



PAUL BLECK AIA, LTD. ARCHITECT

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HAIKU
505 AWALAU
HAIKU, HAWAII 96708, USA

Date: January 14, 2011

To: County of Hawaii
Planning Department

Re: SMA Assessment Application
Submittal of proposed addition to existing residence

For: Barbara S, Wilcox Trust (Steve Wilcox Co Trustee)
TMK #(3)- 8-3-005-012
Address:
83-500 Keawaiki Road
Captain Cook, Hawaii 96704

Steven C Wilcox
77-6435
Kualiki Hwy
Kailua Kona 96740

Aloha !

Please find attached two sets of plans for the proposed addition for your review along with the SMA Assessment Application. Please contact me to provide any additional information you may need.

The current approved Certified Shoreline survey will be one year old in early February and I wanted to submit well in advance to that time. However, Hawaii County Planning Department didn't make a determination as to whether the Certified Shoreline Setback was 20 or 40 feet until relatively recently. I had to wait to begin our design until that determination was made. Its 20 feet.

I submitted to the State of Hawaii, Department of Land and Natural Resources, Office of Conservation and Coastal Lands this same date.

Thank you very much,

Paul Bleck, AIA

Imamura, Esther

From: Newlon, Rosalind
Sent: Tuesday, December 21, 2010 8:21 AM
To: Imamura, Esther
Cc: Morrison, Bethany
Subject: FW: Certified Shoreline question - Conservation/SMA land

Hi Esther and Bethany,

Can one of you get back to me on the question below whether we will will accept a certified shoreline survey that is over a year old due to permit processing time with the State for a conservation permit?

Thanks,
Roz

From: Newlon, Rosalind
Sent: Monday, December 13, 2010 3:45 PM
To: Imamura, Esther
Subject: Certified Shoreline question - Conservation/SMA land

*already at DEC -
should
submit SMAA
while CSS still
valid.*

Hi Esther,

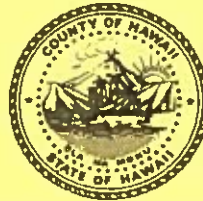
An architect is inquiring whether his certified shoreline which will expire in a couple of months while being processed for a State conservation permit for an addition to an existing house will have to be re-done once they get their State Conservation permit in order to get their SMA permit. The TMK is 8-3-005:012 (Kealakekua Bay). This lot is a 21,600 sf. shoreline lot that already has a 20 foot shoreline setback approved according to the architect for the existing house which was built in '73. It is owned by the Barbara Wilcox estate.

I told him I would run it by you guys after telling him that generally, they expire after one year. What do you think? If it is past one year for his survey by the time he gets his state permit would they have to do the shoreline survey again? The addition is right at the 20 foot setback. He could move it about 12 ft. farther out from the 20 foot setback line at the most.

Thanks,
Roz

Rosalind Newlon
Planning Department
County of Hawaii
75-5706 Kuakini Hwy. Suite 109
Kailua-Kona, HI 96740
(808) 327-3510
newlon@co.hawaii.hi.us

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

October 29, 2010

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

Dear Mr. Lim:

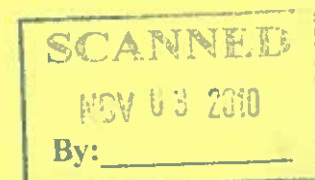
SUBJECT: Shoreline Setback Determination for Lot C-1
Land Owner: Barbara S. Wilcox Trust
TMK: 8-3-5:12, Kahauloa 2nd, South Kona, Hawai'i

This is in response to your letter dated October 21, 2010 which summarized the meeting held on October 12, 2010.

By letter dated September 29, 2010, your request to reconsider a previous denial for an exemption to the minimum 40-foot shoreline setback requirement for Lot C-1 (Parcel 12) was again denied.

Documentation previously submitted included a letter dated April 22, 2010, from Chrystal Thomas Yamasaki, L.P.L.S. in which she stated that actual ground conditions confirmed that the original Parcel 12 (prior to approval of SUB 06-000396) actually fronted the water as a substantial portion of the frontage of Parcel 13 was actually in the water. Further, Exhibit Map dated 9/27/2010 denoted a concrete (boat) ramp near the northwest corner of the original parcel and included calculations that the buildable area was reduced to less than 50% after applying the 40-foot shoreline setback line and all state and county requirements of the parcel.

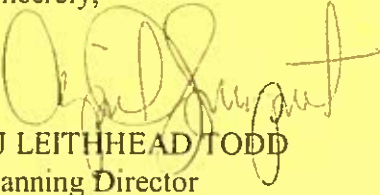
After reconsideration of the aforementioned circumstances regarding Lot C-1, it was determined at the meeting that, according to Planning Department Rules of Practice and Procedure, Rule 11-5(b)(1)(b), Lot C-1 qualifies for the minimum shoreline setback line of twenty (20) feet.



Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Page 2
October 29, 2010

Should you have questions, please contact Esther Imamura of this office at 961-8139.

Sincerely,



for BJ LEITHHEAD TODD
Planning Director

ETI

P:\Public\Wpwin60\CZM\SMMA\2007\SMM 07-226 Lim Wilcox 10-2010 Doc

xc: Long Range Planning
Planning Department - Kona

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

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SLIM@CARLSMITH.COM

PLANNING DEPARTMENT
COUNTY OF HAWAII

2010 OCT 26 AM 10:54

October 21, 2010

BJ Leithead Todd
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720

Re: Landowner: Barbara S. Wilcox Trust
Shoreline Setback Determination
at Kahauloa 2nd, South Kona, Hawaii
TMKs: (3) 8-3-005:010, 12 and 13

Dear Ms. Todd:

The following summarizes our meeting of October 12, 2010 and confirms the Planning Department's re-determination of its September 29, 2010 letter to exempt Lot C-1, being TMK: (3) 8-3-005:012 from the required 40-foot shoreline setback area and to allow Lot C-1 with a 20-foot shoreline setback area.

Pursuant to Rule 11-5, Planning Department Rules of Practice and Procedure, all lots which abut the shoreline shall have a minimum shoreline setback line of 40-feet, except that the minimum shoreline setback line is 20-feet when a legal lot of record and the buildable area of the parcel is reduced to less than 50% of the parcel after applying the 40-foot shoreline setback line and all state and county requirements of the parcel.

Prior to the submittal of, and approval of Sub. No. 06-000396¹, original TMKs: (3) 8-3-005:012 and 013 were oceanfront parcels, as evidenced by the rocky shoreline on Parcel 13 and concrete boat ramp on Parcel 12.² The current configuration of Lot C-1, given the extensive oceanfront boundaries along Kealakekua Bay and Kahauloa Bay reduces Lot C-1's

¹ Sub. No. 06-000396 consolidated and resubdivided former TMKs: (3) 8-3-005:010, 012 and 013.

² The overlay Site Plan prepared by Wes Thomas & Associated dated 04/22/10 on file at the Planning Department denotes the 02/02/10 shoreline certification, the location of former Parcels 10, 12 and 13, and the newly reconfigured Parcels 10, 12 and 13 under Sub. No. 06-000396.

building footprint along its frontage along Kealakekua Bay and Kahauloa Bay boundary. Both original Lot B³ and its newly configured Lot C-1⁴ meet the standard under Rule 11-5 as follows:

Original Lot B = 17,242 square feet
50% of the parcel = 8,712 square feet
Building area w/setbacks = 8,311 square feet, which is less than 50% of the parcel


Newly configured Lot C-1 = 21,600 square feet
50% of the parcel = 10,800 square feet
Building area w/setbacks = 7,797 square feet, which is less than 50% of the parcel

Therefore the shoreline setbacks for all three parcels be established as follows:

- TMK: (3) 8-3-005:010 (Lot B-1) - exemption disallowed; maintain 40-foot setback area;
- TMK: (3) 8-3-005:012 (Lot C-1) - exemption allowed; approve 20-foot setback area; and
- TMK: (3) 8-3-005:013 (Lot C-2) - exemption allowed; approve 20-foot setback area;

Thank you for your consideration.

