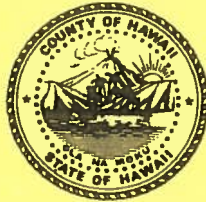


William P. Kenoi
Mayor



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 30, 2009

Mr. Curtis Deweese
Sunstone Realty Partners, LLC
1001 Bishop Street
1250 Pauahi Tower
Honolulu, HI 96813

Dear Mr. Deweese:

**SUBJECT: Shoreline Public Access Signage for Kona Sea Ranch
Subdivision Nos. SPH 05-06 and 05-07
Special Management Area Use Permit Assessment Application No. 06-147
Kukuiopa'e 2nd, South Kona, Island of Hawai'i
TMK: 8-7-011:001-034**

This letter is to acknowledge that the Shoreline Public Access (SPA) signage at the entrance to Kona Sea Ranch subdivision has been relocated to the south side of the entrance gate and that the "No Trespassing Hunting or Fishing" sign mounted on the entrance gate has either been modified to delete reference to fishing or removed altogether, which was requested by staff email to Greg Mooers dated March 17, 2009. Confirmation that the above corrections have been completed was noted by Planning Department staff site inspection of the subdivision entrance on April 29, 2009.

However, in addition to the above, further examination of our files reveals that the following issue must also be addressed.

According to a letter from the Planning Director, dated October 27, 2005, to Greg Mooers regarding pedestrian public access easements within KSR subdivision, a formal grant of easement document to the County for all easements, except for the "Ala Loa," will be required. This letter further stated that upon confirmation that the public access easement requirements provided in the letter were acceptable to you, final approval for Increment 1 would be granted. In so far as final approval for

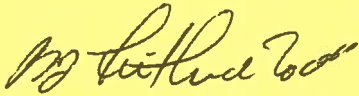
MAY - 4 2009

Mr. Curtis Deweese
Sunstone Realty Partners, LLC
Page 2
April 30, 2009

Increment I was granted on November 15, 2005, we assume your acceptance of the easement requirements was confirmed. Therefore, before being submitted for recordation, formal grants of easement (as called for in our 10/27/05 letter) shall be drafted and forwarded to the Planning Department for approval within 60 days of the date of this letter. Copies of final recorded grants of easement shall be submitted to the Planning Department within 90 days of our approval of the draft documents.

We anticipate your cooperation in completing the above requirements in a timely manner. Should you have questions, please call Larry Brown at 961-8288, ext. 254.

Sincerely,



BJ LEITHEAD TODD
Planning Director

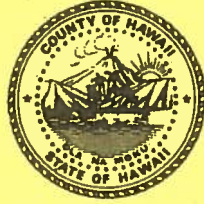
LB:cs

P:\wpwin60\CZM\Public Access\Kona Sea Ranch\Deweese-Kona Sea Ranch 29Apr9.doc

xc: Mr. Gregory R. Mooers, President
Mooers Enterprises
P.O. Box 1101
Kamuela, HI 96743

Corporation Counsel
Planning Department, West Hawaii Office
Mr. Larry Brown, Long Range Planning
SPH 05-000006
SPH 05-000007

William P. Kenoi
Mayor



Daryn S. Arai
Acting Planning Director

County of Hawaii

PLANNING DEPARTMENT

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

January 15, 2009

Mr. Gregory R. Mooers, President
Mooers Enterprises
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

SUBJECT: Shoreline Public Access Signage for Kona Sea Ranch
Subdivision No(s): SPH 05-06 and 05-07
Special Management Area Use Permit Assessment Application No. 06-147
Kukuiope`e 2nd, South Kona, Island of Hawai`i
TMK: 8-7-011:001

Thank you for the request, via our Kona office, for Shoreline Public Access (SPA) signage location and specification details for the subject subdivision, and for your email response to staff planner Larry Brown on January 13, 2009. The purpose of this letter is to respond to specific understandings and assertions expressed in your January 13th email and to confirm the Planning Department's position with regard to the number of sign locations required, which Mr. Brown stated in his January 14, 2009 email response.

