



NA ALA HELE
Hawaii Trail & Access System

RECEIVED
CONSERVATION
DISTRICT LANDS

2009 AUG 14 A 11: 00

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

August 13, 2009

Ref: H09:09 Kalahiki

TO: Samuel J. Lemmo, Administrator

FROM: Doris Moana Rowland, Abstractor and
Interim Program Manager *DMR*

SUBJECT: Conservation District Use Application (CDUA) HA-3518
Kuleana Land Use at Kalahiki, South Kona, County of Hawaii
Tax Map Keys: 8-6-14-12 and 8-6-11-3

Na Ala Hele is aware of a historic trail located along the makai side of the proposed project. This trail has been documented on Land Commission Award Number 9746C dated April 24, 1853. This coastal trail may eventually be incorporated into the Ala Kahakai National Historic Trail system.

The applicants acknowledge the historic trail and plan a 40' building setback from the certified shoreline. This will allow ample area for public pedestrian access along the coastal trail.

Therefore, Na Ala Hele has no objections to the proposed project.

c: Clement Chang, NAH
Nancy McMahon, SHPD
Horace Yanagi, County of Hawaii Planning Department

Add info - Please file w/ COUA HA-3578 - Unger



NA ALA HELE
Hawaii Trail & Access System

RECEIVED
CONSERVATION
STATE LANDS

2009 AUG 19 P 2: 42

March 16, 2009

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Ref: H08:16 Hookena

TO: Clement Chang, Trails Specialist

FROM: Doris Moana Rowland, Abstractor *DMR*

SUBJECT: Disposition of Trails through Tax Plat 8-6-11 being a portion of Kealia 2nd to Kalahiki, South Kona, Hawaii

In response to your request for assistance regarding the disposition of trails within the above subject lands, research has been completed. Tax Plat 8-6-11 (see attached map) encompasses the makai portion of the following ahupuaa: Kealia 2nd, Hookena, Kauhako and Kalahiki. There are numerous other plats scattered within this plat, but they are not the focus of this report.

The tax map delineates three trails within the subject area: 1). a lateral coastline trail within Kealia 1st terminating at Hookena Village; 2). a short section of trail from the Kealia Beach Lots that connects to 3). an inland trail that parallels the coastline from Kealia 1st to Walea.

These three trails are shown on the following maps on file at the State Survey Office: Registered Map No. 983 "Kauhako Landing and Vicinity" dated 1883, and Registered Map No. 1745 "Hookena Section" dated 1895. The inland trail is also identified on the Notes of Survey dated 1853 for Grant Nos. 1454 and 1466.

It appears the tax map was prepared using the early government maps as a base to determine the approximate location of the land titles and trails within the subject lands. Records fail to disclose a metes and bound survey or other description of the four trails.

Based on the map evidence above, pursuant to the Highways Act of 1892, the State of Hawaii through its Board of Land and Natural Resources may claim fee simple interest in the three trails identified above. This claim has not been affirmed by legal analysis, and all readers of this abstract must understand that only a court can make such a determination. The following discussion will outline the issues that must be addressed before this program can encourage public use, maintenance or construction activities.

Na Ala Hele Administrative Rules

Trails that can be claimed in fee simple by the Department of Land and Natural Resources are under the jurisdiction of the Land Division. Pursuant to Hawaii Administrative Rules 13-130, the Board of Land and Natural Resources (BLNR) must review and approve to designate the trail or trail section as part of the NAH Program. This requires preparation of a Board Submittal that is presented at a public meeting.

Legal Analysis

Generally speaking, the State's position is that if a road or trail existed in 1892, the State (or a county) still owns the feature in fee simple. Ownership is not affected by non-use, no matter how long the non-use has continued. Any claim by the State of Hawaii to a historic or ancient trail is subject to challenge by adjoining landowners, which may require civil action to resolve. If however, the adjoining landowner is convinced of the State's claim based on the evidence provided, ownership of the trail is no longer an obstacle to development.

Physical Location

It is recommended that the trail alignments' physical location be confirmed through a metes and bounds or centerline survey to exactly describe the public access corridor through adjoining lands. This would require a notice be sent to adjoining landowners informing them of the date(s) and time(s) the survey would be conducted and seek permission to enter upon their land. If a private survey company performs the survey, a copy must be provided to the State Survey Division for their review.

Historic and Archaeological Features

Assistance from Historic Preservation (HP) is necessary to identify any archaeological or burial sites that may be within the trail corridor and determine the proper treatment of the same. This would include the preparation of a Historic Preservation Management Plan (HPMP) on historic and archaeological features located along the corridor. The scope of the HPMP will be determined jointly by HP and NAH staff utilizing existing HP data (if available), collection of information from adjacent private landowners and input from the local community.

The HPMP may be produced by either 1) NAH staff in consultation with HP staff, 2) through contracting a private consultant, or 3) by the developer if there is a related development. The HPMP would be subject to review and approval by HP.

Trail Maintenance and Development

It is necessary to determine and document through a Memorandum of Agreement (MOA) that trail maintenance and stewardship will be conducted by either:

- 1) Adjacent landowners/developers where the trail is bordered on either side by private land;
- 2) Interested community members/organizations, or
- 3) Existing Division of Forestry and Wildlife and Na Ala Hele staff. If either 1 or 2, NAH will draft MOA on trail stewardship.