Very truly yours,

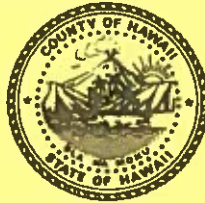

Steven S.C. Lim

SSL/KYL
xc: Client
4817-3441-4599.1

³ See Carlsmith Ball letter dated August 24, 2010, on file at the Planning Department.

⁴ See Wes Thomas Associates letter dated March 8, 2010, on file at the Planning Department.

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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September 29, 2010

Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
P.O. Box 686
Hilo, Hawai'i 96721-0686

Dear Mr. Lim:

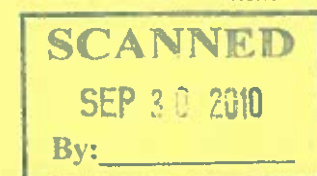
SUBJECT: Shoreline Setback Determination for Lot C-1
Land Owner: Barbara S. Wilcox Trust
Tax Map Key: 8-3-005:012, Kahauloa 2nd, South Kona, Hawai'i

This is in response to your letter dated August 24, 2010 requesting reconsideration of our previous denial to the landowner's request for an exemption to the minimum 40-foot shoreline setback requirement and transmitting a map of the former Lot B prepared by Wes Thomas Associates. We are also in receipt of the revised map of the former Lot B and area calculations showing the estimated building envelope for the former Lot B dated 9/27/10.

While the calculations provided do show that the buildable area of the former Lot B would be 8,311 sq. ft., which is 410 sq. ft. less than 50% of the total area of the former Lot B, this figure is based on an "anticipated" or "potential" location of the shoreline at the "concrete ramp" north of the CRM retaining wall. To our knowledge, this "anticipated" jog inland of the shoreline is not based on any previous certified shoreline survey, and appears to be necessary to calculate a building envelope of less than 50% of the former Lot B. We also have no record that the shoreline fronting the concrete ramp has ever been surveyed, much less certified.

It should also be noted that the former Lot B was never granted an exemption from the 40-foot minimum shoreline setback pursuant to Rule 11-5(b)(1)(b), Planning Department Rules of Practice and Procedure, prior to the approval of the consolidation and re-subdivision (SUB 06-396) that created Lot C-1.

Additionally, the new Lot C-1 appears to provide adequate room outside the 40-foot shoreline setback area for any reasonable addition to the existing single-family dwelling or its replacement. In the absence of any specific proposals for additional development on Lot C-1, we do not believe that




Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Page 2
September 29, 2010

the application of a 40-foot shoreline setback is unreasonable or denies the landowner of reasonable use of the property. Therefore, the request for exemption from the minimum 40-foot shoreline setback for Lot C-1 is denied.

Should you have any other questions, please feel welcome to contact Larry Brown of my staff at 961-8135.

Sincerely,


BJ LEITHHEAD TODD
Planning Director

LMB:cs

P:\wpwin60\Larry\CZM\Lim-Wilcox Lot C-1 @Kahauloa SLSB.doc

CARLSMITH BALL LLP

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SLIM@CARLSMITH.COM

September 28, 2010

BJ Leithead Todd
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720

Re: Landowner: Barbara S. Wilcox Trust
Shoreline Setback Determination
at Kahauloa 2nd, South Kona, Hawaii
TMKs: (3) 8-3-005:010, 12 and 13 ("Project Area")

FILE 8-3-5:12

Dear Ms. Todd:

Pursuant to your additional request, attached please find a map and calculations prepared by Wes Thomas Associates which reflects that the buildable area for original Lot B¹ is reduced to 8,311 square feet, which is less than 50% of the parcel (or 8,712 square feet) after applying the 40-ft. shoreline setback line and all state and county requirements.

Original Lot B	= 17,242 square feet
50% of original Lot B	= 8,712 square feet
Building area w/setbacks	= 8,311 square feet, which is less than 50% of original Lot B

As previously stated, pursuant to Rule 11-5(b)(1)(b), Planning Department Rules of Practice and Procedure, original Lot B meets the statutory test which allows for an exemption from the 40-ft. shoreline setback requirement.

The exemption under Rule 11-5(b)(1)(b), Planning Department Rules of Practice and Procedure from the required minimum 40-foot shoreline setback area is allowed since: (1) two of the three lots are, and continue to be oceanfront parcels, and (2) original Lot B is reduced to less than 50% of the parcel after applying the 40-ft. shoreline setback and all state and county requirements.

¹ Original Lot B pursuant to Deed is 0.40 acres or 17,242 square feet. Fifty % of this area is 8,712 square feet.



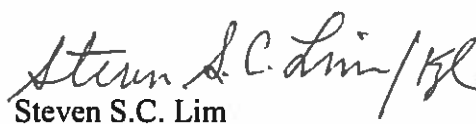
BJ Leithead Todd
September 28, 2010
Page 2

We therefore request a determination that the shoreline setbacks for all three parcels be established as follows:

- TMK: (3) 8-3-005:010 (Lot B-1) - exemption disallowed; maintain 40-foot setback area;
- TMK: (3) 8-3-005:012 (Lot C-1) - exemption allowed; approve 20-foot setback area; and
- TMK: (3) 8-3-005:013 (Lot C-2) - exemption allowed; approve 20-foot setback area;

Thank you for your consideration.

Very truly yours,


Steven S.C. Lim

SSL/KYL
Enclosure
xc: Client

9-27-10

17708 WILCOX TMK:8-3-5:10,12,13 FB:1213,1243,1244,1248 'LAE O KANONI'
COORDINATE FILE : 17708.CRD

BUILDING ENVELOPE
FORMER LOT B w/potential 40' shoreline Setback
AREA CALCULATION

AREA/LOT SUMMARY
SET #48 POTNTL LOT B BUILD (40'SL)

FROM	BEARING/ANGLE	DISTANCE	TO	NORTH	EAST	ELEV
1599	SA 267 07'00.00"	30.552923	1600	13819.824731	-1316.451949	
1600	SA 02 20'00.00"	143.279401	1601	13821.361617	-1285.937704	
1601	SA 76 32'30.00"	65.862946	1602	13662.872191	-1355.825364	
1602	SA 180 21'30.00"	103.310000	1603	13766.180170	-1355.179257	

PC	CHORD BRG	LENGTH	PT	NORTH	EAST	ELEV
1603	SA 229 02'33.50"	45.476493	1605	13795.989884	-1320.835519	

	DELTA	ARC	RP	NORTH	EAST	ELEV
-	69 17'07.00"	48.370249	1604	13805.937479	-1359.578846	

	RADIAL PC*RP	RADIUS	ANGLE PC*PT*RP	DEG OF CURVE	MID ORD
SA 173	41'07.00"	40.000000	SA 284 24'00.00"	143 14'22.02"	7.0915

	TANGENT PC*PI	TAN LENGTH	ANGLE PC*PT*PI	EXTERNAL
SA 263	41'07.00"	27.638108	SA 194 24'00.00"	8.619595
1605 SA 194	24'00.00"	12.700000	1606 13808.290890	-1317.677158

PC	CHORD BRG	LENGTH	PT	NORTH	EAST	ELEV
1606	SA 186 03'49.09"	11.598734	1599	13819.824731	-1316.451949	

	DELTA	ARC	RP	NORTH	EAST	ELEV
-	16 40'21.81"	11.639758	1607	13818.238485	-1356.420484	

	RADIAL PC*RP	RADIUS	ANGLE PC*PT*RP	DEG OF CURVE	MID ORD
SA 104	24'00.00"	40.000000	SA 267 43'38.19"	143 14'22.02"	.4226

	TANGENT PC*PI	TAN LENGTH	ANGLE PC*PT*PI	EXTERNAL
SA 194	24'00.00"	5.861298	SA 177 43'38.19"	.427154

PERIMETER
415.715277

AREA (sq Ft)
8310.77092

AREA (acres)
.19079

8,311 sq. ft.