The FAX transmission from Debbie Chang that you included with your January 13th email as evidence of an agreement by the Planning Department that only two locations for the installation of SPA signs are required is inconsistent with our records. First, Ms. Chang's email is dated four days before the letter in our files from you transmitting a map indicating the three (3) locations for SPA signage had been agreed to. Additionally, the language in Ms. Chang's email is clearly in the form of a question about the number of sign locations being proposed and a notation that the signage plan being proposed failed to include any hazard warning signs. Therefore, it is our understanding that the approved SPA signage plan provides for SPA signage to be installed at three different locations as depicted on the map transmitted to you by Mr. Brown's January 14th email.

JAN 15 2008

Mr. Greg Mooers
Mooers Enterprises, Ltd.
Page 2
January 15, 2009

We agree that pedestrian only access from Mamalahoa Highway to the coast is required over Kona Sea Ranch (KSR) subdivision and that the owners are within their rights to install a normally locked gate at the entrance to the private roadway into the subdivision. However, the "No Trespassing Hunting or Fishing" sign on the gate (see enclosed photos), in conjunction with the locked gate and the lack of any qualifying language indicating that pedestrian public access is allowed, clearly intends to discourage any access by the general public, even if the required SPA signage were installed as required. Furthermore, it is our position that private land owners of parcels abutting the ocean do not have the right to restrict or prohibit fishing along the shoreline which we consider an inherent shoreline activity.

The final assertion in your January 13th email claims that this would be the second SPA signage installation by Sunstone and that responsibility for maintenance of the signs should pass to the current owners. We have no record of the required signs ever being installed and Sunstone has not provided any evidence to confirm or support this assertion. Regardless, since no provisions for maintenance of the required SPA signage appears to have been previously addressed, and until we have been provided with confirmation that an established association of lot owners has been formed and has agreed to accept responsibility for all Shoreline Public Access requirements for Kona Sea Ranch, we will continue to consider Sunstone, who is also the owner of record for most of the lots in KSR, the responsible entity.

With regards to the installation of the signs at the entrance to KSR, please be advised that any signs installed within the Mamalahoa Highway right-of-way must be in accordance with the State Department of Transportation requirements.

Should you have questions, please feel welcome to contact Larry Brown of my staff at 961-8288, ext. 254.

Sincerely,



DARYN S. ARAI
Acting Planning Director

LMB:cs

P:\wpwin60\Larry\Public Access\Kona Sea Ranch\Mooers-Kona Sea Ranch 15Jan09.doc

Mr. Greg Mooers
Mooers Enterprises, Ltd.
Page 3
January 15, 2009

Encl: Photos dated 10/29/08

xc: Mr. Curtis Deweese
Sunstone Realty Partners, LLC
1001 Bishop Street
1250 Pauahi Tower
Honolulu, HI 96813

Mr. Keola Childs, Planning Department, West Hawaii

Corporation Counsel



PHOTOS taken
10/29/08

Lots are for sale.



Gate is locked at the top of the subdivision road. To all appearances there is no shoreline public access here.



PHOTOS taken
10/29/08

Lots are for sale.



Gate is locked at the top of the subdivision road. To all appearances there is no shoreline public access here.

Brown, Larry

From: Larry Brown [lbrown@co.hawaii.hi.us]
Sent: Wednesday, January 14, 2009 11:35 AM
To: 'Greg Mooers'
Cc: Childs, Keola
Subject: RE: SMA NOV - Kona Sea Ranch /DeWeiss
Attachments: KSR Gate Photo.pdf

Hi Greg,

Thank you for your response. I do want to respond at this time regarding the number of sign locations so you will have time to order sufficient signage to satisfy the requirement per our understanding of the agreement and letter dated Jan. 6, 2009.

