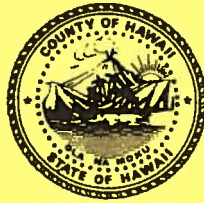


William P. Kenoi
Mayor



BJ Leithead Todd
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PLANNING DEPARTMENT

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Fax (808) 961-8742

April 3, 2012

Mr. Phillip Foti
1343 Mokulua Drive
Kailua, HI 96734

Dear Mr. Foti:

**SUBJECT: Shoreline Public Access Plan
Special Management Area Minor Permit No. 07-51 (SMM 07-51)
Subdivision No. 06-435 (SUB 06-435)
Tax Map Key: (3) 8-7-005:001, 002 & 010 through 019
Alae 1st and 2nd, South Kona, Hawai'i**

Thank you for your phone call to staff planner Larry Brown this morning and the opportunity to clarify the remaining outstanding requirements for compliance with shoreline public access Condition No. 3 of SMM 07-51, which was amended by our letter dated January 10, 2008 to Gregory R. Mooers to read as follows:

3. *A public access plan for the subject properties shall be submitted to the Planning Director for approval not more than two years after the granting of this permit. It shall include the following:*
 - a. *A continuously traversable minimum 10-foot wide mauka-makai pedestrian access easement along the existing jeep road or as otherwise mutually agreed upon.*
 - b. *In consultation with the Na Ala Hele Statewide Trail and Access System and the Ala Kahakai National Historic Trails, the applicant shall establish the alignment of the historical coastal trail and create a pedestrian easement of not less than 10 feet in width.*
 - c. *Applicant shall comply with the decision and order of the Third Circuit Court of the State of Hawaii in Civil No. 5473 granting license to all of the identified Defendants access to the ocean over the existing mauka-makai*

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access road that traverses the applicable properties from north to south approximately half way between Mamalahoa Highway and the shoreline.

Approval of the public access plan shall be required prior to granting of final approval of the proposed consolidation and resubdivision.

In order to aid you in preparing a Shoreline Public Access Plan for submittal to the Planning Department for approval, we are enclosing our "Guide to What Should be Included in a Public Access Plan" and two examples of plans previously submitted and approved by the Planning Department.

While most shoreline public access plans can be relatively simple statements clearly identifying the parameters and responsibilities of a public access, some such as yours, may require additional language to clearly articulate special circumstances. The special circumstances affecting the public accesses being provided under this subdivision are provided in our October 16, 2008 letter to Chrystal Thomas Yamasaki providing clarification of the public access conditions. A copy of this letter is also enclosed for your convenience. Relevant sections of this letter have been highlighted for your reference. In the event that public access is subsequently provided from Māmalahoa Highway over the lands north of your subdivision, the "north/south meandering ranch road" referenced in this letter shall provide for the same type (pedestrian or vehicular) of public access as is provided over the public access easement over the adjacent property to the north.

In order to mitigate the possible damage or destruction to historic sites in the area that may be required or suggested by the State Historic Preservation Division, the shoreline public access plan should clearly identify any restrictions to the presumed allowance of public access between the lateral public pedestrian easement (PA-1) and points along the shoreline that provide members of the public with access to the ocean or ocean resources

In addition to complying with the requirement for getting a shoreline public access plan approved, we have noted two other corrections to the Final Plat Map (FPM), revised February 12, 2012, for the subject subdivision.

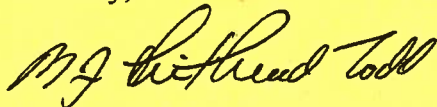
1. All easements being provided for public access purposes should be labeled on the FPM as being for "Public Pedestrian Access Purposes."

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2. Easement PA-1 should extend along the entire length of the coastal area from the south property line to the north property line along a suitable alignment that provides reasonable safe passage without construction of any trail improvements.

If you have questions regarding the public access plan, please feel welcome to contact Larry Brown of this office at 961-8135.

Sincerely,



BJ LEITHEAD TODD
Planning Director

LMB:cs

\\Coh33\planning\public\wpwin60\CZM\Public Access & Trails\South Kona\Foti @ Alae 1 & 2 8-7-5-1&2&10-19\PD-Foti SPA Plan
Info 3Apr12.doc

Encl: Guide to What Should be Included in a Public Access Plan
KMA Shoreline Public Access Plan dated 2/21/97
Public Access Plan dated May 2010
Planning Dept. letter dated 10/16/08

cc: Larry Brown- Long Range Planning
SUB 06-435

Guide to What Should be Included in a Public Access Plan

Each situation will be different depending on permit conditions, the type of access it is, and its location. This list is intended to guide the applicant in creating a Public Access Plan that is consistent with intent of Chapter 34 (H.C.C.) and Chapter 205-A (H.R.S.). The applicant is responsible for the creation and submittal of a comprehensive and complete Public Access Plan acceptable to the Planning Director.

Location

- A required public access easement must be sufficiently described by metes and bounds and encumbered to ensure accessibility from a public right-of-way. Metes and bounds descriptions and formal easements are not always necessary for SMA permits.
- In Subdivision maps, the easements should be clearly noted a "Public Access." Any public access plan required by condition of a permit that does not require the granting of an easement shall include a map or site plan that clearly delineates the Public Access.
- When recordation is required, the Applicant shall provide the Planning Department with a copy of the recorded document.

Construction

- The plan shall include a timeframe for completion of any required construction of the access as well as specifics on the type and width of surfacing, landscaping, accessory amenities, etc.

Parking

- The plan must address the need for parking, including, but not limited to, the number of spaces, surfacing, and ADA accessibility.

Hours

- The plan must specify the hours of availability for the Public Access.

Signage & Sign replacement

- The plan shall identify what Shoreline Public Access signage, if any, shall be installed and who will be responsible for its purchase installation, maintenance, and replacement. Basic SPA signs may be purchased from the County via the Planning Department depending on availability. Otherwise, the Planning Department will provide the applicant with appropriate signage specifications and provider information so the applicant may acquire signage independently.

Rules

- Any special or site specific rules the applicant deems necessary shall be clearly articulated in the plan and approved by the Planning Director.

Maintenance responsibility

- The plan shall clearly identify who is responsible for any maintenance requirements to ensure the required Public Access and any required amenities remain in a suitable condition for use as they are needed.