9-27-10

17708 WILCOX TMK:8-3-5:10,12,13 FB:1213,1243,1244,1248 *LAE O KANONI*

COORDINATE FILE : 17708.CRD

BUILDING ENVELOPE
FORMER LOT B w/potential 40' shoreline Setback
AREA CALCULATION

AREA/LOT SUMMARY
SET #48 POTNTL LOT B BUILD (40'SL)

FROM	BEARING/ANGLE	DISTANCE	TO	NORTH	EAST	ELEV
1599	SA 267 07'00.00"	30.552923	1599	13819.824731	-1316.451949	
1600	SA 02 20'00.00"	143.279401	1600	13821.361617	-1285.937704	
1601	SA 75 32'30.00"	65.862946	1601	13678.201012	-1291.771052	
1602	SA 180 21'30.00"	103.310000	1602	13662.872191	-1355.825364	
1603			1603	13766.180170	-1355.179257	
PC	CHORD BRG	LENGTH	PT	NORTH	EAST	ELEV
1603	SA 229 02'33.50"	45.476493	1605	13795.989884	-1320.835519	
	DELTA	ARC	RP	NORTH	EAST	ELEV
-	69 17'07.00"	48.370249	1604	13805.937479	-1359.578846	
	RADIAL PC*RP	RADIUS	ANGLE PC*PT*RP	DEG OF CURVE	MID ORD	
SA	173 41'07.00"	40.000000	SA 284 24'00.00"	143 14'22.02"	7.0915	
	TANGENT PC*PI	TAN LENGTH	ANGLE PC*PT*PI	EXTERNAL		
SA	263 41'07.00"	27.638108	SA 194 24'00.00"	8.619595		
1605	SA 194 24'00.00"	12.700000	1606	13808.290890	-1317.677158	
PC	CHORD BRG	LENGTH	PT	NORTH	EAST	ELEV
1606	SA 186 03'49.09"	11.598734	1599	13819.824731	-1316.451949	
	DELTA	ARC	RP	NORTH	EAST	ELEV
-	16 40'21.81"	11.639758	1607	13818.238485	-1356.420484	
	RADIAL PC*RP	RADIUS	ANGLE PC*PT*RP	DEG OF CURVE	MID ORD	
SA	104 24'00.00"	40.000000	SA 267 43'38.19"	143 14'22.02"	.4226	
	TANGENT PC*PI	TAN LENGTH	ANGLE PC*PT*PI	EXTERNAL		
SA	194 24'00.00"	5.861298	SA 177 43'38.19"	.427154		

PERIMETER
415.715277

AREA (sq ft)
8310.77092

AREA (acres)
.19079

8,311 sq. ft.

Brown, Larry

From: Brown, Larry
Sent: Thursday, September 09, 2010 11:45 AM
To: Leithead-Todd, Bobby Jean
Subject: Wilcox request for 20 SL setback.
Attachments: COR-10-065829.pdf

Bobby, I'm resending this in case my original email got lost in the shuffle.

I'm not sure how you want to respond to the pending Wilcox request for a 20' shoreline setback given the response we got to our request for a calculation of the buildable area of the original Lot B before the consolidation/resubdivision. Issues I have with the response are:

1. The Wes Thomas map does not provide any calculated areas for the illustrated buildable area for the original Lot B. The buildable area is provided only as a footnote in the Carlsmith Ball letter.
2. I ran my own rather generous calculations for the total area for all setbacks shown, the flag pole portion of the lot and the 40' shoreline setback area (figuring a total 40'x40' area at the NW corner of Lot B) and came up with a total area of 7,221 sf, which would leave 10,203 sf of buildable area for the original 17,424 sf Lot B.
3. Although the maps I have are not to scale I also did a rough calculation of the buildable area polygon (141'x69') and deducted 900 sf for the additional 40' shoreline setback and come up with over 8,800 sf of buildable area, or more than 100 sf above the 50% threshold.

I don't know where the 8,166 sf buildable area provided in Steve's letter comes from, but I'm not comfortable with it.

Please let me know how you want me to proceed with this request.

Larry Brown, Planner
County of Hawaii, Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Phone: (808) 961-8135
Fax: (808) 961-8742
email: lbrown@co.hawaii.hi.us

LB

CARLSMITH BALL LLP

PLANNING DEPARTMENT
COUNTY OF HAWAII

A LIMITED LIABILITY LAW PARTNERSHIP

2010 AUG 24 PM 3: 42

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WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 24, 2010

*Email request
for direction
sent to BJ on
8/31*

BJ Leithead Todd
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720

Re: Landowner: Barbara S. Wilcox Trust
Shoreline Setback Determination
at Kahauloa 2nd, South Kona, Hawaii
TMKs: (3) 8-3-005:010, 12 and 13 ("Project Area")

Dear Ms. Todd:

Pursuant to your request, a site inspection of the Project Area was held on May 27, 2010, which was attended by you, Deputy Planning Director Margaret Matsunaga, Planner Larry Brown, surveyor Chrystal Thomas Yamasaki and representatives of the Wilcox family.

Subsequently, your department requested that prior to making a determination on our April 30, 2010 request for an exemption from the required minimum 40-foot shoreline setback area to Lot C-1, that we provide a calculation of the square footage of the buildable area of the original Lot B¹ after deducting the yards and the 40-ft. shoreline setbacks. Attached please find a map prepared by Wes Thomas & Associates which reflects that the buildable area for original Lot B² is reduced to less than 50% of the parcel after applying the 40-ft. shoreline setback line and all state and county requirements for the parcel. Therefore, pursuant to Rule 11-5(b)(1)(b), Planning Department Rules of Practice and Procedure, original Lot B meets the statutory test which allows for an exemption from the 40-ft. shoreline setback requirement.

The exemption under Rule 11-5(b)(1)(b), Planning Department Rules of Practice and Procedure from the required minimum 40-foot shoreline setback area is allowed since: (1) two of the three lots are, and continue to be oceanfront parcels, and (2) original Lot B is reduced to less than 50% of the parcel after applying the 40-ft. shoreline setback and all state and county

¹ Formerly TMK: (3) 8-3-005:012, being 17,424 square feet.
² 8,166 square feet, which is less than 50% of the original parcel of 17,242 square feet (or 8,621 square feet)

LS 546 ^{is} < 50% of TOTAL LOT AREA

incorrect




BJ Leithead Todd
August 24, 2010
Page 2

requirements. We therefore request a determination that the shoreline setbacks for all three parcels be established as follows:

- TMK: (3) 8-3-005:010 (Lot B-1) - exemption disallowed; maintain 40-foot setback area;
- TMK: (3) 8-3-005:012 (Lot C-1) - exemption allowed; approve 20-foot setback area; and
- TMK: (3) 8-3-005:013 (Lot C-2) - exemption allowed; approve 20-foot setback area;

Thank you for your consideration.

Very truly yours,


Steven S.C. Lim

SSL/KYL
Enclosure
xc: Client

Brown, Larry

From: Brown, Larry
Sent: Tuesday, June 15, 2010 9:45 AM
To: Chrystal Thomas Yamasaki
Cc: Katherine Luga; Steve Lim; Leithead-Todd, Bobby Jean
Subject: Wilcox Shoreline Setback Determination
Attachments: Lot C-1 Shoreline Setback Area.pdf

Aloha Chrystal,

Before making a final determination on the pending request for a 20' shoreline setback for Lot C-1, the Planning Director has requested a calculation of the total square footage of the buildable area of the original Lot B after deducting for yard setbacks and a 40' shoreline setback where it impacted Lot B. We would appreciate it if you could prepare a map for the original Lot B similar to that you prepared for Lot C-1 dated May 8, 2009, which is attached for reference.