Please note that the FAX from Debbie Chang that you sent is dated June 5, 2006, prior to your June 9, 2006 letter transmitting the "map indicating where the signage will be placed per this agreement." Additionally, the language in Debbie's FAX merely poses questions regarding the number of sign locations and types being proposed. It does not amount to an agreement by the Planning Department on what would be acceptable. I've confirmed this understanding in a telephone conversation with Debbie this morning.

Therefore, our understanding is that there are three locations, as indicated on the map I provided the other day. As stated in our Jan. 6, 2009 letter, visual confirmation by Planning Department staff to confirm all signage has been installed will be necessary.

Meanwhile, I am drafting a formal letter for the Planning Director to confirm the above and to address the other issues stated in your response.

Mahalo,
Larry

Larry Brown, Planner
County of Hawaii, Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Phone: (808) 961-8288, ext. 254
Fax: (808) 961-8742
email: lbrown@co.hawaii.hi.us

From: Greg Mooers [mailto:gmooers@hawaii.rr.com]
Sent: Tuesday, January 13, 2009 9:57 AM
To: Brown, Larry; Childs, Keola
Subject: Re: SMA NOV - Kona Sea Ranch /DeWeiss

1/15/2009

Keola and Larry:

Please find attached the fax from Debbie Chang explaining the requirement for two signs, not the three that Larry mentions in his email. We propose to replace those signs as previously required and installed. Curt has ordered the replacement signs, they will take about three weeks to be delivered. Allow one week to install and we will forward photos showing the installed signs. If you so desire, a site visit could be conducted at that time.

SunStone's requirement for public access is only for pedestrian access as noted in the SMA and Planning's letter dated October 27, 2005. The current owners appear to be well within their rights to install a locked gate that prevents people from driving onto the property for parties on the private roadways. The gate does not restrict pedestrian access which is required.

Given that this is the second installation, we believe our responsibility to maintain these signs should pass to the current owners of the property and not continue to be a responsibility of SunStone. After the installation and the verification by photos and/or a site visit we would like written confirmation from Planning that we have again met the conditions for subdivision approval and will no longer be responsible for the signage.

Greg

----- Original Message -----

From: Childs, Keola
To: Brown, Larry
Cc: gmooers@hawaii.rr.com
Sent: Monday, January 12, 2009 3:32 PM
Subject: RE: SMA NOV - Kona Sea Ranch /DeWeiss

Mahalo, Larry. I assume these PDFs will meet Greg's client's needs for replacement signage, and will wait to hear from him when a site inspection is appropriate.

Keola Childs
 Planner, West Hawaii Branch
 Planning Department
 kchilds@co.hawaii.hi.us
 808-327-3510

From: Brown, Larry
Sent: Monday, January 12, 2009 3:12 PM
To: Childs, Keola
Cc: 'gmooers@hawaii.rr.com'
Subject: RE: SMA NOV - Kona Sea Ranch /DeWeiss

Hi Keola,

The letter to Curt DeWeese should have reached your office by now. I've attached a copy for your reference. All we have in our files for the "approved" SPA signage is the June 9, 2006 letter from Greg (attached) transmitting a copy of the proposed subdivision map with arrows at sign locations pointing towards the access alignment. I've printed of a copy of the subdivision map (attached) and reproduced the approved sign locations with an X for assumed locations and arrows showing access direction. I've also added a description for suitable signage for each location. I couldn't find anything in our files regarding exactly what signage was previously agreed to. The sign specifications are provided on the attached "SPA Signs for KSR" document. They can

1/15/2009

get signs made by Roadway Solutions in Kailua-Kona (329-3684). We don't have enough inventory to sell.

