park area shall be developed and improved by the applicant in phases within five (5) years from



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the date of final subdivision approval, September 18, 1999. The first phase shall be completed and open to the public within thirty (30) days following the opening of the golf course.”

As required by Condition No. 4, a minimum of 35 acres of the proposed shoreline park shall be developed on or before May 5, 2005, which shall constitute all of Phase 1 and consisting of the following minimum improvements:

1. 25 paved public parking stalls;
2. Installation of signage for public access (night fishing and marine food gathering);
3. Improvements to existing trails and creation of new trails, trail connections & extensions;
4. Restroom, information kiosk, pavilions, civil defense warning system, park furniture;
5. Protection and stabilization of archaeological areas for picnicking and camping;
6. Landscape removal, remediation, and planting;
7. And appropriate signage of some historic sites as part of overall interpretive program.

As indicated in your letter, Phase 1 opened for public use on August 1, 2002, in compliance with the requirements of Condition No. 4.

Phase 2 of the Shoreline Park, to contain similar improvements as specified for Phase 1, was to be available for public use by May 5, 2008, as required by Condition No. 4 of SMA No. 401.

Our previous letter to your office and your client dated April 20, 2007 regarding other permits issued to 1250 Oceanside, LLC determined that the new effective date of the permits would be September 4, 2005, which considered the period during the litigation associated with Civil No. 00-1-0192K (Kelly Litigation). It is reasonable to apply the same tolling opportunities to SMA 401. As we previously mentioned, we will only consider the period during the bankruptcy proceedings in determining the amount of time tolled, as detailed below:

Bankruptcy Proceedings: December 31, 2007 through June 30, 2014 (6 yrs, 6 mos/2,373 days)

AMICO Settlement: March 2, 2012 through June 30, 2014 (2 yrs, 3 mos/28 days)
(this period runs concurrent with bankruptcy proceedings)

Therefore, with a revised permit effective date of September 4, 2005, and a period of 2,373 days tolled due to litigation, we conclude that the effective date of March 4, 2012 is hereby applied to SMA No. 401, the date from which the applicant must complete the remaining phases of the shoreline park as scheduled by Condition No. 4. This means that Phase 2 shoreline park improvements should have been completed by March 4, 2015. However, we will exercise the option of an initial administrative time extension afforded by Condition No. 17 to grant a time


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extension until March 4, 2018 by which to complete Phase 2. As you understand from our discussions, it is not reasonable to toll the Phase 1 completion deadline since it was tied to the opening of the golf course over a decade ago. Remaining phases will be benchmarked from this new March 4, 2018 completion deadline.

As for the relocation and reconstruction of the Phase 1 park improvements inadvertently located on incorrect properties, this is a separate matter that must be dealt with independently as no compliance issues currently affect Phase 1. The timing of relocating and reconstructing the Phase 1 park improvements is more a matter of when the applicant is interested in recovering the use of the affected properties for potential home sites and its effect on other proposed lots within this portion of the subdivision. We only ask that you keep this office informed of plans that will accommodate the relocation and reconstruction of Phase 1 without compromising the availability of the park improvements for continual public use.

We hope that we have covered all matters associated with your request. If additional information or clarification is needed, please do not hesitate to contact this office.

Sincerely,



DUANE KANUHA
Planning Director

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cc w/Carlsmith 3-16-15 ltr: Planning, West Hawaii Division (SMA No. 401)