Mahalo,
Larry

Larry Brown, Planner
County of Hawaii, Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Phone: (808) 961-8135
Fax: (808) 961-8742
email: lbrown@co.hawaii.hi.us

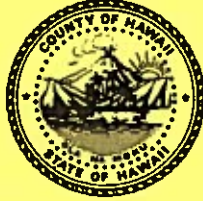
1600
1618
390.4
595.9
1940
610
103
6857.3
10,203 BUILDING ENVELOPE

10'SS = 1600
NSB = 894
ESB = 1418
SSB = 695.9
pole = 1283
WSB = 1330
7220.9 ⇒

930
394
650
184 -
2058
1600 - 40'SS
3658

9729

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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May 11, 2010

Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
P.O. Box 686
Hilo, Hawai'i 96721-0686

Dear Mr. Lim:

SUBJECT: Shoreline Setback Determination for Lot C-1
Land Owner: Barbara S. Wilcox Trust
Tax Map Key: 8-3-005:012, Kahauloa 2nd, South Kona, Hawai'i

This is in response to your letter dated April 30, 2010 in which transmitted additional information in support of your request, on behalf of the landowner, that we reconsider our previous determination that the subject parcel does not qualify for an exemption under Rule 11-5(b) (1), Planning Department Rules of Practice and Procedure, from the required minimum 40-foot shoreline setback area for parcels abutting the shoreline.

We have examined the additional information provided in an April 22, 2010 letter from Ms. Chrystal Thomas Yamasaki of Wes Thomas Associates and map of the subject property that denotes the shoreline for Lot C-1 as certified on February 2, 2010 and find that the information provided, particularly the maps, lack sufficient detail for us to make a proper decision on your request for reconsideration. Therefore, we request that the owners, at their earliest convenience, agree to an inspection of the property by myself and staff.

Please contact my private secretary, Rachelle Ley at 961-8125 to schedule a site visit. Should you have any other questions, please feel welcome to contact Larry Brown of my staff at 961-8135.

Sincerely,

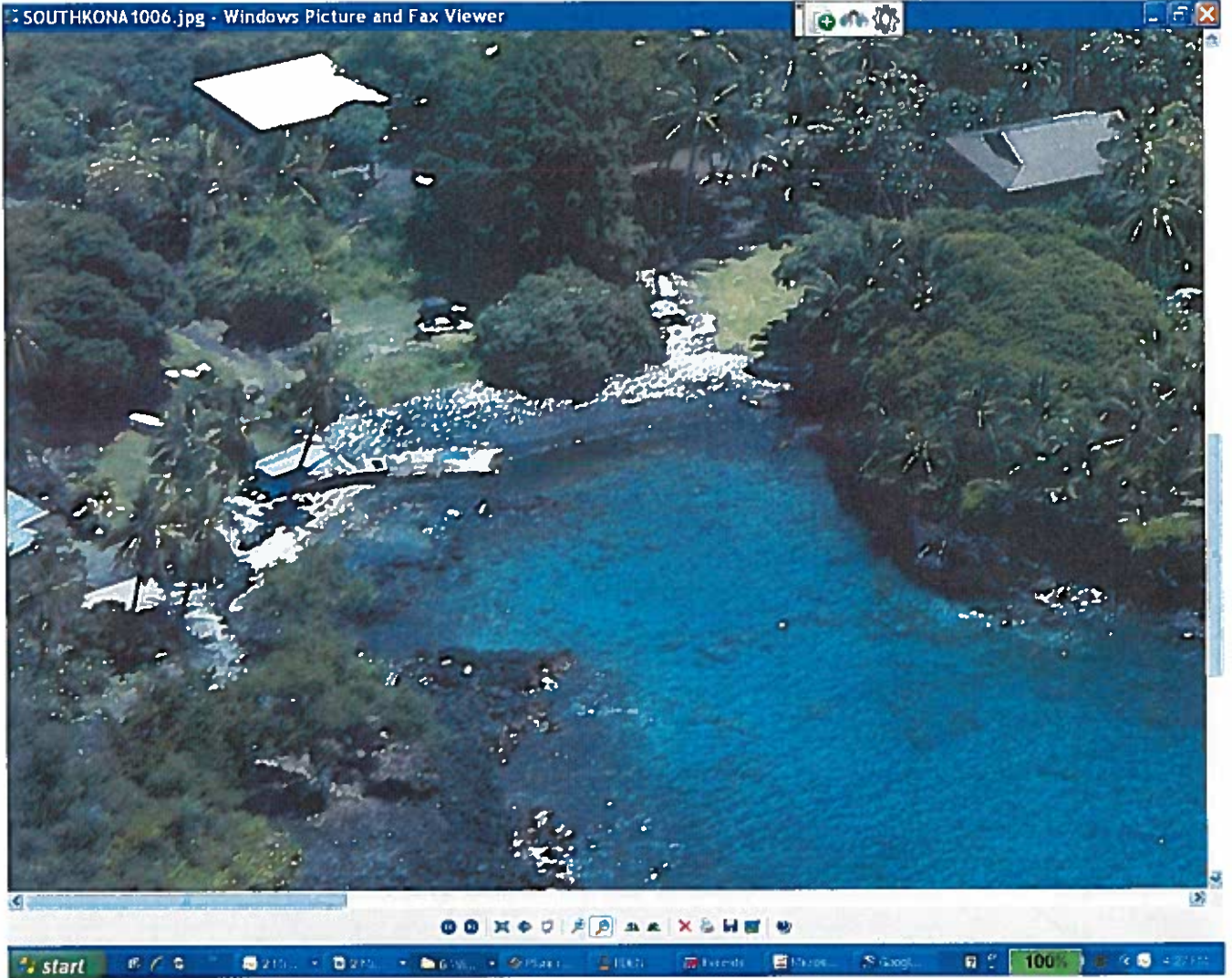
A handwritten signature in cursive script, appearing to read "BJ Leithead Todd".