Larry

Larry Brown, Planner
County of Hawaii, Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Phone: (808) 961-8288, ext. 254
Fax: (808) 961-8742
email: lbrown@co.hawaii.hi.us

From: Childs, Keola
Sent: Monday, January 12, 2009 2:06 PM
To: Brown, Larry
Cc: gmooers@hawaii.rr.com
Subject: SMA NOV - Kona Sea Ranch /DeWeiss

Larry,

Greg Mooers phoned me on behalf of his client, Curt DeWeiss (sp?), as the compliance contact named in your NOV letter (I have not yet received a copy of it), seeking a copy of the "graphical proofs" of the signed he had submitted for approval to meet the original signage requirement, as well as a copy of the location map showing where exactly that original sign was to be installed. He said the original sign had been stolen, and his client wants to have another made just like the first one, and wants to be sure it's re-erected in the agreed spot.

Greg says the original SMA letter was originated by you, and so he's hoping you can help locate the file and requested documents for copying. Because of confusion in phone extensions at the main office there, and because of my having a role in the compliance process, he asked that I request this of you.

Greg's email is gmooers@hawaii.rr.com; phone is 880-1455.

Please advise.

Thanks,
Keola

Keola Childs
Planner, West Hawaii Branch
Planning Department
kchilds@co.hawaii.hi.us
808-327-3510

1/15/2009

06-05-'06 18:20 FROM-SUNSTONE REALTY

808-523-9696

T-230 P001/005 F-720

886-4056

FAX

TO: C. DeWeese/Greg Mooers

FROM: Debbie Chang, Planning Dept. (961-8288, ext. 254)

DATE: 6-5-06

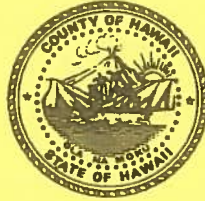
OF PAGES (INCLUDING THIS): 1

MESSAGE: Today, received your fax re: signage for Kona Sea Ranch Phase II. Your fax did not include the hazard warning. Are you planning to include it? It is my understanding that two signs will be posted? Your map shows only one sign located off Mamalahoa Hwy. Will there need to be another posted further makai to ensure that people will not get lost within the subdivision? Yes!

Thanks.

Greg -
Please handle as necessary.
6/5/06
3:25 p.m.

William Kenoi
Mayor



Daryn S Arai
Acting Planning Director

County of Hawaii

PLANNING DEPARTMENT

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

CERTIFIED MAIL

7006 2760 0003 5440 6635

January 6, 2009

Mr. Curtis Deweese
Sunstone Realty Partners, LLC
1001 Bishop Street
1250 Pauahi Tower
Honolulu, HI 96813

Dear Mr. Deweese:

**SUBJECT: Shoreline Public Access Signage for Kona Sea Ranch
Subdivision Nos. SPH 05-06 and 05-07
Special Management Area Use Permit Assessment Application No. 06-147
Kukuiopa'e 2nd, South Kona, Island of Hawai'i
TMK: 8-7-011:001-034**

This letter is to follow up on our letter to Mr. Greg Mooers, your agent with regards to the subject subdivision and SMA determination, dated April 25, 2008 to which we have yet to receive any response regarding the installation of Shoreline Public Access (SPA) signage as required by Special Management Area Use Permit Assessment Application No. 06-147 (SAA 06-147). It has been brought to the attention of the Planning Department that the required signage has not yet been installed despite more than eight months since our last request to have it promptly installed, and nearly 2½ years after it was supposed to have been installed. We have further been advised that a locked gate and "No Trespassing" sign have been installed at the entrance to the Kona Sea Ranch Subdivision with the clear intention of discouraging any public access.

Condition No. 4 of SAA 06-147 required that the approved signage must be installed prior to final subdivision approval. Although final subdivision approval (SPH 05-000007) was granted on July 7, 2006, prior to the installation of the SPA signage, that does not relieve the applicant from the requirement to comply with Condition No. 4.