In the cases where ancient or historic trails would be impacted by development, the County of Hawaii Planning Department offers NAH the opportunity to comment on possible buffer or no build zones to protect those features.

Trail development includes, but is not limited to: brushing the trail of encroaching vegetation, trail reconstruction, and installation of appropriate informational and directional signage and other mitigative measures for public safety and cultural resource protection. Trail improvements and signage are intended to keep the public along the State owned trail corridor and off any adjacent private property, in addition to deterring the public from investigating or tampering with historic or archaeological sites located along the trail on the adjacent private property (where applicable).

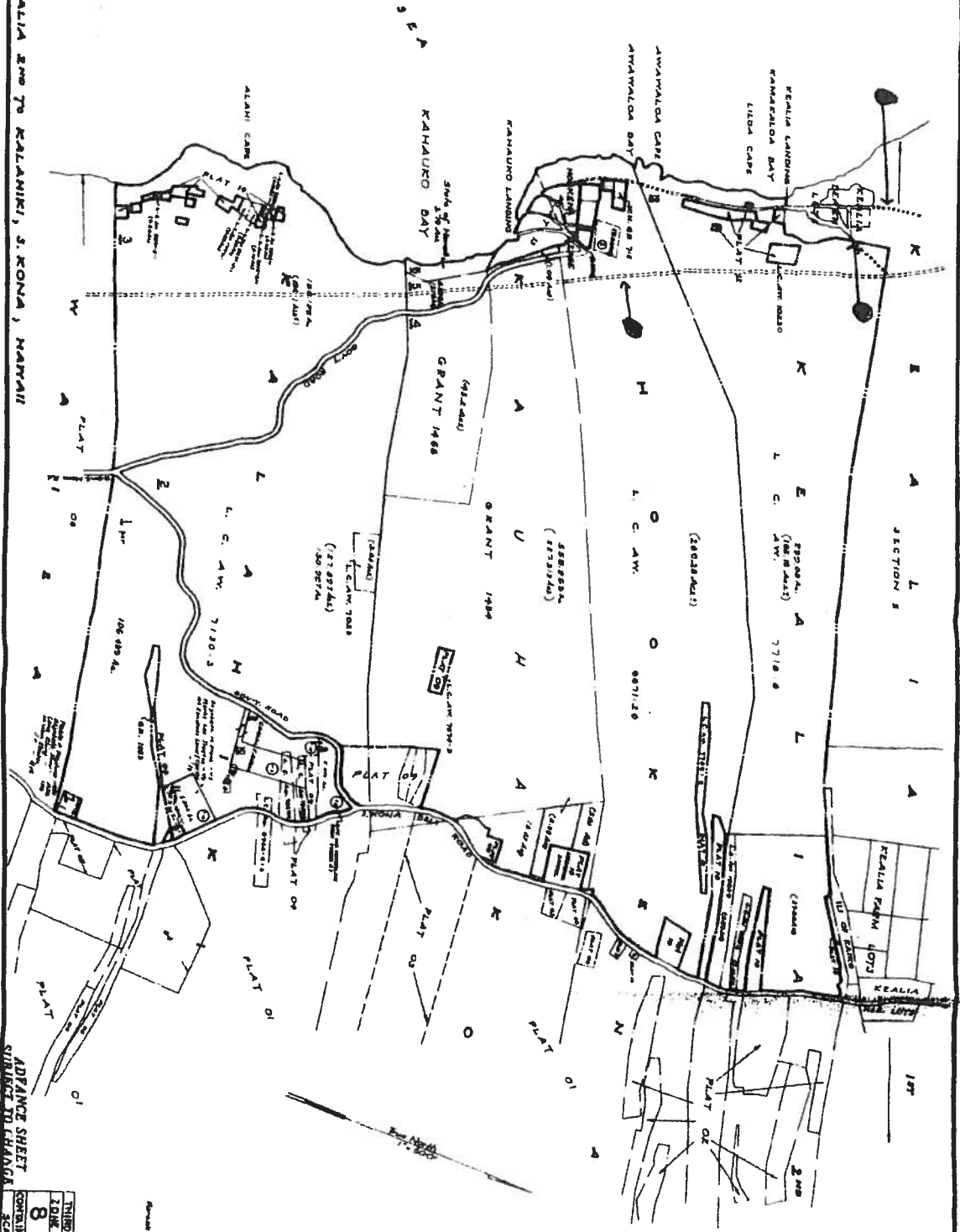
Na Ala Hele Advisory Councils

Comprised of trail user groups and constituents, these councils have been established statewide to provide a venue for public input on implementing the program. NAH's Hawaii Island Advisory Council has adopted Guidelines for the Treatment of Historic Hawaiian Trails, a copy of which is available for review upon request.

Once all the issues above are addressed, the trail corridor (or segment) can be opened for managed public use and recreation.

c: Aric Arakaki, NPS

FOR REALIA 2ND TO KALAWIKI, S. KONA, HAWAII



ADVANCE SHEET
 SUBJECT TO CHANGE

THIRD DIVISION	PLAT
8	6
CONTAINING PARCELS	SCALE 1" = 100 FT.

NOTES