BJ LEITHHEAD TODD
Planning Director

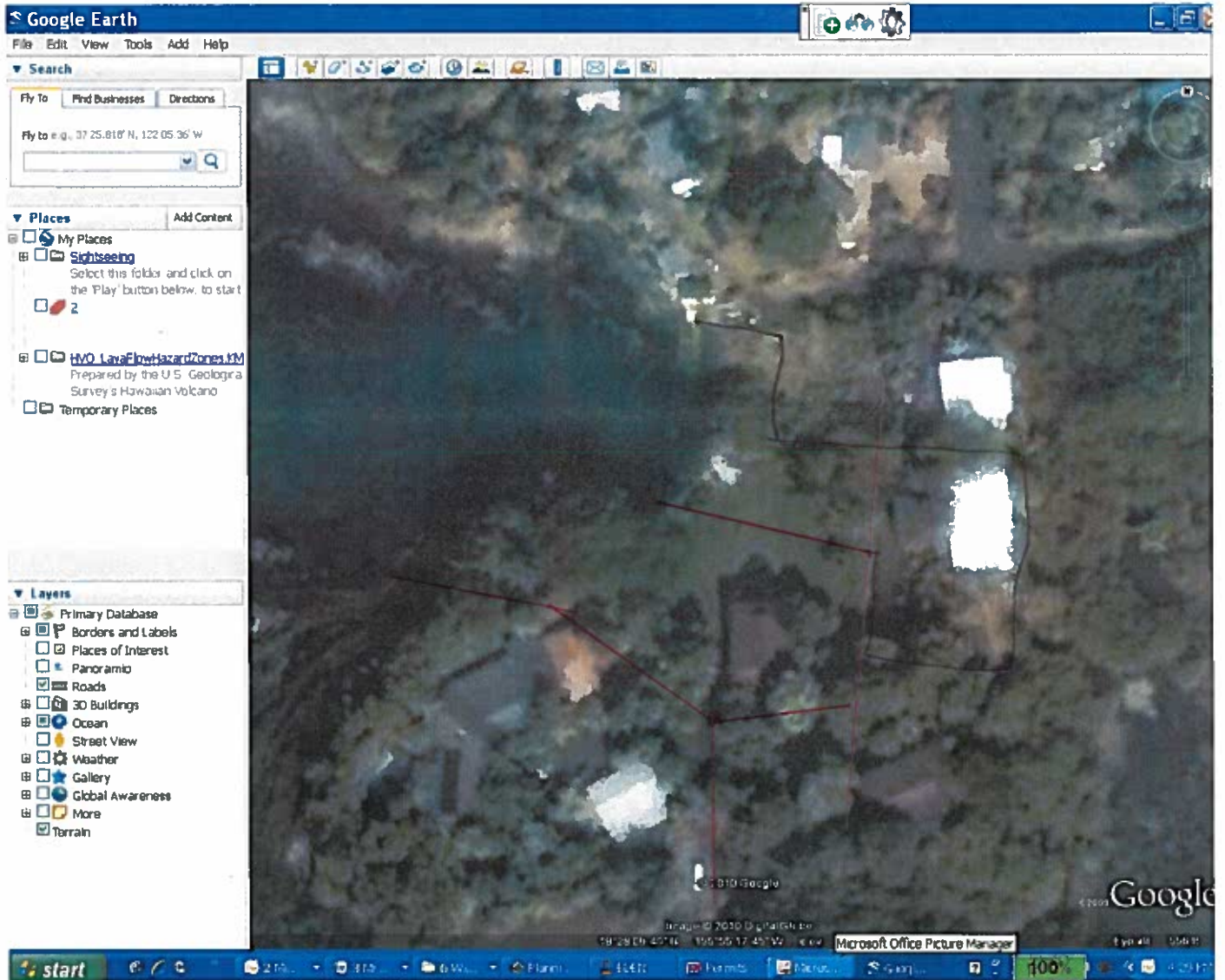
LMB:cs

P:\wpwin60\Larry\C2M\Lim-Wilcox Lot C-1 @Kahauloa SLSB.doc

MAY 17 2010







KEAWAIKI RD

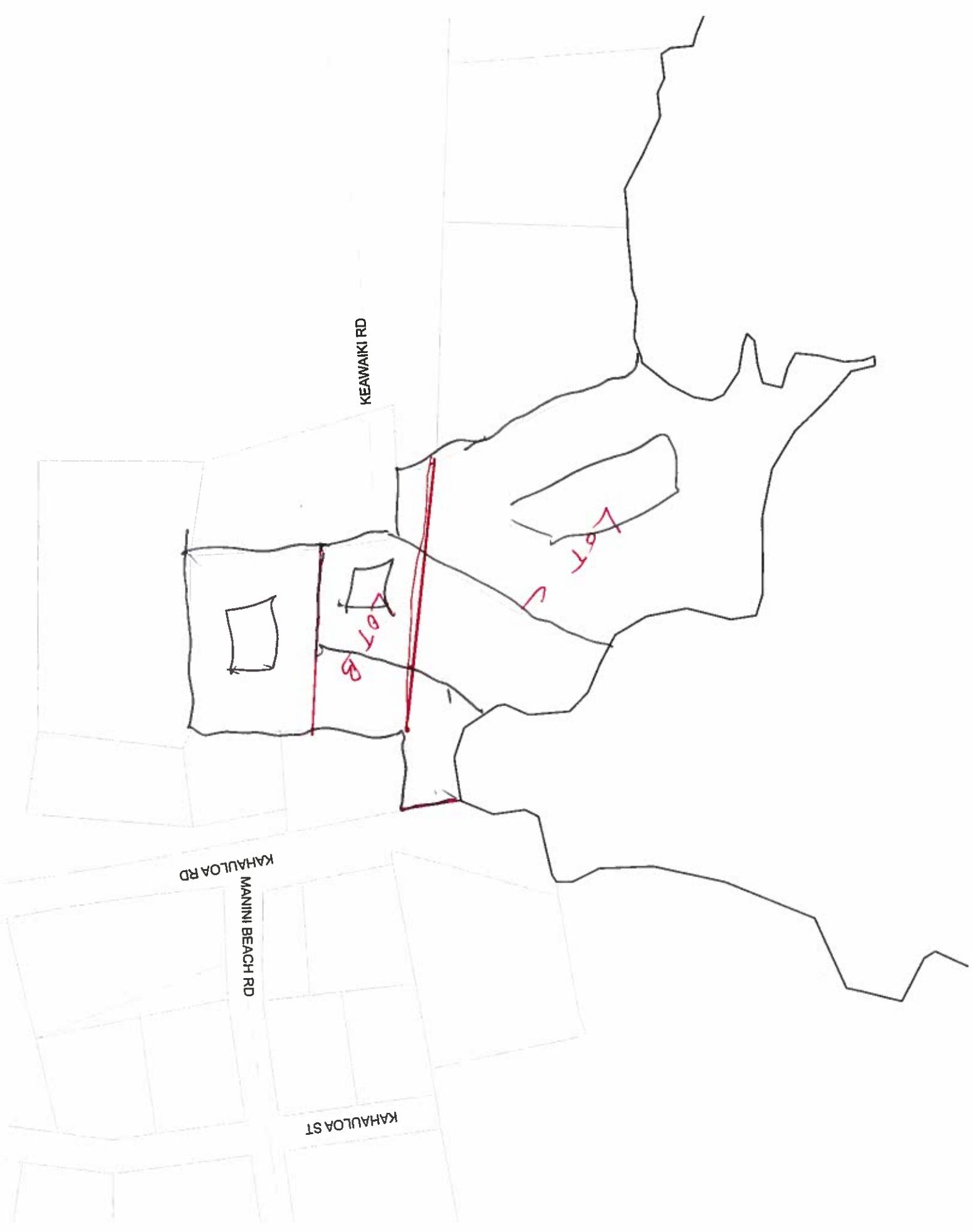
Lot C

Lot B

KAHAULOA RD

MANINI BEACH RD

KAHAULOA ST



PLANNING DEPARTMENT
COMMUNITY DEVELOPMENT

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

April 30, 2010

BJ Leithead Todd
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720

Re: Landowner: Barbara S. Wilcox Trust
Shoreline Setback Determination
at Kahauloa 2nd, South Kona, Hawaii
TMKs: (3) 8-3-005:010, 12 and 13

Dear Ms. Todd:

This firm represents the Barbara S. Wilcox Trust ("Wilcox Trust"), fee owner of the above-referenced parcel. We understand that the Planning Department by letter dated 04/06/10 denied the Wilcox Trust's request for an exemption from the required minimum 40-foot shoreline setback area as to newly reconfigured TMK: 8-3-005:012 (Lot C-1).

Prior to the submittal of, and approval of Sub. No. 06-000396¹, TMKs: (3) 8-3-005:012 and 013 were oceanfront parcels, as evidenced by the rocky shoreline on Parcel 13 and concrete boat ramp on Parcel 12. In support of our request for redetermination, we enclose the attached 04/22/10 letter from Wes Thomas & Associates and an overlay Site Plan.²

Since two of the three lots are, and continue to be oceanfront parcels, the Wilcox Trust seeks reconsideration of your 04/06/10 determination letter allowing for the exchange of the qualification of the exemption under Rule 11-5(b)(1), Planning Department Rules of Practice and Procedure from the required minimum 40-foot shoreline setback area as follows:

¹ Sub. No. 06-000396 consolidated and resubdivded former TMKs: (3) 8-3-005:010, 012 and 013.

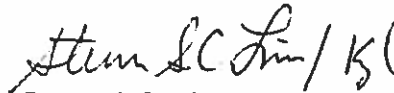
² The overlay Site Plan denotes the 02/02/10 shoreline certification, the location of former Parcels 10, 12 and 13, and the newly reconfigured Parcels 10, 12 and 13 under Sub. No. 06-000396.

BJ Leithead Todd
April 30, 2010
Page 2

- TMK: (3) 8-3-005:010 (Lot B-1) - exemption disallowed; 40-foot setback area;
- TMK: (3) 8-3-005:012 (Lot C-1) - exemption allowed; 20-foot setback area; and
- TMK: (3) 8-3-005:013 (Lot C-2) - exemption allowed; 20-foot setback area;

Thank you for your consideration.