JAN 06 2008

Sunstone Realty Partners, LLC

Page 3

January 6, 2009

Petty/Shanahan Hawaii TR
Attn: Mr. Kenneth E. Petty
and Ms. Margaret M. Shanahan TRS
23301 Friar Tuck Lane
Edmonds, WA 98020

Mr. James E. Wagner
and Wendi E. Wagner
P.O. Box 1592
Kealahou, HI 96750

Shellock Family Trust
Mr. William S. Wood
and Ms. Lenore M. Ste
7511 McConnell Avenue
Los Angeles, CA 90045

Mr. Leonard Charles Pu
and Jada Beth Siekman
P.O. Box 2516
Kailua-Kona, HI 96745

Mr. Barrie David Solow
and Joan Dorothy Woltr
248 W. Park Avenue, #155
Long Beach, NY 11561

Mr. Praxedes R. Beard
HCR 159
Joshua Tree, CA 92252

Corporation Counsel

Planning Department, West Hawaii Office

Mr. Larry Brown, Long Range Planning

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <i>Mary Hendricks</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Mary Hendricks</i></p> <p>C. Date of Delivery <i>1/6/09</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>1. Article Addressed to:</p> <p>Mr. Curtis Deweese Sunstone Realty Partners, LLC 1001 Bishop Street 1250 Pauahi Tower Honolulu, HI 96813</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p> <p><i>TMK : 8-7-011 : 001-034 LB</i></p>		<p>7006 2760 0003 5440 6635</p>	

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
<i>TMK : 8-7-011 : 001-034 LB</i>	
Postage	\$ <i>.42</i>
Certified Fee	<i>2.70</i>
Return Receipt Fee (Endorsement Required)	<i>2.20</i>
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ <i>5.32</i>
Sent To	Mr. Curtis Deweese
Street, Apt. No., or PO Box No.	Sunstone Realty Partners, LLC
City, State, ZIP+4	1001 Bishop Street 1250 Pauahi Tower Honolulu, HI 96813

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA, LEED™ AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

April 25, 2008

Mr. Gregory R. Mooers, President
Mooers Enterprises
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

**SUBJECT: Shoreline Public Access Signage for Kona Sea Ranch
Subdivision Nos. SPH 05-06 and 05-07
Special Management Area Use Permit Assessment Application No. 06-147
Kukuiopa'e 2nd, South Kona, Island of Hawai'i
✓ TMK: 8-7-011:001-034**

Our department is currently reviewing the conditions and locations of shoreline public access signs as part of a project funded by the State's Coastal Zone Management Program. As a condition to Final Subdivision Approval, three (3) shoreline public access signs were to be installed by the subdivision applicant. Our files indicate that in June 2006 the applicant agreed to install the signs using sign specifications provided by our Department. However, as of March 9, 2008 there is no shoreline public access sign posted at the top of Kukuiopa'e Place, the entrance road into Kona Sea Ranch Subdivision where one of the mauka-makai, pedestrian shoreline public accesses begins.

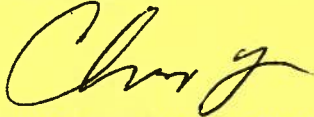
We hereby request that the agreed-upon signage be promptly installed. Please notify us upon completion of the installations so that we may arrange a field inspection.

APR 28 2008

Mr. Gregory R. Mooers, President
Mooers Enterprises
Page 2
April 25, 2008

Thank you for your cooperation in this matter. Should you have questions, please call Larry Brown at 961-8288, ext. 258.

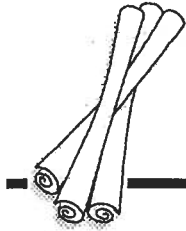
Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LB:mad
P:\wpwin60\Larry\Public Access\Mooers-Kona Sea Ranch 25Apr08.doc

xc: Larry Brown, Long Range Planning



MOOERS
ENTERPRISES, LLC
Land Use Alternatives

2006 JUN 14 PM 1 43
PLANNING DEPARTMENT
COUNTY OF HAWAII

Post Office Box 1101
Kamuela, Hawaii 96743
Phone (808) 880-1455
Fax (808) 880-1456
gmooers@hawaii.rr.com

8-7-11:1-34

June 9, 2006

Mr. Chris Yuen
Director
Planning Department
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

**Re: Final Subdivision Approval Request (SUB 99-125)
SMA Assessment Application No. 06-147**

Dear Mr. Yuen:

You issued a SMA exemption for the project identified above with your letter dated May 17, 2006. One condition of that letter was for the applicant to install Shoreline Public Access signs as approved by your department. We have been working with Debbie Chang and Daryn Arai of your office and have reached an agreement on the locations for the installation of the appropriate signage.

