

**MEMORANDUM:**

**PLANNING DEPARTMENT - County of Hawaii, Hilo, Hawaii 96720**

**To:** Corporation Counsel

**Date:** Mar. 16, 1991

*Marjorie Quinn*

**From:** Planning Director

**Subject:** *fr* TMK: 8-1-09:3 (Subd. 90-20)  
8-1-09:27; 8-1-10:2 (Subd. 5917)

Attached is a copy of a letter from Mr. Dexter Smith regarding the subject properties and subdivision applications.

In light of similar letters and questions being submitted to your office by the Department of Public Works concerning these files, we feel a consistent response is warranted. Please advise.

Should you have any questions, please feel free to contact Ed Cheplic or Wally Matsunami of this office.

EC:lm  
1031D(3)

Attachment

**cc: West Hawaii Office**

MAR 19 1991

March 18, 1991

Mr. Dexter A. Smith  
240 North Judd Street  
Honolulu, HI 96717

Dear Mr. Smith:

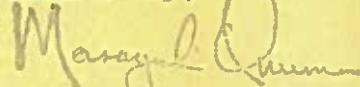
TMK: 8-1-09:3 (Subd. 90-20)  
8-1-09:27; 8-1-10:2 (Subd. 5917)

This is to acknowledge receipt of your letter regarding the subject properties and subdivision applications.

Please be advised that we are referring your correspondence to the Office of Corporation Counsel for review and appropriate response.

Should you have any questions, please feel free to contact Ed Chplic or Wally Matsunami of this office.

Sincerely,



*fr*  
NORMAN K. HAYASHI  
Planning Director

EC:lm  
1031D(4)

cc: West Hawaii Office

MAR 19 1991

240 North Judd Street - Honolulu, HI 96817  
Home Phone: 531-7995 Office Phone: 531-2533  
Fax Number: 1-531-3124

February 21, 1991

Mr. Norman Hayashi, Director  
Hawaii County Planning Department  
25 Aupuni Street  
Hilo, Hawaii 96720

RE: Consolidation/Resubdivision Application No. 90-20,  
TMK 3:8-1-009-03 and Consolidation/Resubdivision  
Application No. 90-39, TMK 3:8-1-009-027 &  
TMK 3:8-1-010-02

Dear Sir,

My family has a Consolidation/Resubdivision Application, No. 90-20, before your department. A decision on our application is presently being deferred while we negotiate with the County Public Works Department regarding the necessity of road improvements.

As of September 7, 1990, the Public Works Dept. has indicated that in order to obtain its approval for our application, we must "improve" the Kaawaloa Road which abuts our property. The Dept. has asked that we either "provide future road widening setbacks along Kaawaloa Road and Napoopoo Road as necessary to provide 1/2 the difference between 50' and the existing right-of-way width", or "provide minimum 20' wide Agricultural pavement within minimum 50' wide right-of-way along Kaawaloa Road to Parcel #7..."

My family takes an interest in all County Planning Department and Public Works Department decisions regarding the status and criteria of public access on Kaawaloa Road, as these decisions may have a direct effect on the outcome of our application. As such we are interested in the public right-of-way criteria approved by the Planning Dept. in its approval of Consolidation/Resubdivision Application No. 90-39 in May/June 1990.

It is apparent from the Public Works Department comments on our application (No. 90-20) and on application No. 90-39 that the County desires to "improve" the Kaawaloa Road right-of-way to a 50 foot standard. The Public Works Dept.'s initial comments on application No. 90-39, dated April 9, 1990, state:

"The existing dirt road, known as Kaawaloa Road, that bisects proposed Lot 1 appears to be an old government road or existing public thoroughfare. The public right of passage should be guaranteed by a 50' easement or road right-of-way."

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Hawaii County Planning Department  
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The Public Works Dept. was later asked to re-examine its initial comments and on May 4, 1990 the Dept. issued a revised set of comments. Comments No. 1 & No. 3 were changed. However, Comment No. 2 regarding the requirement for granting a full 50' easement or road right-of way where Kaawaloa Road abutted or passed through the subject properties remained in effect. It states:

'Comment #2 - Remains the same. Applicant shall include a 50' wide public access right-of-way delineated by the outside edge of the stone walls which bound Kaawaloa Road. Where the section of stone wall has been interrupted by a lava flow the applicant shall designate the continuation of the right of way measuring 50' wide using the remaining wall and the centerline of the existing roadway as guidelines as to establish the 50' width."

In the Planning Department's letter of "tentative approval" of application No. 90-39 sent to Ms. Chrystal Yamasaki on May 22, 1990, the language of the Public Works Dept.'s Comment #2 is incorporated into the final conditions of approval. The Planning Department in its final condition #2 stated:

"Applicant shall include a 50' wide public access right-of-way delineated by the outside edge of the stone walls which bound Kaawaloa Road. Where the section of stone wall has been interrupted by a lava flow, the applicant shall designate the continuation of the right of way measuring 50' wide using the remaining wall and the centerline of the existing roadway as guidelines as to establish the 50' width."

My family is interested in the public right-of-way created in the approval of application No. 90-39, because its existence may reduce the extent of the road widening set back or right-of-way that we must provide the County for Consolidation/Resubdivision No 90-20. The 50 foot wide public right-of-way created along that section of Kaawaloa Road that abuts Lot 2 of application No. 90-39 overlaps a section of Kaawaloa Road along my family's property boundary. Where the approval of application No. 90-39 has already provided an adequate right-of-way, my family should not be required to pledge to provide what is now a redundant setback.

I am writing to ask you to officially confirm the existence and extent of this 50' foot wide public right-of-way. I am compelled to make this request, because while the Planning Department's final language requiring the right-of-way in question is clear, the Consolidation/Resubdivision final plat map certified by the Planning Dept. is ambiguous and confusing.

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Hawaii County Planning Department  
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To correspond with the written description of the right-of-way, the map should show a 50 foot wide corridor beginning just below the access pole of "Lot 13-A" and ending at the bottom of Lot 1. However, the only place a true 50 foot corridor is delineated on the map is the lower 600 feet of the section of Kaawaloa Road. Above this on the map in Lot 1 is a section of the right-of-way that appears to be less than 50 feet in width, and above that the map gives no indication of the width of the road abutting Lot 2. The official record of Consolidation/Resubdivision No. 90-39 should delineate the precise surveyed positions of the entire length of both walls bounding the Kaawaloa Road. How else can the County or the public determine the positions from which to measure the full 50 foot width of the right-of-way granted to the public. As you may be aware the new owners of Lot 1, Kealakekua Bay Partners, will be engaging in extensive bulldozing and earth and rock moving over the full extent of the lot in the near future. The walls bounding Kaawloa road may be moved or destroyed. Without a precise record of its location and features, this right-of-way may be moved, diminished or otherwise compromised during this process.

As the Planning Department certified final plat does not fully delineate the 50 foot public right-of-way required of the applicant for Consolidation/Resubdivision No. 90-39, will you please now confirm:

- 1] The applicant for Consolidation/Resubdivision #90-39 in agreeing to Planning Department's condition #2 (specified in the department's letter to Ms. Chrystal Yamasaki dated May 22, 1990) created a 50 foot wide public right-of-way on Kaawaloa Road.
- 2] This public right-of-way extends from where the Kaawaloa Road first abuts Lot 2 of the subject parcels (near the access pole of Lot 13-A) down to the bottom of Lot 1.
- 3] The applicant has granted the public a right-of-way that is 50 feet wide everywhere along its length without qualification.

I await your reply as it will clarify this confusing situation.

Sincerely,



Dexter A. Smith