Very truly yours,


Steven S.C. Lim

SSL/KYL
Enclosures
xc: Client



WES THOMAS ASSOCIATES

#17708

April 22, 2010

Ms. Bobby Jean Leithead Todd, Director
Planning Department
County of Hawaii
101 Pauahi Street, Ste 3
Hilo, Hawaii 96720

Via Hand Delivery by Carlsmith Ball -Hilo

RE: **SHORELINE SETBACK DETERMINATION**
for Lot C-1
at Kahauloa 2nd, South Kona, Hawaii
TMK: 8-3-005: 012 (3rd Division)

Dear Ms. Leithead Todd:

This letter will serve as further clarification of the seaward boundaries of TMK: 8-3-005: 012 and 013 (3rd Division). While the record boundary for parcel 013 did (prior to the consolidation / resubdivision) encompass the entire shoreline area and appeared to be between parcel 012 and the ocean, the actual conditions on the ground are that a substantial portion of the frontage of parcel 013 is actually in the water. As was customary in the 1960's this boundary was probably defined as the "limu line" or at the point of lower low water, which is the lowest ebb of the water at the lowest tide and underwater most of the time.

The actual ground condition of these parcels is that Parcel 013, effectively did not have the use of the property in front of Parcel 012 and that Parcel 012 actually fronted on the water. The consolidation/resubdivision that was recently completed, simply enlarged the frontage along the shoreline. This is reinforced by the location of the shoreline depicted on the shoreline certification map and is further depicted on the consolidation/resubdivision map.

If you have any questions, please feel free to contact the undersigned at 329-2353.

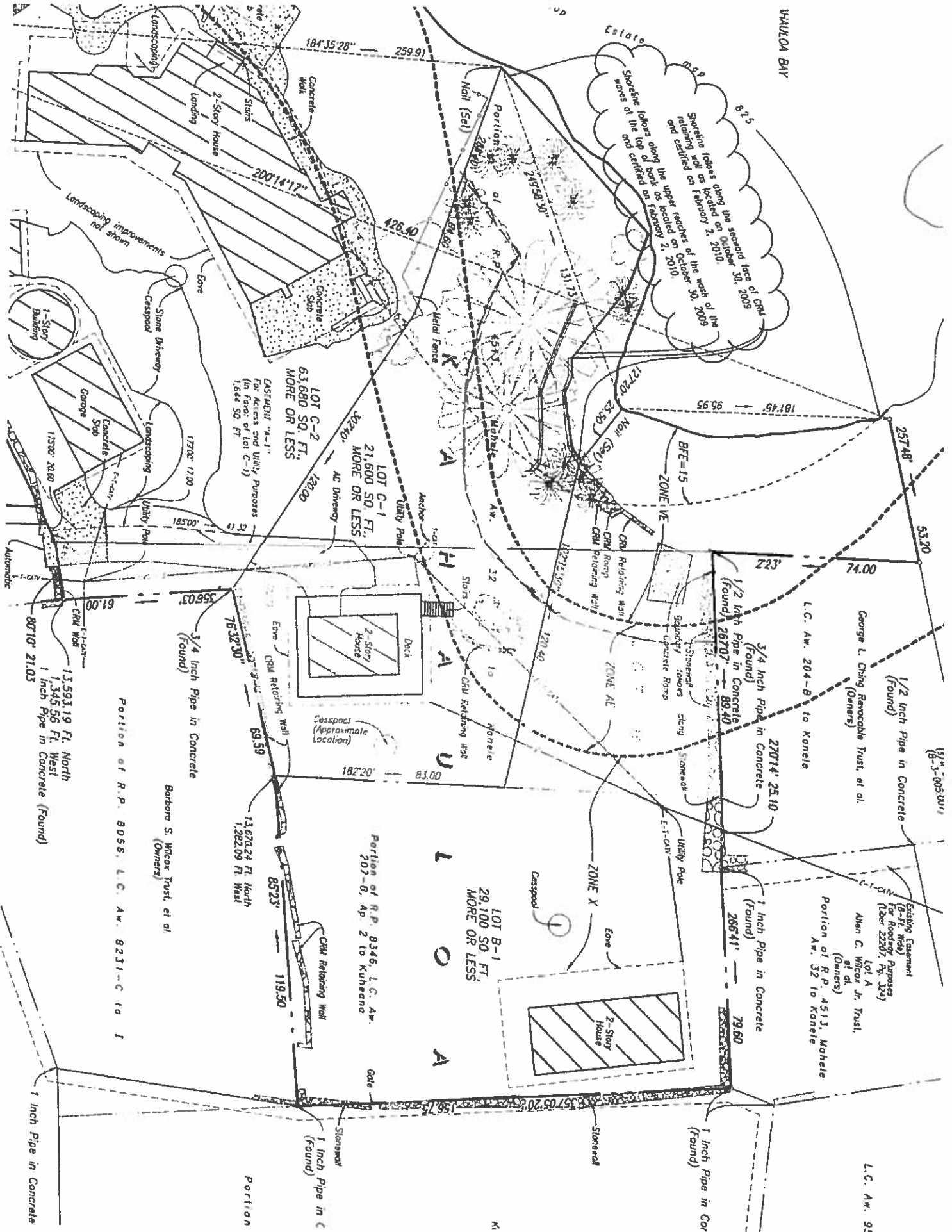
Very truly yours,

WES THOMAS ASSOCIATES

Chrystal Thomas Yamasaki, L.P.L.S.

CTY:cy

cc: Barbara S. Wilcox Trust



Shoreline topograpic markers along the second tier of CRM retaining wall as located on October 30, 2009 relating wall on February 2, 2010, and certified on October 30, 2009 and certified on February 2, 2010.

George L. Ching Removable Trust, et al.
 L.C. Av. 204-B to Kanele
 1/2 Inch Pipe in Concrete (Found)
 (Owners)

Existing Easement
 (Part of) Purpose
 (Law 2220, Pp. 123)
 Lot A, Jr. Trust,
 et al.
 (Owners)
 Portion of R.P. 4513, Mohele
 Av. 32 to Kanele

L.C. Av. 92

Portion of R.P. 8056, L.C. Av. 8231-C to 1

Barbore S. Wilcox Trust, et al.
 (Owners)

Portion of R.P. 8346, L.C. Av.
 207-B, Ap. 2 to Kuhena

LOT B-1
 29,100 SQ. FT.
 MORE OR LESS

LOT C-1
 21,600 SQ. FT.
 MORE OR LESS

LOT C-2
 63,680 SQ. FT.
 MORE OR LESS

DISTRICT "A-1"
 For Access and Utility Purposes
 (in Favor of Lot C-1)
 1,644 SQ. FT.

13,593.19 Ft. North
 1,345.56 Ft. West
 1 Inch Pipe in Concrete (Found)
 8070'-21.03

1 Inch Pipe in Concrete

1 Inch Pipe in Concrete (Found)

1 Inch Pipe in Concrete (Found)

Portion

M.

PLANNING DEPARTMENT
COUNTY OF HAWAII

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

2010 MAY -3 AM 10:14

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLJM@CARLSMITH.COM

April 30, 2010

BJ Leithead Todd
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720

Re: Landowner: Barbara S. Wilcox Trust
Shoreline Setback Determination
at Kahauloa 2nd, South Kona, Hawaii
TMKs: (3) 8-3-005:010, 12 and 13

5/6/2010
Rush
present to new info -
re consider - since 2008
to 2 lots - B.D

Dear Ms. Todd:

This firm represents the Barbara S. Wilcox Trust ("Wilcox Trust"), fee owner of the above-referenced parcel. We understand that the Planning Department by letter dated 04/06/10 denied the Wilcox Trust's request for an exemption from the required minimum 40-foot shoreline setback area as to newly reconfigured TMK: 8-3-005:012 (Lot C-1).

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BJ Leithead Todd

April 30, 2010

Page 2

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- TMK: (3) 8-3-005:012 (Lot C-1) - exemption allowed; 20-foot setback area; and
- TMK: (3) 8-3-005:013 (Lot C-2) - exemption allowed; 20-foot setback area;

Thank you for your consideration.