Please find enclosed a map indicating where the signage will be placed per this agreement. We believe we have now complied with all conditions of approval in the Tentative Subdivision Approval letter and the SMA exemption letter and we therefore ask that you now issue Final Approval for the subdivision identified above.

Thank you for your prompt attention to this request for final subdivision approval.

Sincerely,

Gregory R. Mooers
President

GRM:jj
enclosures

015860

Date of Photos: 10-29-08

Subject: Kona Sea Ranch Subdivision's Lack of Shoreline Public Access Signage, a requirement of subdivision approval.

SPH 05-06 and 05-07

SMAA 06-147

Two pedestrian shoreline public accesses are required in this subdivision. Internal Shoreline Public Access (SPA) signage and a sign at the main highway are supposed to have been installed by the subdivider. Without a SPA sign at the main highway, there is no way to know that there is shoreline public access here.



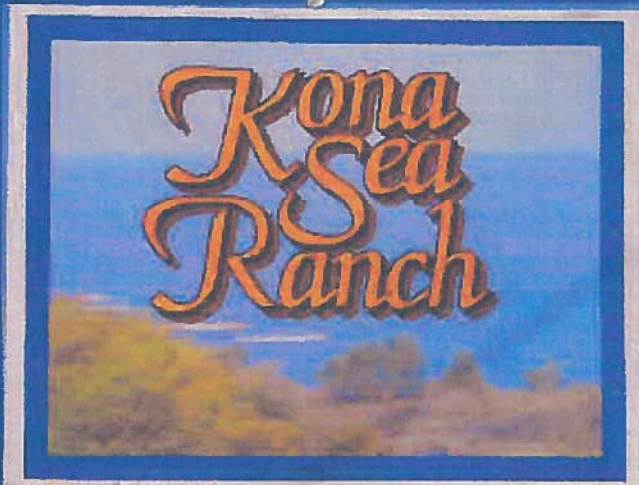
Lots are for sale.



Gate is locked at the top of the subdivision road. To all appearances there is no shoreline public access here.



Another sign at the top of the gated subdivision road.



**Coastline / Ocean Views
with Ocean access
5 Acre plus lots**

Paved road-electric installed!



Big blue coastline views!



Several nearby beaches!



Ideal for Kona Coffee on upper lots!



**COASTLINE, OCEAN,
SUNSET VIEWS from
5+ acre lots.
DEVELOPER SPECIAL!
\$199,900 & \$279,000**

**(\$10,000 credit at closing on
selected lots!)**

**Gated with private roads and
easy highway access. Kona Sea
Ranch is the best value in the
popular South Kona coffee belt.**

**Walk to the ocean or take a
short drive to several nearby
beaches with great snorkeling,
swimming, kayaking, diving and
fishing. Properties have final
subdivision approval and
electric is installed.**

**Directions: Drive south on
Highway 11, past Captain Cook
town, past the 96 mile marker
on the Makai (Ocean) side,
south of Kona Paradise
Subdivision. Look for large
"Kona Sea Ranch" sign.**

From \$199,900

Kona Carla Womack, R(S)

A Top Producer 2003—2007

2007 International Diamond Society

Cellular: (808) 896-6768

Office: (808) 331-8200

Toll Free: (800) 845-7559



**COLDWELL
BANKER**

MARYL REALTY

Coldwell Banker Maryl Realty
75-1000 Henry Street #200 Kailua-Kona, HI 96740

www.KonaCarla.com