Very truly yours,



Steven S.C. Lim

SSL/KYL

Enclosures

xc: Client



WES THOMAS ASSOCIATES

#17708

April 22, 2010

Ms. Bobby Jean Leithead Todd, Director
Planning Department
County of Hawaii
101 Pauahi Street, Ste 3
Hilo, Hawaii 96720

Via Hand Delivery by Carlsmith Ball -Hilo

RE: SHORELINE SETBACK DETERMINATION
for Lot C-1
at Kahauloa 2nd, South Kona, Hawaii
TMK: 8-3-005: 012 (3rd Division)

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If you have any questions, please feel free to contact the undersigned at 329-2353.

Very truly yours,

WES THOMAS ASSOCIATES

Chrystal Thomas Yamasaki, L.P.L.S.

CTY:cy

cc: Barbara S. Wilcox Trust

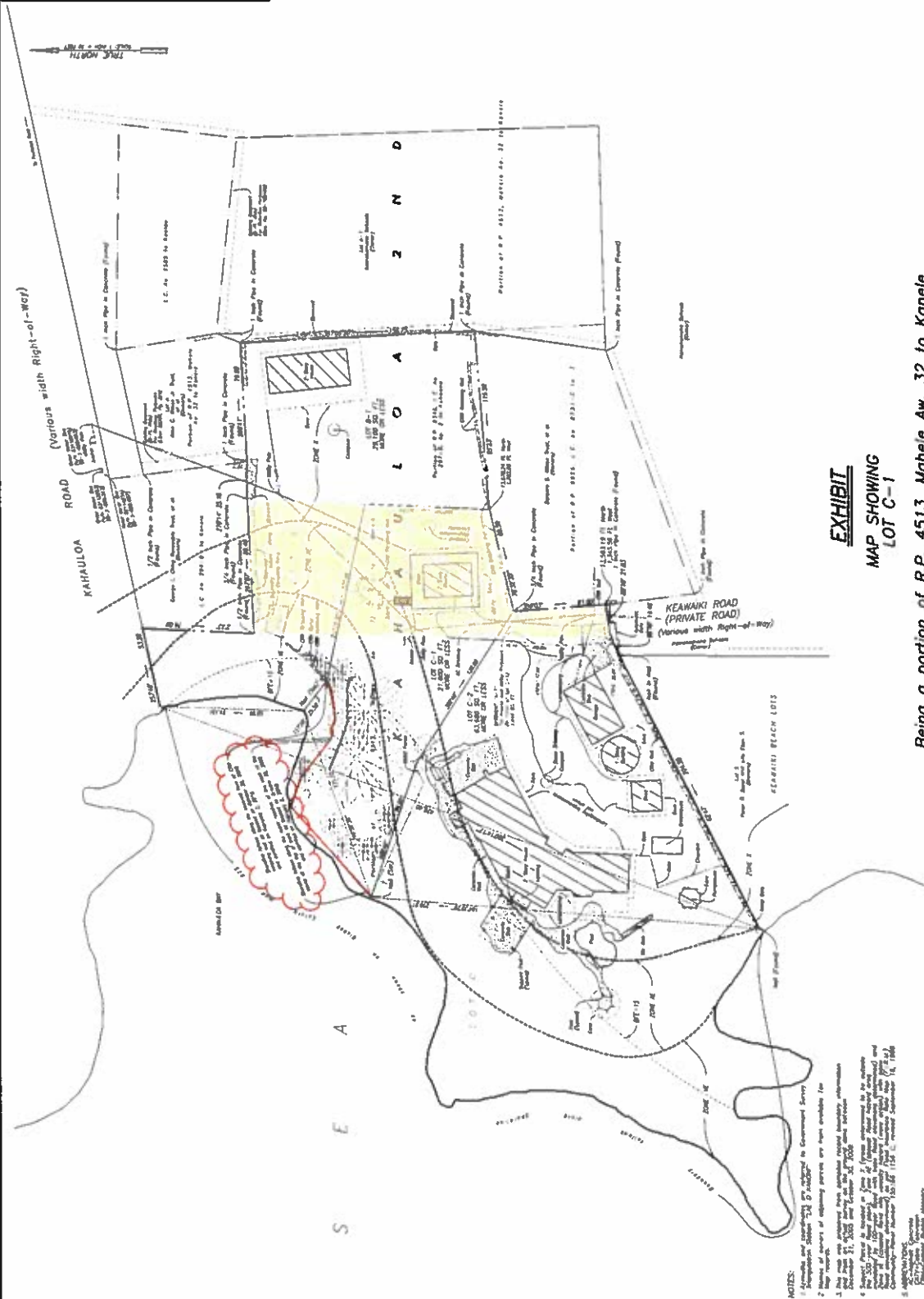
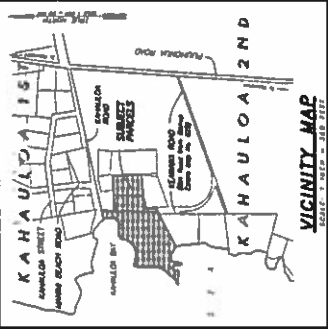


EXHIBIT
MAP SHOWING
LOT C-1

Being a portion of R.P. 4513, Mahele Aw. 32 to Kanele
 At Kahauloa 2nd, South Kona
 Island and County of Hawaii, State of Hawaii

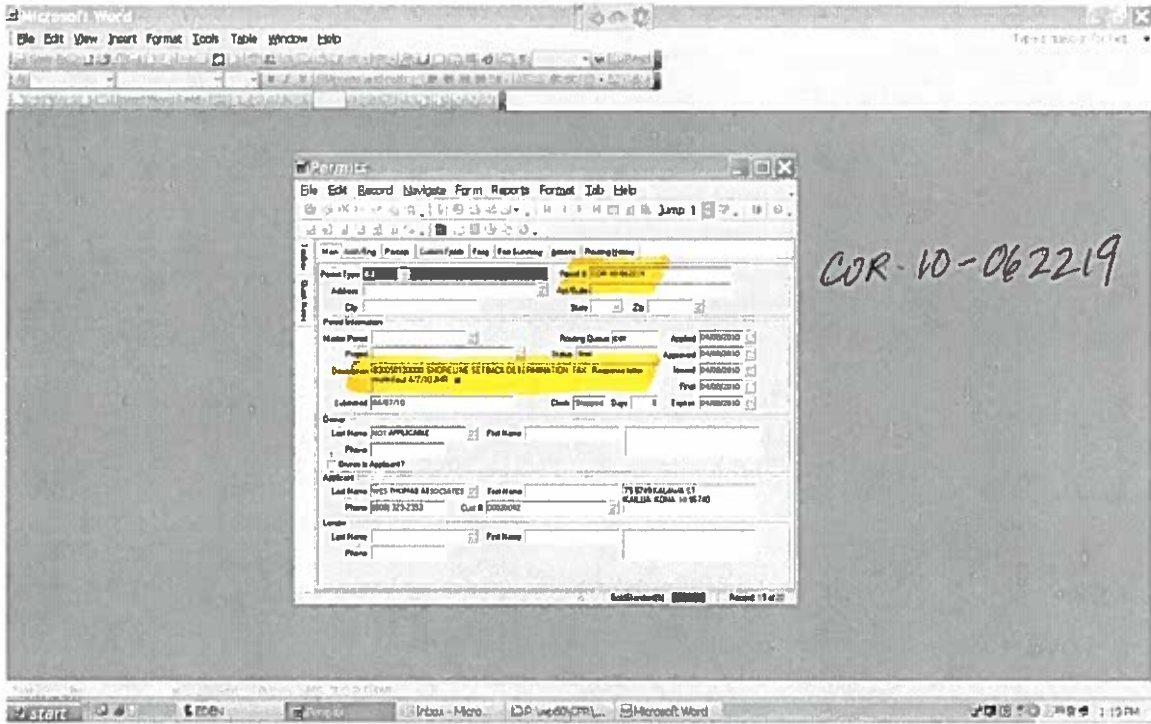
- NOTES:**
1. All measurements are in feet and inches.
 2. All areas of parcels of adjoining parcels are herein available for the project.
 3. All areas of parcels of adjoining parcels are herein available for the project.
 4. All areas of parcels of adjoining parcels are herein available for the project.
 5. All areas of parcels of adjoining parcels are herein available for the project.
 6. All areas of parcels of adjoining parcels are herein available for the project.
 7. All areas of parcels of adjoining parcels are herein available for the project.
 8. All areas of parcels of adjoining parcels are herein available for the project.
 9. All areas of parcels of adjoining parcels are herein available for the project.
 10. All areas of parcels of adjoining parcels are herein available for the project.

Prepared by
AND ALLEN C. WILSON JR. INC.
 1111 KALANANĀHUI DRIVE
 SUITE 200, HONOLULU, HAWAII 96813
 Phone: (808) 531-1111

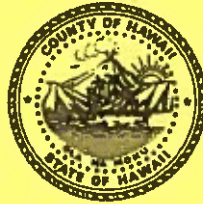
Prepared by
KEEPA PROGRAMS & CONSULTANTS
 1111 KALANANĀHUI DRIVE
 SUITE 200, HONOLULU, HAWAII 96813
 Phone: (808) 531-1111

PROJECT NO. 17700
 DATE: 10/18/2010
 FIELD BOOK NO. 1211, 1244, 1253 AND 1285
 DAT MAP REF. P-3-00501017 AND 017 (2ND DIVISION)





William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

April 6, 2010

Ms. Crystal T. Yamasaki
Wes Thomas Associates
75-5749 Kalawa St.
Kailua-Kona, Hawaii 96740-1817

Dear Ms. Yamasaki:

SUBJECT: Shoreline Setback Determination for Lot C-1
Land Owner: Barbara S. Wilcox Trust
Tax Map Key: 8-3-005:012, Kahauloa 2nd, South Kona, Hawai'i

This is in response to your letter dated March 8, 2010 in which you requested, on behalf of the landowner, a determination as to whether or not the subject parcel qualified for an exemption under Rule 11-5(b) (1), Planning Department Rules of Practice and Procedure, from the required minimum 40-foot shoreline setback area for parcels abutting the shoreline.

Rule 11-5(b) (1) allows an exception for:

"A lot which was created (final subdivision approval or a legal lot of record as determined by the Planning Department) prior to the date of adoption of this rule shall have a minimum shoreline setback area line of twenty feet when one of the following exits..."

In that Lot C-1 was created by subdivision (SUB 06-000396) on April 1, 2008 and the above referenced rule was adopted on January 19, 1997, your request for an exception to allow for a minimum 20-foot shoreline setback line to the subject lot is denied.

While the language in Rule 11-5 does not explicitly make any distinctions between new lots created from fewer than the total number of resulting lots and those where no additional lots are created, there have been a few instances in the past where the Planning Director has allowed for application of the Rule where minor lot line adjustments did not significantly affect the original lot sizes and the action did not create additional lots with shore frontage. In this case, only one of the original three lots had shoreline frontage and now all three lots have shoreline frontage, are significantly altered in size and in their configuration.

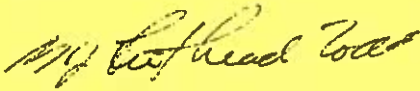
APR 08 2010

Ms. Crystal T. Yamasaki
Wes Thomas Associates
Page 2
April 6, 2010

We further find that the application of a 40-foot shoreline setback line does not significantly inhibit the ability of the landowner to make substantial alterations and additions to the existing dwelling.

Should you have questions, please feel welcome to contact Larry Brown of my staff at 961-8135.

Sincerely,



BJ LEITHHEAD TODD
Planning Director

LMB:cs

P:\wpwin60\Larry\CZM\yamasaki-Wilcox Lot C-1 @Kahauloa SLSB.doc



WES THOMAS ASSOCIATES

#17708

March 8, 2010

Ms. Bobby Jean Leithead Todd, Director
Planning Department
County of Hawaii
101 Pauahi Street, Ste 3
Hilo, Hawaii 96720

RE: **SHORELINE SETBACK DETERMINATION**
for Lot C-1
at Kahauloa 2nd, South Kona, Hawaii
TMK: 8-3-005: 012 (3rd Division)

Dear Ms. Leithead Todd:

The owners are planning on remodeling and/or adding onto the existing structure on Lot C-1. We have enclosed a copy of the approved consolidation/resubdivision map and a copy of the shoreline as it was recently certified.

According to Rule 11 - Shoreline Setback, Section 11-5 (b) (1) the exception for allowing a 20-ft shoreline setback in lieu of the 40-ft Shoreline setback is restricted to "... a legal lot of record as determined by the Planning Department." Since the above noted consolidation/resubdivision did not create any additional lots, but merely adjusted lot lines, we would like to assume that the option for a 20-ft shoreline setback would apply. However, we would like confirmation of the Planning Department's interpretation of the rule.

The application of a 40-ft shoreline setback and the 15 ft setbacks along the other property lines leaves a net buildable area of 7,797 Square Feet which is considerably less than half of the lot area of 21,660 Square Feet. A 20-ft shoreline setback would leave a net buildable area of 10,559 Square Feet. We have enclosed an exhibit map showing the two potential shoreline setbacks.

Before the owner continues with his building plans we respectfully request a formal determination of the application of the setback rules.

If you have any questions, please feel free to contact the undersigned at 329-2353.

Very truly yours,

WES THOMAS ASSOCIATES

Chrystal Thomas Yamasaki, L.P.L.S.

CTY:cyky

cc: Barbara S. Wilcox Trust

encl Copy of Subdivision Map
Copy of Certified Shoreline Map
Shoreline Setback Exhibit

75-5749 KALAWA STREET, KAILUA-KONA, HAWAII 96740 TEL 808.329.2353 FAX 808.329-5334

email: surveys@wtahawaii.com website: www.wtahawaii.com

PLANNING DEPARTMENT
COUNTY OF HAWAII

2010 MAR 10 PM 3:55

SCANNED

MAR 12 2010
By: 061534

PLANNING DEPARTMENT
COUNTY OF HAWAII

2010 MAR 10 PM 3: 55

WES THOMAS ASSOCIATES

#17708

March 8, 2010

Ms. Bobby Jean Leithead Todd, Director
Planning Department
County of Hawaii
101 Pauahi Street, Ste 3
Hilo, Hawaii 96720

RE: **SHORELINE SETBACK DETERMINATION**
for Lot C-1
at Kahauloa 2nd, South Kona, Hawaii
TMK: 8-3-005: 012 (3rd Division)

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email: surveys@wtahawaii.com website: www.wtahawaii.com

SCANNED

MAR 18 2010
By: 061534



PLANNING DEPARTMENT
COUNTY OF HAWAII

2010 APR -8 AM 8:52
WES THOMAS ASSOCIATES

#17708

March 8, 2010

Ms. Bobby Jean Leithead Todd, Director
Planning Department
County of Hawaii
101 Pauahi Street, Ste 3
Hilo, Hawaii 98720

Post-it® Fax Note	7671	Date	4/7/10	# of pages	1
To	Joaquin Gamiao		From	Chrystal Thomas Yamasaki	
Co./Dept.	D Planning		Co.	Wes Thomas Associates	
Phone #	Hilo		Phone	(808) 329-2353	
Fax #			Fax #	(808) 329-5334	

RE: **SHORELINE SETBACK DETERMINATION**
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Chrystal Thomas Yamasaki
Chrystal Thomas Yamasaki, L.P.L.S.

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cc: Barbara S. Wilcox Trust

encl Copy of Subdivision Map
Copy of Certified Shoreline Map
Shoreline Setback Exhibit

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email: surveys@wtahawaii.com website: www.wtahawaii.com



Letter sent out 4/7/10
APR 8 - 2010
J